

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUSTIN ALEXANDER RASHAD
LARKINS,

Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Electronically Filed
Sep 02 2021 01:16 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No: C-20-346867-1

Docket No: 83150

RECORD ON APPEAL VOLUME 1

ATTORNEY FOR APPELLANT

JUSTIN LARKINS #1175371,
PROPER PERSON
P.O. BOX 208
INDIAN SPRINGS, NV 89070

ATTORNEY FOR RESPONDENT

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

I N D E X

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C-20-346867-1

State of Nevada

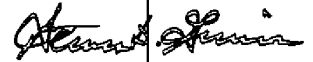
vs

JUSTIN LARKINS

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
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THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
1 - 15
WILL FOLLOW VIA
U.S. MAIL


CLERK OF THE COURT

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

JUSTIN A LARKINS,

Defendant

District Court Case No.: C-20-346867-1
Dept.: X

Justice Court Case No.: 20F02003X

CERTIFICATE

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

Dated this 12th day of February, 2020



Justice of the Peace, Las Vegas Township

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

4 STATE OF NEVADA,

5 Plaintiff,

6 vs.

7 JUSTIN A LARKINS

8 Defendant
9

District Court Case No.:

Justice Court Case No.: 20F02003X

10 **BINDOVER and ORDER TO APPEAR**

11 An Order having been made this day by me that **JUSTIN A LARKINS** be held to
12 answer before the Eighth Judicial District Court, upon the charge(s) of **Home invasion,**
13 **first offense [50435]; Burglary, first offense [50424]; Domestic battery e/dw; Assault,**
14 **with use of deadly weapon [50201]; Battery on protected person [50221]; Destroy**
15 **prop of another, \$250 - \$5K [50905]** committed in said Township and County, on
January 26, 2020 .

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

19 **IT IS FURTHER ORDERED** that the Sheriff of the County of Clark is hereby
20 commanded to receive the above named defendant(s) into custody, and detain said
21 defendant(s) until he/she can be legally discharged, and be committed to the custody of the
22 Sheriff of said County, until bail is given in the sum of \$40,000/40,000 Total bail.

23 Dated this 12th day of February, 2020

24 

25
26 Justice of the Peace, Las Vegas Township
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LAS VEGAS JUSTICE COURT
FILED IN OPEN COURT

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

JAN 20 2020
BY: 

THE STATE OF NEVADA,

Plaintiff,

-vs-

JUSTIN ALEXANDER RASHAD LARKINS,
aka, Justin Alexander Larkins #1966552,

Defendant.

CASE NO: 20F02003X

DEPT NO: 1

CRIMINAL COMPLAINT

The Defendant above named having committed the crimes of INVASION OF THE HOME (Category B Felony - NRS 205.067 - NOC 50435); BURGLARY (Category B Felony - NRS 205.060 - NOC 50424); BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE (Category B Felony - NRS 200.481; 200.485; 33.018 - NOC 57935); ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50201); BATTERY ON A PROTECTED PERSON (Gross Misdemeanor - NRS 200.481 - NOC 50221) and MALICIOUS DESTRUCTION OF PROPERTY (Gross Misdemeanor - NRS 206.310, 193.155 - NOC 50905), in the manner following, to wit: That the said Defendant, on or about the 26th day of January, 2020, at and within the County of Clark, State of Nevada,

COUNT 1 - INVASION OF THE HOME

did willfully, unlawfully, feloniously, and forcibly enter an inhabited dwelling, to wit: 4855 Boulder Highway, Apartment No. C/1033, thereof, Las Vegas, Clark County, Nevada, without permission of the owner, resident, or lawful occupant, to wit: SHARON HEWITT.

COUNT 2 - BURGLARY

did willfully, unlawfully, and feloniously enter a building, owned or occupied by SHARON HEWITT, located at 4855 Boulder Highway, Apartment No. C/1033, thereof, Las Vegas, Clark County, Nevada, with intent to commit assault and/or battery.

///

///

20F02003X
CRM
Criminal Complaint
12024728



W:\2020\2020F02003\20F02003-COMP-001.DOCX

1 COUNT 3 - BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING
2 DOMESTIC VIOLENCE

3 did willfully and unlawfully use force or violence against or upon the person of his
4 spouse, former spouse, any other person to whom he is related by blood or marriage, a person
5 with whom he has had or is having a dating relationship, a person with whom he has a child
6 in common, the minor child of any of those persons or his minor child, to wit: SHARON
7 HEWITT, with use of a deadly weapon, to wit: a rock, by throwing said large rock at the said
8 SHARON HEWITT, striking her on the foot.

9 COUNT 4 - ASSAULT WITH A DEADLY WEAPON

10 did willfully, unlawfully, feloniously and intentionally place another person in
11 reasonable apprehension of immediate bodily harm and/or did willfully and unlawfully
12 attempt to use physical force against another person, to wit: BRANDON-MICHAEL
13 JORDAN, with use of a deadly weapon, to wit: a large rock, by throwing said large rock at
14 and/or towards the said BRANDON-MICHAEL JORDAN.

15 COUNT 5 - BATTERY ON A PROTECTED PERSON

16 did willfully, unlawfully and knowingly use force or violence upon the person of
17 another, to wit: JASON MCKINNEY, who was performing his duty as a provider of health
18 care, being employed as a registered nurse, which defendant knew or should have known that
19 JASON MCKINNEY was a provider of health care, by spitting in the face of the said JASON
20 MCKINNEY.

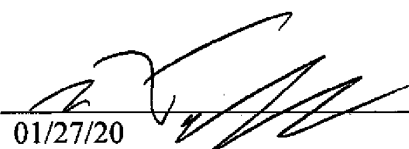
21 COUNT 6 - MALICIOUS DESTRUCTION OF PROPERTY

22 did willfully, unlawfully, or maliciously destroy and/or injure the real and/or personal
23 property of another, to wit: double paned windows, owned by SHARON HEWITT, located at
24 4855 Boulder Highway, Apartment No. C/1033, thereof, Las Vegas, Clark County, Nevada,
25 by throwing rocks through four (4) said double paned windows, the value of said damage
26 being \$250.00 or more and less than \$5,000.00.

27 ///

28 ///

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

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NOTICE OF WITNESSES
[NRS 174.234]

TO: Defendant or attorney of record:

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

<u>NAME</u>	<u>ADDRESS</u>
CUSTODIAN OF RECORDS	Communication Bureau Law Enforcement Agency – Clark County, Nevada

These witnesses are in addition to those witnesses noted in the discovery or other
documents provided.

DATED January 27, 2020.

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

Department: PC

Court Minutes



L012018098

PC20F02003X State of Nevada vs. Larkins, Justin A

**1/27/2020 1:30:00 PM Initial Appearance Justice
Court (PC Review)**

Result: Matter Heard

PARTIES State Of Nevada Pandelis, Christopher
PRESENT: Defendant Larkins, Justin A

Judge: Bonaventure, Joseph M.

Court Reporter: Nelson, Bill

Court Clerk: Espinoza, Jose

PROCEEDINGS

Hearings: 1/29/2020 8:30:00 AM: Status Check on Filing of Criminal Complaint Added

Events: **Probable Cause Found**

72-Hour Hearing Completed

Counsel Provisionally Appointed

Josie Bayudan provisionally appointed for limited purposes of first appearance hearing.

Bail Argument Heard

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

Case Administrative Reassignment to Department 1

Bail Reset - Cash or Surety

Counts: 001; 002; 003; 004; 005; 006; 007; 008 - \$40,000.00/\$40,000.00 Total Bail

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

Las Vegas Justice Court: Department 70

LVJC_RW_Criminal_MinuteOrderByEventCode

Case PC20F02003X Prepared By: falcok

1/27/2020 2:57 PM

Justice Court, Las Vegas Township Clark County, Nevada

Department: 01

Court Minutes



L012029298

20F02003X State of Nevada vs. Larkins, Justin A

Lead Atty: Public Defender

**1/29/2020 8:30:00 AM Status Check on Filing of
Criminal Complaint (In custody)**

Result: Matter Heard

PARTIES PRESENT:

State Of Nevada	Schwartz, Bryan
Attorney	Renteria, Marla
Attorney	Public Defender
Defendant	Larkins, Justin A

Judge: Pro Tempore, Judge

Court Reporter: McIntosh, Shawna

Pro Tempore: Weinstein, Larry J.

Court Clerk: Cardenas, Pompeya

PROCEEDINGS

Attorneys: **Public Defender** Larkins, Justin A Added

Renteria, Marla Larkins, Justin A Added

Hearings: 2/12/2020 10:00:00 AM: Preliminary Hearing Added

Events: **Criminal Complaint**

filed in open court

Initial Appearance Completed

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

Public Defender Appointed

Defendant Identified as Indigent

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

**Matter Not Negotiated - Preliminary Hearing/Trial
Date Set**

Bail Reset - Cash or Surety

Counts: 001; 002; 003; 004; 005; 006 - \$40,000.00/\$40,000.00 Total Bail

Released from Custody - DA Denial

No Contact with Victim

Oral Motion

by Defense for Intensive Supervision or Electronic Monitoring - objection by State - Motion Denied

Las Vegas Justice Court: Department 01

LVJC_RW_Criminal_MinuteOrderByEventCode

Case 20F02003X Prepared By: palattom

1/29/2020 1:28 PM

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

Department: 01

Court Minutes



L012071935

20F02003X State of Nevada vs. Larkins, Justin A

Lead Atty: Damian Sheets

2/7/2020 8:30:00 AM Motion (In Custody)

Result: Matter Heard

PARTIES
PRESENT: State Of Nevada Afshar, Nima
Attorney Butler, Dedree S.
Defendant Larkins, Justin A

Judge: De La Garza, Melisa

Court Reporter: McIntosh, Shawna

Court Clerk: Orozco, Evelyn

PROCEEDINGS

Attorneys:	Butler, Dedree S.	Larkins, Justin A	Withdrawal
	Sheets, Damian	Larkins, Justin A	Added

Events: Motion to Withdraw Due to Conflict

by Public Defender - Granted

Counsel Appointed

D. Sheets, Esq. in absentia

Discovery Placed in Contract Attorney Box

Future Court Date Stands

2/12/20 at 10:00am

Preliminary Hearing

No Contact with Victim

Notify

Review Date: 2/10/2020

D. Sheets via email/eo

Bail Stands - Cash or Surety

Amount: \$40,000.00

Counts: 001; 002; 003; 004; 005; 006 - \$40,000.00/\$40,000.00 Total Bail

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

Department: 01

Court Minutes



1012094095

20F02003X State of Nevada vs. LARKINS, JUSTIN A

Lead Atty: Damian Sheets

2/12/2020 10:00:00 AM Preliminary Hearing (In Custody)

Result: Bound Over

PARTIES PRESENT:
State Of Nevada Albright, Brandon B
Attorney Hellman, Baylie A
Defendant LARKINS, JUSTIN A

Judge: Graham, Elana Lee
Court Reporter: McIntosh, Shawna
Court Clerk: Cardenas, Pompeya

PROCEEDINGS

Attorneys: **Hellman, Baylie A** LARKINS, JUSTIN A Added

Events: **Unconditional Bind Over to District Court** Review Date: 2/13/2020

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

District Court Appearance Date Set

Feb 14 2020 10:00AM: In Custody

Case Closed - Bound Over

Bail Stands - Cash or Surety Amount: \$40,000.00

Counts: 001; 002; 003; 004; 005; 006 - \$40,000.00/\$40,000.00 Total Bail

No Contact with Victim

Plea/Disp: **001: Home invasion, first offense [50435]**

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

002: Burglary, first offense [50424]

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

003: Domestic battery e/dw

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

004: Assault, with use of deadly weapon [50201]

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

005: Battery on protected person [50221]

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

006: Destroy prop of another, \$250 - \$5K [50905]

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

ORIGINAL

FILED

2020 FEB -4 A 10:08

JUSTICE COURT
LAS VEGAS, NEVADA
GMH
BY _____

0042

DARIN F. IMLAY, PUBLIC DEFENDER

NEVADA BAR NO. 5674

KENTON G. EICHACKER, DEPUTY PUBLIC DEFENDER

NEVADA BAR NO. 13114

PUBLIC DEFENDERS OFFICE

309 South Third Street, Suite 226

Las Vegas, Nevada 89155

Telephone: (702) 455-4685

Attorneys for Defendant

JUSTICE COURT, LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

JUSTIN ALEXANDER RASHAD LARKINS,

Defendant,

CASE NO. 20F02003X

DEPT. NO. 1

DATE: February 12, 2020

TIME: 10:00 a.m.

MOTION TO WITHDRAW DUE TO CONFLICT

COMES NOW, the Defendant, JUSTIN ALEXANDER RASHAD LARKINS, by and through KENTON G. EICHACKER, Deputy Public Defender and respectfully moves this Honorable Court to allow the Public Defender to withdraw and to appoint independent counsel due to a conflict of interest.

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

DATED this 31st day of January, 2020.

DARIN F. IMLAY

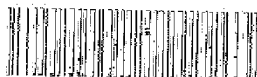
CLARK COUNTY PUBLIC DEFENDER

By: /s/Kenton G. Eichacker

KENTON G. EICHACKER, #13114

Deputy Public Defender

20F02003X
RWC
Motion to Withdraw Due to Conflict
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DECLARATION

KENTON G. EICHACKER, makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and the Defendant has represented the following facts and circumstances of this case.
2. The Public Defender's office has previously represented the named victim, Sharon Hewitt, in C-12-278949-1. Ms. Hewitt was sentenced on January 10, 2013.
3. That effective representation of the Defendant in the instant matter would necessarily prejudice the interests of any persons mentioned in this declaration.
4. Therefore, Defendant asks this Court to allow the Clark County Public Defender's Office to withdraw in this case due to conflict of interest and to appoint independent counsel to represent the Defendant.
5. The Defendant has been notified of the presentation of this motion.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045)

EXECUTED on this 31st day of January, 2020.

/s/Kenton G. Eichacker
KENTON G. EICHACKER

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NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing MOTION TO WITHDRAW
DUE TO CONFLICT will be heard on 7th day of February, 2020, at 8:30 a.m., Justice Court,
Department 1.

DATED this 31st day of January, 2020.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: /s/Kenton G. Eichacker
KENTON G. EICHACKER, #13114
Deputy Public Defender

RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing MOTION is hereby acknowledged this
4th day of February, 2020.

CLARK COUNTY DISTRICT ATTORNEY

By: 

ORIGINAL

0042

DARIN F. IMLAY, PUBLIC DEFENDER

NEVADA BAR NO. 5674

KENTON G. EICHACKER, DEPUTY PUBLIC DEFENDER

NEVADA BAR NO. 13114

PUBLIC DEFENDERS OFFICE

309 South Third Street, Suite 226

Las Vegas, Nevada 89155

Telephone: (702) 455-4685

Facsimile: (702) 455-5112

Kenton.Eichacker@clarkcountynv.gov

Attorneys for Defendant

FILED

2020 FEB -5 A 9:50

JUSTICE COURT
LAS VEGAS, NEVADA

BY:

JUSTICE COURT, LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

JUSTIN ALEXANDER RASHAD LARKINS,

Defendant,

CASE NO. 20F02003X

DEPT. NO. 1

DATE: February 7, 2020

TIME: 8:30 a.m.

MOTION TO WITHDRAW DUE TO CONFLICT

COMES NOW, the Defendant, JUSTIN ALEXANDER RASHAD LARKINS, by and through KENTON G. EICHACKER, Deputy Public Defender and respectfully moves this Honorable Court to allow the Public Defender to withdraw and to appoint independent counsel due to a conflict of interest.

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

DATED this 31st day of January, 2020.

DARIN F. IMLAY

CLARK COUNTY PUBLIC DEFENDER

By: /s/Kenton G. Eichacker

KENTON G. EICHACKER, #13114

Deputy Public Defender

20F02003X

MWC

Motion to Withdraw Due to Conflict

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DECLARATION

KENTON G. EICHACKER, makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and the Defendant has represented the following facts and circumstances of this case.
2. The Public Defender's office has previously represented the named victim, Sharon Hewitt, in C-12-278949-1. Ms. Hewitt was sentenced on January 10, 2013.
3. That effective representation of the Defendant in the instant matter would necessarily prejudice the interests of any persons mentioned in this declaration.
4. Therefore, Defendant asks this Court to allow the Clark County Public Defender's Office to withdraw in this case due to conflict of interest and to appoint independent counsel to represent the Defendant.
5. The Defendant has been notified of the presentation of this motion.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045)

EXECUTED on this 31st day of January, 2020.

/s/Kenton G. Eichacker
KENTON G. EICHACKER

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NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing MOTION TO WITHDRAW
DUE TO CONFLICT will be heard on 7th day of February, 2020, at 8:30 a.m., Justice Court,
Department 1.

DATED this 5th day of February, 2020.

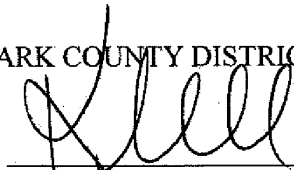
DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: /s/Kenton G. Eichacker
KENTON G. EICHACKER, #13114
Deputy Public Defender

RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing MOTION is hereby acknowledged this
5th day of February, 2020.

CLARK COUNTY DISTRICT ATTORNEY

By: 

THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
32 - 72
WILL FOLLOW VIA
U.S. MAIL



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

DISTRICT COURT
CLARK COUNTY, NEVADA

12 I.A. 2/14/2020
13 10:00 AM
14 SHEETS

15 THE STATE OF NEVADA,
16
17 Plaintiff,

CASE NO: C-20-346867-1

18 -vs-

DEPT NO: X

19 JUSTIN ALEXANDER RASHAD LARKINS,
20 aka, Justin Alexander Larkins,
21 #1966552

INFORMATION

22 Defendant.

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

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

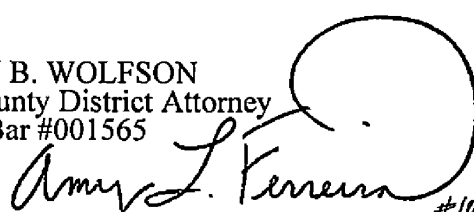
27 That JUSTIN ALEXANDER RASHAD LARKINS, aka, Justin Alexander Larkins, the
28 Defendant(s) above named, having committed the crime of **BATTERY WITH USE OF A
DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE (Category B Felony -
NRS 200.481; 200.485; 33.018 - NOC 57935)**, on or about the 26th day of January, 2020,
within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes
in such cases made and provided, and against the peace and dignity of the State of Nevada,
did willfully and unlawfully use force or violence against or upon the person of his spouse,
former spouse, any other person to whom he is related by blood or marriage, a person with
whom he has had or is having a dating relationship, a person with whom he has a child in

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common, the minor child of any of those persons or his minor child, to wit: SHARON HEWITT, with use of a deadly weapon, to wit: a large rock, by throwing said large rock at the said SHARON HEWITT.

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

BY


BRANDON ALBRIGHT
Deputy District Attorney
Nevada Bar #014158

#10347A

MLB

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

NAME

ADDRESS

CUSTODIAN OF RECORDS

LVMPD, Communications, 400 Martin

Or Designee

Luther King Blvd., LV, NV

CUSTODIAN OF RECORDS

LVMPD, Records, 400 Lewis Avenue, LV,

Or Designee

NV

CUSTODIAN OF RECORDS

CCDC, 330 So. Casino Center Blvd., LV,

Or Designee

NV

CUSTODIAN OF RECORDS

THE SUITES, 4855 Boulder Hwy., LV, NV

Or Designee

DILLARD, TIMOTHY

CCDA PROCESS SERVER

FREEMAN, S.

LVMPD P#16127

HANSEN, B.

LVMPD P#16544

JOHNSTON, S.

LVMPD P#16578

MARTINEZ, S.

LVMPD P#16590

PLONSE, KELLY

CCDA PROCESS SERVER

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RODRIGUEZ, SELMA
SHAMIRZA, ALFRED

CCDA PROCESS SERVER
CCDA INVESTIGATOR

20F02003X/mlb/dvu
LVMPD EV#200100123301
(TK3)

ORIGINAL

GPA
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
BRANDON ALBRIGHT
Deputy District Attorney
Nevada Bar #014158
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

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

FEB 14 2020

BY, Kristen Brown
KRISTEN BROWN, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA



THE STATE OF NEVADA,

Plaintiff,

-vs-

JUSTIN ALEXANDER RASHAD LARKINS,
aka, Justin Alexander Larkins,
#1966552,

CASE NO: C-20-346867-1

DEPT NO: X

Defendant.

GUILTY PLEA AGREEMENT

I hereby agree to plead guilty to: **BATTERY WITH USE OF A DEADLY WEAPON**
CONSTITUTING DOMESTIC VIOLENCE (Category B Felony - NRS 200.481;
200.485; 33.018 - NOC 57935), as more fully alleged in the charging document attached
hereto as Exhibit "1".

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

The parties stipulate to a sentence of two (2) to five (5) years in the Nevada Department
of Corrections. The State agrees not to see habitual criminal treatment. Further, the State will
not oppose dismissal of Case No. 20F00459X.

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

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 I understand that as a consequence of my plea of guilty the Court must sentence me to
16 imprisonment in the Nevada Department of Corrections for a minimum term of not less than
17 TWO (2) years and a maximum term of not more than TEN (10) years. The minimum term
18 of imprisonment may not exceed forty percent (40%) of the maximum term of imprisonment.
19 I understand that I may also be fined up to \$10,000.00. I understand that the law requires me
20 to pay an Administrative Assessment Fee.

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

25 I understand that I am not eligible for probation for the offense to which I am pleading
26 guilty.

27 I understand that the State will use this conviction, and any other conviction from this
28 or any other State which prohibits the same or similar conduct, to enhance the penalty for any

1 similar subsequent offense, as detailed in the Battery/Domestic Violence: admonishment of
2 Rights, which I have reviewed with my attorney, attached hereto as Exhibit "2."

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

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

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

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

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

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

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

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

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

///

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

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

WAIVER OF RIGHTS

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

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

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///

1 VOLUNTARINESS OF PLEA

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

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

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

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

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

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

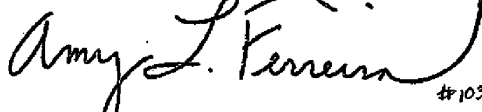
15 I am not now under the influence of any intoxicating liquor, a controlled substance or
16 other drug which would in any manner impair my ability to comprehend or understand this
17 agreement or the proceedings surrounding my entry of this plea.

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

20 DATED this 14 day of February, 2020.

21
22 
23 JUSTIN ALEXANDER RASHAD
24 LARKINS, aka, Justin Alexander Larkins,
25 Defendant

26 AGREED TO BY:

27 
28 #10347 for

BRANDON ALBRIGHT
Deputy District Attorney
Nevada Bar #014158

1 CERTIFICATE OF COUNSEL:

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

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

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

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

25 Dated: This 14 day of February, 2020.

26 
27 DAMIAN SHEETS, ESQ.

28 mlb/dvu

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

DISTRICT COURT
CLARK COUNTY, NEVADA

12 I.A. 2/14/2020
13 10:00 AM
14 SHEETS

15 THE STATE OF NEVADA,
16
17 Plaintiff,

CASE NO: C-20-346867-1

18 -vs-

DEPT NO: X

19 JUSTIN ALEXANDER RASHAD LARKINS,
20 aka, Justin Alexander Larkins,
21 #1966552

INFORMATION

22 Defendant.

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

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

27 That JUSTIN ALEXANDER RASHAD LARKINS, aka, Justin Alexander Larkins, the
28 Defendant(s) above named, having committed the crime of **BATTERY WITH USE OF A
DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE (Category B Felony -
NRS 200.481; 200.485; 33.018 - NOC 57935)**, on or about the 26th day of January, 2020,
within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes
in such cases made and provided, and against the peace and dignity of the State of Nevada,
did willfully and unlawfully use force or violence against or upon the person of his spouse,
former spouse, any other person to whom he is related by blood or marriage, a person with
whom he has had or is having a dating relationship, a person with whom he has a child in

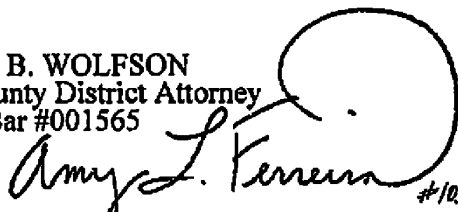
W:\2020\2020F020\03\20F02003-INFM-(LARKINS_JUSTIN)-001.DOCX

EXHIBIT "1"

1 common, the minor child of any of those persons or his minor child, to wit: SHARON
2 HEWITT, with use of a deadly weapon, to wit: a large rock, by throwing said large rock at the
3 said SHARON HEWITT.

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

7 BY

 #103476
8 BRANDON ALBRIGHT
9 Deputy District Attorney
10 Nevada Bar #014158
11

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

<u>NAME</u>	<u>ADDRESS</u>
CUSTODIAN OF RECORDS	LVMPD, Communications, 400 Martin
Or Designee	Luther King Blvd., LV, NV
CUSTODIAN OF RECORDS	LVMPD, Records, 400 Lewis Avenue, LV,
Or Designee	NV
CUSTODIAN OF RECORDS	CCDC, 330 So. Casino Center Blvd., LV,
Or Designee	NV
CUSTODIAN OF RECORDS	THE SUITES, 4855 Boulder Hwy., LV, NV
Or Designee	
DILLARD, TIMOTHY	CCDA PROCESS SERVER
FREEMAN, S.	LVMPD P#16127
HANSEN, B.	LVMPD P#16544
JOHNSTON, S.	LVMPD P#16578
MARTINEZ, S.	LVMPD P#16590
PLONSE, KELLY	CCDA PROCESS SERVER

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RODRIGUEZ, SELMA
SHAMIRZA, ALFRED

CCDA PROCESS SERVER
CCDA INVESTIGATOR

20F02003X/mlb/dvu
LVMPD EV#200100123301
(TK3)

Justice Court, Las Vegas Township

CLARK COUNTY, NEVADA

STATE OF NEVADA

Plaintiff,

-vs-

Justin Larkins
Defendant(s),

CASE NUMBER: C-20-346867-1

DEPT. NO.: X

BATTERY/DOMESTIC VIOLENCE: ADMONISHMENT OF RIGHTS

(For Offenses occurring on or after July 1, 2019)

I am the Defendant in this case. At this time, I am charged with battery constituting domestic violence in having willfully and unlawfully committed an act of force or violence upon my spouse, former spouse, a person to whom I am related by blood or marriage (excluding a sibling or cousin with whom I am not in a custodial or guardian relationship), a person with whom I have had or am having a dating relationship, a person with whom I have a child in common, the minor child of any of those persons, my minor child, or any other person who has been appointed the custodian or legal guardian for my minor child (in violation of NRS 33.018/NRS 200.485).

I AM AWARE THAT I HAVE EACH OF THE FOLLOWING RIGHTS AND THAT I WILL BE WAIVING THESE RIGHTS IF I PLEAD GUILTY OR NOLO CONTENDERE:

1. The right to a speedy trial;
2. The right to require the State to prove the charge(s) against me beyond a reasonable doubt;
3. The right to confront and question all witnesses against me;
4. The right to subpoena witnesses on my behalf and compel their attendance;
5. The right to remain silent and not be compelled to testify if there were a trial; and
6. The right to appeal my conviction except on constitutional or jurisdictional grounds.

I AM ALSO AWARE THAT BY PLEADING GUILTY OR NOLO CONTENDERE I AM ADMITTING THE STATE COULD FACTUALLY PROVE THE CHARGE(S) AGAINST ME. I AM ALSO AWARE THAT MY PLEA OF GUILTY OR NOLO CONTENDERE MAY HAVE THE FOLLOWING CONSEQUENCES:

1. I understand the State will use this conviction, and any other conviction from this or any other State which prohibits the same or similar conduct, to enhance the penalty for any subsequent offense;
2. I understand that, as a consequence of my plea of guilty or nolo contendere, if I am not a citizen of the United States, I may, in addition to other consequences provided by law, be removed, deported, or excluded from entry into the United States or denied naturalization;
3. I understand that if I am convicted of a misdemeanor or felony that constitutes domestic violence pursuant to 18 U.S.C. § 921(a)(33), my possession, shipment, transportation, or receipt of a firearm or ammunition will constitute a felony pursuant to NRS 202.360 or federal law;
4. I understand that sentencing is entirely up to the court and the range of penalties outlined in this admonishment for committing the offense described above will apply (unless a greater penalty is provided pursuant to NRS 200.481, 200.485(2)-(5)).

I AM ALSO HEREBY INFORMED that, if I am convicted of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921(a)(33) (which requires "the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim"), I will be prohibited from owning, possessing or having under my custody or control any firearm pursuant to NRS 202.360, and I will be ordered to permanently surrender, sell, or transfer any firearm that I own or that is in my possession or under my custody or control in the manner set forth in NRS 202.361. A person who violates any provision included in a judgment of conviction or admonishment of rights issued pursuant to NRS 200.485 concerning the surrender, sale, transfer, ownership, possession, custody or control of a firearm is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.00.

DEFENDANT'S INITIALS:

J. A. R. L.

BATTERY/DOMESTIC VIOLENCE ADMONISHMENT OF RIGHTS (PAGE 2 of 2) CASE NO.:

CONSEQUENCES FOR ALL OFFENSES:

In addition to any other penalty, in the Court's discretion, the Court may order me to participate in an alcohol or drug treatment program at my expense; and, in the Court's discretion, if it appears from information presented to the Court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence, the Court may refer the child to an agency which provides protective services, and, if that occurs, the Court will require me to reimburse the agency for the costs of any services provided, to the extent of my ability to pay. There may also be certain fees or assessments required by statute.

FOR ALL FIRST, SECOND, AND THIRD OFFENSES WITHIN 7 YEARS:

An offense constitutes a prior offense so long as it occurs within seven years of the instant offense, regardless of the sequence of offenses and convictions. An offense also constitutes a prior offense if the offense was dismissed in connection with successful completion of a diversionary program or specialty court program, or if the offense was conditionally dismissed pursuant to NRS 176A.290, without regard to the sequence of the offenses.

FIRST OFFENSE WITHIN 7 YEARS (MISDEMEANOR):

At least 2 days in jail but not more than 6 months; at least 48 hours but not more than 120 hours, of community service; a fine of not less than \$200, but not more than \$1,000; mandatory participation in weekly counseling sessions of not less than 1 1/2 hours per week for not less than 6 months, but not more than 12 months, at a certified agency, at my expense.

SECOND OFFENSE WITHIN 7 YEARS (MISDEMEANOR):

At least 20 days in jail but not more than 6 months; at least 100 hours, but not more than 200 hours, of community service; a fine of not less than \$500, but not more than \$1,000; mandatory participation in weekly counseling sessions of not less than 1 1/2 hours per week for 12 months, at a certified agency, at my expense.

THIRD OFFENSE WITHIN 7 YEARS :

A category B felony punishable by a sentence of imprisonment in the Nevada State Prison for at least 1 year but not more than 6 years; and a fine of at least \$1,000 but not more than \$5,000. A defendant is not eligible for probation for a third offense.

OFFENSES SUBSEQUENT TO FELONY OFFENSES (CATEGORY B FELONY):

Any violation of NRS 200.485, at any time after July 1, 2019, subsequent to any felony conviction constituting domestic violence under NRS 33.018, or the laws of any other State prohibiting similar conduct, is a Category B felony, punishable by a sentence of imprisonment for at least 2 years, but not more than 15 years, and a mandatory fine of at least \$2,000 but not more than \$5,000. The instant offense is subsequent to a qualifying offense when evidenced by a conviction, without regard to the sequence of the offenses and convictions, and regardless of whether the prior offense(s) occurred within 7 years. A defendant is not eligible for probation for offenses under this section.

OFFENSES INVOLVING PREGNANT VICTIMS

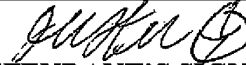
Unless a greater penalty is provided pursuant to NRS 200.481, an offense committed against a victim who was pregnant at the time of the battery, and that fact is known or should have been known to the batterer: a first offense is a gross misdemeanor, punishable by up to 364 days in jail, and a fine of up to \$2,000. A subsequent offense is a Category B felony punishable by imprisonment of not less than 1 year, but not more than 6 years, and a fine of not less than \$1,000, and not more than \$5,000.

ALL DEFENDANTS MUST INITIAL EITHER #1 or #2 BELOW-DO NOT INITIAL BOTH:

JARL¹ I am represented by an attorney in this case. My attorney has fully discussed these matters with me and advised me about my legal rights. My attorney is Damian Steets.

2 I have declined to have an attorney represent me and I have chosen to represent myself. I have made this decision even though there are dangers and disadvantages in self-representation in a criminal case, including but not limited to, the following:

- a) Self-representation is often unwise, and a defendant may conduct a defense to his or her own detriment;
- b) A defendant who represents himself is responsible for knowing and complying with the same procedural rules as lawyers, and cannot expect help from the judge in complying with those procedural rules;
- c) A defendant representing himself will not be allowed to complain on appeal about the competency or effectiveness of his or her representation;
- d) The state is represented by experienced professional attorneys who have the advantage of skill, training, and ability;
- e) A defendant unfamiliar with legal procedures may allow the prosecutor an advantage, may not make effective use of legal rights, and may make tactical decisions that produce unintended consequences; and
- f) The effectiveness of the defense may well be diminished by a defendant's dual role as attorney and accused.

 DEFENDANT'S SIGNATURE	<u>6-6-1987</u> DATE OF BIRTH	<u>12-14-20</u> DATE
---	---	--------------------------------

I HAVE REVIEWED THIS ADMONISHMENT WITH MY CLIENT AND WE HAVE DISCUSSED THE RIGHTS HE/SHE IS WAIVING AND THE CONSEQUENCES OF HIS/HER PLEA OF GUILTY/NOLO CONTENDERE TO THE BATTERY/DOMESTIC VIOLENCE CHARGE, INCLUDING, BUT NOT LIMITED TO, GUN POSSESSION AND GUN RIGHTS.



DEFENDANT'S ATTORNEY (IF APPLICABLE)

13825

BAR NUMBER

Steven D. Grierson

JOCP

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-VS-

JUSTIN ALEXANDER RASHAD LARKINS
aka Justin Alexander Larkins
#1966552

Defendant.

CASE NO. C-20-346867-1

DEPT. NO. X

JUDGMENT OF CONVICTION
(PLEA OF GUILTY)

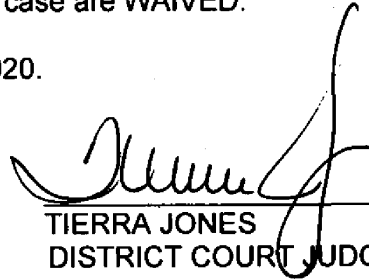
The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime of BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE (Category B Felony) in violation of NRS 200.481, 200.485, 33.018; thereafter on the 26th day of February, 2020, the Defendant was present in court for sentencing with counsel DAMIAN R. SHEETS, ESQ., thereupon using the presentence report from C343544, and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense and, in addition to the \$25.00 Administrative Assessment Fee and \$3.00 DNA Collection Fee, the Defendant is sentenced to the Nevada Department of Corrections (NDC) as

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

1 follows: a MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of
2 TWENTY-FOUR (24) MONTHS; with THIRTY-ONE (31) DAYS credit for time served.
3 As the \$150.00 DNA Analysis Fee and Genetic Testing have been previously
4 imposed, the Fee and Testing in the current case are WAIVED.
5

6 DATED this 4 day of March, 2020.

7
8 
9 TIERRA JONES
10 DISTRICT COURT JUDGE 



CASE NO. C346867

DEPARTMENT NO. 1

IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

* * * * *

THE STATE OF NEVADA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO. 20F02003X
	)	
JUSTIN A. LARKINS,	)	
	)	
Defendant.	)	
_____	)	

REPORTER'S TRANSCRIPT

OF

UNCONDITIONAL WAIVER OF PRELIMINARY HEARING

BEFORE THE HONORABLE ELANA LEE GRAHAM
JUSTICE OF THE PEACE

WEDNESDAY, FEBRUARY 12, 2020
10:00 A.M.

APPEARANCES:

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

For the Defendant: BAYLIE HELLMAN, ESQ.
Attorney at Law

Reported by: Shawna J. McIntosh, CCR No. 770

SHAWNA J. MCINTOSH, CCR NO. 770
(702) 671-0691

1 LAS VEGAS, NEVADA, FEBRUARY 12, 2020

2 * * * * *

3
4
5 THE COURT: Ms. Hellman for Mr. Sheets.
6 Larkins, Justin. 20F02003X.

7 MS. HELLMAN: Good morning, Your Honor. He
8 is present, in custody.

9 THE COURT: Justin, there you are.

10 MS. FERREIRA: I'm just going to step out to
11 get Mr. Albright.

12 THE COURT: Okay. No problem.

13 (Pause in proceedings)

14 MR. ALBRIGHT: Sorry, Your Honor.

15 THE COURT: That's okay.

16 MS. HELLMAN: Your Honor, Mr. Larkins is
17 going to unconditionally waive his right to a
18 preliminary hearing. In district court, he is going
19 to be pleading guilty to battery with use of a deadly
20 weapon constituting domestic violence. The parties
21 will stipulate to a two- to five-year sentence. The
22 State will not seek habitual offender treatment. And
23 there is also an open case in justice court that will
24 be dismissed pursuant to negotiations. I don't have
25 that case number.

SHAWNA J. MCINTOSH, CCR NO. 770
(702) 671-0691

1 MR. ALBRIGHT: That case number is 20F00459X.
2 (Pause in proceedings)
3 THE COURT: Go ahead, please. 20F00 --
4 MR. ALBRIGHT: -- 00459X.
5 (Pause in proceedings)
6 THE COURT: Sir, did you understand that deal
7 as far as you're waiving your preliminary hearing
8 today to go to district court?
9 THE DEFENDANT: (No response)
10 THE COURT: If you don't understand that,
11 that's fine.
12 THE DEFENDANT: No. I understand that this
13 shit ain't fair, but yeah. I --
14 THE COURT: Okay.
15 THE DEFENDANT: -- I understand it's not fair
16 at all because this is basically a misdemeanor case.
17 I'm the only one that got hurt.
18 THE COURT: Okay.
19 THE DEFENDANT: I'm the only one that
20 started --
21 THE COURT: No problem.
22 THE DEFENDANT: -- anything -- the home or
23 anything.
24 THE COURT: It sounds --
25 THE DEFENDANT: But I -- I would rather go

SHAWNA J. MCINTOSH, CCR NO. 770
(702) 671-0691

1 ahead and take that instead of get a habitual criminal
2 act. I just want to state for the record that
3 whenever that woman over there needed me, I was out
4 there. I did whatever I could.

5 THE COURT: Sir, don't -- don't point at
6 people like that.

7 THE DEFENDANT: No. I'm just -- I'm -- I'm
8 sorry. I didn't mean to -- you know --

9 THE COURT: That's all right.

10 THE DEFENDANT: -- but this is -- I'm the
11 only one that got hurt here. Okay.

12 THE COURT: All right, sir.

13 THE DEFENDANT: This is a misdemeanor
14 offense.

15 THE COURT: Let me ask you a question. Okay.

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Just so you know, I'm not really
18 the judge to say that to because I'm not -- I'm, like,
19 screening your case. Tell that to the other judge who
20 is going to sentence you.

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: I want to make sure you
23 understand when you waive your preliminary hearing
24 today and go to district court, should you change your
25 mind -- it sounds like you may want to -- if you

SHAWNA J. MCINTOSH, CCR NO. 770
(702) 671-0691

1 change your mind on the deal, you just go straight to
2 trial. You don't come back down here for a
3 preliminary hearing. Okay.

4 THE DEFENDANT: Yes, ma'am.

5 I -- I can't beat it no way, but thank
6 you.

7 THE COURT: What?

8 THE DEFENDANT: Thank you for telling me.

9 I said I can't beat it no way, but --

10 THE COURT: What?

11 THE DEFENDANT: -- thank you for telling me.

12 THE COURT: Okay. No problem.

13 THE DEFENDANT: You had me. You won.

14 THE COURT: Sir, stand up real quick for me,
15 please.

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: I've got to tell you right now --
18 it doesn't matter what I think, but your behavior is
19 intimidating and it's threatening. And you're coming
20 off as, like, a bad person. And I'm not saying you
21 are, but you are pointing at the victim of this case
22 really aggressively. You're talking at her in a mean
23 way. Just don't do that -- at least in front of me.
24 Okay. Because I don't want to see it.

25 It appears to me from the Complaint on

SHAWNA J. MCINTOSH, CCR NO. 770
(702) 671-0691

1 file the following crimes were committed: Invasion of
2 the home, burglary, battery with use of a deadly
3 weapon constituting domestic violence, assault with a
4 deadly weapon, battery on a protected person,
5 malicious destruction of property. I order the
6 defendant to be held to answer that charge -- those
7 charges in the Eighth Judicial District Court.

8 THE CLERK: February 14 at 10 a.m., lower
9 level, arraignment.

10 THE COURT: Good luck, sir.

11 (Proceedings concluded)

12 --o0o--

13

14 Attest: Full, true, and accurate transcript of
15 proceedings.

16

17 /s/ Shawna J. McIntosh

18 Shawna J. McIntosh, CCR No. 770

19

20

21

22

23

24

25

SHAWNA J. MCINTOSH, CCR NO. 770
(702) 671-0691



**EIGHTH JUDICIAL DISTRICT COURT
CLERK OF THE COURT**

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

Steven D. Grierson
Clerk of the Court

Anntoinette Naumec-Miller
Court Division Administrator

September 21, 2020

Attorney:	Damian Sheets Nevada Defense Group Damian Sheets 714 S 4th St Las Vegas NV 89101	Case Number:	C-20-346867-1
		Department:	Department 10
Defendant:	JUSTIN A LARKINS		

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

Pleadings: Motion For Modification Of Sentence

Rule 3.70. Papers which May Not be Filed

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

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

1 Justin A.R. Larkins 1175371

2 In Propria Personam
3 Post Office Box 650 [HDSP]
4 Indian Springs, Nevada 89018

5 **DISTRICT COURT**
6 **CLARK COUNTY, NEVADA**

7 Justin A.R. Larkins #1966552

8 Plaintiff,

9 vs.

10 State of Nevada

11 Defendant

Case No. C-20-346867-1

Dept. No. X

Docket _____

12 Motion for Modification of Sentence N.R.S 176.033
13 and N.R.S. 176A.450, By order of admitting the ^{petitioner's} ~~Defendant's~~ Sentence structure
14 to be Modified to 12 months in C.C.D.C. in Place of The ^{petitioner's} ~~Defendant's~~ 24 to 60 months
15 in N.D.C.

16 COMES NOW, Justin A.R. Larkins, Pro Per, herein above respectfully
17 moves this Honorable Court for an Order for a modification of sentence,

18
19 This Motion is made and based upon the accompanying Memorandum of Points and Authorities.

20 DATED: this 20th day of August, 2020.

21 BY: Justin A.R. Larkins
22 Kirk D #1966552
23 Defendant/In Propria Personam

24 **RECEIVED**

25 **AUG 31 2020**

26 **CLERK OF THE COURT**

Standard of Review

The Nevada Supreme Court has long recognized that courts have the power and jurisdiction to modify a sentence. See *State v. State*, 787 P.2d 396, 106 Nev. 75 (1990): "...that if a sentencing court pronounces sentence within statutory limits, the court will have jurisdiction to modify, suspend or otherwise correct that sentence if it is based upon materially untrue assumptions or mistakes which work to the extreme detriment of the defendant." Petitioner believes that this court has, based upon *State v.*, the jurisdiction to modify his sentence, due to that sentence being pronounced based upon a Pre-sentence Investigation Report, which lacks the instant offense, and false information by Sharon Hewitt, which he will discuss in the below statement of facts. Respondent may argue that lacks apply due to the fact that several months have passed since sentence was pronounced. However, The Nevada Supreme Court held that such a time requirement does not apply to a request of modification of sentence. See *Passanisi v. State*, 831 P.2d 1371, 108 Nev. 318 (1992). Defendant as stated above, is alleging that his sentence by this court was based upon assumptions founded upon his PSI Report that lacks the information of the instant offense and a false statement of information by Sharon Hewitt, and as such, his constitutional right to due process was violated. See *State v. District Court*, 677 P.2d 1044, 100 Nev. 90 (1994): The District Court's inherent authority to correct a judgment or sentence founded

1 on mistake is in accord with the constitutional considerations
2 underlying the sentencing process. The United States Supreme
3 Court has expressly held that where a defendant is sentenced
4 on the basis of materially untrue assumptions concerning his
5 criminal record, "the result, whether caused by carelessness
6 or design, is inconsistent with due process of law."

7 Tousseng v. Burke, 334 U.S. 736, 741, 68 S.Ct. 1252, 1255,
8 92 L.Ed. 1690 (1948). Further, the cases clearly establish
9 that constitutionally violative "materially untrue
10 assumptions" concerning a criminal record may arise
11 either as a result of a sentencing judge's correct
12 assumption or perception of inaccurate or false information,
13 or a sentencing judge's incorrect perception or
14 misapprehension of otherwise accurate or true
15 information. (Emphasis in original). Id. 677 P.2d
16 at 1048 n. 3. Petitioner would ask that this Court
17 not misperceive his request to be pointing his finger
18 at the Court and saying "you were wrong" as that is
19 not the case. He is merely requesting that the Court
20 reconsider the sentence that was pronounced based
21 upon the fact's that the PST at sentencing
22 lacks the instant offense or information thereof
23 and the false information given by the said
24 victim Sharon Hewitt.

Statement of Facts

1 On February 14, 2020, Petitioner Plead Guilty to:
2 Battery with USE OF A Deadly Weapon Constituting
3 Domestic Violence.

4
5 On February 26, 2020, Petitioner was sentenced by
6 this Court to: two (2) to five (5) years in the Nevada
7 Department of Corrections.

8 For a minimum term of not less than Two (2) Years
9 and Maximum term of not more than Ten (10) Years.

10
11 On February 12, 2020 Sharon Hewitt made a
12 statement in a temporary Protective Order stating:
13 That Petitioner "threw a boulder at her" which broke
14 the skin and her toe was swollen and bleeding, but
15 at the rendition of sentence of the Petitioner, she
16 went on record and told the Court, that said boulder
17 almost ~~struck~~ her toe, barely missing her foot.
18 Furthermore, in the criminal complaint of the Petitioner
19 it cites Sharon Hewitt being stricken on the foot
20 with a large rock, Yet, in the Guilty Plea agreement
21 and Judgment of conviction information of the
22 Petitioner, that a large rock was thrown at
23 Sharon Hewitt, which is completely different from
24 the initial criminal Complaint. The petitioner
25 would also point out, that in the TPC of February
26 12, 2020 there was a questionnaire inside asking
27 Ms. Hewitt several questions like: Are the Applicant and

1 Adverse Party living together now? she answered
2 NO, But my Possessions were found in her residence
3 on January 26, 2020. Is the Adverse Party likely to
4 react violently when served? she answered NO, But
5 she went on record at the rendition of sentence
6 of the Petitioner and said he was extremely
7 violent. Does the Adverse Party have a carrying a
8 concealed weapons permit? she answered Yes,
9 Having been an ex-felon at the time of the
10 instant offense it is impossible for the Petitioner
11 to have a concealed weapons permit in the state
12 of Nevada. Does the Adverse Party own or possess
13 weapons? she answered Yes. She ^{was} asked to
14 describe type and location of weapons. She
15 replied: Baseball bat, possible knife, He is in
16 County Jail now. Again, at the rendition of sentence
17 of the Petitioner, she went on record and told
18 the Court that, her younger son Brandon was
19 brandishing a bat that belonged to the Petitioner
20 while inside of the occupied residence, on the night
21 of the instant offense. I the Petitioner would point
22 out to this Honorable Court, that because the said Sharon
23 Hewitt made these blaringly false statements, in the
24 Temporary Protective Order filed on Feb 10, 2020 and going
25
26
27
28

Page 5

1 On the record, at the rendition of sentence of
2 the Petitioner, contradicting statements made before
3 sentencing of the Petitioner, undermining the integrity
4 and sanctity of this Honorable Court. The Petitioner
5 would also point out to this Honorable Court, it is
6 reasonable to believe that because of these false
7 statements made by Sharon Hewitt, may have prompted
8 Deputy District Attorney, Brandon Albright, in a blind
9 pursuit of justice to offer the Petitioner the
10 excessive plea bargain of 24 to 60 months in N.D.C.,
11 when no one, but the Petitioner, needed medical
12 attention. Malicious Destruction of Property. And 12 months in
13 CDD would have been more than an adequate punishment for Petitioner.

14 On February 26, 2020 the Court proceeded to
15 sentence the Petitioner with a Pre-sentence Investigation
16 Report that does not state the instant offense, more
17 specifically a previous Pre-sentence Investigation
18 Report, was used instead.

19 The Petitioner was asked by the Honorable Court
20 on record was that okay if the Court could proceed
21 with a previous Pre-sentence Investigation Report, the
22 Petitioner consented due to his ignorance of
23 Nevada Revised Statute, at the time of sentencing.

24 The Petitioner would ask this Honorable Court, to modify his
25 sentence to 12 months in the Clark County Detention Center.
26
27
28

1 Since N.R.S. 176.133 - 176.165 requires the Department
2 of Parole and Probation to investigate and make
3 evaluations of a criminal Defendant and the Victims of
4 the crime and their injuries which are all to be
5 factored into their recommendations.

6 In light of the fact that Petitioner has served 200 days at
7 Present and had no violent incident since January 26, 2020, is
8 enrolled and participating in the Adult Education Program
9 at the High Desert State Prison. Petitioner is requesting
10 this Court to re-evaluate the misinformation given by
11 Sharon Hewitt and the advice of counsel and of to
12 date PSI Report at the time of sentencing that he was
13 noted, and modify his sentence to a 12 month sentence
14 with 200 days credit time served in the Clark County
15 Detention Center from/or in place of the Petitioner's
16 24 to 60 months in Nevada Department of Corrections, according
17 to the dictates of the Court's mercy and sense of justice.
18 Last, the District Attorney's Office at the time of sentencing
19 had no objection to see forward with sentencing without a
20 current PSI Report.

21 Conclusion

22 Wherefore all of the above stated reasons, Petitioner
23 respectfully requests this Honorable Court to modify his
24 sentence in accordance with this Court's fair and just consideration
25 of the facts of the case.

26 Dated this 20th day of August, 2020

27 Respectfully Submitted
28 _____

Petitioner Plaintiff

Page 7

CERTIFICATE OF SERVICE BY MAILING

I, Justin A.R. Larkins, hereby certify, pursuant to NRCP 5(b), that on this 20th day of August, 2020, I mailed a true and correct copy of the foregoing, "Notice of Motion and Motion for Modification of Sentence." by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid, addressed as follows:

Steven L. Grierson,
Clerk of the Court
300 Lewis Avenue, 3RD Floor
Las Vegas, NV 89155-1160

CC:FILE

DATED: this ____ day of _____, 20__.

Justin A.R. Larkins
Pro Se # 115371
/In Propria Personam
Post Office box 650 [HDSP]
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

1 Justin A.R. Larkins #1175371
2 / In Propria Personam
3 Post Office Box 650 [HDSP]
4 Indian Springs, Nevada 89018

5 **DISTRICT COURT**
6 **CLARK COUNTY, NEVADA**

7 Justin A.R. Larkins #1966552
8 Plaintiff
9

10 vs. State of Nevada
11 Defendant
12

Case No. 1-20346867-1
Dept No. X
Docket _____

13
14 **NOTICE OF MOTION**

15 **YOU WILL PLEASE TAKE NOTICE, that** _____

16
17 will come on for hearing before the above-entitled Court on the ____ day of _____, 20____,
18 at the hour of ____ o'clock ____ M. In Department ____ of said Court.

19
20 CC:FILE

21
22 **DATED:** this ____ day of _____, 20____.

23
24 BY: Justin A.R. Larkins
25 WALTON B. #1175371
26 /In Propria Personam
27
28

August 20, 2020

Dear clerk of the court

Greetings and salutations to the court,
I am mailing this letter with the motion
for modification of sentence, to make known
that this is my first motion ever Drafted,
And to please be patient with me. I am
currently incarcerated at High Desert state Prison,
where, I have been asking for legal supplies,
for as of this day, 3 weeks, from the Law
Library here, with no response at all from
them pertaining to supplies. I would ask you
to please excuse my handwriting, I did
my best to be as neat as I could, please
excuse my nerves.

Respectfully and humbly

Gupta ⊕

Winton H. N. Lockins #4-1175371
2200 Cold Creek RD
Indian Springs, NV 89070

STEVEN D. GRIEGL
Clerk of the Court
200 Lewis Avenue, SR117
Las Vegas, NV 89155-1160

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FIRST-CLASS MAIL

08/25/2020

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VEN D. GRIEYON,
of the Court
S. Avenue, 3RD Floor
NV 89155-1160

MDL

PP
DA
AOR

1 Justin A. Larkins #1175371
2 Post Office Box 650 [HDSPI]
3 Indian Springs, NV 89018
4
5
6
7

Electronically Filed
11/04/2020

Heavenly Admin
CLERK OF THE COURT

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

8 Damien Sheets, ESQ.
9 Plaintiff

10 vs.

Case No.: C-20-346867-1

Dept No.: X

11
12 Justin A.R. Larkins #1966552
13 Defendant

11/30/20

8:30 a.m.

14
15 MOTION TO DISMISS COUNSEL AND APPOINT ALTERNATE COUNSEL
16

17 COMES NOW, the Defendant, Justin A.R. Larkins, and
18 moves this Honorable Court to dismiss Defendant's Counsel,
19 DAMIEN Sheets, and appoint alternate counsel to represent
20 Defendant.
21

22 This Motion is based upon all Papers, Pleadings, and documents on file.
23

24 POINTS AND AUTHORITIES

25 It is respectfully requested of this Court to grant this Motion
26 to Dismiss Counsel and Appoint Alternate Counsel for the reasons listed
27 below;
28

RECEIVED

OCT 19 2020

CLERK OF THE COURT

I. PROCEDURAL BACKGROUND AND FACTUAL SUMMARY

Since Damien Sheets was appointed as counsel on 2-5-20, Defendant has been prejudiced and suffered manifest injustice based on counsel's refusal or failure to:

Meet with Defendant before Court's decision
and/or the Preliminary hearing Proceedings, to
go over the discovery with the Defendant to
properly investigate the facts, of the case, of
C-20-346867-1. Counsel also failed to research
and/or spend any time in legal research, in which
resulted in Defendant, Pleading Guilty to a Battery
with use of a deadly weapon when no one was
Battered by the Defendant Physically. Counsel
also failed to provide Defendant with a copy
of the Initial Discovery, making it difficult for
Defendant to defend himself against the
allegations of the Prosecutions at a trial, forcing
the Defendant to stipulate to overly excessive
Plea Agreement offered by the State of Nevada.

II. ARGUMENT

Defendant, Justin A.R. Larkins asserts that ~~he~~ she is being denied ~~his~~ her right to effective representation due to wholly inadequate actions of ~~his~~ her court-appointed counsel. Further, counsel's actions constitute a violation of the Defendant's due process rights under the following cases, statutes, and/or rules of professional conduct:

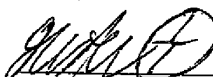
State v. Huebler, 129 Nev. 192, 275 P.3d 91, 129 Nev. Adv. Rep 19, 2012 Nev LEXIS 53 (Nev. 2012)
Cert. denied, 568 U.S. 1147, 133 S. Ct. 988, 184 L. Ed. 2d 767, 2013 U.S. LEXIS 1009 (U.S. 2013).
Buffalo v. State, 111 Nev. 1139, 901 P.2d 647
111 Nev. Adv. Rep. 127, 1995 Nev. LEXIS 125 (Nev. 1995)

Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, (1984).

WHEREFORE, the undersigned prays that the court grant Defendant's Motion to Dismiss Counsel and Appoint Alternate Counsel.

DATED THIS 13th day of October, 2020.

Respectfully submitted,


Defendant

CERTIFICATE OF SERVICE BY MAILING

I, Justin A.R. Larkins, hereby certify, pursuant to NRCP 5(b), that on this 13th day of October, 2020, I mailed a true and correct copy of the foregoing, "Motion to dismiss, compel and appoint alternate counsel and application to proceed in forma pauperis" by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid, addressed as follows:

Clerk of the Court
200 Lewis Avenue 3rd Floor
Las Vegas, NV 89155-1160

Clark County
DISTRICT ATTORNEY'S OFFICE
200 Lewis Avenue 2nd Floor
Post Office Box 332212
Las Vegas, Nevada, 89155-2212

CC:FILE

DATED: this 13th day of October, 2020.

Justin A.R. Larkins
#1175371

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

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

(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.

Signature

Date

Print Name

Title

Justin A.R. Larkins #1175371
2010 Cold Creek Road
Horn Springs, Nevada 89070

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

3762

LEGAL MAIL

Hasler
10/16/2020
FIRST-CLASS MAIL
NET POSTAGE \$004.80
ZIP 89161
01E12850615

Justin AR. Larkins #1175371
22010 Cold Creek Road
Indian Springs, Nevada 89070

STEVEN D. GALLERSON
Client of the Court
200 LEWIS AVENUE, 3RD FLOOR
LAS VEGAS, NV 89155-1160

3762

LEGAL MAIL

FlashNet
10/18/2021
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ZIP 89
01/11/2023

JOSH DESERT STATE PARK
OCT 1 5 2022
WEST 5402

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**EIGHTH JUDICIAL DISTRICT COURT
CLERK OF THE COURT**

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

Steven D. Grierson
Clerk of the Court

Anntoinette Naumec-Miller
Court Division Administrator

November 04, 2020

Attorney: Damian Sheets
Nevada Defense Group
Damian Sheets
714 S 4th St
Las Vegas NV 89101

Case Number: C-20-346867-1
Department: Department 10

Defendant: JUSTIN A LARKINS

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

Pleadings: **Motions For Modification Of Sentence**

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Cordially yours,
DC Criminal Desk # 40
Deputy Clerk of the Court

1 Justin A.R. Larkins #1175371
2 22010 Cold Creek RD
3 P.O. BOX 650 [HDSPI]
4 Indian Springs, NV 89070

5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8 State of Nevada
9 Plaintiff

10 vs.

11 Justin A.R. Larkins #1766552
12 Defendant
13

Case No.: C-20-346967-1
Dept No.: X

14

15 MOTIONS FOR MODIFICATION OF SENTENCE
16

17 Comes now, Defendant, Justin A.R. Larkins, Pro Per, and
18 respectfully moves this Honorable Court for a Modification
19 of Sentence.

20

21 This motion is made and based Pursuant to the supporting
22 Points and Authorities attached hereto, NRS 176.555, as
23 well as Papers, Pleadings, and documents on file herein
24

25

POINTS AND AUTHORITIES

26 It is respectfully requested of this Court to Grant this Motion
27 for Modification of Sentence for the reasons listed below
28

1

OCT 19 2020

CLERK OF THE COURT

Standard Of Review

The Nevada Supreme Court has long recognized that courts have the power and jurisdiction to modify a sentence. See *Stakey v. State*, 787 P.2d 396, 106 Nev. 75 (1990): "... that if a sentencing court pronounces sentence within statutory limits, the court will have jurisdiction to modify, suspend or otherwise correct that sentence if it is based upon materially untrue assumptions or mistake which work to the extreme detriment of the defendant." Defendant believes that this court has, based upon *Stakey*, the jurisdiction to modify his sentence, due to that sentence being pronounced based upon a pre-sentence investigation report that lacks the instant offense, and false information given by Sharon Hewitt about the instant offense, which the defendant will discuss in the below statement of facts. State may argue that laches apply due to the fact that several months have passed since sentence was pronounced. However, the Nevada Supreme Court held that such a time requirement does not apply to a request of modification of sentence. According to *Passanisi v. State*, 831 P.2d 1371, 108 Nev. 318 (1992), Defendant as stated above, is alleging that his sentence by this court was based upon assumptions founded upon a PSI report that lacks the information of the instant offense and false information given by Sharon Hewitt, and as such, the Defendant's constitutional right to due process was violated. See *State v. District Court*, 677 P.2d 1044, 100 Nev. 90 (1984): The District Court's inherent authority to correct a judgment or

1 sentence founded on mistake is in accord with the constitutional
2 considerations underling the sentence process. The United States
3 Supreme Court has EXPRESSLY held that where a defendant is
4 sentenced on the basis of materially untrue assumptions
5 concerning the defendant's criminal record "(the) result, whether
6 caused by carelessness or design, is inconsistent with due
7 process of law." *Townsend v. Burke*, 334 U.S. 736, 741, 68 S.Ct.
8 1252, 1255, 92 L. Ed. 1690 (1948). Further, the cases clearly
9 establish that constitutionally violative, "materially untrue
10 assumptions" concerning a criminal record may arise either as
11 a result of a sentencing Judge's correct assumption or perception
12 of inaccurate or false information, or a sentencing Judge's
13 incorrect perception or misapprehension of otherwise accurate or
14 true information. *Id.* 677 P.2d at 1048 n.3. Defendant would
15 ask that this court not misperceive his request to be pointing
16 his finger at the court and saying "you were wrong" as that
17 is not the case. He is merely requesting that the court
18 reconsider the sentence that was pronounced based upon
19 the facts that the PSI at sentencing lacks that of the
20 instant offense or the lack thereof, and the false information
21 given by Sharon Hewitt.

Statement of Facts

On February 14, 2020 the defendant Plead guilty to:
Battery with use of a Deadly Weapon constituting Domestic
Violence.

On February 26, 2020, the defendant was sentenced by this
Court to: two (2) to five (5) years in the Nevada Department
of Corrections.

For a minimum term of not less than Two (2) Years and
maximum term of not more than Ten (10) Years.

On February 12, 2020 Sharon Hewitt made a statement
in a temporary Protective Order stating: that Petitioner
"threw a boulder at her" which broke the skin and her toe
was swollen and bleeding, But at the rendition of sentence
of the defendant, she went on record and told this Court,
that said boulder almost struck her toe, barely missing her
foot. Furthermore, in the criminal complaint of the defendant
it cites Sharon Hewitt being stricken on the foot with a
large rock, yet, in the guilty Plea Agreement and Judgment
of conviction information of the defendant, that a large
rock was thrown at Sharon Hewitt, which is completely
different from the initial criminal complaint. The defendant
would also point out, that in the TPO of February 12, 2020
there was a Questionnaire inside asking Ms. Hewitt several
Questions like: Are the Applicant and the Adverse Party living
together now? She answered NO, But the defendant's Possessions

1 were found in her residence on January 26, 2020. Is the
2 Adverse Party likely to react violently when served? She
3 answered NO, but at the rendition of sentence, she went
4 on record and said that the defendant was a menace to
5 society. Does the Adverse Party have a carrying a concealed
6 weapons permit? She answered Yes, having been an ex-felon
7 at the time of the instant offense, it is impossible for the
8 defendant to have a concealed weapons permit in the state of
9 Nevada. Does the Adverse Party own or possess any weapons?
10 She answered Yes. She was asked to describe the type
11 and locations of weapons. She replied: Baseball bat, possible
12 knife. He is in county jail now. At the rendition of sentence
13 of the defendant, she openly went on record and told this
14 Honorable Court, that her younger son Brandon was brandishing
15 a bat that belonged to the defendant while inside her
16 residence on the night of the instant offense. I, the
17 defendant would point out to this Honorable Court, that because
18 Sharon Hewitt made these blaringly untrue statements in
19 the Temporary Protective Order filed on Feb 12, 2020 and
20 even as going so far to go on record at the rendition of
21 sentence of the defendant, with these blaringly contradictory
22 statements, undermining the very integrity and sanctity of
23 this Honorable Court. The defendant would also point out to
24 this hallowed institution, that it is reasonable to believe that
25 because of these contradictory statements made by Sharon
26 Hewitt, prompted Deputy District Attorney Brandon Albright, in
27 a pursuit of justice to offer the excessive Plea bargain of
28

1 24 to 60 months in the Nevada Department of Corrections,
2 when no one, but the defendant needed medical attention,
3 And the defendant would also add that the sentencing
4 Charges of: Battery with use of a Deadly Weapon
5 Constituting Domestic Violence, is according to Nevada
6 Constitution, Article 1§8, as well as, Salazar v.
7 State, 119 Nev. 224, 70 P.3d 744, 18 Nev. Adv. Rep
8 26, 2003 Nev. LEXIS 30 (NEV 2003), is redundant,
9 especially in the case of C-20-346867-1 when no
10 one was harmed but the defendant, and no one
11 can actually prove that they were battered
12 with a deadly weapon by the defendant, affirming
13 that the sentencing charges of C-20-346867-1 are
14 not only redundant, but they are excessive as
15 well. Malicious Destruction of Property is the accurate
16 charge for case no. C-20-346867-1, seeing as though, no
17 one can actually prove that they were battered by the
18 defendant, and according to Sharon Hewitt's testimony
19 on the record of the sentencing day of the defendant,
20 no one was battered or harmed. Furthermore
21 12 months in the Clark County Detention Center would
22 have been more than an adequate punishment for the
23 defendant, or the more appropriate punishment, instead
24 of wasting precious space in the Nevada Department
25 of Corrections, amid a global pandemic that is
26 crippling economies worldwide and claiming the
27 lives of so many more, in the process.

28

1 On February 26, 2020 The Court Proceeded to
2 Sentence the defendant with a Pre-sentence
3 Investigation Report, that does not state the instant
4 Offense, more specifically a Previous Pre-Sentence
5 Investigation Report was used instead.
6 The defendant was asked by the Court on the day of
7 sentencing was it okay to Proceed with sentencing
8 with a Previous Pre-Sentencing Investigation Report, The
9 defendant consented due to his ignorance of N.R.S.
10 176.133-176.165 at the time of sentencing. The
11 defendant would ask this Honorable Court to modify his
12 sentence to 12 months in the Clark County Detention
13 Center since N.R.S. 176.133-176.165 requires the
14 Nevada Department of Parole and Probation to investigate
15 and make evaluations of a Criminal Defendant and
16 the Victims of the crime and their injuries which are
17 to be factored into their recommendations.
18 In light of the fact that the defendant has served
19 261 days at present, and has had no violent
20 incident since January 26, 2020, the night the defendant
21 engaged in a fight with a detainee in a Holding
22 cell at the Clark County Detention Center. And is
23 currently enrolled and participating in the Adult
24 Education Program at High Desert State Prison. The
25 Defendant is requesting that this Honorable Court to
26 re-evaluate the misinformation given by Sharon Hewitt,
27 and the absence of a current PSI Report at the
28

1 rendition of sentence, that he has noted for the record
2 and modify his sentence to a 12 months sentence with
3 261 days credit time served in the Clark County Detention
4 Center, in place of the defendant's 24 to 60 months in the
5 Nevada Department of Corrections, according to the dictates
6 of this Honorable Court's Merit and sense of Justice. Last,
7 the District Attorney's Office at the time of sentencing
8 had no objection to go forward with sentencing
9 without a current PSI Report.

11 Conclusion

12 Wherefore, all of the above stated reasons, the defendant
13 Respectfully and Humbly requests this Honorable Court to
14 modify his sentence in accordance with this Honorable
15 Court's sense of fair and Just consideration of the facts
16 of this case.

24 DATED this 13th day of October, 2020

26 Respectfully and Humbly submitted
27 *[Signature]*
28 Defendant

8

CERTIFICATE OF SERVICE BY MAILING

I, Justin A.R. Larkins, hereby certify, pursuant to NRCP 5(b), that on this 13th
day of October, 2020, I mailed a true and correct copy of the foregoing, "Notice
of Motion and Motion for Modification of Sentence."
by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid,
addressed as follows:

Clerk of the Court
200 Lewis Avenue 3rd Floor
Las Vegas, NV 89155-1160

District Attorney's Office
200 Lewis Avenue 2nd Floor
Post Office Box 552212
Las Vegas, Nevada 89155-2212

CC:FILE

DATED: this ____ day of _____, 20__.

Justin A.R. Larkins
Notary Public #1966552
/In Propria Personam
Post Office box 650 [HDSP]
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

1 Justin A.R. Larkins #1175371

2 / In Propria Personam

3 Post Office Box 650 [HDSP]

4 Indian Springs, Nevada 89018

5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7 STATE OF NEVADA

8 Plaintiff

9 vs.

10 JUSTIN A.R. LARKINS

11 #196682

12 Defendant

Case No. C-20346867-1

Dept No. X

Docket _____

13 **NOTICE OF MOTION**

14 **YOU WILL PLEASE TAKE NOTICE, that** _____

15 _____
16 _____
17 will come on for hearing before the above-entitled Court on the _____ day of _____, 20____,
18 at the hour of _____ o'clock _____ M. In Department _____, of said Court.

19
20 CC FILE

21
22 DATED: this _____ day of _____, 20____.

23
24 BY: Justin A.R. Larkins
25 [Signature] #1175371
26 /In Propria Personam
27
28

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

(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.

Signature

Date

Print Name

Title

V

98

1 Justin A.R. Larkins #1175371
2 22010 Cold Creek RD
3 P.O. BOX 650 [HDSPI]
4 Indian Springs, NV 89070

FILED
FEB 10 2021
Clerk of Court

5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8 State of Nevada
9 Plaintiff

C-20-346867-1

10 vs.
11 Justin A.R. Larkins #176552
12 Defendant

Case No.: C-20-346867-1
Dept No.: X

Hearing: 3/03/2021
Time: 8:30AM

13
14
15 MOTIONS FOR MODIFICATION OF SENTENCE
16

17 Comes now, Defendant, Justin A.R. Larkins, Pro Per, and
18 respectfully moves this Honorable Court for a Modification
19 of Sentence.

20
21 This motion is made and based Pursuant to the supporting
22 Points and Authorities attached hereto, NRS 176.555, as
23 well as Papers, Pleadings, and documents on file herein
24

25 POINTS AND AUTHORITIES

26 It is respectfully requested of this Court to Grant this Motion
27 for Modification of Sentence for the reasons listed below
28

1 RECEIVED OCT 19 2020
JAN 25 2021 CLERK OF THE COURT

CLERK OF THE COURT

I. Standard Of Review

The Nevada Supreme Court has long recognized that Court's have the Power and Jurisdiction to modify a sentence. See *Staley v. State*, 787 P.2d 396, 106 Nev. 75 (1990): "... that if a sentencing court pronounces sentence within statutory limits, the court will have jurisdiction to modify, suspend or otherwise correct that sentence if it is based upon materially untrue assumptions or mistake which work to the extreme detriment of the defendant." Defendant believes that this Court has, based upon *Staley*, the jurisdiction to modify his sentence, due to that sentence being pronounced based upon a Pre-Sentence Investigation Report that lacks the instant offense, and false information given by Sharon Hewitt about the instant offense, which the Defendant will discuss in the below statement of facts. State may argue that laches apply due to the fact that several months have passed since sentence was pronounced. However, The Nevada Supreme Court held that such a time requirement does not apply to a request of modification of sentence. According *Passanisi v. State*, 831 P.2d 1371, 108 Nev. 318 (1992). Defendant as stated above, is alleging that his sentence by this Court was based upon assumptions founded upon a PSI Report that lacks the information of the instant offense and false information given by Sharon Hewitt, and as such, the Defendant's Constitutional right to due Process was violated. See *State v. District Court*, 677 P.2d 1044, 100 Nev. 90 (1984): The District Court's inherent authority to correct a judgment or

1 sentence founded on mistake is in accord with the constitutional
2 considerations underlying the sentence process. The United States
3 Supreme Court has EXPRESSLY held that where a defendant is
4 sentenced on the basis of materially untrue assumptions
5 concerning the defendant's criminal record, "(The) result, whether
6 caused by carelessness or design, is inconsistent with due
7 process of law." Townsend v. Burke, 334 U.S. 736, 741, 68 S.Ct.
8 1252, 1255, 92 L. Ed. 1690 (1948). Further, the cases clearly
9 establish that constitutionally violative "materially untrue
10 assumptions" concerning a criminal record may arise either as
11 a result of a sentencing Judge's correct assumption or perception
12 of inaccurate or false information, or a sentencing Judge's
13 incorrect perception or misapprehension of otherwise accurate, or
14 true information. Id. 677 P.2d at 1048 n. 3. Defendant would
15 ask that this court not misperceive his request to be pointing
16 his finger at the court and saying "you were wrong" as that
17 is not the case. He is merely requesting that the court
18 reconsider the sentence that was pronounced based upon
19 the facts that the PSI at sentencing lacks that of the
20 instant offense or the lack thereof, and the false information
21 given by Sharon Hewitt.

Statement of Facts

On February 14, 2020 the defendant Plead guilty to:
Battery with use of a Deadly Weapon constituting Domestic
Violence.

On February 26, 2020, the defendant was sentenced by this
Court to: two (2) to five (5) years in the Nevada Department
of Corrections.

For a minimum term of not less than two (2) years and
maximum term of not more than ten (10) years.

On February 12, 2020 Sharon Hewitt made a statement
in a Temporary Protective Order stating: That Petitioner
"threw a boulder at her" which broke the skin and her toe
was swollen and bleeding, But at the rendition of sentence
of the defendant, she went on record and told this Court,
that said boulder almost struck her toe, barely missing her
foot. Furthermore, in the Criminal Complaint of the defendant
it cites Sharon Hewitt being stricken on the foot with a
large rock, yet, in the guilty Plea Agreement and Judgment
of Conviction information of the defendant, that a large
rock was thrown at Sharon Hewitt, which is completely
different from the initial criminal complaint. The defendant
would also point out, that in the TPO of February 12, 2020
there was a Questionnaire inside asking Ms. Hewitt several
Questions like: Are the Applicant and the Adverse Party living
together now? She answered NO, But the defendant's Possessions

1 were found in her residence on January 26, 2020. Is the
2 Adverse Party likely to react violently when served? She
3 answered no, but at the rendition of sentence, she went
4 on record and said that the defendant was a menace to
5 society. Does the Adverse Party have a carrying a concealed
6 weapons permit? She answered yes, having been an ex-felon
7 at the time of the instant offense, it is impossible for the
8 defendant to have a concealed weapons permit in the state of
9 Nevada. Does the Adverse Party own or possess any weapons?
10 She answered yes. She was asked to describe the type
11 and locations of weapons. She replied: Baseball bat, possible
12 knife. He is in county jail now. At the rendition of sentence
13 of the defendant, she openly went on record and told this
14 Honorable court, that her younger son Brandon was brandishing
15 a bat that belonged to the defendant while inside her
16 residence on the night of the instant offense. I, the
17 defendant would point out to this Honorable court, that because
18 Sharon Hewitt made these blaringly untrue statements in
19 the Temporary Protective Order filed on Feb 12, 2020 and
20 even as going so far to go on record at the rendition of
21 sentence of the defendant, with these blaringly contradictory
22 statements, undermining the very integrity and sanctity of
23 this Honorable court. The defendant would also point out to
24 this hallowed institution, that it is reasonable to believe that
25 because of these contradictory statements made by Sharon
26 Hewitt, prompted Deputy District Attorney Brandon Albright, in
27 a pursuit of justice, to offer the excessive plea bargain of
28

24 to 60 months in the Nevada Department of Corrections,
when no one, but the defendant needed medical attention,
And the defendant would also add that the sentencing
charges of: Battery with use of a Deadly Weapon
constituting Domestic Violence, is according to Nevada
Constitution, Article 188, as well as, Salazar v.
State, 119 Nev. 224, 70 P.3d 749, 119 Nev. Adv. Rep
26, 2003 Nev. LEXIS 30 (NEV 2003), is redundant,
especially in the case of C-20-346867-1 when no
one was harmed but the defendant, and no one
can actually prove that they were battered
with a deadly weapon by the defendant, affirming
that the sentencing charges of C-20-346867-1 are
not only redundant, but they are excessive as
well. Malicious Destruction of Property is the accurate
charge for case no. C-20-346867-1, seeing as though, no
one can actually prove that ^{was} battered by the
defendant, and according to Sharon Hewitt's testimony
on the record of the sentencing day of the defendant,
no one was battered or harmed. Furthermore
12 months in the Clark County Detention Center would
have been more than an adequate punishment for the
defendant, or the more appropriate punishment, instead
of wasting previous space in the Nevada Department
of Corrections, amid a global pandemic that is
crippling economies worldwide and claiming the
lives of so many more, in the process.

II. STATEMENT OF FACTS

On February 26, 2020 The Court Proceeded to Sentence The Defendant With a Pre-sentence Investigation Report, That does not the instant offense; More Specifically a Previous Pre-sentence Investigation Report was used instead. The Defendant was asked by The Court on The day of sentencing "was it okay to Proceed with sentencing with a previous PSI"? The Defendant consented due to his ignorance of the N.R.S. Codes 176.133-176.165 at the time of sentencing. The Defendant would ask this most Honorable Court to modify his Sentence to 12 months in The Clark County Detention Center, because N.R.S. 176.133-176.165 requires The Nevada Department of Parole and Probation to investigate and make Evaluations of a Criminal Defendant and the Victims of the Crime and their injuries which are to be factored into their recommendations. In light of the fact that this Defendant has served 353 days at Present, and currently enrolled and participating in the Adult Education Program at High Desert State Prison, and because High Desert State Prison has the Defendant housed in a facility with 97 other inmates, some of whom have tested positive for Co-Vid 19, which is in direct violation of CDC guidelines that state: "any occupied structure is to be at 25 percent capacity", As well as, Nevada State Governor Steve Sisolak affirms this statement, as recently as, January 14, 2021. And there are more CDC guidelines and regulations that are being utterly ignored by N.D.O.C. staff, such as; social distancing, Proper sanitizing the showers and phones and housing inmates that have tested positive for Co-Vid 19 in cells with inmates that have test negative for Co-Vid 19. Thus, this Defendant is requesting that this Honorable Court to re-evaluate the misinformation or contradictory statements given by Sharon Hewitt, and the absence of a current Pre-^{sentence} Investigation Report at The rendition of sentence, That The Defendant

1 has noted for the record, and modify his to a 12 months
2 sentence with 353 days credit time served in the
3 Clark County Detention Center, in place of the
4 Defendant's 24 to 60 months in the Nevada
5 Department of Corrections, according to the dictates
6 of this Most Honorable Court's mercy and sense
7 of justice. Last, The Clark County District
8 Attorney's Office at the time of sentencing had
9 no objection to go forward with sentencing
10 without a current PSI Report.
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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 13th day of January, 2021.

By: Justin A.R. Larkin

JAL ⊕
High Desert State Prison
22010 Cold Creek Rd.
P.O. Box 650
Indian Springs, NV. 89070

#1175371

1. Justin A.R. Larkins #1966552, 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
200 Lewis Avenue 3rd Floor
Las Vegas, NV 89155-1160

OFFICE of the CLERK
Supreme Court of Nevada
201 S. Carson Street, Suite 201
Carson City, Nevada 89701

District Attorney's Office
200 Lewis Avenue 2nd Floor
Las Vegas, Nevada 89155-1160

Dated this 13th day of January, 2021.

By: Justin A.R. Larkins
[Signature] # 1173371

High Desert State Prison
22010 Cold Creek Rd.
P.O. Box 650
Indian Springs, NV. 89070

Defendant, In Proper Person

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Motion

Modification of Sentence

(Title of Document)

filed in District Court Case number C-20-346867-1

☒ 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.

Justin A
Signature

1-13-2021
Date

Justin Alexander Larkins
Print Name

Defendant #1966552
Title

Justin A.R. Larkin #1175371
22010 Cold Creek Rd
Indian Springs, NV 89070

NON MACHINABLE MAIL
PLEASE HAND CANCEL

RECEIVED
JAN 25 2021

LEGAL MAIL
3702
CLERK OF THE COURT

Steven D. Grierson
Clerk of the Court
200 Lewis Ave, 3rd Floor
Las Vegas NV 89155-1160



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01/20/2021
US POSTAGE \$003.80
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ZIP 89101
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HIGH DESERT STATE PRISON
JAN 14 2021
UNIT 5 C/D



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

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 JUSTIN ALEXANDER RASHAD LARKINS,
13 #1966552

14 Defendant.

CASE NO: C-20-346867-1

DEPT NO: X

15 **STATE'S OPPOSITION TO DEFENDANT'S**
16 **MOTION FOR MODIFICATION OF SENTENCE**

17 DATE OF HEARING: March 31, 2021
18 TIME OF HEARING: 8:30 AM

19 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
20 District Attorney, through BRANDON ALBRIGHT, Deputy District Attorney, and hereby
21 submits the attached Points and Authorities in Opposition to Defendant's Motion for
22 Modification of Sentence.

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

26 //

27 //

28 //

V:\2020\045\52\202004552C-RSPN-(LARKINS MOD SENTENCE)-001.DOCX

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On January 29, 2020, Defendant was charged by way of Criminal Complaint with
4 INVASION OF THE HOME (Category B Felony - NRS 205.067 - NOC 50435);
5 BURGLARY (Category B Felony - NRS 205.060 - NOC 50424); BATTERY WITH USE OF
6 A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE (Category B Felony -
7 NRS 200.481; 200.485; 33.018 - NOC 57935); ASSAULT WITH A DEADLY WEAPON
8 (Category B Felony - NRS 200.471 - NOC 50201); BATTERY ON A PROTECTED PERSON
9 (Gross Misdemeanor - NRS 200.481 - NOC 50221) and MALICIOUS DESTRUCTION OF
10 PROPERTY (Gross Misdemeanor - NRS 206.310, 193.155 - NOC 50905).

11 On February 13, 2020, an Information was filed charging Defendant with BATTERY
12 WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE
13 (Category B Felony - NRS 200.481; 200.485; 33.018 - NOC 57935). On February 14, 2020, a
14 Guilty Plea Agreement (hereinafter "GPA") was filed in open court containing the following
15 stipulations regarding sentencing: "The parties stipulate to a sentence of two (2) to five (5)
16 years in the Nevada Department of Corrections. The State agrees not to see habitual criminal
17 treatment. Further, the State will not oppose dismissal of Case No. 20F00459X." GPA at
18 page 1.

19 On February 26, 2020, Defendant was sentenced to the Nevada Department of
20 Corrections (NDOC) to a minimum of twenty-four (24) months and a maximum of sixty (60)
21 months.

22 Defendant's Judgment of Conviction was filed on March 5, 2020. Defendant did not
23 file a direct appeal.

24 On February 10, 2021, Defendant filed the instant Motion for Modification of Sentence
25 ("Motion"). The State responds as follows.

26 ///

27 ///

28 ///

1 **ARGUMENT**

2 Defendant moves this Court to reduce his sentence “to a 12 month sentence with 353
3 days credit” (Motion at 8). Defendant is not entitled to a modification of his sentence. As set
4 forth below, his claims are barred by the law of the case doctrine, not proper for a Motion to
5 Modify and/or Correct Illegal Sentence, and are bare, naked assertions that are suitable only
6 for summary denial. As a result, Defendant’s Motion is wholly without merit and should be
7 denied.

8 **I. DEFENDANT IS NOT ENTITLED TO A MODIFICATION OF SENTENCE**

9 In general, a district court lacks jurisdiction to modify a sentence once the defendant
10 has started serving it. Passanisi v. State, 108 Nev. 318, 321, 831 P.2d 1371, 1371 (1992),
11 overruled on other grounds by Harris v. State, 130 Nev. 435, 329 P.3d 619 (2014). Not every
12 mistake or error during sentencing gives rise to a due process violation. State v. Dist. Court
13 (“Husney”), 100 Nev. 90, 97, 677 P.2d 1044, 1048 (1984). However, a district court has
14 inherent authority to correct, vacate, or modify a sentence that violates due process where the
15 defendant can demonstrate the sentence is based upon a materially untrue assumption or
16 mistake of fact about the defendant’s criminal record that has worked to the extreme detriment
17 of the defendant. Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996); see also
18 Passanisi, 108 Nev. at 322, 831 P.2d at 1373. Edwards makes clear that a district court may
19 modify a defendant’s sentence “only if the mistaken sentence ‘is the result of the sentencing
20 judge’s misapprehension of a defendant’s criminal record.’” 112 Nev. at 707, 918 P.2d at 324
21 (quoting Husney, 100 Nev. at 97, 677 P.2d at 1048 (emphasis in original)). Such material
22 mistakes surrounding a defendant’s criminal record can arise “either as a result of a sentencing
23 judge’s *correct* perception of inaccurate or false information, or a sentencing judge’s *incorrect*
24 perception or misapprehension of otherwise accurate or true information.” Husney, 100 Nev.
25 at 97, 677 P.2d at 1048 (emphasis in original).

26 Furthermore, claims asserted in a petition for post-conviction relief must be supported
27 with specific factual allegations, which if true, would entitle the petitioner to relief. Hargrove
28 v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “Bare” and “naked” allegations are

1 not sufficient, nor are those belied and repelled by the record. Id. It is a defendant's
2 responsibility to present relevant authority and cogent argument; issues not so presented need
3 not be addressed by this court. Maresca v. State, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987); see
4 also State v. Haberstroh, 119 Nev. 173, 187, 69 P.3d 676, 685-86 (2003) ("[c]ontentions
5 unsupported by specific argument or authority should be summarily rejected on appeal.")
6 (internal citations omitted); Jones v. State, 113 Nev. 454, 468, 937 P.2d 55, 64 (1997) (holding
7 that Jones' unsupported contention should be summarily rejected on appeal).

8 The Nevada Supreme Court has held "that a motion to modify a sentence is limited in
9 scope to sentences based on mistaken assumptions about a defendant's criminal record which
10 work to the defendant's extreme detriment." Edwards, 112 Nev. at 708, 918 P.2d at 324. They
11 address "only the facial legality of a sentence." Id. They cannot "be used as a vehicle for
12 challenging the validity of a judgment of conviction or sentence based on alleged errors
13 occurring at trial or sentencing." Id. Such issues "must be raised in habeas proceedings." Id.

14 When a defendant pleads guilty, any alleged substantive errors that occurred prior to
15 the defendant's decision to enter that guilty plea are waived in post-conviction proceedings.
16 Woods v. State, 114 Nev. 468, 477, 958 P.2d 91, 97 (1998); Reuben C. v. State, 99 Nev. 845,
17 845-46, 673 P.2d 493 (1983) ("When a criminal defendant has solemnly admitted in open
18 court that he is in fact guilty of the offense with which he is charged, he may not thereafter
19 raise independent claims relating to the deprivation of constitutional rights that occurred prior
20 to the entry of the guilty plea."); Powell v. Sheriff, 85 Nev. 684, 687, 462 P.2d 756, 758 (1969)
21 ("It is now the established law of this state that where a guilty plea is not coerced and the
22 defendant was competently represented by counsel at the time it was entered, the subsequent
23 conviction is not open to collateral attack and any errors are superseded by the plea of guilty").

24 Defendant got exactly what he bargained for. His GPA, which he reviewed and signed
25 with the advice of counsel, clearly and unequivocally delineates the ramifications of his
26 agreement regarding his potential sentencing outcomes, and Defendant received precisely the
27 sentence that he knew he could have received. In fact, he got the *exact* sentence to which he
28 agreed. A motion to modify a sentence is limited in scope to sentences based on mistaken

1 assumptions about a defendant's criminal record which work to the defendant's extreme
2 detriment. This was not an illegal sentence and the Court did not rely on any material mistakes
3 of fact in rendering judgment. The Court properly sentenced Defendant in this case and
4 Defendant is not entitled to a modification of sentence.

5 **CONCLUSION**

6 For the foregoing reasons, the State respectfully requests that Defendant's Motion for
7 Modification of Sentence be DENIED.

8 DATED this 9th day of March, 2021.

9 Respectfully submitted,

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

13 BY /s/ Brandon Albright
14 BRANDON ALBRIGHT
15 Deputy District Attorney
16 Nevada Bar #014158

17
18 **CERTIFICATE OF MAILING**

19 I hereby certify that service of the above and foregoing was made this 10th day of
20 March, 2021, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

21 JUSTIN LARKINS, #1175371
22 H.D.S.P.
23 PO BOX 650
24 INDIAN SPRINGS, NV 89070-0650

25 BY: /s/ J. Georges
26 Secretary for the District Attorney's Office

27
28 BA/jg/DVU

ORDR
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
HETTY WONG
Chief Deputy District Attorney
Nevada Bar #011324
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

JUSTIN ALEXANDER RASHAD
LARKINS,
#1966552

Defendant.

CASE NO: C-20-346867-1
DEPT NO: X

**ORDER DENYING DEFENDANT'S MOTION FOR MODIFICATION OF
SENTENCE**

DATE OF HEARING: March 31, 2021
TIME OF HEARING: 08:30 A.M.

THIS MATTER having come on for hearing before the above-entitled Court on the 31st day of March, 2021, the Defendant not being present, IN PROPER PERSON, the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through HETTY WONG, Chief Deputy District Attorney, and the Court without argument, based on the pleadings and good cause appearing therefor,

///

///

///

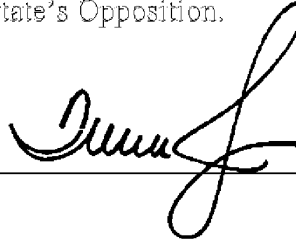
///

///

\\CLARKCOUNTYDA.NET\CRM\CASE2\2020\045\52\202004552C-ORDR-(JUSTIN ALEXANDER LARKINS)-001.DOCX

Statistically closed: N. USJR - CR - Other Manner of Disposition (USCO)

1 IT IS HEREBY ORDERED that the Defendant's Motion for Modification of Sentence,
2 shall be, and it is DENIED consistent with the State's Opposition.
3
4
5



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

CA9 548 31E7 2505
Tierra Jones
District Court Judge

9 BY /s HETTY WONG
10 HETTY WONG
11 Chief Deputy District Attorney
12 Nevada Bar #011324

13 CERTIFICATE OF SERVICE

14 I certify that on the 6th day of April, 2021, I mailed a copy of the foregoing Order to:

15 JUSTIN LARKINS, BAC #1175371
16 HIGH DESERT STATE PRISON
17 P. O. BOX 650
18 INDIAN SPRINGS, NEVADA 89070-0650

19 BY /s/ J. HAYES
20 Secretary for the District Attorney's Office
21
22
23
24
25
26
27

28 20F02003X/jh/DVU

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 State of Nevada

CASE NO: C-20-346867-1

7 vs

DEPT. NO. Department 10

8 JUSTIN LARKINS

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.

Steven D. Grierson

Justin A.R. Larkins #1175371

22010 Cold Creek RD

P.O. BOX 650 [H.D.S.P.]

Indian Springs, NV 89070

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,
Plaintiff

Case No: C-20-346867-2
Dept No: X

VS.

Justin A.R. Larkins #1966552,
Defendant

NOTICE OF APPEAL

NOTICE is hereby given That Justin A.R. Larkins
The Defendant above-named by and through his self as
Pro Per hereby appeals to the Supreme Court of Nevada,
from the Order denying the Defendant's Petition for
Post-Conviction Relief (Sentence Modification) dated
March 31, 2021.

RECEIVED

APR 21 2021

CLERK OF THE COURT

CERTIFICATE OF SERVICE BY MAILING

I, Justin A.R. Larkins, hereby certify, pursuant to NRCP 5(b), that on this 14th day of April, 2021, I mailed a true and correct copy of the foregoing, "NOTICE OF APPEAL"

by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid, addressed as follows:

Clerk of The Court
STEVEN D. GRIERSON
200 Lewis Ave, 3rd Floor
Las Vegas Nevada 89155-1160

District Attorney's Office
200 Lewis Avenue 2nd Floor
Las Vegas, Nevada 89155-1160

OFFICE OF THE COURT
SUPREME COURT OF NEVADA
201 S. Carson Street, Suite 301
Carson City, Nevada 89401

CC:FILE

DATED: this 14th day of April, 2021.

Justin A.R. Larkins #1175371
/In Propria Personam
Post Office box 650 [HDSP]
Indian Springs, Nevada 89018
IN FORMA PAUPERIS

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

Notice of Appeal
(Title of Document)

filed in District Court Case number C-20346867-1

☒ 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.

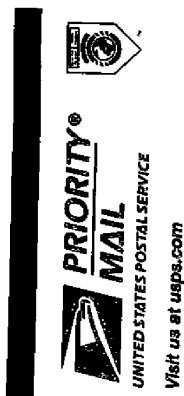
Kurt M. D
Signature

4-11-2021
Date

Print Name

Title

Justin A.R. Larkins #175371
22010 Cold Creek Rd
Indian Springs, NV 89070



Label 107R, January 2008

Steven D. Grierson
Clerk of The Court
200 Lewis Ave, 3rd Floor
Las Vegas, NV 89155-1160

LEGAL MAIL

RECEIVED
APR 21 2021
CLERK OF THE COURT



1 ASTA

2
3
4
5
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**

9 STATE OF NEVADA,

10 Plaintiff(s),

11 vs.

12
13 JUSTIN ALEXANDER RASHAD LARKINS
14 aka JUSTIN ALEXANDER LARKINS,

15 Defendant(s),

Case No: C-20-346867-1

Dept No: X

16
17 **CASE APPEAL STATEMENT**

18 1. Appellant(s): Justin A. R. Larkins

19 2. Judge: Tierra Jones

20 3. Appellant(s): Justin A. R. Larkins

21 Counsel:

22 Justin A. R. Larkins #1175371
23 P.O. Box 650
24 Indian Springs, NV 89070

25 4. Respondent: The State of Nevada

26 Counsel:

27 Steven B. Wolfson, District Attorney
28 200 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: February 12, 2020

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

Type of Judgment or Order Being Appealed: Misc. Order

11. Previous Appeal: No

Supreme Court Docket Number(s): N/A

12. Child Custody or Visitation: N/A

Dated This 26 day of April 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: Justin A. R. Larkins

FILED

APR 27 2021

John T. Blum
CLERK OF COURT

7

PP
DA

IN THE EIGHTH JUDICIAL DISTRICT COURT
IN AND FOR THE COUNTY OF CLARK
STATE OF NEVADA

Justin A.R. Larkins #1966552,
Petitioner.

Case No. C-20-346867-1

Dept. No. X

vs.

STATE OF NEVADA,
Defendent.

May 19, 2021
8:30 AM

NOTICE OF MOTION AND
MOTION TO TRANSPORT PRISONER

DATE: _____
TIME: _____

COMES NOW, Justin A.R. Larkins, Petitioner in Pro Per and notices this Honorable Court of his Motion to Transport Prisoner, (N.R.S. 174.325 (1)).

Petitioner is currently housed within the Nevada Department of Corrections at

High Desert State Prison, and request this Honorable Court to issue it's

Order to transport petitioner for the purpose of prosecuting his Motion for
Modification of Sentence.

This Motion is made and based upon but not limited to any and all papers, pleadings, transcripts, and all other evidence now or hereinafter on file in Case No. C-20-346867-1

APR 21 2021

CLERK OF THE COURT

Justin A.R. Larkins #1175371

Justin ⊕

In Proper persona

CERTIFICATE OF SERVICE BY MAIL

I, Justin A.R. Larkins, do hereby certify that a true and correct copy of the
forgoing was mailed by United States Mail Service to;

Steven D. Grierson
Clerk of Courts
Las Vegas, Nevada 89155-1160
200 Lewis Avenue 3rd Floor

District Attorney's Office
200 Lewis Avenue 2nd Floor
Las Vegas, Nevada 89155-1160

Justin A.R. Larkins #1175371

In Pro Per

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, NOTICE
OF MOTION AND MOTION TO TRANSPORT PRISONER

(Title of Document)

filed in case number: C-20-346867-1



Document does not contain the social security number of any person

-OR-



Document contains the social security number of a person as required by:



A specific state or federal law, to wit:

(State specific state or federal law)

-or-



For the administration of a public program

-or-



For an application for a federal or state grant

-or-



Confidential Family Court Information Sheet
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: 4-11-2021

Justin A. Larkins
(Signature)

Justin A. R. Larkins #117538
(Print Name)

In Proper Personae
(Attorney for)

1 Justin A.R. Larkins ID NO. 1175371
2 HIGH DESERT STATE PRISON
3 22010 COLD CREEK RD
4 P.O. BOX 650
5 INDIAN SPRINGS, NV. 89070

FILED
APR 27 2021
CLERK OF COURT

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

8 State of Nevada

9 Plaintiff,

10 vs.

11 Justin A.R. Larkins 1966552

12 Defendant

Case No.: C-20-346867-1

Dept. No.: X

May 19, 2021
8:30 AM

13 NOTICE OF MOTION

14 MOTIONS FOR MODIFICATION OF SENTENCE

15 Comes now, Defendant, Justin A.R. Larkins, pro per, and respectfully moves this Honorable
16 Court for a Modification of Sentence.

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

19 POINTS AND AUTHORITIES

20 I. STANDARD OF REVIEW

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

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

26 RECEIVED
27 APR 21 2021
28 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 three [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, it has
12 the power to entertain a motion requesting it to exercise that inherent authority.... Thus, the time
13 limits and other restrictions with respect to a post-conviction relief do not apply to a Motion to
14 Modify a Sentence based on a claim that the sentence was illegal or was based on an untrue
15 assumption of the fact that amounted to denial of due process (Emphasis added) Id. 831 P2d at
16 1372n. 1. See also, Edwards v. State, 918 P2d 321, 324, 112 Nev. 704 (1996).

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

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

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

II. STATEMENT OF FACTS

On February 14, 2020 the Defendant Plead Guilty to: Battery with use of a Deadly Weapon Constituting Domestic Violence.

On February 26, 2020, The Defendant was sentenced by This Honorable Court to: Two (2) to (5) Years in The Nevada Department of Corrections.

For a minimum term of not less than Two (2) Years and maximum term of not more than Ten (10) Years.

On February 12, 2020 The Defendant was offered a excessive Plea bargain of Two (2) to Five (5) Years in The Nevada Department of Corrections by The State. That is when A Stand-in Attorney, standing in For my Court Appointed Attorney, at the time, Damien Sheets, ESQ at The Preliminary Hearing of Case NO: 20FO2003X which later became C-20-346867-1 it was there this woman told me that it was in my best interest to take the deal offered by The State because I, The Defendant was going to lose at a Trial Because of the broken windows. UP until That Point and even beyond Damien Sheets failed to meet with Defendant before Court's Preliminary hearing Proceedings to go over the discovery with The Defendant to Properly investigate the facts of the case C-20-346867-1. Counsel also failed to research and/or spend any time in legal research, in which resulted in The Defendant, Pleading Guilty to a Battery With use of a Deadly Weapon Constituting Domestic Violence. When no one was battered by The Defendant. Counsel also

1 failed to Provide Defendant with a copy of the
2 initial discovery of C-20-346967-1 making it difficult
3 for Defendant to Defend himself against the allegations
4 of the Prosecution at a trial, because of these issues
5 The Defendant has suffered manifest injustice and
6 extreme prejudice due to ineffective assistance
7 of counsel as well as the coercion of the counsel of
8 Kelsey L. Bernstein and Damien Sheets. (See
9 Buffalo v State, 111 Nev. 1138, 901 P.2d 647, 111
10 Nev. Adv. Rep. 127, 1995 Nev. LEXIS 125.) (Nev.
11 1995). Because Damien Sheets failed to go over
12 the case with the Defendant, the Defendant had
13 no knowledge of the state had no witnesses to
14 present at a trial (which would have led to a
15 mistrial, because a defendant cannot be convicted
16 merely on ~~hearsay~~ hearsay alone in the state of
17 Nevada). Until the Defendant was served with a
18 Temporary Protective Order on February 18, 2020
19 asserting there was nobody coming to help them,
20 indicating the state has no witnesses to corroborate
21 the victims statements, and these findings
22 the Defendant ~~had~~ had no knowledge of until
23 after the Defendant was coerced into taking a
24 plea bargain by ineffective assistance of counsel.
25 Furthermore, Sharon Hewitt stated in the TPO that
26 the Defendant threw a boulder at her which broke
27 the skin and her toe was swollen and bleeding, but not

1 The rendition of Sentence. She went on record and
2 told this Honorable Court That said boulder almost
3 struck her toe, barely missing her foot, all of which
4 can be verified by Court Clerk Teri Berkshire and
5 Recorder Victoria Boyd. Furthermore, in the Criminal
6 Complaint of The Defendant it Cites Sharon Hewitt
7 being Stricken on the foot with a large rock, Yet, in
8 the Guilty Plea agreement and Judgement of Conviction
9 information of the Defendant, That a large rock was
10 thrown at Sharon Hewitt, which is completely different
11 from the Criminal Complaint. ~~There is no evidence that~~
12 ~~the rock was thrown at her foot, but it was thrown at her~~
13 Much Material Mistakes surrounding a defendant's Criminal
14 Record can arise "either as a result of a sentencing
15 Judge's correct perception of inaccurate or false information,
16 or a sentencing Judge's incorrect perception or misapprehension
17 of otherwise accurate or true information." See
18 also Townsend v. Burke, 334 U.S. 736, 741, 68 S. Ct.
19 1252, 1255, 92 L. Ed. 1690 (1948). The Defendant would
20 also Point out to this Honorable Court, that in the TPO
21 of February 12, 2020 there was a Questionnaire inside
22 asking Ms. Hewitt several Questions, like: Are the applicant
23 and the Adverse Party living together now? She answered
24 No, but the Defendant's Possessions were found in her
25 residence on January 26, 2020. Is the Adverse Party
26 likely to react Violently when served? She answered,
27 No, but at the rendition of Sentence, She went on record

1 and said that the Defendant was a menace to
2 society. Does the adverse party have a carrying a
3 concealed weapons permit? She answered yes, having
4 having been an ex-felon at the time of the instant
5 offense, it is impossible for the Defendant to have a
6 concealed weapons permit in the state of Nevada. Does
7 the adverse party own or possess any weapons? She
8 answered yes. She was asked to describe the type and
9 location of weapons. She replied: "Baseball bat, possible
10 knife, He is in County Jail now." At the rendition of sentence,
11 she openly stated for the record to this Honorable Court,
12 that her younger son Brandon was brandishing a bat that
13 belonged to the defendant while inside her residence on
14 the night of the instant offense. I, the Defendant would
15 point out to this Honorable Court, that because Sharon Hewitt
16 made these blatantly untrue statements in the Temporary
17 Protective Order filed on February 12, 2020 and even
18 as going so far as to go on record at the rendition
19 of sentence with these blatantly untrue contradictory
20 statements, it is reasonable to believe that she
21 falsified her statement on the night of the instant
22 offense, undermining the very integrity and sanctity
23 of this hallowed institution. According to ~~Harrover v. State~~
24 Harrover v. State, the Defendant can produce a copy
25 of the TPO filed on February 12, 2020. See Maresca
26 v. State also. And the 8th Amendment to the U.S.
27 Constitution deems it cruel and unusual punishment

1 to sentence a Defendant to a Prison term Grossly
2 Disproportionate to the Nature of the instant Offense,
3 The Defendant would also add that the Sentencing Charge
4 Of: Battery with Use of a Deadly Weapon Constituting
5 Domestic Violence, is according to Nevada Constitution
6 Article 1 Subsection 8, as well as, Salazar V. State
7 119 Nev. 224. 70 P.3d 744. 119 Nev. Adv. Rep 26,
8 2003. Nev. LEXIS 30 (Nev 2003), is redundant,
9 Especially in the case of C-20-346867-1 when no was
10 harmed but the Defendant, and ~~the~~ The State can't
11 actually Prove that the Victim was battered by the
12 Defendant with a deadly weapon, Affirming that the
13 Sentencing Charge of C-20-346867-1 are not only
14 redundant, but in fact Cruel and Unusual Punishment for
15 the Defendant to have to serve Prison term Grossly Disproportionate
16 to the Nature of the instant Offense, Pursuant to the
17 8th Amendment to the U.S. Constitution. Malicious
18 Destruction of Property is the accurate Charge the Defendant
19 Should be sentenced to, seeing as, The Victim does not
20 have witnesses to Validate her statements ~~alleging~~
21 alleging the Defendant battered her with a rock.
22 According to Sharon Hewitt's testimony, She made on the
23 Record February 26, 2020, in this very Courtroom, "Thank
24 God No one was harmed or battered by the Defendant."
25 Furthermore, 12 months in the Clark County Detention Center
26 is the more adequate Punishment for the defendant to serve.

1 On February 26, 2020 The Court Proceeded to Sentence
2 The Defendant with a Pre-Sentence Investigation Report
3 That does not specify the details of the instant offense; more
4 over a Previous Pre-Sentence Investigation Report Was Used
5 instead, Which The Defendant has Attached to this motion, along
6 With The Temporary Protective Order Made by Sharon Hewitt and
7 Filed On February 12, 2020. The Defendant was asked by this
8 Honorable Court on the day of Sentencing "Was it Okay to
9 Proceed with Sentencing with a Previous PSI"? The Defendant
10 Consented due to his ignorance of N.R.S. 176.133-176.165 at
11 the time of Sentencing, as well as, The Defendant was ignorant
12 ~~of~~ of being able to file a direct appeal in regards to
13 Case no: C-20-346867-1 until State Filed an Opposition to
14 the Defendant's Previous Motion for Modification of
15 Sentence Filed on February 10, 2021. The Defendant
16 would ask this Most Honorable Court to Modify his Sentence
17 to 12 months in The Clark County Detention Center With 353
18 days Credit time served, because N.R.S. 176.133 - 176.165
19 Requires The Nevada Department of Parole and Probation to
20 investigate and Make evaluations of a Criminal Defendant
21 and the Victims, of the crime and their injuries which are
22 to be factored into their recommendations, none of which was
23 done regarding Case no: C-20-346867-1. In light of the fact
24 that this Defendant has served more than 353 days at
25 Present, The Defendant is currently enrolled and Participating
26 in the Adult Education Program at High Desert State Prison.
27 The Defendant is requesting, Humbly, that this Honorable Court
28 re-evaluate the False Information And/or Contradictory Statements

1 Given by Sharon Hewitt, and the absence of a Pre-sentence
2 Investigation Report at the rendition of sentence, that the
3 Defendant has noted for the record, and modify the Defendant's
4 sentence to a 12 months sentence in the Clark County Detention
5 Center, with 353 days credit time served, in place of the
6 Defendant's 24 to 60 months in the Nevada Department of
7 Corrections, according to the dictates of this Most Honorable
8 Court's Mercy and sense of Justice the Defendant humbly
9 and respectfully request this motion for modification of sentence
10 be granted.

11
12 Last, the Clark County District Attorney's Office at the
13 time of sentencing made no objection to go forward with
14 sentencing the Defendant, without a current PSI Report.
15 And, present federal law has made an appeal from a
16 judgment of conviction in a criminal case a matter
17 of right. See *Coppedge v. U.S.*, 82 S.Ct 917, 918
18 (1962). See also, N.R.S. 177.015(3) and N.R.S. 177.
19 015(4), and N.R.S. 174.035; *Bryant v. State*, 721 P.2d
20 364 (1986).

1 CONCLUSION

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

7 Dated this 11th day of April, 2021.
8

9 By: Justin A.R. Larkins # 1175371
10
11 High Desert State Prison
12 22010 Cold Creek Rd.
13 P.O. Box 650
14 Indian Springs, NV. 89070
15
16
17
18
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23
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28

1 I, Justin A. R. Larkins #1966552, certify that the foregoing "Motion For
2 Modification of Sentence", was served upon the Respondent pursuant to NRCP 5 (b), by placing same in
3 the United States Postal Service, postage being fully pre-paid, and addressed as follows:
4
5

6 Clerk of Courts

7 200 Lewis Avenue 3rd Floor
8 Las Vegas, Nevada 89155-1160

9 Office of the Clerk
10 Supreme Court of Nevada
11 201 S. Carson Street, Suite 201
12 Carson City, Nevada 89701

District Attorney's Office

200 Lewis Avenue 2nd Floor
Las Vegas, Nevada 89155-1160

13
14 Dated this 11th day of April, 2021.

15
16
17 By: [Signature]

18 Justin A. R. Larkins # 1175371

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

23
24 Defendant, In Proper Person
25
26
27
28

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Motion

Modification of Sentence
(Title of Document)

filed in District Court Case number C-20-346867-1

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

-OR-

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

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

(State specific law)

-or-

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

[Signature]
Signature

4-11-2021
Date

Justin A.R. Larkins
Print Name

In Pro Per
Title

Electronically Filed
02/12/2020

Sharon H. Smith
CLERK OF THE COURT

1 APPO

2 DISTRICT COURT,
3 FAMILY DIVISION,
4 CLARK COUNTY, NEVADA

5 Sharon H. Smith

Applicant,

Case No. I-20-203623-T

6 vs.

TBO

7 Justin A. Alexander

Adverse Party.

8 APPLICATION FOR A TEMPORARY AND/OR EXTENDED ORDER FOR PROTECTION
9 AGAINST DOMESTIC VIOLENCE

10 Please write or print clearly. Use black or dark blue ink. Complete this Application to the best of your
11 knowledge.

Applicant states the following facts under penalty of perjury:

- 12 1. Applicant's Date of Birth: 6-6-64 Adverse Party's Date of Birth: 6-5-87
13 Relationship: I am the Mother
(for example, wife, ex-husband, girlfriend, father, sister, etc.) of the Adverse Party.
14 A. Length of relationship: _____
15 B. Have you ever lived together? Yes ☐ No ☐ If so, how long? _____
16 C. Are you living together now? Yes ☐ No ☒
17 D. Date of Separation: _____
18 E. We have child(ren) TOGETHER: Yes ☐ No ☐ If yes, where and with whom are these
19 child(ren) living? _____

- 20 2. My address is: ☐ CONFIDENTIAL (If confidential, do not write address here)

If address is not confidential, write below:

21 Address 4555 Boulder Highway C1033
22 City Las Vegas County Clark State NV Zip Code 89121

I ☐ own ☒ rent this residence. Lease/title is held in all the following name(s):

23 How long have you been living in this residence? 4 yrs.

- 24 3. Adverse Party's address is:

Address Unknown

25 City _____ County _____ State _____ Zip Code _____

How long has the Adverse Party been living in this residence? _____

1 4 My place of employment is ☐ **CONFIDENTIAL** (If confidential, do not write address here)
2 If not confidential, state place of employment.

3 Name of employer TPFE Inc

4 Address: 1009 Whitney Ranch A

5 City Henderson County Clark State NV

6 5. Adverse Party's employer is _____

7 Address: _____

8 City _____ County _____ State _____ Zip Code _____

9 6. (a) The name(s) and date(s) of birth of the minor child(ren) of whom I am the parent, appointed guardian,
10 or who live in my home, are as follows:

NAME (first and last)	DATE OF BIRTH	APPLICANT'S CHILD (Yes/No)	ADVERSE PARTY'S CHILD (Yes/No)	WHO CHILD LIVES WITH
1.		Circle one Yes No	Circle one Yes No	
2.		Circle one Yes No	Circle one Yes No	
3.		Circle one Yes No	Circle one Yes No	
4.		Circle one Yes No	Circle one Yes No	
5.		Circle one Yes No	Circle one Yes No	
6.		Circle one Yes No	Circle one Yes No	

21 (b) Have you or the Adverse Party ever been awarded custody/guardianship of the minor child(ren) by
22 Court Order? ☐ Yes ☒ No

23 Who was awarded custody/guardianship? ☐ Applicant ☐ Adverse Party

24 By what Court? _____

25 Court Case No. (if known) _____

T-20-203623-T T80

****CONFIDENTIAL INFORMATION SHEET****DATE 2/12/2020

APPLICANT (YOUR) INFORMATION: Please print clearly and provide all information known to you.

Name: Hewitt Sharon Address confidential? YES ☐ NO ☒
(Last) (First) (Middle)Address: 4855 Boulder Highway 1033 Las Vegas NV 89121
(Street) (Apt.) (City) (State) (Zip Code)Phone: Home: _____ Work: _____ Cell: 702-759-6639 Message OK? YES ☒ NO ☐Employment: Full-Time ☒ Part-Time ☐ Self-Employed ☐ Retired ☐ Disabled ☐ Unemployed ☐Age 55 Gender: F Race: Blk Are you pregnant? NOWere the Police notified about an incident? Yes ☒ No ☐ Were you given a domestic violence information card? Yes ☒ No ☐Was an arrest made? Yes ☒ No ☐ If Yes, who was arrested? Applicant ☐ Adverse Party ☒ Is there a case pending? Yes ☒ No ☐**ADVERSE PARTY'S INFORMATION:**Name: (Last) Larkins (First) Justin (Middle) Alexander

Alias: (Last) _____ (First) _____ (Middle) _____

DOB: 6/5/87 Social Security # _____Home address: unknown _____
(Street) (Apt.) (City) (State) (Zip Code)Other likely address: Jail (CCDC) _____

Phone number: Home: _____ Cell: _____ Work: _____

Employer: Unemployed Position: _____ Days/Hours: _____Address: _____
(Street) (City) (State) (Zip Code)Gender: Male Race: Blk Height: 6'3 Weight: 190 Hair Color: Blk Eye Color: BrownScars/Marks/Tattoos (Description and location): Bullet Wound in Arm Right or Left I
Can't Remember. Stabbed in Abdomen

Vehicle: Make _____ Model: _____ Year: _____ License Plate Number/State _____

Does the Adverse Party speak English? Yes ☒ No ☐ If not, what language does he/she speak? _____

Are the Applicant and Adverse Party living together now?
 Are the Applicant and Adverse Party employed by the same employer?
 Is the Adverse Party likely to avoid service?
 Is the Adverse Party likely to react violently when served?
 Does the Adverse Party have a Carrying a Concealed Weapons Permit?
 Does the Adverse Party own or possess weapons?
 If YES, describe type and location of weapons:

(Circle one)

Yes	No
Yes	No
Yes	No
Yes	No
Yes	No
Yes	No

RECEIVED

FEB 12 2020

CLERK OF THE COURT

Baseball Bat, Pocket Knife. He is in County Jail
Now

1 in the following space, state the facts which support your Application. Be as specific as you can, starting
2 with the most recent incident. Include the approximate dates and locations, and whether law enforcement
3 or medical personnel have been involved.

THIS APPLICATION IS A PUBLIC RECORD

4 On 1-26-20 My Son Justin Came over
5 Banging on the Door Screaming for us to Come out
6 Because he was going to Kill us. He used
7 Rocks to Break every Window in the Apartment
8 he threw a Boulder at me, which Broke the Skin
9 and my Toe was Swollen and Bleeding making it
10 Very difficult to Walk. Justin was Coming Thru
11 the Window and my Younger Son Brandon Sprayed
12 him in the Face with Pepper Spray. He was
13 So Scared and it was too because Nobody was
14 Coming to help us. Justin Ran and the Police
15 Caught him. We were in Court today and he
16 was aggressive and Abusive. We are afraid
17 for our lives. He wants to Kill us and he
18 doesn't Care about Himself or who gets in his
19 Way.
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PLEASE DO NOT WRITE ON THE BACKS OF ANY PAGES.

- 1 11. Have YOU ever been arrested or charged with domestic violence, or any other crime committed against
2 your spouse, partner, or child(ren)? ☐ Yes ☒ No If yes, WHEN and where?
3 _____
4 _____
5
6 12. To your knowledge, has the ADVERSE PARTY ever been arrested or charged with domestic violence, or
7 any other crime committed against his/her spouse, partner, or child(ren)? ☒ Yes ☐ No ☐ I don't know
8 If yes, WHEN and where?
9 He has Beat his Pregnant Girlfriend who was
10 Carrying my Grandson at the time. He has Jumped on
11 my Son Brandon on 12-30-19
12
13 13. An emergency exists, and I need a TEMPORARY ORDER FOR PROTECTION AGAINST DOMESTIC
14 VIOLENCE issued immediately, without notice to the Adverse Party, to avoid irreparable injury or harm. I
15 request that it include the following relief, and any other relief the Court deems necessary in an emergency
16 situation. (Please check all the choice(s) that may apply to YOU):
17
18 ☒ (A) Prohibit the Adverse Party, either directly or through an agent, from threatening, physically
19 injuring, or harassing me and/or the minor child(ren).
20 ☒ (B) Prohibit the Adverse Party from any contact with me whatsoever.
21 ☒ (C) Exclude the Adverse Party from my residence and order the Adverse Party to stay at least 100
22 yards away from my residence.
23 ☐ (D) Obtain law enforcement assistance to ☐ accompany me to the following residence,
24 _____
25 or ☐ to accompany the Adverse Party to the following residence, _____
_____ to obtain personal property.
☐ (E) Grant temporary custody of the minor child(ren) to me.
☐ (F) Order that custody, visitation, and support of the minor child(ren) remain as ordered in the
Decree of Divorce/Order entered in Case Number _____
in the _____ Court of the State of _____

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☐ (G) Order the Adverse Party to stay at least 100 yards away from the minor child(ren)'s school, or day care, located at ☐ **CONFIDENTIAL**. (If confidential, do not write name of school and address here)

☐ If not confidential, write name of school and address(es) below:

1. Name of school/daycare: _____

Address: _____

City _____ County _____ State _____

2. Name of school/daycare: _____

Address: _____

City _____ County _____ State _____

3. Name of school/daycare: _____

Address: _____

City _____ County _____ State _____

☒ (H) Order the Adverse Party to stay at least 100 yards away from my place of employment.

☐ (I) Order the Adverse Party to stay at least 100 yards away from the following places which I or the minor child(ren) frequent regularly:

1. Walmart

Address: Boulder Highway

City _____ County _____ State _____

2. Smith's

Address: Flamingo

City _____ County _____ State _____

3. Walgreens

Address: Boulder Highway

City _____ County _____ State _____

☐ (J) (1) Prohibit the Adverse Party, either directly or through an agent, from physically injuring or threatening to injure any animal that is owned or kept by the Adverse Party, the minor child(ren), or me.

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☐ (J) (2) Prohibit the Adverse Party, either directly or through an agent, from taking possession of any animal owned or kept by me or the minor child(ren).

☐ (K) I further request the following other conditions:

IF YOU WISH TO APPLY FOR A HEARING FOR AN EXTENDED ORDER FOR PROTECTION COMPLETE THE FOLLOWING INFORMATION

14. ☒ I request the Court hold a hearing for an **EXTENDED ORDER FOR PROTECTION AGAINST DOMESTIC VIOLENCE** (which could be in effect for up to one year), and at that hearing the Court issue an Extended Order for Protection Against Domestic Violence and that it include the following relief and any other relief the Court deems appropriate.

(Please check all the choice(s) that may apply to YOU).

☒ (A) Prohibit the Adverse Party, either directly or through an agent, from threatening, physically injuring, or harassing me and/or the minor child(ren).

☒ (B) Prohibit the Adverse Party from any contact with me whatsoever.

☒ (C) Exclude the Adverse Party from my residence and order the Adverse Party to stay at least 100 yards away from my residence.

☐ (D) Grant temporary custody of the minor child(ren) to me.

☐ (E) Grant the Adverse Party visitation with the minor child(ren).

☐ (F) Order the Adverse Party to pay support and maintenance of the minor child(ren). (You may be required to file an Affidavit of Financial Condition prior to the hearing.)

☐ (G) Order the Adverse Party to pay the rent or make payments on a mortgage or pay towards my support and maintenance.

☐ (H) Order that custody, visitation, and support of the minor child(ren) remain as ordered in the Decree of Divorce/Order entered in Case Number _____

In the _____ Court of the State of _____.

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☐ (I) Order the Adverse Party to stay at least 100 yards away from the minor child(ren)'s school, or day care, located at: ☐ **CONFIDENTIAL** (If confidential, do not write name of school and address here).

☐ If address is not confidential, please write name of school and address(es) below:

1. Name of School/Daycare _____

Address _____

City _____ County _____ State _____

2. Name of School/Daycare _____

Address: _____

City _____ County _____ State _____

3. Name of School/Daycare _____

Address _____

City _____ County _____ State _____

☒ (J) Order the Adverse Party to stay at least 100 yards away from my place of employment.

☒ (K) Order the Adverse Party to stay at least 100 yards away from the following places which I or the minor child(ren) frequent regularly:

1. Name Walmart

Address Boulder Highway

City _____ County _____ State _____

2. Name Smith's

Address Flamingo

City _____ County _____ State _____

3. Name Walgreens

Address Boulder Highway

City _____ County _____ State _____

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☐ (L) (1) Prohibit the Adverse Party, either directly or through an agent, from physically injuring or threatening to injure any animal that is owned or kept by the Adverse Party, the minor child(ren), or me.

☐ (L) (2) Prohibit the Adverse Party, either directly or through an agent, from taking possession of any animal owned or kept by me or the minor child(ren).

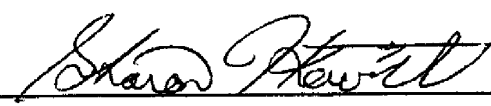
☐ (L) (3) I request the Court to specify the arrangements for the possession and care of any such animal owned or kept by the Adverse Party, the minor child(ren) or me.

☐ (M) Order the Adverse Party to pay for lost earnings and expenses incurred as a result of my attendance at any hearing concerning this Application.

☐ (N) I further request the following other conditions:

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF NEVADA THAT
I HAVE READ THE STATEMENTS CONTAINED IN THIS APPLICATION, KNOW THE CONTENTS
THEREFORE, AND BELIEVE THEM TO BE TRUE AND CORRECT

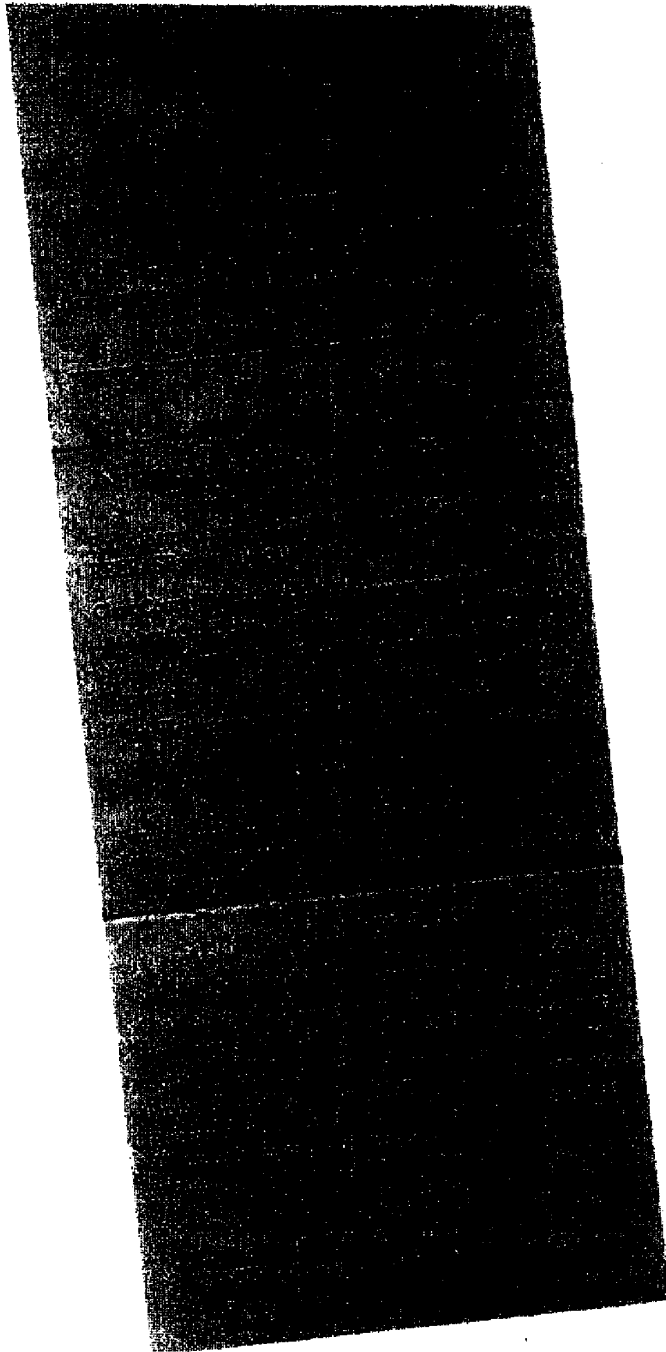
Date 2-12-2020



Signature of Applicant

Sharon Hewitt

Applicant's Name (Please Print)



Heather B. Larkin
CLERK OF THE COURT

IN THE EIGHTH JUDICIAL DISTRICT COURT, FAMILY DIVISION
COUNTY OF CLARK, STATE OF NEVADA

Sharon Hewitt, Applicant

vs

Justin Larkins, Adverse Party

**TEMPORARY ORDER FOR PROTECTION
AGAINST DOMESTIC VIOLENCE**

Case No.: T-20-203623-T

Dept. No.: J

Date Issued: 2/12/20

Date Expires: 3/10/2020

VIOLATION OF THIS ORDER IS A CRIME

YOU, THE ADVERSE PARTY, IS NOTIFIED THAT YOU CAN BE ARRESTED even if the person who obtained this Order invites or allows you to contact them. You have the sole responsibility to avoid or refrain from violating the terms of this Order. Only the Court can change this Order upon written application.

YOU ARE FURTHER NOTIFIED THAT IF YOU ARE ARRESTED FOR VIOLATING THIS ORDER you will not be admitted to bail sooner than 12 hours after your arrest if: (1) the arresting officer determines that the violation is accompanied by a direct or indirect threat of harm; or (2) you have previously violated a temporary or extended order for protection of the type for which you have been arrested; or (3) at the time of the violation or within 2 hours after the violation, you have: (a) a concentration of alcohol of 0.08 or more in your blood or breath; or (b) an amount of a prohibited substance in your blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.

YOU ARE FURTHER NOTIFIED that child stealing/kidnapping is a felony.

THIS ORDER is valid and enforceable throughout the State of Nevada. This Order meets all Full Faith and Credit provisions of the Violence Against Women Act, and is enforceable in all 50 states, the District of Columbia, U.S. Territories, and Indian Nations. All other courts and law enforcement agencies with jurisdiction within the United States and all Indian Nations shall give full faith and credit to this Order pursuant to 18 U.S.C. § 2265.

An Application and Affidavit having been filed in this Court by the above-named Applicant requesting that a Temporary Order for Protection against Domestic Violence be issued by this Court against YOU, the above-named Adverse Party, or the Court having received specific facts by

1 telephone/facsimile pursuant to NRS 33.020(5), and the Court having jurisdiction over the parties and
2 this matter pursuant to NRS 33.010, *et seq.*, and it appearing to the satisfaction of the Court from specific
3 facts shown by a verified Application that an act of domestic violence has occurred, there exists a threat
4 of domestic violence, and/or you represent a credible threat to the physical safety of the Applicant or the
5 minor child(ren) and good cause appearing for issuing such Order without hearing, **YOU ARE**
6 **HEREBY ORDERED** as follows:

7 **YOU ARE PROHIBITED**, either directly or through an agent, from threatening, physically
8 **injuring, or harassing the Applicant and/or the minor child(ren). YOU ARE FURTHER**
9 **PROHIBITED** from selling, damaging, destroying, giving away, or otherwise disposing of, or
10 **tampering with, any property owned by the Applicant, or in which Applicant has an interest;**

11 **YOU ARE PROHIBITED** from any contact whatsoever with the Applicant, including but
12 **not limited to, in person, by telephone, through the mail, through electronic mail (e-mail),**
13 **facsimile, or through another person.**

14 1. ☒ **YOU ARE EXCLUDED AND ORDERED** to stay at least 100 yards away from

15 Applicant's residence located in Clark County, Nevada, ☐ **CONFIDENTIAL**,

16 OR at ☒ 4855 Boulder Hwy. #C1033, Las Vegas, NV, or any other place that Applicant may reside.

17 YOU shall not interfere with Applicant's possession and use of the residence, including utilities, phones,
18 leases and other related residential services;

19 2. ☐ A law enforcement officer, within whose jurisdiction N/A residence is located, shall on
20 **ONE OCCASION ONLY** accompany N/A to the residence of N/A located at N/A, N/A, Clark County,
21 Nevada, and shall stand by while N/A obtains clothing, toiletries, and the following additional items:
22 N/A

23 **ANY PROPERTY IN DISPUTE SHALL REMAIN IN THE RESIDENCE UNLESS IT IS**
24 **SPECIFICALLY IDENTIFIED IN THIS ORDER.**

25 3. ☐ The Court, having jurisdiction under and meeting the requirements of Chapter 125A of the
26 Nevada Revised Statutes (UCCJEA), grants to Applicant temporary custody of the following minor
27 child(ren) of the parties:
28

Child's Name:	Date of Birth

YOU ARE PROHIBITED from interfering with Applicant's custody of the minor child(ren) named in this paragraph. It is in the best interest of the child(ren) that no negative, insulting, or disparaging comments be made by one party against the other party in the presence of the minor child(ren);

4. ☐ Custody, visitation, and support of the minor child(ren) of the parties shall remain as ordered in the Decree of Divorce/Order entered between the parties in Case Number N/A in the N/A. Court of the State of N/A.;

5. ☐ **YOU ARE EXCLUDED AND ORDERED** to stay at least 100 yards away from the minor child(ren)'s school(s), or day care, including, but not limited to, the places listed below:

☐ **CONFIDENTIAL**.

(a) Name of School N/A. Address N/A.

City N/A. Clark County, Nevada.

(b) Name of School N/A. Address N/A.

City N/A. Clark County, Nevada.

(c) Name of School N/A. Address N/A.

City N/A. Clark County, Nevada.

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2 6. ☒ **YOU ARE EXCLUDED AND ORDERED** to stay at least 100 yards away from
3 these place(s) of employment or any other place that Applicant may be employed. **YOU ARE**
4 **PROHIBITED** from any contact whatsoever with these place(s) of employment in person, by telephone,
5 by mail, or any other means of communication.

6 ☐ **CONFIDENTIAL.**

7 (a) Name TPFE Inc. Address 1009 Whitney Ranch

8 City Henderson Clark County, Nevada.

9 (b) Name N/A. Address N/A

10 City N/A. Clark County, Nevada.

11 (c) Name N/A. Address N/A

12 City N/A. Clark County, Nevada.

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15 7. ☒ **YOU ARE EXCLUDED AND ORDERED** to stay at least 100 yards away from the
16 following places frequented regularly by Applicant and/or the minor child(ren):

17 (a) Name Walmart Address Boulder Hwy

18 City Las Vegas Clark County, Nevada.

19 (b) Name Smiths Address 3850 E. Flamingo Rd

20 City Las Vegas Clark County, Nevada.

21 (c) Name Walgreens Address 4895 Boulder Hwy

22 City Las Vegas Clark County, Nevada.

23
24 8. (a) ☐ **YOU ARE PROHIBITED**, either directly or through an agent, from
25 physically injuring or threatening to injure any animal that is owned or kept by the Applicant, the minor
26 child(ren), or **YOU**.
27
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1 (b) ☐ **YOU ARE PROHIBITED**, either directly or through an agent, from taking possession
2 of any animal owned or kept by the Applicant or the minor child(ren).

3 9. ☐ The following provisions and exceptions are made a part of this Order:
4

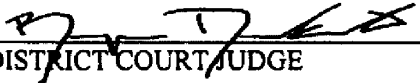
5 N/A
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7 **THIS ORDER WILL REMAIN IN EFFECT UNTIL 11:59 P.M. ON THE DATE SET**
8 **FORTH ON PAGE 1 UNLESS THIS COURT ORDERS OTHERWISE.** If an Application for an
9 Extended Order is filed, this Temporary Order will remain in effect until the hearing on an Extended
10 Order is held.

11 If you wish to dispute this Order or have it changed, you may request a hearing by filing a written
12 request with this Court. Court staff will give you information about how to file your request. The Court
13 will set a hearing on your request as quickly as possible.
14

15 **IT IS FURTHER ORDERED** that a copy of this Order shall be transmitted forthwith together
16 with the verified Application and supporting Affidavit, to the ☒ Sheriff's Office, or the ☐ Constable,
17 who will promptly attempt to serve the same upon the Adverse Party, and upon service, file a Return of
18 Service form with the Court by the end of the next business day after service is made.
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1 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the foregoing Findings and
2 Recommendations are approved and are hereby made Orders of the Court. These Orders are effective
3 immediately. Pursuant to EDCR 5.518(e), you have 14 days from your receipt of this Order to file an
4 Objection to this Decision.
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DISTRICT COURT JUDGE
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Pro Rec No: 245877
Case No: T20203623T
Dept. No: J

**EIGHTH JUDICIAL DISTRICT COURT FAMILY DIVISION
CLARK COUNTY, NEVADA**

SHARON HEWITT,
Applicant,

vs

INSTRUCTIONS TO THE SHERIFF

JUSTIN LARKINS
Adverse Party,

You are hereby instructed to serve the attached documents upon the Defendant as soon as possible. Such service may be made anytime of the day or night. Proof of service is required to be filed or mailed to the Court by the end of the next business day after service is made. Return of service, and one copy of the following documents are attached:

- | | |
|--|--|
| ☒ Temporary Protection Order | ☐ Affidavit |
| ☒ Application and Attachment | ☐ Order to Show Cause |
| ☒ Notice of Hearing | ☐ Extended Protection Order |
| ☐ Other (Describe) _____ | |

INFORMATION REGARDING THE ADVERSE PARTY:

NAME: **JUSTIN LARKINS**

HOME Address:

WORK Address:

Date of Birth: **06/05/1987**

SSN:

Height: **603**

Weight: **190**

Hair Color: **BLACK**

Eye Color: **BROWN**

Gender: **M**

Race: **BLACK**

Distinguishable Marks: **ABDOMEN(STABBED),ARM, NONSPECIFIC(BULLET WOUND)**

Special Instructions:

It is hereby acknowledged that vague or otherwise unenforceable instructions shall not be processed and will be returned to the preparer for redrafting. Incomplete or unsigned instructions will not be accepted for service.

2-12-20
Date

[Signature]
Authorized Signature

**EIGHTH JUDICIAL DISTRICT
COURT FAMILY DIVISION
CLARK COUNTY, NEVADA**

601 NORTH PECOS ROAD LAS VEGAS, NV 89155

1 ORDR

2 DISTRICT COURT
3 FAMILY DIVISION
4 CLARK COUNTY, NEVADA

5 Case No 052244

6 Dept. No. TPO/

7 SHARON HEWITT

8 Applicant,

TEMPORARY ORDER
FOR PROTECTION AGAINST
DOMESTIC VIOLENCE

9 vs.

Date Issued 01/27/2020

10 JUSTIN LARKINS

Adverse Party,

Date 01/27/2020

11 VIOLATION OF THIS ORDER IS A CRIME

12 YOU, THE ADVERSE PARTY, ARE NOTIFIED THAT YOU CAN BE ARRESTED the person who obtained this Order
invites or allows you to contact them. You have the sole responsibility to avoid or refrain from violating the terms of
this Order. ~~One~~ ~~Order~~ ~~Change~~ this Order upon written application.

13 YOU ARE FURTHER NOTIFIED THAT IF YOU ARE ARRESTED FOR VIOLATING THIS ORDER not be admitted
to bail sooner than 12 hours after your arrest if: (1) the arresting officer determines that the violation is accompanied
14 by ~~at least one~~ ~~of the following~~ (a) you have previously violated a temporary or extended order for protection of the type for which
this order was issued; (b) at the time of the violation or within 2 hours after the violation, you have; (a) a concentration of
15 ~~an amount of 0.08 or greater~~ (b) an amount of a prohibited substance in your blood or urine that is equal to or greater than
the amount set forth in NRS 484.379.

16 YOU ARE FURTHER NOTIFIED that child stealing/kidnapping is a felony.

17 THIS ORDER is valid and enforceable throughout the State of Nevada. This Order meets all Full Faith
18 and Credit Against Mobile Act, and is enforceable in all 50 states, the District of Columbia, U.S.
All other courts and law enforcement agencies with jurisdiction within the United States and all
and credit to this Order pursuant to 18 U.

19 An Application and Affidavit having been filed in this Court by the above-named Applicant requesting that a
20 Temporary Order for
Protection against Domestic Violence be issued by this Court against the above-named Adverse Party, or the Court having
21 received
specific facts by telephone/facsimile pursuant to NRS 33.020(5), and the Court having jurisdiction over the parties and
the matter pursuant to
22 NRS 33.102 and it appearing to the satisfaction of the Court from specific facts shown by a verified Application
that an act of
23 domestic violence has occurred, there exists a threat of domestic violence, and/or you represent a credible threat to
the physical safety of the
Applicant or the minor child(ren) and good cause appearing for issuing such Order ~~DO NOT REPLY ORDERED~~
24 follows:
25

YOU ARE PROHIBITED from any contact whatsoever with the Applicant, including but not limited to, in person, by telephone, through the mail, through electronic mail (e-mail), facsimile, or through another person;

4855 BOULDER HIGHWAY	LAS VEGAS	NV	89121
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2. _____ A law enforcement officer, within whose jurisdiction Applicant/Adverse Party's residence is located, shall on **ONE OCCASION ONLY** accompany Applicant/Adverse Party to the residence of Applicant/Adverse Party, located at _____ and shall standby while Applicant/Adverse Party obtains clothing, toiletries and the following additional items:

3. _____ The Court, having jurisdiction under and meeting the requirements of Chapter 125A of the Nevada Revised Statutes (NRS), grants to Applicant temporary custody of the following minor child(ren) of the parties:

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1 4. _____ Custody, visitation, and support of the minor child(ren) of the parties shall remain as ordered
2 in the Decree of
3 Divorce/Order entered between the parties in Case Number _____ in the
4 _____ Court
5 of the State of _____;

6 5. _____ **YOU ARE EXCLUDED AND ORDERED** to stay at least 100 yards away from the minor child(ren)
7 ^s
8 school(s), or day care, including, but not limited to the places listed below:

9 ☐ **CONFIDENTIAL**

10 Name of School _____

11 Address _____

12 City _____ County _____ State _____ Zip Code _____

13 Name of School _____

14 Address _____

15 City _____ County _____ State _____ Zip Code _____

16 Name of School _____

17 Address _____

18 City _____ County _____ State _____ Zip Code _____

19 6. ☒ **YOU ARE EXCLUDED AND ORDERED** to stay at least 100 yards away from these place(s) of
20 employment or any other place that Applicant may be employed. ~~YOU ARE PROHIBITED~~
21 whatsoever with these place(s) of employment in person, by telephone, by mail or any other means

22 ☐ **CONFIDENTIAL**

23 Name of Business TRC / TPFE INCORPORATED

24 Address 1009 WHITNEY RANCH

25 City HENDERSON County _____ State NV Zip Code 89014

Name of Business _____

Address _____

City _____ County _____ State _____ Zip Code _____

ORDER TO LAW ENFORCEMENT

(A) Any law enforcement officer who has probable cause to believe a violation of any provision of this Order has occurred is ordered to arrest the Adverse Party. Such party is to be charged with a criminal violation of this Order, in addition to any other criminal charges that may be justified.

(B) If such law enforcement officer cannot verify that the Adverse Party was served with a copy of the Application and Order, the officer shall inform the Adverse Party of the following: (1) the specific terms of this Order; (2) that the Adverse Party now has notice of the provisions of this Order; (3) that a violation of this Order will result in the Adverse Party's arrest; (4) the location of the Court that issued the original Order and the hours during which the Adverse Party can obtain a copy of this Order; and (5) the date and time set for a hearing on an Application for an Extended Order, if any. The law enforcement officer shall then provide written proof of notice to the officer's agency and to the Court.

(C) It shall be the duty of the law enforcement officer serving this Order to remove the Adverse Party from Applicant's residence as set forth in paragraph 1 of this Order.

YOU ARE HEREBY NOTIFIED that a hearing will be held in the Eighth Judicial District Court, Family Division, Courtroom 15 located at 601 North Pecos Road, Clark County, Las Vegas, Nevada 89101 on **March 10, 2020**, at 2:00 p.m., to determine whether to EXTEND the PROTECTION ORDER against Justin Alexander Larkins.

ANY PROTECTION ORDER WILL CONTINUE IN EFFECT UNTIL SUCH HEARING AND/OR FURTHER ORDER OF THIS COURT.

All fees are deferred.

DATED This 12th day of February, 2020



JUDICIAL OFFICER
Department J



Nevada Department of
Public Safety
Parole and Probation

PRESENTENCE INVESTIGATION REPORT

The Honorable Mary Kay Holthus
Department XVIII, Clark County
Eighth Judicial District Court

Date Report Prepared: November 8, 2019

Prosecutor: Chad Lexis, DDA
Defense Attorney: Carl G. Segerblom, DPD

PSI: 583350

I. CASE INFORMATION

Defendant: Justin Larkin,
aka, Justin Alexander Larkins
Case: C-19-343544-1
ID: 1966552
P&P Bin: 1000674085

PCN: 25854868
Offense Date: 09-08-19
Arrest Date: 09-08-19
Plea Date: 09-30-19, Guilty
Sentencing Date: 11-26-19

II. CHARGE INFORMATION

Offense: Assault with a Deadly Weapon (F)
NRS: 200.471
NOC: 50201
Category: B
Penalty: By imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

PRESENTENCE INVESTIGATION REPORT
JUSTIN LARKIN AKA JUSTIN ALEXANDER LARKINS
CC#: C-19-343544-1

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III. DEFENDANT INFORMATION

Address: 4252 West Kenwood Avenue #3
City/State/Zip: Las Vegas, Nevada 89102
NV Resident: Yes
SSN: 364-02-8115
POB: Detroit, Michigan
Date of Birth: 06-05-87
Age: 32
Phone: (702) 401-0390 (message)
Driver's License: 1402694598 (Identification Card)
State: Nevada
Status: Valid

FBI: 518399JC9
SID: NV04154686
Aliases: Justin Larkins; Justin Larken; Justin Rashard Larkins; Justin A. Larkins; Justin A. Larkin; Justin Alexander Rashard Larking; J Larkiws; Justin Alexander Larkin; Justin Alexander Rashad Larkin; Justin Alexander Rashard Larkins; Justin Alexander Rashad Larkins; Big J; J Rock; J Roc; Rashard; J Rok
Additional SSNs: 364-04-8115
Additional DOBs: 05-02-87; 06-06-87; 06-09-87; 08-05-87
Additional POB: None
Alien Registration: N/A
US Citizen: Yes
Notification Required per NRS 630.307: No

Identifiers:

Sex: M **Race:** B **Height:** 6'3" (SCOPE reflects: 6'4") **Weight:** 185 (SCOPE reflects: 205)
Hair: Black **Eyes:** Brown
Scars: Bullet hole scar on upper left arm; 2" scar on left side of abdomen (both unverified) (SCOPE reflects: Mole on cheek; unknown scars on lower jawline, left elbow, leg, and back)
Tattoos (type and location): None reported

Social History: The following social history is as related by the defendant on November 5, 2019, and is unverified unless otherwise noted:

Childhood/Family: Mr. Larkin was raised by his mother and maternal grandmother; his biological father passed away. He lived in Detroit, Michigan, until the age of 13 when his family relocated to Las Vegas, Nevada. The defendant's mother used marijuana during his childhood and he was physically abused and neglected by his mother and her boyfriend. Mr. Larkin's mother spent time in several mental hospitals when Mr. Larkin was a child and during one of those times, when he was 10 years old, Child Protective Services gave legal custody of the defendant to his maternal grandmother. He stated he became homeless at the age of 17. Mr. Larkin's father served at least one jail term for a traffic offense; his mother is currently on parole in Las Vegas, Nevada, for involuntary manslaughter.

Marital Status: Single

Children: (2) two sons, age 10 and 8

Custody Status of Children: Both of Mr. Larkin's sons were removed by Child Protective Services and his parental rights were terminated when his sons were eight and six years old.

Monthly Child Support Obligation: No current child support obligation is owed; however, the defendant's wages are garnished for child support arrearages.

**PRESENTENCE INVESTIGATION REPORT
JUSTIN LARKIN AKA JUSTIN ALEXANDER LARKINS
CC#: C-19-343544-1**

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Employment Status: Mr. Larkin has been registered with Manpower since August 2019; however, he was never called out for any jobs prior to his incarceration. He worked as a full-time laborer at Westcom from February 2018 to January 2019. The defendant was incarcerated from 2017 to 2018.

Number of Months Employed Full Time in 12 months Prior to Commission of Instant Offense: 5

Age at first arrest: 19 or younger ☒ 20 - 23 ☐ 24 or older ☐

Income: None reported **Other Sources:** \$400.00 monthly (support from girlfriend)

Assets: None reported

Debts: \$30,000.00 (medical bills); unknown amount (child support arrearages)

Education: Mr. Larkin completed the 11th grade. He did not obtain a high school diploma or GED. No further education or training was reported beyond this level. The defendant was suspended from school numerous times beginning in the third grade. The suspensions were due to fighting; he stated the fights resulted from him being bullied by his peers. Mr. Larkin was expelled two times for fighting and marijuana.

Military Service: None reported

Health and Medical History: The defendant stated he is in good health. He was stabbed in May 2019 and suffered from a concussion in August 2019. He is not receiving medical treatment at this time.

Mental Health History: The defendant was diagnosed with Bipolar Disorder at the age of 19. He does not take medication to treat this condition. He participated in mental health counseling at the age of 26; however, he stated he was kicked out of the program and was told "nothing was wrong with him."

Gambling History: None reported

Substance Abuse History: Mr. Larkin first consumed alcohol at the age of 16. He continues to use the substance on rare occasions only, with his last use in September 2019. The defendant first used marijuana at the age of 18. He continues to use the substance every day with his last use on the date of the instant offense. He never used or abused any illegal narcotic substances during his lifetime. Mr. Larkin stated he had one shot of Hennessy on the date of the instant offense; however, he stated he was not under the influence of alcohol or any other substance when he committed the crime. Prior to his incarceration, Mr. Larkin spent \$15.00 per week on marijuana. He participated in Narcotics Anonymous classes at the age of 23. The defendant does not believe he needs substance abuse treatment since he only uses marijuana.

Gang Activity/Affiliation: None reported

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As of November 7, 2019, records of the Las Vegas Metropolitan Police Department, the Nevada Department of Public Safety Division of Parole and Probation, the National Crime Information Center and the Federal Bureau of Investigation reflect the following information:

SUPERVISION HISTORY:

PRIOR TERMS:

Adult:

Arrest Date:	Offense:	Disposition:
04-05-06 Las Vegas, NV LVMPD	Possession of Controlled Substance with Intent to Sell (F) (2 counts) RMD: 03-28-07	06C221770 06-19-06: Convicted of Attempt Possession of Controlled Substance with Intent to Sell (GM), sentenced to 9 months CCDC, suspended, probation NTE 3 years. 10-23-06: Probation violation. 11-22-06: Probation reinstated. 02-26-07: Probation violation. 03-28-07: Probation revoked, original sentence imposed, with 89 days CTS.
10-26-07 Las Vegas, NV LVMPD	1. Robbery (F) RMD/RBK: 02-06-08 2. Battery With Intent to Commit a Crime (F)	07F22703X 02-20-08: Convicted of Battery (M), sentenced to CTS.

**PRESENTENCE INVESTIGATION REPORT
JUSTIN LARKIN AKA JUSTIN ALEXANDER LARKINS
CC#: C-19-343544-1**

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01-21-08
Las Vegas, NV
LVMPD

1. Possession of Controlled Substance with Intent to Sell (F)
2. Possession of Dangerous Drugs without Prescription (GM)
RMD/RBK: 07-14-08
3. Conspiracy to Possess Drugs Which May Not be Introduced Into Interstate Commerce (GM)

08C241343

04-03-08: Convicted of Conspiracy to Possess Drugs Which May Not be Introduced Into Interstate Commerce (GM), sentenced to 365 days flat time CCDC, suspended, probation NTE 3 years, Drug Court.
06-07-08: Probation violation.
07-14-08: Probation revoked, original sentence amended to 1 year CCDC, with 106 days CTS.

04-29-09
Las Vegas, NV
LVMPD

1. Possession of Stolen Vehicle (F)
RMD/RBK: 08-25-09
2. Attempt Possession of Stolen Vehicle (F)

09C254612

01-12-10: Convicted of Attempt Possession of Stolen Vehicle (F), sentenced to 18 - 48 months NDOC, suspended, probation NTE 3 years. 1
06-29-10: Probation violation.
01-17-11: Probation violation.
02-10-11: Probation reinstated.
05-03-11: Probation violation.
06-19-11: Probation violation.
07-26-11: Probation reinstated, ordered to serve 6 months CCDC followed by a dishonorable discharge upon release.
12-02-11: Dishonorable discharge.

07-12-11
Not Arrested
Las Vegas, NV
Las Vegas Municipal Court

SUM: Battery (M)
FTA: 12-02-11

C-1044694-A

12-05-11: Convicted of Battery (M), sentenced to 45 days jail, with 4 days CTS.

01-05-13
Las Vegas, NV
LVMPD

WA: Battery Domestic Violence (M)
RMD: 04-12-13

12M34759X

01-08-13: Convicted of Battery Domestic Violence (M), sentenced to CTS, counseling, community service and fine; may do additional community service in lieu of fine.
04-12-13: Fine excused, sentence amended to 6 months CCDC, with 2 months CTS, to run concurrent with Case No. C-13-287877-1 and Case No. 12F19842X.

PRESENTENCE INVESTIGATION REPORT
JUSTIN LARKIN AKA JUSTIN ALEXANDER LARKINS
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02-08-13
Las Vegas, NV
LVMPD

1. Battery on Protected Person (GM)
2. Non-Medicinal Possession of Controlled Substance, Less Than One Ounce (M)

C-13-287877-1

03-07-13: Convicted of Battery on an Officer (GM), sentenced to 6 months CCDC, to run concurrent with Case No. 12F19842X, with 28 days CTS.

01-23-14
Las Vegas, NV
LVMPD

- WA:
1. Possession to Sell Schedule I or II Controlled Substance, Flunitrazepam/Gamma-Hydroxybutyric Acid (1st) (F)
 2. Advertise or Solicit to Promote Distribution of Imitation Controlled Substance (GM)
- RMD: 06-26-14

C-14-295886-1

06-26-14: Convicted of Possession of Controlled Substance with Intent to Sell (F), sentenced to 12 - 30 months NDOC, suspended, probation NTE 6 months, ordered to serve 6 months CCDC followed by a dishonorable discharge, with 29 days CTS.
09-11-14: Dishonorable discharge.

03-27-14
Las Vegas, NV
LVMPD

1. Domestic Battery (2nd) (M)
 2. Break or Tamper with Vehicle, Damage \$250.00 to \$2,500.00 (GM)
- RMD/RBK: 04-01-14
3. Domestic Battery (1st) (M) (2 counts)
FTA: 09-17-15
 4. Destroying the Property of Another, Value \$25.00 - \$250.00 (M)

14F04997X

04-15-14: Convicted of Count 1 – Destroying the Property of Another, Value \$25.00 - \$250.00 (M) and Count 2 – Domestic Battery (2nd) (M), sentenced to Counts 1 and 2 – 6 months CCDC, suspended, CTS, stay out of trouble, counseling, community service, \$500.00 restitution, fine; may do additional community service in lieu of fine.
08-06-15: Sanctioned to CTS.
09-18-15: All requirements vacated, original sentences imposed, Count 2 to run consecutive to Count 1, with 30 days CTS.

05-16-14
LVMPD

1. Domestic Battery (1st) (M)
RMD/RBK: 07-01-14
2. Domestic Battery (2nd) (M)

14F07902X

06-03-14: Convicted of Domestic Battery (2nd) (M), sentenced to 6 months jail, suspended, CTS, stay out of trouble, counseling, community service and fine; may do additional community service in lieu of fine. All requirements to run concurrent with Case No. 14F04997X.
07-01-14: All requirements vacated, original sentence imposed, with 60 days CTS.

PRESENTENCE INVESTIGATION REPORT
JUSTIN LARKIN AKA JUSTIN ALEXANDER LARKINS
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05-21-15
Las Vegas, NV
LVMPD

Battery (M)
FTA: 07-29-15

15M14636X
07-31-15: Convicted of Battery (M),
sentenced to CTS.

10-03-16
Las Vegas, NV
LVMPD

1. Sell, Transport, Give, or Attempt to Sell, Transport or Give Schedule I or II Controlled Substance (1st) (F)
RMD/RBK: 03-22-17
2. Possession to Sell Schedule I or II Controlled Substance, Flunitrazepam/Gamma-Hydroxybutyric Acid (1st) (F)

C-16-319238-1
03-22-17: Convicted of Possession of Controlled Substance with Intent to Sell (F), sentenced to 12 - 30 months NDOC, with 8 days CTS. }
Expired term in custody.

02-13-17
Las Vegas, NV
LVMPD

1. Possession of Schedule I, II, III, IV Controlled Substance (1st/2nd) (F)
2. Possession to Sell Schedule I or II Controlled Substance, Flunitrazepam/Gamma-Hydroxybutyric Acid (1st) (F)
3. Trespassing, Not Amounting to Burglary (M)

C-17-321698-1
03-06-17: Convicted of Conspiracy to Commit a Crime (GM), sentenced to 9 months CCDC, with 22 days CTS.

01-23-19
Las Vegas, NV
LVMPD

Battery (M)
FTA: 06-21-19

19T00645
06-24-19: Convicted of Battery (M),
sentenced to CTS.

09-08-19
Las Vegas, NV
LVMPD

1. Battery with a Deadly Weapon (F)
2. Possession to Sell Schedule I or II Controlled Substance, Flunitrazepam/Gamma-Hydroxybutyric Acid (1st) (F)
RMD/RBK: 09-16-19
3. Assault with a Deadly Weapon (F)

Instant Offense, C-19-343544-1

The defendant has also been convicted in Nevada of the following misdemeanor offenses: Possession of Drug Not to be Introduced Into Interstate Commerce (2005), jail; Misuse of Bus Shelter Bench (2006), CTS; Non-Medicinal Possession of Controlled Substance, Less Than One Ounce (2007), CTS; Possession of Narcotic Paraphernalia (2007), CTS; Possession of Drug Not to be Introduced Into Interstate Commerce (2007), CTS; Possession of Controlled Substance, Less Than One Ounce (2009), CTS; Possession of Controlled Substance, Less Than One Ounce (2009), CTS; Possession of Drug Not to be Introduced Into Interstate Commerce (2009), CTS; Possession of Drug Not to be Introduced Into Interstate Commerce (2012), jail; Possession of Drug Not to be Introduced Into Interstate Commerce (2012), jail; Petit Larceny (2015), CTS; Possession of Drug Not to be Introduced Into Interstate Commerce (2019), CTS.

PRESENTENCE INVESTIGATION REPORT
JUSTIN LARKIN AKA JUSTIN ALEXANDER LARKINS
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Additionally, the defendant was arrested, detained or cited in Nevada between June 6, 2010, and June 21, 2019, for the following offenses for which no disposition is noted, prosecution was not pursued or charges were dismissed: Possession of Imitation Controlled Substance (5); Trespassing (2); Sale of Imitation Controlled Substance; Non-Medicinal Possession of Controlled Substance, Less Than One Ounce (2); Unlawful Misdemeanor Act Concerning Imitation Controlled Substance; Urinate in Certain Places; Sell, Transport, Give, or Attempt to Sell, Transport or Give Schedule I or II Controlled Substance (1st) (2); Use or Possession to Use Imitation Controlled Substance (1st/2nd); Disorderly Conduct; Possession of Less Than Once Ounce of Marijuana; Trafficking Schedule I Controlled Substance, Flunitrazepam/Gamma-Hydroxybutyric Acid, 4 - 14 Grams; Possession of Schedule I, II, III, IV Controlled Substance (1st/2nd); Contempt of Court (2); Resisting Public Officer. Additionally, the defendant's criminal history consists of several instances of failure to appear, failure to comply, and failure to pay traffic citations.

Supplemental Information: N/A

Institutional/Supervision Adjustment: 06C221770: Mr. Larkin was granted probation on June 19, 2006. Division records indicate the defendant failed to report, provide residence information, provided positive urine samples for marijuana, failed to attend substance abuse counseling, failed to attend mental health counseling, and failed to attend GED or an adult educational/vocational program. Probation was violated twice with one reinstatement and a subsequent revocation.

08C241343: Mr. Larkin was granted probation on April 3, 2008. The defendant failed to complete Drug Court, maintain employment or residency, and failed to report. He was consequently revoked on July 14, 2008.

09C254612: Mr. Larkin was granted probation on January 12, 2010. He was violated twice for failing to report, failure to maintain residency and employment, failure to pay financial obligations, failure to perform community service, and failure to complete a substance abuse evaluation. On July 26, 2011, the defendant's probation was reinstated; however, he was ordered to serve six months in the Clark County Detention Center followed by a dishonorable discharge. Mr. Larkin served his term in custody and was dishonorably discharged on December 2, 2011.

C-14-295886-1: On June 26, 2014, the defendant was placed on six months probation; however, he was ordered to serve the first six months in the Clark County Detention Center followed by a dishonorable discharge. Mr. Larkin served his term in custody and was dishonorably discharged on September 11, 2014.

C-16-319238-1: On March 22, 2017, Mr. Larkin was sentenced to 12 to 30 months in the Nevada Department of Corrections; he expired his term in custody. No further information is known about the defendant's progress while incarcerated.

C-17-321698-1: Mr. Larkin was sentenced to nine months in the Clark County Detention Center on March 6, 2017. No further information is known about the defendant's progress while in custody.

V. OFFENSE SYNOPSIS

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

On September 8, 2019, patrol officers were dispatched to a neighborhood in reference to a report of a battery. The victim stated the defendant, Justin Larkin, aka, Justin Alexander Larkins, verbally assaulted him, then ran towards him and threw rocks at the victim while screaming. Mr. Larkin subsequently pulled a baseball bat from his waistband and struck the victim in the head with the bat before fleeing the scene. The victim had visible bruising on his jaw and a cut in his right ear. Officers located Mr. Larkin at a nearby business and the bat was recovered. The defendant stated the victim punched him and called him a "nigger"; however, he refused to provide any further details. Officers searched Mr. Larkin's person and found 10 baggies of equal size that contained marijuana, and one larger baggie that contained additional marijuana. The defendant had \$144.00 in denominations consistent with narcotic sales. The substances later tested ODV positive for marijuana with a total weight of 16 gross grams.

Mr. Larkin was arrested and transported to the Clark County Detention Center where he was booked accordingly.

Co-Defendant/Offender Information: N/A

VI. DEFENDANT'S STATEMENT

☐ See Attached ☒ Defendant interviewed, no statement submitted ☐ Defendant not interviewed

VII. VICTIM INFORMATION/STATEMENT

The victim (VC2266569) submitted a pay stub and cell phone receipt on November 8, 2019. However, there was no explanation as to whether the phone was stolen or damaged in the instant offense and it is not noted in the police report. The Division attempted telephonic and electronic contact with the victim on November 8 and 9, 2019, to clarify; however, all attempts were unsuccessful. If any restitution requests are substantiated or any victim letters are received prior to sentencing, they will be forwarded to the Court for consideration. Therefore, the Division does not recommend restitution for the instant offense at this time.

VIII. CUSTODY STATUS/CREDIT FOR TIME SERVED

Custody Status: In Custody, CCDC

CTS: 80 DAYS: 09-08-19 to 11-26-19 (CCDC)

IX. PLEA NEGOTIATIONS

The State has no opposition to probation with the only condition being one hundred twenty (120) days in the Clark County Detention Center. Defendant agrees to pay restitution. Defendant agrees to the forfeiture as set forth in the Stipulation for Compromise of Seized Property.

X. RECOMMENDATIONS

Based on information obtained and provided in this report, the following recommendations are submitted.

190 Day Regimental Discipline Program: N/A **Deferred Sentence Per NRS 453.3363, 458.300, 458A.200, 176A.250, 176A.280: N/A**

FEES

Administrative Assessment: \$25.00	Chemical/Drug Analysis: N/A	DNA: Taken 01-15-10
DNA Admin Assessment: \$3.00		
Domestic Violence Fee: N/A	Extradition: N/A	Psychosexual Fee: N/A

SENTENCE

Minimum Term: 24 months	Maximum Term: 72 months	Location: NDOC
Consecutive to/Concurrent With: N/A	Probation Recommended: No	Probation Term: N/A
Fine: None	Restitution: None	Mandatory Probation/ Prison: N/A

☒ Pursuant to NRS 239B.030, the undersigned hereby affirms this document contains the social security number of a person as required by NRS 176.145.

☐ Pursuant to NRS 239B.030, the undersigned hereby affirms this document does not contain the social security number of any person.

Per the Nevada Revised Statutes, any changes to factual allegations in the Presentence Investigation Report may be ordered by the court within 180 days of the entry of Judgement of Conviction. The prosecuting attorney and defendant must agree to correct the contents.

The information used in the Presentence Investigation Report may be utilized reviewed by federal, state and/or local agencies for the purpose of prison classification, program eligibility and parole consideration.

In accordance with current Interstate Commission for Adult Offender Supervision rules and requirements, all felony convictions and certain [gross] misdemeanants are offense eligible for compact consideration. Due to Interstate Compact standards, this conviction may or may not be offense eligible for courtesy supervision in the defendant's state of residence. If not offense eligible, the Division may still authorize the offender to relocate to their home state and report by mail until the term of probation is complete and/or the case has been completely resolved.

**PRESENTENCE INVESTIGATION REPORT
JUSTIN LARKIN AKA JUSTIN ALEXANDER LARKINS
CC#: C-19-343544-1**

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Respectfully Submitted,

Anne K. Carpenter, Chief

Report prepared by: K. Lomprey
DPS Parole and Probation, Specialist III
sccourtservices@dps.state.nv.us

Approved by:

E. Lopez, Supervisor

Digitally signed by E. Lopez,
Supervisor
Date: 2019.11.10 07:57:33 -08'00'

E. Lopez, DPS Parole and Probation Supervisor
Southern Command, Las Vegas
sccourtservices@dps.state.nv.us

STANDARD PROBATION AGREEMENT AND RULES IF THE COURT CHOOSES TO GRANT PROBATION:

1. **Reporting:** You are to report in person to the Division of Parole and Probation as instructed by the Division or its agent. You are required to submit a written report each month on forms supplied by the Division. This report shall be true and correct in all respects.
2. **Residence:** You shall not change your place of residence without first obtaining permission from the Division of Parole and Probation, in each instance.
3. **Intoxicants:** You shall not consume any alcoholic beverages (whatsoever) (to excess). Upon order of the Division of Parole and Probation or its agent, you shall submit to a medically recognized test for blood/breath alcohol content. Test results of .08 blood alcohol content or higher shall be sufficient proof of excess.
4. **Controlled Substances:** You shall not use, purchase or possess any illegal drugs, or any prescription drugs, unless first prescribed by a licensed medical professional. You shall immediately notify the Division of Parole and Probation of any prescription received. You shall submit to drug testing as required by the Division or its agent.
5. **Weapons:** You shall not possess, have access to, or have under your control, any type of weapon.
6. **Search:** You shall submit your person, property, place of residence, vehicle or areas under your control to search including electronic surveillance or monitoring of your location, at any time, with or without a search warrant or warrant of arrest, for evidence of a crime or violation of probation by the Division of Parole and Probation or its agent.
7. **Associates:** You must have prior approval by the Division of Parole and Probation to associate with any person convicted of a felony, or any person on probation or parole supervision. You shall not have any contact with persons confined in a correctional institution unless specific written permission has been granted by the Division and the correctional institution.
8. **Directives and Conduct:** You shall follow the directives of the Division of Parole and Probation and your conduct shall justify the opportunity granted to you by this community supervision.
9. **Laws:** You shall comply with all municipal, county, state, and federal laws and ordinances.
10. **Out-of-State Travel:** You shall not leave the state without first obtaining written permission from the Division of Parole and Probation.
11. **Employment/Program:** You shall seek and maintain legal employment, or maintain a program approved by the Division of Parole and Probation and not change such employment or program without first obtaining permission. All terminations of employment or program shall be immediately reported to the Division.
12. **Financial Obligation:** You shall pay fees, fines, and restitution on a schedule approved by the Division of Parole and Probation. Any excess monies paid will be applied to any other outstanding fees, fines, and/or restitution, even if it is discovered after your discharge.
13. **Special Conditions:**
 1. You shall submit your digital storage media or any digital storage media that you have access or use, including computers, handheld communication devices and any network applications associated with those devices, including social media and remote storage services to a search and shall provide all passwords, unlock codes and account information associated with those items, with or without a search warrant, by the Division of Parole and Probation or its agent.
 2. Any Other Condition As Determined By the Court.

**DEPARTMENT OF PUBLIC SAFETY
DIVISION OF PAROLE AND PROBATION
SENTENCE RECOMMENDATION SELECTION SCALE**

☒ Felony

☐ GM

Defendant's Name: Justin Larkin, aka, Justin Alexander Larkins

CC# C-19-343544-1

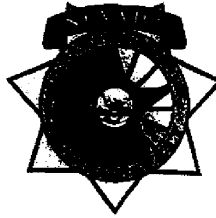
CT:	Offense: Assault with a Deadly Weapon (F)	NRS: 200.471	Category: B
Recommendation: 24 - 72 months NDOC		☐ Probation Only ☐ Non-Probation	

CT:	Offense:	NRS:	Category:
Recommendation:		☐ Probation Only ☐ Non-Probation	

CT:	Offense:	NRS:	Category:
Recommendation:		☐ Probation Only ☐ Non-Probation	

CT:	Offense:	NRS:	Category:
Recommendation:		☐ Probation Only ☐ Non-Probation	

Steve Sisolak
Governor



Nevada Department of
Public Safety
DEDICATION PRIDE SERVICE

George Togliatti
Director

Anne K. Carpenter
Chief

DIVISION OF PAROLE AND PROBATION

November 08, 2019

PROBATION SUCCESS PROBABILITY (PSP) SCORE

Offender:	LARKIN, JUSTIN	Offense Score Total:	12
PSI #:	583350	Social Score Total:	19
BIN #:	1000674085	Raw Score Total:	10
Case #:	C343544-1	Total PSP Score:	31

Prior Criminal History:

Felony Convictions:	-1 = 2 or More	Jail Sentences:	0 = 3 or more
Misdemeanor Convictions:	0 = 4 or more	Juvenile Commitments:	2 = None/or over 24
Pending, unrelated cases:	2 = None	Years free of Conv:	0 = Less than 3
Subsequent Crim Hist:	2 = None	Prior Formal Suprv:	0 = More than 1
Prior Incarcerations:	1 = One	Criminal Pattern:	-2 = History of Violence

Present Offense:

Circumstances of Arrest:	2 = Non-prob.	Sophistication/Premeditation:	1 = Moderate
Type of Offense:	0 = Person	Plea Bargain Benefits:	0 = High
Psych or Medical Impact:	2 = Minor/No Treatment	Financial Impact:	2 = Minimal or no loss
Weapon:	-4 = Used	CoOffender:	0 = Leader/Coerced Others or NONE
Controlled Substances:	3 = N/A	Motive:	0 = Deliberate

Raw Score x 1.2 = Offense Score Total: 12

Social History:

Age:	2 = 25 - 39	Family Situation:	0 = Disruptive
Employment/Program:	2 = Sporadic	Education:	1 = Incomplete
Financial:	1 = Inadequate	Military:	1 = Hon Discharge/No Mil Service
Employability:	1 = Could be developed		

Pre Sentence Adjustment:

Commitment/Ties:	2 = Local/In State	Resource Availability:	2 = Available
Program Participation:	-1 = Refused	Substance Drug:	0 = Regular Use
Honesty/Cooperation:	2 = Candid	Substance Alcohol:	3 = Non-Problematic
Attitude/Supervision:	2 = Positive	Attitude/Offense:	1 = Indifferent

Social Score Total: 19

Offense Score + Social Score = PSP TOTAL SCORE: 31

PSP TOTAL SCORE: 31 0-54 = Denial ☒ 55-64 = Borderline ☐ 65-100 = Probation ☐

DEVIATION JUSTIFICATION: In to OR Out to Probation ☐ In / Prison ☐ Out / Probation ☐

Raw Score (Offense): 10 Diversion Recommended: 453 ☐ 458 ☐ Veterans ☐ Mental Health ☐ Other ☐

(transfer score to corresponding risk range below)

SENTENCE STRUCTURE	CATEGORY Score	LOW RANGE 39-49 ☐	LOW - MEDIUM 28-38 ☐	MEDIUM RANGE 17-27 ☐	MEDIUM - HIGH 6-16 ☒	MAXIMUM ≤ 5 (or less) ☐
364 days Begin sentence consideration at midpoint six month sentence and adjust based on factors delineated	Gross Misdemeanor (GM)	Factors to justify greater sentence: Prior criminal history, harm to victim, issues can be addressed via probation, restitution will be ordered. Factors to justify lesser sentence and/or fine only: Minimal/no financial loss, minimal/no prior criminal history, age of offender, out of state offender, no issues to be addressed via probation, time in custody prior to sentencing, contemplated in plea negotiations				
1 - 4 years ☐	Category E Category D	12-30 months ☐	12-32 months ☐	12-34 months ☐	12-48 months ☐	19-48 months ☐
1 - 5 years ☐	Category C	12-32 months ☐	12-34 months ☐	12-36 months ☐	18-60 months ☐	24-60 months ☐
1 - 6 years ☒	Category B	12-36 months ☐	12-36 months ☐	12-48 months ☐	24-72 months ☒	28-72 months ☐
1 - 10 years ☐	Category B	12-36 months ☐	12-48 months ☐	16-72 months ☐	36-120 months ☐	48-120 months ☐
1 - 15 years ☐	Category B Enhancement	12-48 months ☐	24-60 months ☐	36 - 96 months ☐	48-180 months ☐	60-180 months ☐
2 - 10 years ☐	Category B	24-60 months ☐	28-72 months ☐	32-84 months ☐	36-120 months ☐	48-120 months ☐
2 - 15 years ☐	Category B	24-72 months ☐	32-84 months ☐	36-120 months ☐	48-180 months ☐	66-180 months ☐
3 - 10 years ☐	Category B	36-90 months ☐	40-100 months ☐	42-110 months ☐	44-120 months ☐	48-120 months ☐
3 - 15 years ☐	Category B	36-96 months ☐	42-120 months ☐	48-120 months ☐	60-180 months ☐	72-180 months ☐
5 - 15 years ☐	Category B	60-150 months ☐	64-162 months ☐	68-174 months ☐	72-180 months ☐	72-180 months ☐
1 - 20 years ☐	Category B	12-48 months ☐	18-96 months ☐	24-120 months ☐	36-240 months ☐	72-240 months ☐
2 - 20 years ☐	Category B	24-60 months ☐	30-96 months ☐	36-120 months ☐	48-240 months ☐	84 - 240 months ☐
3 - 20 years ☐	Category B	36-72 months ☐	42-108 months ☐	54-144 months ☐	66-240 months ☐	96 -240 months ☐
5 - 20 years ☐	Category B & habitual offender	60-150 months ☐	64-162 months ☐	72-174 months ☐	84-240 months ☐	96 -240 months ☐
Life w/or without parole ☐	Category A & habitual offender	Life/possibility of parole after 20 years ☐	Life/ possibility of parole after 20 years ☐	Life w/possibility of parole ☐	Life w/ possibility of parole ☐	Life with no possibility of parole ☐

Other Areas of Concern (Check all that apply):

- ☐ Low Intelligence / Cognitive Difficulties ☐ Physical Handicap ☒ Mental Health Issues
- ☐ Reading and Writing Limitations / Significant Learning Disabilities
- ☐ Other: _____

IMPORTANT: The factors and areas of concern identified above should not result in a negative impact when formulating a sentencing recommendation. If any of these factors apply to an offender, a downward sentence deviation towards leniency may be appropriate.

ANY RECOMMENDATION THAT DEVIATES FROM SUGGESTED SENTENCE MUST INCLUDE JUSTIFICATION (+) OR (-)

DEVIATION JUSTIFICATION:

K. Lomprey, Specialist III

Digitally signed by K. Lomprey, Specialist III
Date: 2019.11.08 12:36:30 -0500

5029

CID #

Friday, November 8, 2019

Date

Specialist:

E. Lopez, Supervisor

Digitally signed by E. Lopez, Supervisor
Date: 2019.11.10 07:56:53 -0500

4706

CID #

Sunday, November 10, 2019

Date

Supervisor:

Lock All Fields

Page 2 of 2

Extremity Laceration: Stitches, Staples, or Tape

A laceration is a cut through the skin. If it is deep, it may require stitches or staples to close so it can heal. Minor cuts may be treated with surgical tape closures, or skin glue.

X-rays may be done if something may have entered the skin through the cut. You may also need a tetanus shot if you are not up to date on this vaccine.

Home care

- Follow the healthcare provider's instructions on how to care for the cut.
- Wash your hands with soap and warm water before and after caring for your wound. This is to help prevent infection.
- Keep the wound clean and dry. If a bandage was applied and it becomes wet or dirty, replace it. Otherwise, leave it in place for the first 24 hours, then change it once a day or as directed.
- If stitches or staples were used, clean the wound daily:
 - After removing the bandage, wash the area with soap and water. Use a wet cotton swab to loosen and remove any blood or crust that forms.
 - After cleaning, keep the wound clean and dry. Talk with your healthcare provider before putting any antibiotic ointment on the wound. Reapply the bandage.
- You may remove the bandage to shower as usual after the first 24 hours, but don't soak the area in water (no swimming) until the stitches or staples are removed.
- If surgical tape closures were used, keep the area clean and dry. If it becomes wet, blot it dry with a towel. Let the surgical tape fall off on its own.
- The healthcare provider may prescribe an antibiotic cream or ointment to prevent infection. He or she may also prescribe an antibiotic pill. Don't stop taking this medicine until you have finished it all or the provider tells you to stop.
- The provider may also prescribe medicine for pain. Follow the instructions for taking these medicines.
- Don't do activities that may reopen your wound.

Follow-up care

Follow up with your healthcare provider, or as advised. Most skin wounds heal within 10 days. But an infection may sometimes occur even with proper treatment. Check the wound daily for the signs of infection listed below. Stitches and staples should be removed within 7 to 14 days. If surgical tape closures were used, you may remove them after 10 days if they have not fallen off by then.

When to seek medical advice

Call your healthcare provider right away if any of these occur:

- Wound bleeding not controlled by direct pressure
- Signs of infection, including increasing pain in the wound, increasing wound redness or swelling, or pus or bad odor coming from the wound
- Fever of 100.4°F (38°C) or higher, or as directed by your healthcare provider
- Stitches or staples come apart or fall out or surgical tape falls off before 7 days
- Wound edges reopen
- Wound changes colors
- Numbness occurs around the wound
- Decreased movement around the injured area

Date Last Reviewed: 7/1/2017

- Heavy bleeding or vomiting blood
- Very drowsy or trouble awakening
- Fainting or loss of consciousness
- Rapid heart rate
- Seizure

When to seek medical advice

Call your healthcare provider right away if any of these occur:

- Severe shakiness
- Fever of 100.4°F (38°C) or higher, or as directed by your healthcare provider
- Confusion or hallucinations (seeing, hearing, or feeling things that are not there)
- Pain in your upper abdomen that gets worse
- Repeated vomiting

Date Last Reviewed: 6/1/2016

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- Even with proper treatment, a wound infection may sometimes occur. Check the wound daily for signs of infection listed below.

Scalp wounds

During the first 2 days, you may carefully rinse your hair in the shower to remove blood, glass or dirt particles. After two days, you may shower and shampoo your hair normally. Do not soak your scalp in the tub or go swimming until the stitches or staples have been removed. Talk with your healthcare provider before applying any antibiotic ointment to the wound.

Mouth wounds

Eat soft foods to reduce pain. If the cut is inside of your mouth, clean by rinsing after each meal and at bedtime with a mixture of equal parts water and hydrogen peroxide (do not swallow!). Or, you can use a cotton swab to directly apply hydrogen peroxide onto the cut. You may also be prescribed a chlorhexidine solution to rise with. Mouth wounds can be painful when eating. You may use an over-the-counter local numbing solution for pain relief. If this is not available, you may use any numbing solution intended for teething babies. You may apply this directly to the sores with a cotton-tip swab or with your finger.

Follow-up care

Follow up with your healthcare provider as advised. Ask your healthcare provider how long sutures should be left in place. Be sure to return for suture removal as directed. If dissolving stitches were used in the mouth, these should fall out or dissolve without the need for removal. If tape closures were used, remove them yourself when your provider recommends if they have not fallen off on their own. If skin glue was used, the film will wear off by itself. Generally, you should keep healing wounds out of direct sunlight for the first couple of months to try to lessen scarring.

When to seek medical advice

Call your healthcare provider right away if any of these occur:

- Signs of infection, including increasing pain in the wound, increasing wound redness or swelling, or pus or bad odor coming from the wound
- Fever of 100.4°F (38.0°C) or higher, or as directed by your healthcare provider
- Stitches or staples come apart or fall out or surgical tape falls off before 7 days
- Wound edges reopen
- Wound changes colors
- Numbness around the wound after any numbing medicine should have worn off
- Decreased movement around the injured area

Call 911

Call 911 if you can't control the wound bleeding with direct pressure.

Date Last Reviewed: 5/1/2017

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- **Heart and vascular system.** Alcohol affects multiple areas. It can damage heart muscle causing cardiomyopathy, which is a weakening and stretching of the heart muscle. This can lead to trouble breathing, an irregular heartbeat, atrial fibrillation, leg swelling, and heart failure. It makes the blood vessels stiffen causing hypertension (high blood pressure). All of these problems increase your risk of having heart attacks or strokes.
- **Liver.** Alcohol causes fat to build up in the liver, affecting its normal function. This increases the risk for hepatitis, leading to abdominal pain, appetite loss, jaundice, bleeding problems, liver fibrosis, and cirrhosis. This in turn can affect your ability to fight off infections, and can cause diabetes. The liver changes prevent it from removing toxins in your blood that can cause encephalopathy. Signs of this are confusion, altered level of consciousness, personality changes, memory loss, seizures, coma, and death.
- **Pancreas.** Alcohol can cause inflammation of the pancreas, or pancreatitis. This can cause pain in your abdomen, fever, and diabetes.
- **Immune system.** Alcohol weakens your immune system in a number of ways. It suppresses your immune system making it harder to fight off infections and colds. You will also have a higher risk of certain infections like pneumonia and tuberculosis.
- **Cancer risk.** Alcohol raises your risk of cancer of the mouth, esophagus, pharynx, larynx, liver, and breast.
- **Sexual function.** Alcohol abuse can also lead to sexual problems.

Alcohol use during pregnancy may cause permanent damage to the growing baby.

Home care

The following guidelines will help you care for yourself at home:

- Don't drink any more alcohol.
- Don't drive until all effects of the alcohol have worn off.
- Don't operate machinery that can cause injuries.
- Get lots of rest over the next few days. Drink plenty of water and other non-alcoholic liquids. Try to eat regular meals.
- If you have been drinking heavily on a daily basis, you may go through alcohol withdrawal. The usual symptoms last 3 to 4 days and may include nervousness, shakiness, nausea, sweating, sleeplessness, and can even cause seizures and a serious withdrawal symptom called delirium tremens, or DTs. During this time, it is best that you stay with family or friends who can help and support you. You can also admit yourself to a residential detox program. If your symptoms are severe (seizures, severe shakiness, confusion), contact your doctor or call an ambulance for help (see below).

Follow-up care

If alcohol is a problem in your life, these are some organizations that can help you:

- Alcoholics Anonymous offers support through a self-help fellowship. There are no dues or fees. See the Yellow Pages and call for time and place of meetings. Find AA online at www.aa.org.
- Al-Anon offers support to families of alcohol users. Contact 888-425-2666, or online at www.al-anon.org.
- National Council on Alcoholism and Drug Dependence can be reached at 800-622-2255, or online at www.ncadd.org.
- There are also inpatient and residential alcohol detox programs. Check the Internet or phonebook Yellow Pages under "Drug Abuse and Treatment Centers."

Call 911

Call 911 if any of these occur:

- Trouble breathing or slow irregular breathing
- Chest pain
- Sudden weakness on one side of your body or sudden trouble speaking

Discharge Instructions (continued)

UNLV Clinics: 2231 W. Charleston Blvd., Las Vegas

UNLV Women's Center	702-944-2805
UNLV Internal Medicine Clinic	702-676-3650
-Cardiology	
-Gastroenterology	
-Pulmonology	

UNLV Clinics: 1707 W. Charleston Blvd., Las Vegas

UNLV Surgery Clinic	702-671-5150
UNLV Rheumatology/ Endocrinology	702-671-5070

UNLV Clinic: 1524 Pinto Lane, Las Vegas

UNLV Pediatrics Clinic	702-944-2828
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Resource Hotlines:

National Suicide Hotline:	1-800-273-8255
National Adult Protective Services:	1-888-729-0571
National Child Protective Services:	1-800-4-A-CHILD (422-4453)
National Human Trafficking	1-888-373-7888 or
Resource Center:	Text "HELP" or "INFO" to 233733

ADDITIONAL FOLLOW-UP INSTRUCTIONS:

Please arrange a follow-up appointment within 3 days (Unless a follow-up appointment has been recommended sooner) with your primary care provider (PCP), or the referred physician or clinic. See Referral section or Referral handout given. If you do not have your own doctor or cannot arrange the appointment within this time period please return to this or any local Emergency Department or urgent care for your recheck.

Certain medical problems require even closer follow-up:

*If you have abdominal pain, we recommend that you return in 8-12 hours for a recheck, unless your symptoms are completely resolve.

*If you have a wound or were diagnosed with a skin infection, we recommend that you return in 2 days for a recheck.

*****IF YOUR CONDITION WORSENS AT ANY TIME, OR IF YOU EXPERIENCE ANY OTHER NEW OR CONCERNING SYMPTOMS, PLEASE RETURN IMMEDIATELY TO THE EMERGENCY DEPARTMENT*****

Steven D. Grierson

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

7 I.A. 2/14/2020
10:00 AM
8 SHEETS

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 JUSTIN ALEXANDER RASHAD LARKINS,
aka, Justin Alexander Larkins,
13 #1966552

14 Defendant.

CASE NO: C-20-346867-1

DEPT NO: X

INFORMATION

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

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

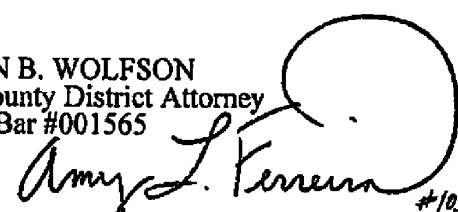
19 That JUSTIN ALEXANDER RASHAD LARKINS, aka, Justin Alexander Larkins, the
20 Defendant(s) above named, having committed the crime of **BATTERY WITH USE OF A**
21 **DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE (Category B Felony -**
22 **NRS 200.481; 200.485; 33.018 - NOC 57935)**, on or about the 26th day of January, 2020,
23 within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes
24 in such cases made and provided, and against the peace and dignity of the State of Nevada,
25 did willfully and unlawfully use force or violence against or upon the person of his spouse,
26 former spouse, any other person to whom he is related by blood or marriage, a person with
27 whom he has had or is having a dating relationship, a person with whom he has a child in
28

W:\2020\2020F020\03\20F02003-INFM-(LARKINS__JUSTIN)-001.DOCX

1 common, the minor child of any of those persons or his minor child, to wit: SHARON
2 HEWITT, with use of a deadly weapon, to wit: a large rock, by throwing said large rock at the
3 said SHARON HEWITT.

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

7 BY

 #103476
8 BRANDON ALBRIGHT
9 Deputy District Attorney
10 Nevada Bar #014158
11

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

<u>NAME</u>	<u>ADDRESS</u>
CUSTODIAN OF RECORDS	LVMPD, Communications, 400 Martin
Or Designee	Luther King Blvd., LV, NV
CUSTODIAN OF RECORDS	LVMPD, Records, 400 Lewis Avenue, LV,
Or Designee	NV
CUSTODIAN OF RECORDS	CCDC, 330 So. Casino Center Blvd., LV,
Or Designee	NV
CUSTODIAN OF RECORDS	THE SUITES, 4855 Boulder Hwy., LV, NV
Or Designee	
DILLARD, TIMOTHY	CCDA PROCESS SERVER
FREEMAN, S.	LVMPD P#16127
HANSEN, B.	LVMPD P#16544
JOHNSTON, S.	LVMPD P#16578
MARTINEZ, S.	LVMPD P#16590
PLONSE, KELLY	CCDA PROCESS SERVER

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RODRIGUEZ, SELMA
SHAMIRZA, ALFRED

CCDA PROCESS SERVER
CCDA INVESTIGATOR

20F02003X/mlb/dvu
LVMPD EV#200100123301
(TK3)

INMATE REQUEST FORM

1.) INMATE NAME	DOC #	2.) HOUSING UNIT	3.) DATE
Justin A.R. Larkins	1175371	5-B-17	2-22-2021

4.) REQUEST FORM TO: (CHECK BOX)

☒ CASEWORKER ☐ MEDICAL ☐ LAW LIBRARY ☐ DENTAL

☐ EDUCATION ☐ VISITING ☐ SHIFT COMMAND

☐ LAUNDRY ☐ PROPERTY ROOM ☐ OTHER _____

5.) NAME OF INDIVIDUAL TO CONTACT: Mr. Silber

6.) REQUEST (PRINT BELOW) Hey! how are you? I'm going to court next week on the 3rd of March for a sentence modification. I would like to ask you to print out a letter on my behalf, stating how I have not been in any trouble since arriving to M.D.O.C. Please understand that I am not asking for you to lie on my behalf or embellish the truth on my behalf or make any recommendations on my behalf. Just state in the letter how I have done my best to maintain excellent conduct by not getting into any trouble. Please

7.) INMATE SIGNATURE [Signature] DOC # 1175371 and
8.) RECEIVING STAFF SIGNATURE _____ DATE _____ Thank
you,

9.) RESPONSE TO INMATE

This is not something we do. The courts can contact us if they have any questions about you or your conduct.

You can bring this kite perhaps. You arrived to HDS P on 3/11/2020 and have remained write-up free the entire time.

10.) RESPONDING STAFF SIGNATURE CCs Silber DATE 2/23/2021

Larkin, Justin
 3955 W RUSSELL RD , LAS VEGAS, NV 89118
 Student Number: 12164726 Grade: AD Gender: M
 Birthdate: 06/05/1987 Birth Place: Not provided

Clark County School District
Academic History
 Class of
 Grad Status: Undergraduate
 Grad Date: Undetermined
 Printed: 03/02/2021 10:00:15 AM

High Desert State Prison Adult HS
 22010 Cold Creek Rd
 Indian Springs, NV 89070
 Tel: (702)879-6682 Fax: (702)879-6626
 School CEEB Code: 991933
 State School Number: 940
 District School Number: 615

GPA Summary				
Unweighted GPA	4.000			
Weighted GPA	4.000			
Class Rank	1 of 230			
Accumulated Bonus Points	0.000			
NSHE Core GPA	0.0000			
Attendance Summary				
Sch Year	School	Enroll Days	Absent Days	Tardy Days
Course ID	Course Title	Mark	GPA Wt	Credit
2020-2021 Grade AD Term 1				
#615 High Desert State Prison Adult HS				
80550001	Guidance	A	1.000	0.5
80550002	Guidance	A	1.000	0.5
Credit: 1.000 GPA: 4.000				
Credit Summary				
HS	Attempted	Earned		
Electives	1.000	1.000		
Total	1.000	1.000		
Work In Progress				
Guidance 3 > Credit up Guidance 4 F.R.W. I				

UNOFFICIAL

INMATE REQUEST FORM

1.) INMATE NAME	DOC #	2.) HOUSING UNIT	3.) DATE
Justin A.R. Larkins	1175371	6-17	3-31-21

4.) REQUEST FORM TO: (CHECK BOX)

☐ CASEWORKER	☐ MEDICAL	☐ MENTAL HEALTH	☐ CANTEEN
☒ EDUCATION	☐ VISITING	☐ LAW LIBRARY	☐ DENTAL
☐ LAUNDRY	☐ PROPERTY ROOM	☐ SHIFT COMMAND	☐ OTHER

5.) NAME OF INDIVIDUAL TO CONTACT: MR. Fisher

6.) REQUEST: (PRINT BELOW) How are you, sir? I've been waiting for an OFFICER to come and pick up this packet, the one distributed to me on 3-2-21. The OFFICERS in this unit won't take the packet, they always tell me that an officer from Education will come and get it. I'm just trying to contact you to let you know I have it still. Thank you for your time.

7.) INMATE SIGNATURE Justin DOC # 1175371

8.) RECEIVING STAFF SIGNATURE _____ DATE _____

9.) RESPONSE TO INMATE

I am having this Kite delivered to you so turn in packets when you get this back!

10.) RESPONDING STAFF SIGNATURE W. R. DATE 4/9/21

C-20-346867-1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 14, 2020

C-20-346867-1 State of Nevada
 vs
 JUSTIN LARKINS

February 14, 2020 10:00 AM Initial Arraignment

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

COURT CLERK: Brown, Kristen

RECORDER: Nichols, Sharon

REPORTER:

PARTIES PRESENT:

JUSTIN A LARKINS **Defendant**

Kelsey L. Bernstein **Attorney for Defendant**

JOURNAL ENTRIES

Deputized Law Clerk, Joshua Judd appearing for the State.

NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED IN OPEN COURT. DEFT. LARKINS ARRAIGNED AND PLED GUILTY TO BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE (F). Parties agreed to waive the Pre-Sentence Investigation (PSI) Report and use the PSI from C343544. Court ACCEPTED plea, and ORDERED, matter SET for sentencing.

CUSTODY

2/26/20 8:30 AM SENTENCING (DEPT. 10)

Printed Date: 2/21/2020

Page 1 of 1

Minutes Date:

February 14, 2020

Prepared by: Kristen Brown

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

3 THE STATE OF NEVADA,

4 Plaintiff,

5 -vs-

6 JUSTIN ALEXANDER RASHAD LARKINS,
7 aka, Justin Alexander Larkins #1966552,

8 Defendant.

CASE NO: 20F02003X

DEPT NO: 1

CRIMINAL COMPLAINT

9 The Defendant above named having committed the crimes of INVASION OF THE
10 HOME (Category B Felony - NRS 205.067 - NOC 50435); BURGLARY (Category B Felony
11 - NRS 205.060 - NOC 50424); BATTERY WITH USE OF A DEADLY WEAPON
12 CONSTITUTING DOMESTIC VIOLENCE (Category B Felony - NRS 200.481; 200.485;
13 33.018 - NOC 57935); ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS
14 200.471 - NOC 50201); BATTERY ON A PROTECTED PERSON (Gross Misdemeanor -
15 NRS 200.481 - NOC 50221) and MALICIOUS DESTRUCTION OF PROPERTY (Gross
16 Misdemeanor - NRS 206.310, 193.155 - NOC 50905), in the manner following, to wit: That
17 the said Defendant, on or about the 26th day of January, 2020, at and within the County of
18 Clark, State of Nevada,

19 COUNT 1 - INVASION OF THE HOME

20 did willfully, unlawfully, feloniously, and forcibly enter an inhabited dwelling, to wit:
21 4855 Boulder Highway, Apartment No. C/1033, thereof, Las Vegas, Clark County, Nevada,
22 without permission of the owner, resident, or lawful occupant, to wit: SHARON HEWITT.

23 COUNT 2 - BURGLARY

24 did willfully, unlawfully, and feloniously enter a building, owned or occupied by
25 SHARON HEWITT, located at 4855 Boulder Highway, Apartment No. C/1033, thereof, Las
6 Vegas, Clark County, Nevada, with intent to commit assault and/or battery.

7 ///

8 ///

Justin Alexander Larkins

1 COUNT 3 - BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING
2 DOMESTIC VIOLENCE

3 did willfully and unlawfully use force or violence against or upon the person of his
4 spouse, former spouse, any other person to whom he is related by blood or marriage, a person
5 with whom he has had or is having a dating relationship, a person with whom he has a child
6 in common, the minor child of any of those persons or his minor child, to wit: SHARON
7 HEWITT, with use of a deadly weapon, to wit: a rock, by throwing said large rock at the said
8 SHARON HEWITT, striking her on the foot.

9 COUNT 4 - ASSAULT WITH A DEADLY WEAPON

10 did willfully, unlawfully, feloniously and intentionally place another person in
11 reasonable apprehension of immediate bodily harm and/or did willfully and unlawfully
12 attempt to use physical force against another person, to wit: BRANDON-MICHAEL
13 JORDAN, with use of a deadly weapon, to wit: a large rock, by throwing said large rock at
14 and/or towards the said BRANDON-MICHAEL JORDAN.

15 COUNT 5 - BATTERY ON A PROTECTED PERSON

16 did willfully, unlawfully and knowingly use force or violence upon the person of
17 another, to wit: JASON MCKINNEY, who was performing his duty as a provider of health
18 care, being employed as a registered nurse, which defendant knew or should have known that
19 JASON MCKINNEY was a provider of health care, by spitting in the face of the said JASON
20 MCKINNEY.

21 COUNT 6 - MALICIOUS DESTRUCTION OF PROPERTY

22 did willfully, unlawfully, or maliciously destroy and/or injure the real and/or personal
23 property of another, to wit: double paned windows, owned by SHARON HEWITT, located at
24 4855 Boulder Highway, Apartment No. C/1033, thereof, Las Vegas, Clark County, Nevada,
25 by throwing rocks through four (4) said double paned windows, the value of said damage
26 being \$250.00 or more and less than \$5,000.00.

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

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NOTICE OF WITNESSES
[NRS 174.234]

TO: Defendant or attorney of record:

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

<u>NAME</u>	<u>ADDRESS</u>
CUSTODIAN OF RECORDS	Communication Bureau Law Enforcement Agency – Clark County, Nevada

These witnesses are in addition to those witnesses noted in the discovery or other
documents provided.

DATED January 27, 2020.

Justin A.R. Larkins #1175371
22010 Cold Creek Rd
Indian Springs, NV 89070

LEGAL MAIL

Steven D. Grier
Client of the Court
220 Lewis Ave, 3rd Floor
Las Vegas, NV 89155-1160

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CLERK OF THE COURT



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

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 JUSTIN ALEXANDER RASHAD
13 LARKINS, #1966552

14 Defendant.

CASE NO: C-20-346867-1

DEPT NO: X

15 **STATE'S OPPOSITION TO DEFENDANT'S**
16 **MOTION TO TRANSPORT PRISONER**

17 DATE OF HEARING: June 9, 2021
18 TIME OF HEARING: 8:30 AM

18 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
19 District Attorney, through BRANDON ALBRIGHT, Deputy District Attorney, and hereby
20 submits the attached Points and Authorities in Opposition to Defendant's Motion to Transport
21 Prisoner.

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

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1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On January 29, 2020, Defendant was charged by way of Criminal Complaint with
4 INVASION OF THE HOME (Category B Felony - NRS 205.067 - NOC 50435);
5 BURGLARY (Category B Felony - NRS 205.060 - NOC 50424); BATTERY WITH USE OF
6 A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE (Category B Felony -
7 NRS 200.481; 200.485; 33.018 - NOC 57935); ASSAULT WITH A DEADLY WEAPON
8 (Category B Felony - NRS 200.471 - NOC 50201); BATTERY ON A PROTECTED PERSON
9 (Gross Misdemeanor - NRS 200.481 - NOC 50221) and MALICIOUS DESTRUCTION OF
10 PROPERTY (Gross Misdemeanor - NRS 206.310, 193.155 - NOC 50905).

11 On February 14, 2020, a Guilty Plea Agreement (hereinafter "GPA") was filed in open
12 court containing the following stipulations regarding sentencing: "The parties stipulate to a
13 sentence of two (2) to five (5) years in the Nevada Department of Corrections. The State
14 agrees not to see habitual criminal treatment. Further, the State will not oppose dismissal of
15 Case No. 20F00459X." GPA at page 1.

16 On February 26, 2020, Defendant was sentenced to the Nevada Department of
17 Corrections (NDOC) to a minimum of twenty-four (24) months and a maximum of sixty (60)
18 months.

19 Defendant's Judgment of Conviction was filed on March 5, 2020. Defendant did not
20 file a direct appeal.

21 On February 10, 2021, Defendant filed a Motion for Modification of Sentence. The
22 State filed an Opposition, and that Motion was DENIED on March 31, 2021.

23 Less than a month later, on April 27, 2021, Defendant filed the instant Motion to
24 Transport Prisoner. The State responds as follows.

25 **ARGUMENT**

26 Defendant's Motion is apparently an effort to reargue his Motion for Modification of
27 Sentence. This Motion is untimely, as the Motion at issue has already been heard and denied
28 by the Court.

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DATED this 8th day of June, 2021.

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

BY /s/ Brandon Albright
BRANDON ALBRIGHT
Deputy District Attorney
Nevada Bar #014158

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CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing was made this 8th day of June 2021, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

JUSTIN RASHAD LARKINS #1175371
HIGH DESERT STATE PRISON
P.O. BOX 650
INDIAN SPRINGS, NV 89070-0650

BY /s/ Kristian Falcon
KRISTIAN FALCON
Secretary for the District Attorney's Office

20f02003x/ba/DVU



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

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 JUSTIN ALEXANDER RASHAD
13 LARKINS, #1966552

14 Defendant.

CASE NO: C-20-346867-1

DEPT NO: X

15 **STATE'S OPPOSITION TO DEFENDANT'S**
16 **MOTION FOR MODIFICATION OF SENTENCE**

17 DATE OF HEARING: March 31, 2021
18 TIME OF HEARING: 8:30 AM

19 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
20 District Attorney, through BRANDON ALBRIGHT, Deputy District Attorney, and hereby
21 submits the attached Points and Authorities in Opposition to Defendant's Motion for
22 Modification of Sentence.

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

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1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

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17 Corrections (NDOC) to a minimum of twenty-four (24) months and a maximum of sixty (60)
18 months.

19 Defendant's Judgment of Conviction was filed on March 5, 2020. Defendant did not
20 file a direct appeal.

21 On February 10, 2021, Defendant filed his first Motion for Modification of Sentence.
22 The State filed an Opposition, and that Motion was DENIED on March 31, 2021.

23 Less than a month later, on April 27, 2021, Defendant filed the instant duplicative
24 Motion for Modification of Service. The State responds as follows.

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ARGUMENT

As stated above, this Motion is duplicative as a similar Motion was heard and denied less than a month before this Motion was filed. As such, it should be summarily denied. However, the State includes its previous argument below.

I. DEFENDANT IS NOT ENTITLED TO A MODIFICATION OF SENTENCE

In general, a district court lacks jurisdiction to modify a sentence once the defendant has started serving it. Passanisi v. State, 108 Nev. 318, 321, 831 P.2d 1371, 1371 (1992), overruled on other grounds by Harris v. State, 130 Nev. 435, 329 P.3d 619 (2014). Not every mistake or error during sentencing gives rise to a due process violation. State v. Dist. Court (“Husney”), 100 Nev. 90, 97, 677 P.2d 1044, 1048 (1984). However, a district court has inherent authority to correct, vacate, or modify a sentence that violates due process where the defendant can demonstrate the sentence is based upon a materially untrue assumption or mistake of fact about the defendant’s criminal record that has worked to the extreme detriment of the defendant. Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996); see also Passanisi, 108 Nev. at 322, 831 P.2d at 1373. Edwards makes clear that a district court may modify a defendant’s sentence “only if the mistaken sentence ‘is the result of the sentencing judge’s misapprehension of a defendant’s criminal record.’” 112 Nev. at 707, 918 P.2d at 324 (quoting Husney, 100 Nev. at 97, 677 P.2d at 1048 (emphasis in original)). Such material mistakes surrounding a defendant’s criminal record can arise “either as a result of a sentencing judge’s *correct* perception of inaccurate or false information, or a sentencing judge’s *incorrect* perception or misapprehension of otherwise accurate or true information.” Husney, 100 Nev. at 97, 677 P.2d at 1048 (emphasis in original).

Furthermore, claims asserted in a petition for post-conviction relief must be supported with specific factual allegations, which if true, would entitle the petitioner to relief. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “Bare” and “naked” allegations are not sufficient, nor are those belied and repelled by the record. Id. It is a defendant’s responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court. Maresca v. State, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987); see

1 also State v. Haberstroh, 119 Nev. 173, 187, 69 P.3d 676, 685-86 (2003) (“[c]ontentions
2 unsupported by specific argument or authority should be summarily rejected on appeal.”)
3 (internal citations omitted); Jones v. State, 113 Nev. 454, 468, 937 P.2d 55, 64 (1997) (holding
4 that Jones’ unsupported contention should be summarily rejected on appeal).

5 The Nevada Supreme Court has held “that a motion to modify a sentence is limited in
6 scope to sentences based on mistaken assumptions about a defendant’s criminal record which
7 work to the defendant’s extreme detriment.” Edwards, 112 Nev. at 708, 918 P.2d at 324. They
8 address “only the facial legality of a sentence.” Id. They cannot “be used as a vehicle for
9 challenging the validity of a judgment of conviction or sentence based on alleged errors
10 occurring at trial or sentencing.” Id. Such issues “must be raised in habeas proceedings.” Id.

11 When a Defendant pleads guilty, any alleged substantive errors that occurred prior to
12 Defendant’s decision to enter that guilty plea are waived in post-conviction proceedings.
13 Woods v. State, 114 Nev. 468, 477, 958 P.2d 91, 97 (1998); Reuben C. v. State, 99 Nev. 845,
14 845-46, 673 P.2d 493, (1983) (“When a criminal defendant has solemnly admitted in open
15 court that he is in fact guilty of the offense with which he is charged, he may not thereafter
16 raise independent claims relating to the deprivation of constitutional rights that occurred prior
17 to the entry of the guilty plea.”); Powell v. Sheriff, 85 Nev. 684, 687, 462 P.2d 756, 758 (1969)
18 (“It is now the established law of this state that where a guilty plea is not coerced and the
19 defendant was competently represented by counsel at the time it was entered, the subsequent
20 conviction is not open to collateral attack and any errors are superseded by the plea of guilty”).

21 Defendant got exactly what he bargained for. His GPA, which he reviewed and signed
22 with the advice of counsel, clearly and unequivocally delineates the ramifications of his
23 agreement regarding his potential sentencing outcomes, and Defendant received precisely the
24 sentence that he knew he could have received. In fact, he got the *exact* sentence that he agreed
25 to. A motion to modify a sentence is limited in scope to sentences based on mistaken
26 assumptions about a defendant’s criminal record which work to the defendant’s extreme
27 detriment.

28 //

This was not an illegal sentence, and the Court did not rely on any material mistakes of fact in rendering judgment. The Court properly sentenced Defendant in this case and Defendant is not entitled to a modification of sentence.

CONCLUSION

For the foregoing reasons, the State respectfully requests that Defendant's Motion for Modification of Sentence be DENIED.

DATED this 8th day of June, 2021.

Respectfully submitted,

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

BY /s/ Brandon Albright
BRANDON ALBRIGHT
Deputy District Attorney
Nevada Bar #014158

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BY /s/ Kristian Falcon
KRISTIAN FALCON
Secretary for the District Attorney's Office

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