

IN THE SUPREME COURT OF THE STATE OF NEVADA

No. 82896

Electronically Filed
Nov 12 2021 01:55 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

JARELL WASHINGTON

Appellant,

v.

THE STATE OF NEVADA

Respondent.

Appeal from Judgment of Conviction (Post-Conviction)
Eighth Judicial District Court, Clark County
The Honorable Cristina D. Silva, District Court Judge
District Court Case No. C-19-341380-1

**APPELLANT'S APPENDIX
VOLUME II**

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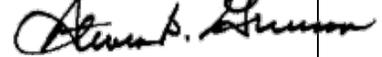
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AARON FORD
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STEVEN B. WOLFSON
Clark County District Attorney

By /s/ Jan Ellison
An Employee of Oronoz & Ericsson, LLC



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DISTRICT COURT

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CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 JARELL WASHINGTON,

12 Defendant.

CASE NO: C-19-341380-1

DEPT. III

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BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE

15

MONDAY, FEBRUARY 10, 2020

16

**RECORDER'S TRANSCRIPT OF HEARING RE:
DA REQUEST: ENTRY OF PLEA**

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APPEARANCES:

19

20 For the State:

ERICA MENDOZA, ESQ.
KENNETH N. PORTZ, ESQ.
Chief Deputy District Attorneys

21

22

23 For the Defendant:

FRANK P. KOCKA, ESQ.

24

25

RECORDED BY: KRISTINE SANTI AND STACEY RAY, COURT RECORDER

1 **Las Vegas, Nevada; Monday, February 10, 2020**

2 [Proceeding commenced at 9:54 a.m.]

3
4 THE MARSHAL: The court come to order. Remain seated, please.

5 THE COURT: Hello, guys.

6 MR. KOCKA: Good morning, Your Honor.

7 MR. PORTZ: Good morning.

8 THE COURT: All right. So we have this matter placed on this
9 morning. Mr. Washington's present with his attorney. 341380. We're scheduled
10 to start trial later today.

11 MR. KOCKA: Yes, sir.

12 THE COURT: There was some indication that --

13 [Colloquy between Court and Counsel]

14 THE COURT: -- some indication that you all might have a resolution.

15 MR. KOCKA: And, Judge, I met with Mr. Washington yesterday
16 afternoon. After my meeting I did reach out to the District Attorney with my
17 client's desire to negotiate the case. They did prepare the guilty plea agreement.

18 THE COURT: Okay.

19 MR. KOCKA: I met with my client this morning, presented him with
20 the guilty plea agreement. He, at this point, wants to renew his motion that was
21 brought at calendar call to have me dismissed as counsel.

22 THE COURT: Okay.

23 MR. KOCKA: I explained to him how it's probably gonna work this
24 morning. Counsel for the State's been kind enough to, pending your motion --
25 your decision on his motion -- to keep the offer open for a few minutes, so.

1 THE COURT: Okay.

2 MR. KOCKA: If I may just state the reason, Judge, 'cause I know you
3 were not the attorney at the calendar call, or excuse me, the Judge at calendar
4 call. Sorry.

5 THE COURT: Yeah. You can go ahead, Frank.

6 MR. KOCKA: Thank you, Judge. I just want to make sure that we
7 make a clear record here. Mr. Washington has indicated to me this morning,
8 Judge, that he does not feel comfortable with being, one, prepared for this trial,
9 and, two, having me prepared him for the trial. He indicates that he's not
10 received a full copy of his discovery.

11 And, Judge, I explained to him, his family, and also the -- well not the
12 judge at calendar call. However, there is a witness in this case that has come
13 forward about 11 years later, who is a basic -- an informant, Judge, and has
14 information and that is the reason this case eventually was relieved from cold
15 case status and we're sitting here for trial, is based upon his testimony.

16 My concern with giving a full copy of all the statements and everything
17 from 11 years ago to my client to have in custody with him would be, should any
18 of that information fall into the hands of another inmate there, who would then
19 have the opportunity to provide corroborative evidence to what we plan on
20 attacking as the informant. That would just corroborate his testimony. I have
21 gone through, and I went yesterday with the entire trial notebook again to see my
22 client. I have explained to him at length and showed him the documentation of
23 the forensics evidence, the phone calls that were made back and forth that the
24 State would be relying upon, the witness statements, the witness statements of
25 the actual informant; I read those to him, as well as a family member that the

1 State would be calling as well to corroborate the weapon involved in the case
2 that was ultimately retrieved.

3 In my opinion, I -- I've done this for about 34 years now, Judge. We
4 have adequately prepared for the case and I have told my client absolutely every
5 element that would be relative to his defense in the State's case. I just don't feel
6 comfortable giving him the hard copy of that for the reasons I've stated. He
7 maintains this morning that he doesn't feel comfortable not having every piece of
8 documentation, although we've prepared it. That is the basis for his request at
9 this point to have me removed.

10 THE COURT: All right. State?

11 MR. PORTZ: And, obviously, the State's going to object. This would
12 cause a delay. Mr. Kocka made these representations at the calendar call when
13 it was -- when this issue was raised by Mr. Washington, and it was denied.

14 The discovery in this case has been provided since the time it was
15 indicted. Mr. Washington has insisted on multiple prior occasions in status
16 checks before Judge Adair that he is ready to go forward, wants to go forward.
17 Everyone's been planning to go forward. And the State is prepared to proceed.
18 We do have the -- the pending GPA if he wishes to accept that, but otherwise
19 we'd like to move forward with trial at 1:30. This will be probably 20 to 25
20 witnesses, many of whom are from out of state and have already traveled.

21 THE COURT: Okay.

22 MR. PORTZ: And so we'd ask to go forward and that that motion be
23 denied.

24 THE COURT: So just -- just so I know, if the gentleman decides not
25 to accept the offer right now, is that offer withdrawn and we're going at 1:30?

1 MR. PORTZ: Yes, sir.

2 THE COURT: Okay. All right, Frank.

3 MR. KOCKA: And just for the record, also, I have provided him with
4 the transcript of the grand jury --

5 THE COURT: Okay.

6 MR. KOCKA: -- proceedings. So he does know the testimony that
7 was involved by the officers and various other witnesses including the informant.

8 THE COURT: Okay.

9 MR. KOCKA: So he does have that, Judge.

10 THE COURT: So here's the thing, Mr. Washington. There are, in my
11 mind at least, it should be very rare that an attorney gives a client in a detention
12 center all of their discovery, because my record of trials is replete with informants
13 coming in and testifying. And a lot of times those folks end up having their
14 discovery in the detention center and you question whether or not these guys are
15 getting a hold of your discovery or figuring things out and becoming snitches or
16 whether or not they truly had conversations with the defendant they are testifying
17 against.

18 And there's certain things that the jail won't let you have anyway. So I
19 think Mr. Kocka is very appropriate in telling you that there are very good reasons
20 not to give you that discovery, so that doesn't constitute any type of grounds to
21 continue the trial.

22 More importantly, that issue and any displeasure with your attorney,
23 these are way tardy. I'm not entertaining that the morning or the very day that
24 we're starting trial. And I'm not going to revisit what Judge Adair already put in
25 place. These were litigated. The case was ready for trial. I took it to try it today

1 at 1:30 and that's what we're going to do. So I'm going to deny the motion to
2 have counsel removed.

3 MR. KOCKA: Sure.

4 THE COURT: If you guys want to chat any further about --

5 MR. KOCKA: If I may I just have a moment, Judge?

6 THE COURT: -- the resolution that's great. If not that's great either
7 way. Okay?

8 MR. KOCKA: Thank you, Judge.

9 THE COURT: And I would also just tell you since it -- if it gets
10 resolved and isn't going to trial --

11 MR. KOCKA: Yes.

12 THE COURT: -- I'm happy to send it back to Judge Adair for
13 sentencing or I'll keep it here for sentencing, whatever you guys want me to do,
14 okay?

15 MR. KOCKA: For -- why don't we keep it here, Judge.

16 THE COURT: Okay.

17 MR. KOCKA: Your Honor, my client has indicated he does want to
18 accept the deal if you want to give us a few minutes so I can --

19 THE COURT: Okay.

20 MR. KOCKA: -- go through it with him again.

21 THE COURT: Sure.

22 MR. KOCKA: Thank you.

23 [Colloquy between Court and correctional officer]

24 MR. KOCKA: And, Judge, to free up the courtroom I can go back in
25 the holding cell --

1 THE COURT: Yep.

2 MR. KOCKA: -- with my client.

3 THE COURT: Yeah, absolutely.

4 MR. KOCKA: Thank you.

5 [Case trailed at 10:01 a.m. and recalled at 10:08 a.m.]

6 THE COURT: We will be on the record. 341380. Mr. Washington is
7 here with his attorney, Mr. Kocka. My understanding, Mr. Washington, is that
8 you decided to go ahead and accept the negotiations that had been offered by
9 the State.

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Okay. We do have an Amended Indictment that was
12 filed this morning charging one count of second degree murder with use of a
13 deadly weapon. My understanding, sir, is that you've agreed to plead guilty to
14 that charge, correct?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: That as part of the negotiation, the State retains the full
17 right to argue at the time of sentencing. You and your attorney will also have the
18 right to argue at the time of sentencing as to what the sentence should be. You
19 understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. Is Jarell Washington your true name, sir?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And how old are you?

24 THE DEFENDANT: Thirty-seven.

25 THE COURT: How far did you go in school?

1 THE DEFENDANT: Twelfth grade.

2 THE COURT: Do you read, write and understand English?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: You've received a copy of the plea agreement and
5 attached to that is an Amended Indictment. That's what lists the charge that
6 you're pleading to; is that correct?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Have you had a chance to discuss that your charge
9 and your case with your attorney, Mr. Kocka?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And when you were discussing the charges and your
12 case, did you all have discussions about the four different levels of a homicide
13 charge, meaning first degree murder, second degree murder, voluntary
14 manslaughter and involuntary manslaughter?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. And you're comfortable that you understand
17 all of those?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And are you comfortable that you understand, with this
20 particular charge that you're going to be pleading guilty to, what this charge is
21 saying that you did wrong.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: How do you plead to the one count of second degree
24 murder with use of a deadly weapon?

25 THE DEFENDANT: Guilty.

1 THE COURT: Before I accept your plea I need to make sure it's freely
2 and voluntarily made, is it?

3 THE DEFENDANT: Yes.

4 THE COURT: Anybody force you or threaten you in any way to get
5 you to plead guilty today?

6 THE DEFENDANT: No, sir.

7 THE COURT: Anybody make any promises to you other than the plea
8 negotiations to get you to plead guilty today?

9 THE DEFENDANT: No, sir.

10 THE COURT: I have before me a written plea agreement which looks
11 like you signed it on page 5. Did you sign that sir?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Did you have a chance to read the document before
14 you signed it?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And was your attorney available to answer any
17 questions you had before you signed it?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you believe you understood everything in it?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Did you all discuss the six constitutional rights that are
22 listed on page 4 that you waive and give up by entering a guilty plea?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And you understand those?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: You understand that for the charge you're pleading to
2 there's two parts to the charge. There's the sentence for the homicide portion
3 and a sentence for the weapon enhancement. Do you understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: For the homicide portion the sentence you could
6 receive could either be life in prison with a minimum 10 years before parole
7 eligibility or a sentence of 25 years with a minimum of ten years before parole
8 eligibility. Do you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You understand that for the weapon enhancement the
11 sentence is not less than 1 no more than 20 years, and that has to run
12 consecutive to the sentence you receive for the homicide portion.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. You understand that you're not eligible for
15 probation, so that means you have to serve a prison sentence on the case.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And that ultimately the Court will decide what the
18 sentence is. No one's in a position to guarantee you any particular sentence.
19 You understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: Yes? Okay. You have any questions for me or your
22 attorney before I accept your plea?

23 THE DEFENDANT: No, sir.

24 THE COURT: All right. Anything you don't understand about the plea
25 agreement or have any questions about?

1 THE DEFENDANT: No, sir.

2 THE COURT: Okay. My understanding, sir, is that you're pleading
3 guilty here today because on or about August 19th, 2007, here in Clark County,
4 Nevada, you did willfully, unlawfully, feloniously and with malice aforethought kill
5 Corey lascone, I-A-S-C-O-N-E, with a deadly weapon, by shooting the gentleman
6 with a firearm. Is that correct?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. The Court finds that Defendant's plea is freely
9 and voluntarily made and he understands the nature and consequences of the
10 plea, so we will accept the plea. We're going to refer the matter to the
11 Department of Parole and Probation for sentencing and set it down for
12 sentencing in 50 days and it will remain in this department. And that will be on --

13 THE CLERK: April 1st at 9:30.

14 MR. KOCKA: Thank you, Your honor.

15 THE COURT: All right. And our trial will be vacated. All right. Ladies
16 and gentlemen, thank you all very much.

17 MR. PORTZ: Thank you, Your Honor.

18 MR. KOCKA: Thank you, Your Honor.

19 MS. MENDOZA: Thank you.

20 [Proceeding concluded at 10:12 a.m.]

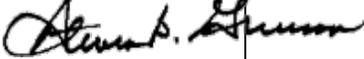
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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video proceedings in the above-entitled case to the best of my ability.

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Stacey Ray
Court Recorder/Transcriber



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RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
vs.

CASE#: C-19-341380-1
DEPT. III

JARELL WASHINGTON,
aka, Jarrell Washington,
Defendant.

BEFORE THE HONORABLE DOUGLAS W. HERNDON,
DISTRICT COURT JUDGE
THURSDAY, MARCH 12, 2020

RECORDER'S TRANSCRIPT OF HEARING:

MOTION TO DISMISS COUNSEL

APPEARANCES:

For the State: ERICKA MENDOZA, ESQ.
Chief Deputy District Attorney
For the Defendant: FRANK P. KOCKA, ESQ.

RECORDED BY: STACEY RAY, COURT RECORDER

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Las Vegas, Nevada, Thursday, March 12, 2020

[Case called at 9:35 a.m.]

THE COURT: Jarell Washington, on page 6.

So, Mr. Washington is present in custody. Mr. Washington's filed a motion to dismiss counsel.

Mr. Washington, -- have you all talked since he filed the motion?

MR. KOCKA: Judge, I didn't even know it was on so I happened to checked Odyssey this morning.

THE COURT: Okay.

Mr. Washington, is there anything else you want to add to your motion?

THE DEFENDANT: Yes, Sir. I just feel like I was misled and I was coerced. I didn't even know what was going on with my case. I was promised my discovery; I never got it by Tierra Jones. And then it was just like up to trial he only came to see me three times. I'm fighting for my life and I feel like it's not right for me to go to trial or to sign the deal that I can't even study my case. This is my life up on the line. I didn't even want to sign the deal. I felt like because he said I was going to lose in trial. So I'm not going to see daylight.

THE COURT: Well, so here's the thing, I mean, essentially what you're moving for is to withdraw your plea, right?

THE DEFENDANT: Yes. Because he said he wasn't going to listen to me.

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THE COURT: Okay.

THE DEFENDANT: And I was scared.

THE COURT: So, I am going to grant the motion to withdraw counsel. Not because I think there's any type of conflict or anything. Because we revisited that motion repeatedly in front of Judge Adair and this Court before the matter was to proceed to trial on the very date that the gentlemen pled guilty. But I will grant a request to withdraw counsel sense you're moving to withdraw your plea claiming that somehow you were coerced.

So we'll get another attorney appointed, if they think there's any validity in filing that motion.

I'm pretty comfortable with the canvas because I did it with you --

THE DEFENDANT: Yeah.

THE COURT: -- when you plead guilty.

But we will get another attorney in place, they can take a look at everything and if they think there's any reason to file a motion to withdraw plea, then they can do so.

THE DEFENDANT: Yeah because I never had, I was promised before trial --

THE COURT: I am no asking you to do anything right now. I'm getting you a new attorney and then he'll come to talk to you and get the discovery from Mr. Kocka and then transcript of the plea and if they think there's any reason to file a motion, they can do so, okay.

THE DEFENDANT: All right. Thank you.

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MR. KOCKA: Thank you, Judge.

THE COURT: So we'll continue it over two weeks for Mr. Christensen's office to appoint new counsel.

THE CLERK: March 26th at 9 am.

THE COURT: All right. And then, Frank, will just reach out to you and let you know, by phone.

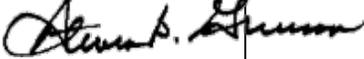
[Hearing concluded at 9:37 a.m.]

* * * * *

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



Rebeca Gomez
Court Recorder/Transcriber



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RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,
Plaintiff,

vs.

JARELL WASHINGTON,
Defendant(s).

CASE#: C-19-341380-1
DEPT. III

BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE
THURSDAY, MARCH 26, 2020

**RECORDER'S TRANSCRIPT OF HEARING RE:
STATUS CHECK; CONFIRMATION OF COUNSEL**

APPEARANCES VIA VIDEOCONFERENCE:

For the Plaintiff: KENNETH N. PORTZ, ESQ.
Chief Deputy District Attorney

For the Defendant: RACHAEL E. STEWART, ESQ.

RECORDED BY: STACEY RAY, COURT RECORDER

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Las Vegas, Nevada; Thursday, March 26, 2020

[Case called at 3:42 p.m.]

THE COURT: Anybody else online that had something that was quick?

MS. STEWART: Judge, we're just accepting the appointment for Jarell Washington if that's going to be quick.

THE COURT: Okay. Sure. And this is Rachel, right?

MR. PORTZ: Judge, this is Nick Portz if you can hear me.

THE COURT: Who do I have? Rachel?

MS. STEWART: This is Rachel Stewart. I'm appearing for Jim Oronoz.

THE COURT: Thank you. All right. On Mr. Washington's matter. Jarell Washington on page 6. 341380.

THE CLERK: We're calling Nick Portz.

THE COURT: Pardon?

THE CLERK: We're calling Nick Portz.

MR. PORTZ: Judge, I -- can you hear me?

THE COURT: Hold on one second. Who are we calling?

THE CLERK: Mr. Portz.

MR. PORTZ: This is Nick.

THE COURT: Hi, Nick.

MR. PORTZ: Hey, Judge.

THE COURT: All right. So we're on calendar in Mr. Washington's matter. Mr. Oronoz's office has been appointed to

1 represent him. Rachel's appearing on his behalf right now. So I know
2 we have a sentencing date coming up for April 3rd. We're going to
3 vacate that.

4 MR. PORTZ: Thank you.

5 THE COURT: I'll set it over -- my inclination is to set it over
6 30 days for a status check, Rachel, to give you all an opportunity to get
7 all the discovery. See if you can communicate with the Defendant about
8 whether he wishes to try and pursue a withdrawal of the plea or move
9 forward with sentencing. Okay?

10 MS. STEWART: That's perfect. That was exactly what I was
11 going to ask for, Judge.

12 THE COURT: All right. And I know, Mr. Portz, you said that if
13 -- had communicated to the Court that if it was going to go forward with
14 sentencing, you wanted it set out a little bit so that the family could
15 appear in person.

16 MR. PORTZ: Yes, sir.

17 THE COURT: Okay. So we can talk about that when we
18 come back in 30 days and we figure out what's going on with the motion
19 to withdraw plea.

20 MR. PORTZ: Perfect. That sounds great. Thank you, Judge.

21 THE COURT: Okay. So that 30 day date will be --

22 THE CLERK: May 1st at 1:45 p.m.

23 THE COURT: And I believe I told the jail they didn't need to
24 bring Mr. Washington over today since it was just a status check on
25 confirmation of counsel.

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MR. PORTZ: Okay. Thank you, Judge.

MS. STEWART: Okay. Perfect.

THE COURT: All right. Thank you.

MS. STEWART: What was that date one more time? I apologize. I didn't hear it.

THE COURT: May 1st at 1:45.

MS. STEWART: May 1st at 1:45. Okay. And we'll communicate with the State. We don't have the file yet so we're going to need to get the discovery.

THE COURT: Okay. And we will make a note to reach out to -- have my law clerk reach out to Mr. Kocka's office, as well, and have him get it over to you all.

MS. STEWART: Okay. Perfect.

THE COURT: All right. Thank you.

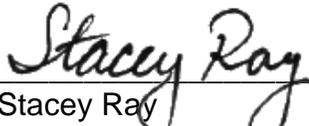
MR. PORTZ: Thank you, everyone.

MS. STEWART: Thank you. Thanks. Bye bye.

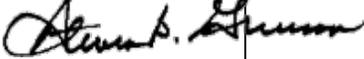
[Proceedings concluded at 3:45 p.m.]

* * * * *

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



Stacey Ray
Court Recorder/Transcriber



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RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
vs.

CASE#: C-19-341380-1
DEPT. III

JARELL WASHINGTON,
aka, Jarrell Washington,
Defendant.

BEFORE THE HONORABLE DOUGLAS W. HERNDON,
DISTRICT COURT JUDGE
FRIDAY, JULY 10, 2020

RECORDER'S TRANSCRIPT OF HEARING:

STATUS CHECK: MOTION TO WITHDRAW PLEA

APPEARANCES:

For the State: GIANCARLO PESCI, ESQ.
Chief Deputy District Attorney

For the Defendant: THOMAS A. ERICSSON, ESQ.

RECORDED BY: STACEY RAY, COURT RECORDER

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Las Vegas, Nevada, Friday, July 10, 2020

[Case called at 2:56 p.m.]

THE COURT: Mr. Washington's on for status check. This matter, he'd previously entered into a plea agreement. So, what do we got going on here?

MR. ERICSSON: And, Your Honor, I'm not sure who the prosecutor is on this; I don't know who's covering for the State.

MR. PESCI: I'm filling in, Giancarlo Pesci on behalf of the State filling in for Erika Mendoza.

THE COURT: Thank you.

MR. ERICSSON: Okay.

THE COURT: All right, Tom?

MR. ERICSSON: Your Honor, I have now had a chance to go through all the discovery and meet a couple times with Mr. Washington. He does want to proceed with the motion to withdraw his plea.

THE COURT: Okay.

MR. ERICSSON: What I would request is 30 days for me to supplement the motion that he filed.

THE COURT: Okay.

MR. ERICSSON: And then schedule a hearing on that.

THE COURT: Okay. So we'll give the defense 30 days to file a motion regarding withdrawal of plea, which will be?

THE CLERK: Which will be August 7th.

1 THE COURT: And then, State, how much time do you want to
2 file any opposition?

3 MR. PESCI: Would we have a couple weeks, Judge?

4 THE COURT: Sure.

5 THE CLERK: Sorry.

6 THE COURT: That's okay.

7 THE CLERK: August 7th, so that will be August 21st.

8 THE COURT: And, Tom, how much time would you all like to
9 file a reply?

10 MR. ERICSSON: Your Honor, if we could have a week, that
11 would be great.

12 THE CLERK: August 28th.

13 THE COURT: And then we'll come on calendar a week or so
14 thereafter for argument on the motion.

15 THE CLERK: September 4th.

16 THE COURT: And that will be at -- is that a homicide calendar
17 day?

18 THE CLERK: That's on a Friday.

19 THE COURT: Okay. Well, September hopefully we're back to
20 the Wednesdays.

21 THE CLERK: Okay, so let's do September 2nd.

22 THE COURT: Okay.

23 THE CLERK: And that will be at 9:30.

24 THE COURT: September 2nd, at 9:30, guys, for argument on
25 the motion.

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MR. ERICSSON: Right.

THE COURT: Do you know -- do either of you know, did we produce a transcript from the plea once this issue first came up or has that not been done, yet?

MR. ERICSSON: Your Honor, I do not believe that I have not seen that.

THE COURT: Sometimes when it comes up I'll just order it in Court and that may have even before you all were appointed, Tom. So hold on let me look real quick. So that would look like a no. So -- and this pre-dates you, Stacey. But we need to go ahead and produce a copy of the transcript and it's going to be from, it was the morning of trial, I remember that.

[Colloquy with Court staff]

THE COURT: You guys have such a -- so lucky to have Judge Jones taking over. She is so on top of things. So it would have been February 10, 2020 when the plea was entered, so we just need -- and there's two aspects of that transcript, there was request to dismiss counsel that I had ruled upon after I took the case from Judge Adair. And then we rolled thereafter, into an entry of plea, so just do the whole transcript.

All right, and then we'll try and get that done maybe by next week, by next week, Tom. And then we'll send it over to both of you all.

MR. ERICSSON: Perfect. Thank you very much, Your Honor.

THE COURT: Okay.

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All right, and then we'll just see you back on September 2nd,
guys. Thank you.

MR. ERICSSON: All right, thank you.

THE COURT: Is that all you had, Tom?

MR. ERICSSON: Yes, Your Honor.

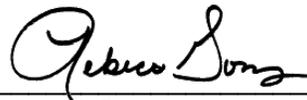
Have a good weekend.

THE COURT: Okay, thank you, you too.

[Hearing concluded at 3:00 p.m.]

* * * * *

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



Rebeca Gomez
Court Recorder/Transcriber



1 **MOT**
2 JAMES A. ORONOZ, ESQ.
3 Nevada Bar No. 6769
4 THOMAS ERICSSON, ESQ.
5 Nevada Bar No. 4982
6 ORONOZ & ERICSSON, LLC
7 1050 Indigo Drive, Suite 120
8 Las Vegas, Nevada 89145
9 Telephone: (702) 878-2889
10 tom@oronozlawyers.com
11 Attorneys for Jarell Washington

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

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 JARELL WASHINGTON,

13 Defendant.

CASE NO.: C-19-341380-1
DEPT NO.: III

14
15 **DEFENDANT JARELL WASHINGTON'S**
16 **MOTION TO WITHDRAW GUILTY PLEA**

17 COMES NOW Defendant Jarell Washington, by and through his counsel James A.
18 Oronoz, Esq., and Thomas A. Ericsson, Esq., and hereby moves the Honorable Court for an
19 order allowing Defendant to withdraw his guilty plea in this matter. This motion is made and
20 based on the following Memorandum of Points and Authorities, the attached exhibits, all papers
21 and pleadings on file herein, and any oral argument that may be entertained in this matter.

22 Dated this 13th day of August, 2020.

23
24 RESPECTFULLY SUBMITTED BY:

25 /s/ Thomas A. Ericsson
26 THOMAS A. ERICSSON, ESQ.
27 Nevada Bar No. 4982
28

NOTICE OF MOTION

1
2 TO: THE STATE OF NEVADA, Plaintiff
3 TO: STEVE WOLFSON, ESQ., District Attorney

4 **YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE** that the undersigned
5 will bring the above and foregoing **DEFENDANT JARELL WASHINGTON'S**
6 **MOTION TO WITHDRAW GUILTY PLEA** on for hearing before the above-entitled Court
7 on the 11th day of September, 2020, at 1:45 p.m. of said day, or as soon thereafter as counsel
8 can be heard in District Court, Dept. No. XVII.
9

10 DATED this 13th day of August, 2020.

11 Respectfully Submitted by,

12
13 */s/ Thomas A. Ericsson, Esq.*
14 THOMAS A. ERICSSON, ESQ.
15 Nevada Bar No. 4982
16 Oronoz & Ericsson, LLC
17 1050 Indigo Drive, Suite 120
18 Las Vegas, Nevada 89145
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MEMORANDUM OF POINTS AND AUTHORITIES

I.

STATEMENT OF RELEVANT FACTS

On June 26, 2019, the State of Nevada filed an Indictment that charged Defendant Jarell Washington with the following offenses:

- Count 1 – Murder with use of a deadly weapon;
- Count 2 – Robbery with use of a deadly weapon.

There was a calendar call on the matter on February 6, 2020. At that time, Defendant Washington requested a continuance of the trial because he had not been provided a copy of the discovery and did not feel he or his attorney were ready for trial. The Court denied the request for a continuance of the trial. The trial was scheduled to start four days later, on February 10, 2020.

On February 10, 2020 – the day trial was to start – prior defense counsel advised the Court that he had presented Defendant with a guilty plea, but Defendant did not want to sign the plea and was renewing his motion to dismiss prior counsel and requesting a continuance of the trial. Exhibit A, transcript of February 10, 2020 hearing, p. 2. Prior counsel acknowledged that Defendant Washington had not received all of the discovery in the matter, but advised the Court that prior counsel had gone over the discovery with the Defendant.

The Court denied Defendant’s request for a new attorney and continuance of the trial. Defendant then entered the plea he now requests to withdraw.

When Defendant got back to his cell that same day, he began writing the Motion to Dismiss Counsel filed with this Court on February 18, 2020. Exhibit B. Defendant requested new counsel so the new attorney could undo the plea Defendant felt compelled to enter earlier in the day and represent Defendant at trial.

¹ The discovery in this case consists of at least the following: 1,134 pages of written discovery; 3,108 photographs; 48 minutes of video recordings; and 273 minutes of audio recordings.

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II.
LEGAL ARGUMENT

Under the “totality of the circumstances” of the present motion, the Court should allow Mr. Washington to withdraw his guilty plea.

Nevada Revised Statute § 176.165 provides:

Except as otherwise provided in this section, a motion to withdraw a plea of guilty, guilty but mentally ill or nolo contendere may be made only before sentence is imposed or imposition of sentence is suspended. To correct manifest injustice, the court after sentence may set aside the judgment of conviction and permit the defendant to withdraw the plea.

The Nevada Supreme Court revisited its prior decisions interpreting NRS § 176.165 in *Stevenson v. State*, 131 Nev. 598, 354 P.3d 1277 (2015). In *Stevenson*, the Court found that prior limitations to allow Defendants to withdraw pleas were too restrictive. The Court held that “the district court must consider the totality of the circumstances to determine whether permitting withdrawal of a guilty plea before sentencing would be fair and just.” *Id.* at 603.

In the *Stevenson* decision, the Supreme Court then went on to cite two cases that have direct relevance to Mr. Washington’s case: 1) *United States v. Alexander*, 948 F.2d 1002, 1004 (6th Cir. 1991) (explaining that one of the goals of the fair and just analysis “is to allow a hastily entered plea made with unsure heart and confused mind to be undone, not to allow a defendant to make a tactical decision to enter a plea, wait several weeks, and then obtain a withdrawal if he believes that he made a bad choice in pleading guilty); 2) *United States v. Barker*, 514 F.2d 208, 222 (D.C. Cir. 1975) (“A swift change of heart is itself strong indication that the plea was entered in haste and confusion[.]”). *Stevenson*, 131 Nev. at 605.

Here, Mr. Washington was presented a guilty plea on the morning his trial was scheduled to begin and then was denied his motion for a new attorney and trial continuance. Under the pressure of the trial’s imminent start and his belief that neither he nor his attorney

1 were ready for trial, Mr. Washington entered the plea “with an unsure heart and confused
2 mind.” *See*, Exhibit C, Declaration of Jarell Washington. On that very same day upon his return
3 to his cell, Mr. Washington began writing his motion to withdraw counsel to be able to
4 withdraw his plea. Mr. Washington’s situation mirrors the examples given by the *Stevenson*
5 decision as circumstances where it would be “fair and just” to allow a defendant to withdraw a
6 plea.

7
8 **III.**
9 **CONCLUSION**

10 Based on the foregoing facts and legal argument, Defendant Washington respectfully
11 requests an order allowing him to withdraw his guilty plea and proceed to trial. In the
12 alternative, Defendant requests an evidentiary hearing in order to develop the facts as alleged
13 herein.

14 Dated this 13th day of August, 2020.

15 ORONOZ & ERICSSON, LLC

16 /s/ Thomas A. Ericsson

17 JAMES A. ORONOZ, ESQ.

18 Nevada Bar No. 6769

19 THOMAS A. ERICSSON, ESQ.

20 Nevada Bar No. 4982

21 1050 Indigo Drive, Suite 120

22 Las Vegas, Nevada 89145

23 Telephone: (702) 878-2889

CERTIFICATE OF SERVICE

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I hereby certify that on the 13th day of August, 2020, I served a true and correct copy of the foregoing Motion to Withdraw Guilty Plea on the following:

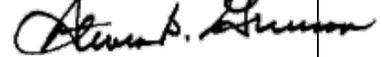
STEVEN B. WOLFSON
Clark County District Attorney
200 Lewis Avenue
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NICK PORTZ, ESQ.
Chief Deputy District Attorney
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kenneth.portz@clarkcountyda.com

ERIKA MENDOZA, ESQ.
Chief Deputy District Attorney
erika.mendoza@clarkcountyda.com

/s/ Rachael E. Stewart _____
Oronoz & Ericsson, LLC

EXHIBIT A



1 RTRAN

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DISTRICT COURT

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CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 JARELL WASHINGTON,

12 Defendant.

CASE NO: C-19-341380-1

DEPT. III

13

14

BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE

15

MONDAY, FEBRUARY 10, 2020

16

**RECORDER'S TRANSCRIPT OF HEARING RE:
DA REQUEST: ENTRY OF PLEA**

17

18

APPEARANCES:

19

20

For the State:

ERICA MENDOZA, ESQ.
KENNETH N. PORTZ, ESQ.
Chief Deputy District Attorneys

21

22

For the Defendant:

FRANK P. KOCKA, ESQ.

23

24

25

RECORDED BY: KRISTINE SANTI AND STACEY RAY, COURT RECORDER

1 **Las Vegas, Nevada; Monday, February 10, 2020**

2 [Proceeding commenced at 9:54 a.m.]

3
4 THE MARSHAL: The court come to order. Remain seated, please.

5 THE COURT: Hello, guys.

6 MR. KOCKA: Good morning, Your Honor.

7 MR. PORTZ: Good morning.

8 THE COURT: All right. So we have this matter placed on this
9 morning. Mr. Washington's present with his attorney. 341380. We're scheduled
10 to start trial later today.

11 MR. KOCKA: Yes, sir.

12 THE COURT: There was some indication that --

13 [Colloquy between Court and Counsel]

14 THE COURT: -- some indication that you all might have a resolution.

15 MR. KOCKA: And, Judge, I met with Mr. Washington yesterday
16 afternoon. After my meeting I did reach out to the District Attorney with my
17 client's desire to negotiate the case. They did prepare the guilty plea agreement.

18 THE COURT: Okay.

19 MR. KOCKA: I met with my client this morning, presented him with
20 the guilty plea agreement. He, at this point, wants to renew his motion that was
21 brought at calendar call to have me dismissed as counsel.

22 THE COURT: Okay.

23 MR. KOCKA: I explained to him how it's probably gonna work this
24 morning. Counsel for the State's been kind enough to, pending your motion --
25 your decision on his motion -- to keep the offer open for a few minutes, so.

1 THE COURT: Okay.

2 MR. KOCKA: If I may just state the reason, Judge, 'cause I know you
3 were not the attorney at the calendar call, or excuse me, the Judge at calendar
4 call. Sorry.

5 THE COURT: Yeah. You can go ahead, Frank.

6 MR. KOCKA: Thank you, Judge. I just want to make sure that we
7 make a clear record here. Mr. Washington has indicated to me this morning,
8 Judge, that he does not feel comfortable with being, one, prepared for this trial,
9 and, two, having me prepared him for the trial. He indicates that he's not
10 received a full copy of his discovery.

11 And, Judge, I explained to him, his family, and also the -- well not the
12 judge at calendar call. However, there is a witness in this case that has come
13 forward about 11 years later, who is a basic -- an informant, Judge, and has
14 information and that is the reason this case eventually was relieved from cold
15 case status and we're sitting here for trial, is based upon his testimony.

16 My concern with giving a full copy of all the statements and everything
17 from 11 years ago to my client to have in custody with him would be, should any
18 of that information fall into the hands of another inmate there, who would then
19 have the opportunity to provide corroborative evidence to what we plan on
20 attacking as the informant. That would just corroborate his testimony. I have
21 gone through, and I went yesterday with the entire trial notebook again to see my
22 client. I have explained to him at length and showed him the documentation of
23 the forensics evidence, the phone calls that were made back and forth that the
24 State would be relying upon, the witness statements, the witness statements of
25 the actual informant; I read those to him, as well as a family member that the

1 State would be calling as well to corroborate the weapon involved in the case
2 that was ultimately retrieved.

3 In my opinion, I -- I've done this for about 34 years now, Judge. We
4 have adequately prepared for the case and I have told my client absolutely every
5 element that would be relative to his defense in the State's case. I just don't feel
6 comfortable giving him the hard copy of that for the reasons I've stated. He
7 maintains this morning that he doesn't feel comfortable not having every piece of
8 documentation, although we've prepared it. That is the basis for his request at
9 this point to have me removed.

10 THE COURT: All right. State?

11 MR. PORTZ: And, obviously, the State's going to object. This would
12 cause a delay. Mr. Kocka made these representations at the calendar call when
13 it was -- when this issue was raised by Mr. Washington, and it was denied.

14 The discovery in this case has been provided since the time it was
15 indicted. Mr. Washington has insisted on multiple prior occasions in status
16 checks before Judge Adair that he is ready to go forward, wants to go forward.
17 Everyone's been planning to go forward. And the State is prepared to proceed.
18 We do have the -- the pending GPA if he wishes to accept that, but otherwise
19 we'd like to move forward with trial at 1:30. This will be probably 20 to 25
20 witnesses, many of whom are from out of state and have already traveled.

21 THE COURT: Okay.

22 MR. PORTZ: And so we'd ask to go forward and that that motion be
23 denied.

24 THE COURT: So just -- just so I know, if the gentleman decides not
25 to accept the offer right now, is that offer withdrawn and we're going at 1:30?

1 MR. PORTZ: Yes, sir.

2 THE COURT: Okay. All right, Frank.

3 MR. KOCKA: And just for the record, also, I have provided him with
4 the transcript of the grand jury --

5 THE COURT: Okay.

6 MR. KOCKA: -- proceedings. So he does know the testimony that
7 was involved by the officers and various other witnesses including the informant.

8 THE COURT: Okay.

9 MR. KOCKA: So he does have that, Judge.

10 THE COURT: So here's the thing, Mr. Washington. There are, in my
11 mind at least, it should be very rare that an attorney gives a client in a detention
12 center all of their discovery, because my record of trials is replete with informants
13 coming in and testifying. And a lot of times those folks end up having their
14 discovery in the detention center and you question whether or not these guys are
15 getting a hold of your discovery or figuring things out and becoming snitches or
16 whether or not they truly had conversations with the defendant they are testifying
17 against.

18 And there's certain things that the jail won't let you have anyway. So I
19 think Mr. Kocka is very appropriate in telling you that there are very good reasons
20 not to give you that discovery, so that doesn't constitute any type of grounds to
21 continue the trial.

22 More importantly, that issue and any displeasure with your attorney,
23 these are way tardy. I'm not entertaining that the morning or the very day that
24 we're starting trial. And I'm not going to revisit what Judge Adair already put in
25 place. These were litigated. The case was ready for trial. I took it to try it today

1 at 1:30 and that's what we're going to do. So I'm going to deny the motion to
2 have counsel removed.

3 MR. KOCKA: Sure.

4 THE COURT: If you guys want to chat any further about --

5 MR. KOCKA: If I may I just have a moment, Judge?

6 THE COURT: -- the resolution that's great. If not that's great either
7 way. Okay?

8 MR. KOCKA: Thank you, Judge.

9 THE COURT: And I would also just tell you since it -- if it gets
10 resolved and isn't going to trial --

11 MR. KOCKA: Yes.

12 THE COURT: -- I'm happy to send it back to Judge Adair for
13 sentencing or I'll keep it here for sentencing, whatever you guys want me to do,
14 okay?

15 MR. KOCKA: For -- why don't we keep it here, Judge.

16 THE COURT: Okay.

17 MR. KOCKA: Your Honor, my client has indicated he does want to
18 accept the deal if you want to give us a few minutes so I can --

19 THE COURT: Okay.

20 MR. KOCKA: -- go through it with him again.

21 THE COURT: Sure.

22 MR. KOCKA: Thank you.

23 [Colloquy between Court and correctional officer]

24 MR. KOCKA: And, Judge, to free up the courtroom I can go back in
25 the holding cell --

1 THE COURT: Yep.

2 MR. KOCKA: -- with my client.

3 THE COURT: Yeah, absolutely.

4 MR. KOCKA: Thank you.

5 [Case trailed at 10:01 a.m. and recalled at 10:08 a.m.]

6 THE COURT: We will be on the record. 341380. Mr. Washington is
7 here with his attorney, Mr. Kocka. My understanding, Mr. Washington, is that
8 you decided to go ahead and accept the negotiations that had been offered by
9 the State.

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Okay. We do have an Amended Indictment that was
12 filed this morning charging one count of second degree murder with use of a
13 deadly weapon. My understanding, sir, is that you've agreed to plead guilty to
14 that charge, correct?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: That as part of the negotiation, the State retains the full
17 right to argue at the time of sentencing. You and your attorney will also have the
18 right to argue at the time of sentencing as to what the sentence should be. You
19 understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. Is Jarell Washington your true name, sir?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And how old are you?

24 THE DEFENDANT: Thirty-seven.

25 THE COURT: How far did you go in school?

1 THE DEFENDANT: Twelfth grade.

2 THE COURT: Do you read, write and understand English?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: You've received a copy of the plea agreement and
5 attached to that is an Amended Indictment. That's what lists the charge that
6 you're pleading to; is that correct?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Have you had a chance to discuss that your charge
9 and your case with your attorney, Mr. Kocka?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And when you were discussing the charges and your
12 case, did you all have discussions about the four different levels of a homicide
13 charge, meaning first degree murder, second degree murder, voluntary
14 manslaughter and involuntary manslaughter?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. And you're comfortable that you understand
17 all of those?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And are you comfortable that you understand, with this
20 particular charge that you're going to be pleading guilty to, what this charge is
21 saying that you did wrong.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: How do you plead to the one count of second degree
24 murder with use of a deadly weapon?

25 THE DEFENDANT: Guilty.

1 THE COURT: Before I accept your plea I need to make sure it's freely
2 and voluntarily made, is it?

3 THE DEFENDANT: Yes.

4 THE COURT: Anybody force you or threaten you in any way to get
5 you to plead guilty today?

6 THE DEFENDANT: No, sir.

7 THE COURT: Anybody make any promises to you other than the plea
8 negotiations to get you to plead guilty today?

9 THE DEFENDANT: No, sir.

10 THE COURT: I have before me a written plea agreement which looks
11 like you signed it on page 5. Did you sign that sir?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Did you have a chance to read the document before
14 you signed it?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And was your attorney available to answer any
17 questions you had before you signed it?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you believe you understood everything in it?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Did you all discuss the six constitutional rights that are
22 listed on page 4 that you waive and give up by entering a guilty plea?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And you understand those?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: You understand that for the charge you're pleading to
2 there's two parts to the charge. There's the sentence for the homicide portion
3 and a sentence for the weapon enhancement. Do you understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: For the homicide portion the sentence you could
6 receive could either be life in prison with a minimum 10 years before parole
7 eligibility or a sentence of 25 years with a minimum of ten years before parole
8 eligibility. Do you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You understand that for the weapon enhancement the
11 sentence is not less than 1 no more than 20 years, and that has to run
12 consecutive to the sentence you receive for the homicide portion.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. You understand that you're not eligible for
15 probation, so that means you have to serve a prison sentence on the case.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And that ultimately the Court will decide what the
18 sentence is. No one's in a position to guarantee you any particular sentence.
19 You understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: Yes? Okay. You have any questions for me or your
22 attorney before I accept your plea?

23 THE DEFENDANT: No, sir.

24 THE COURT: All right. Anything you don't understand about the plea
25 agreement or have any questions about?

1 THE DEFENDANT: No, sir.

2 THE COURT: Okay. My understanding, sir, is that you're pleading
3 guilty here today because on or about August 19th, 2007, here in Clark County,
4 Nevada, you did willfully, unlawfully, feloniously and with malice aforethought kill
5 Corey lascone, I-A-S-C-O-N-E, with a deadly weapon, by shooting the gentleman
6 with a firearm. Is that correct?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. The Court finds that Defendant's plea is freely
9 and voluntarily made and he understands the nature and consequences of the
10 plea, so we will accept the plea. We're going to refer the matter to the
11 Department of Parole and Probation for sentencing and set it down for
12 sentencing in 50 days and it will remain in this department. And that will be on --

13 THE CLERK: April 1st at 9:30.

14 MR. KOCKA: Thank you, Your honor.

15 THE COURT: All right. And our trial will be vacated. All right. Ladies
16 and gentlemen, thank you all very much.

17 MR. PORTZ: Thank you, Your Honor.

18 MR. KOCKA: Thank you, Your Honor.

19 MS. MENDOZA: Thank you.

20 [Proceeding concluded at 10:12 a.m.]

* * * * *

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

23 
24 _____
25 Stacey Ray
Court Recorder/Transcriber

EXHIBIT B

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of
AA
for
Frank
Kocka

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FILED

FEB 18 2020

John J. Blum
CLERK OF COURT

7

State of Nevada
Plaintiff,
vs.
Jarell Washington
Defendant

Case No.: C-19-341380-1

Dept. No.: II

Docket No.: X

**March 12, 2020
9:00 AM**

Motion To Dismiss Counsel

Comes Now, The defendant Jarell Washington,
And moves this honorable court to dismiss counsel
Frank P. Kocka, And appoint another counsel
to represent defendant.

This motion is based upon all papers, and
documents on file.

Factual statements are set forth in the
Points of Authorities, contained therein.

RECEIVED

FEB 18 2020

CLERK OF THE COURT

Date this 10th Day of
February, 2020

(1)

Points of Authority

It is Respectfully Requesting of this court to grant this, Motion to dismiss Counsel and appoint other counsel for reason's listed Below;

I Procedural Background and Factual Summary

Since Frank P. Kocka was hired than appointed defendant Jarell Washington, has been lied to and suffered manifest injustice all of these facts stem from Frank P. Kocka. There is no doubt that defendant Jarell Washington is still being denied his Sixth Amendment due from Inadequate and Ineffective assistance of counsel, from Frank P. Kocka. Now his deficient performance has affected the defendant, in many ways all this resulting in an unreliable or fundamental unfair outcome in the proceeding furthermore now the defendant is at the mercy of the Honorable Judge to see clearly that there is a total breaks down do to part of no communication between counsel and defendant.

This is a total miscarriage of Justice in this case. Injustice is based on Counsel's refusal and Failure to

- 1.) Failure to give me discovery
- 2.) Failure to present a cognitive defense
- 3.) Failure to file appropriate motions
- 4.) NO visits or communication with defendant.

II Argument

Defendant Jarell Washington, never received key parts of discovery. February 6th 2020 during court the district attorney stated that their was (25) witness, defendant was only aware of (2). Also February 5th my lawyer came to see me and told that their's new discovery. His reasoning of not giving me new and old discovery is unexplainable. Defendant Jarell Washington, asserts he is being denied his right to effective representation due to wholly Inadequate action of his hired constitute a violation of defendant's due process rights. Defendant has an unqualified right to legal assistance that expresses loyalty to said defendant. "The right to counsel is the right to effective assistance of counsel." *Cuyler V. Sullivan*, 100 S.C.T 1708 (1980); and *Frazier vs. United States* 18 F. 8d278 This the adversarari Process Protected by the Sixth amendment requires that the accused have counsel acting in the role of an advocate "Anderson vs. California 18 S.C.T. 1396 (1967). Your honorable Judge, I've sent a letter previous to this motion explaining more detail how the counsel Frank P. Korka only visited defendant twice within (8) months and has not filled any motions.

Defendant Jarell Washington needs new counsel.

(3)

3000 Washington

2605695

C.C.D.C

330 S. Casino Center Blvd

~~66~~ Las Vegas, NV 89101



LAS VEGAS NV 890

13 FEB 2020 PM 4 L

Steven D. Grierson

Clerk of the Court

200 Lewis Ave (3rd floor)

Las Vegas, NV 89155



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THIS ENVELOPE IS RECYCLABLE AND MADE WITH 30% POST-CONSUMER CONTENT



AA 225

EXHIBIT C

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DECLARATION OF JARELL WASHINGTON

I, Jarell Washington, declare under the penalty of perjury as follows:

1. I am over the age of 18 years and am competent to make this declaration.
2. All statements contained herein are true and accurate to the best of my knowledge.
3. I make this declaration in support of my request to withdraw my guilty plea in this case.
4. My prior attorney only visited with me several times while I have been in custody in this matter.
5. My prior attorney never provided me with the police reports, witness statements and other discovery materials to allow me to help him prepare my case for trial.
6. I repeatedly requested of my prior counsel that I receive a copy of the discovery materials provided to him by the prosecution.
7. My prior attorney refused to file any motions on my behalf prior to the trial. I repeatedly asked him to file motions for my case.
8. At the time I entered my plea in this matter, it was very clear to me that my prior counsel was not prepared for trial and did not have my best interests at heart.
9. Although I had no desire to enter a plea, on the day I entered a plea I felt I had no choice because my prior attorney told me that the Court would not listen to me and that I would not get a new attorney if I requested one.
10. I felt completely trapped and desperate.
11. As soon as I got back to my cell on the day that I enter my plea, I began preparing my motion for a new attorney so that I could withdraw my plea and go to trial.
12. I filed my request for a new attorney as quickly as I could.
13. I believe that my prior attorney repeatedly misrepresented the status of the case and his trial preparation and that he did not care about my case.

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14. I want to withdraw my plea and go to trial.

DATED this 7 day of August, 2020.

Under penalty of perjury,

Jarell Washington
JARELL WASHINGTON

NRS 208.165 Execution of instrument by prisoner. A prisoner may execute any instrument by signing his or her name immediately following a declaration "under penalty of perjury" with the same legal effect as if he or she had acknowledged it or sworn to its truth before a person authorized to administer oaths. As used in the section, "prisoner" means a person confined in any jail or prison, or any facility for the detention of juvenile offenders, in this state.

Submitted by:

Thomas A. Ericsson
Thomas A. Ericsson, Esq.

Dated: 8/13/2020



1 **RPLY**

2 JAMES A. ORONOZ, ESQ.
3 Nevada Bar No. 6769
4 THOMAS ERICSSON, ESQ.
5 Nevada Bar No. 4982
6 ORONOZ & ERICSSON, LLC
7 1050 Indigo Drive, Suite 120
8 Las Vegas, Nevada 89145
9 Telephone: (702) 878-2889
10 tom@oronozlawyers.com
11 Attorneys for Jarell Washington

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 JARELL WASHINGTON,

13 Defendant.

CASE NO.: C-19-341380-1

DEPT NO.: III

14
15 **DEFENDANT JARELL WASHINGTON'S**
16 **REPLY TO THE STATE'S OPPOSITION TO DEFENDANT'S MOTION TO**
17 **WITHDRAW GUILTY PLEA**

18 COMES NOW Defendant Jarell Washington, by and through his counsel James A.
19 Oronoz, Esq., and Thomas A. Ericsson, Esq., and hereby files this Reply to the State's
20 Opposition to Defendant's Motion to Withdraw Guilty Plea. This Reply is made and based on
21 the following Memorandum of Points and Authorities, the attached exhibits, all papers and
22 pleadings on file herein, and any oral argument that may be entertained in this matter.

23 Dated this 2nd day of September, 2020.

24 Respectfully Submitted By:

25 /s/ Thomas A. Ericsson
26 THOMAS A. ERICSSON, ESQ.
27 Nevada Bar No. 4982

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **LEGAL ARGUMENT**

3 NRS 176.165 allows a defendant to move to withdraw a guilty plea before a sentence is
4 imposed. In reviewing a motion to withdraw a guilty plea, Nevada courts must consider “the
5 totality of the circumstances to determine whether permitting withdrawal of a guilty plea before
6 sentencing would be fair and just.” *Stevenson v. State*, 131 Nev. 598, 603, 354 P.3d 1277
7 (2015).

8
9 Here, it would be fair and just to allow Mr. Washington to withdraw his guilty plea. The
10 record is clear that Mr. Washington did not review the written Guilty Plea Agreement (“GPA”)
11 until the day of trial, after he unsuccessfully moved to dismiss counsel and moved to continue
12 the trial.

13 In the Opposition, the State argues that Mr. Washington should not be allowed to
14 withdraw his plea because he was “aware of the offer for 5 weeks before the trial.” Opposition,
15 at 8. The State concedes that Mr. Washington did not review a copy of the GPA until the date
16 of trial. Opposition, at 8.

17
18 The record is not clear regarding the extent to which prior counsel discussed the plea
19 with Mr. Washington before the first day of trial. The court minutes from January 7, 2020,
20 indicate that prior counsel received the offer from the State and would meet with Mr.
21 Washington to discuss the offer. There is no other record about what transpired between prior
22 counsel and Mr. Washington between the receipt of the offer and the first day of trial. Mr.
23 Washington requests an evidentiary hearing to expand the record and determine the extent of
24 prior counsel’s communication with Mr. Washington prior to the first day of trial.
25

26 In considering the totality of the circumstances, it would be fair and just to allow Mr.
27 Washington to withdraw his plea. Mr. Washington entered a plea after having requested both
28

1 new counsel and a continuance of the trial. The Court denied both of those requests. Believing
2 that his attorney was unprepared for trial, Mr. Washington felt he had no choice but to enter a
3 guilty plea. See, Exh. C to Defendant's Motion to Withdraw Guilty Plea. Given these
4 circumstances, it is clear that Mr. Washington did not enter his plea freely, knowingly, and
5 voluntarily. Therefore, it would be fair and just to allow Mr. Washington to withdraw his guilty
6 plea at this time and proceed to trial.

7
8 **CONCLUSION**

9 Based on the arguments made in Defendant's Motion to Withdraw Guilty Plea and the
10 instant Reply, Mr. Washington respectfully requests that the Court allow him to withdraw his
11 guilty plea and proceed to trial. Alternatively, if the Court is not inclined to allow him to
12 withdraw his plea at this time, Mr. Washington requests an evidentiary hearing to allow him to
13 present testimony in support of his claims.

14 Dated this 2nd day of September, 2020.

15
16 ORONOZ & ERICSSON, LLC

17 /s/ Thomas A. Ericsson

18 JAMES A. ORONOZ, ESQ.

19 Nevada Bar No. 6769

20 THOMAS A. ERICSSON, ESQ.

21 Nevada Bar No. 4982

22 1050 Indigo Drive, Suite 120

23 Las Vegas, Nevada 89145

24 Telephone: (702) 878-2889

CERTIFICATE OF SERVICE

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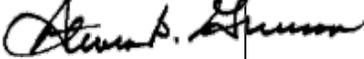
I hereby certify that on the 2nd day of September, 2020, I served a true and correct copy of the foregoing Defendant Jarell Washington’s Reply to the State’s Opposition to Defendant’s Motion to Withdraw Guilty Plea on the following:

STEVEN B. WOLFSON
Clark County District Attorney
200 Lewis Avenue
Las Vegas, Nevada 89101
PDMotions@clarkcountyda.com

NICK PORTZ, ESQ.
Chief Deputy District Attorney
200 Lewis Avenue
Las Vegas, Nevada 89101
kenneth.portz@clarkcountyda.com

ERIKA MENDOZA, ESQ.
Chief Deputy District Attorney
200 Lewis Avenue
Las Vegas, Nevada 89101
erika.mendoza@clarkcountyda.com

— /s/ Rachael E. Stewart
Ornoz & Ericsson, LLC



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RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
vs.
JARELL WASHINGTON,
Defendant.

CASE: C-19-341380-1
DEPT. X

BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE
FRIDAY, SEPTEMBER 11, 2020

RECORDER'S TRANSCRIPT OF HEARING:
MOTION TO WITHDRAW PLEA

APPEARANCES:

For the State: KENNETH PORTZ, ESQ.
Chief Deputy District Attorney

For the Defendant: THOMAS A. ERICSSON, ESQ.

RECORDED BY: VICTORIA BOYD, COURT RECORDER

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Las Vegas, Nevada, Friday, September 11, 2020

MR. PORTZ: Nick Portz for the State, Your Honor.

THE COURT: Mr. Portz is present on behalf of the State. So this is on for the defendant's motion to withdraw plea. We're going to need to set an evidentiary hearing on this issue. Having an evidentiary hearing with somebody in custody is rather interesting. If we have an evidentiary hearing how long would you guys think it's going to take?

MR. ERICSON: I would think probably two, two and a half hours at most. It's fairly straight forward issue.

THE COURT: Okay. We have to contact Judge Bell and get a date because he's in custody so we have to get a date he can appear on video and get video time from the jail. So my staff is going to reach out to Judge Bell and get a date that we can accommodate so it will be probably a Friday morning at 8 a.m. And so we're going to reach out to Judge Bell and get a date and my staff will reach out to you and let you know what that date is, but it will be far enough out so you guys can subpoena your witnesses.

MR. ERICSON: Perfect.

MR. PORTZ: Thank you.

(Proceedings concluded at 3:30 a.m.)

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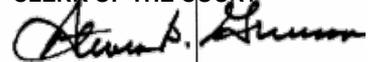
ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/visual proceedings in the above-entitled case to the best of my ability.

Victoria W. Boyd

08-3-21

Victoria W. Boyd
Court Recorder/Transcriber

Date



1 **MOT**
2 JAMES A. ORONOZ, ESQ.
3 Nevada Bar No. 6769
4 THOMAS A. ERICSSON, ESQ.
5 Nevada Bar No. 4982
6 ORONOZ & ERICSSON, LLC
7 1050 Indigo Drive, Suite 120
8 Las Vegas, Nevada 89145
9 Telephone: (702) 878-2889
10 *Attorneys for Defendant Jarell Washington*

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

7 THE STATE OF NEVADA,)

8 Plaintiff,)

9 vs.)

10 JARELL WASHINGTON,)

11 Defendant.)

CASE NO.: C-19-341380-1

DEPT. NO.: X

12)
13 **DEFENDANT'S MOTION FOR RELEASE ON HIS OWN RECOGNIZANCE OR IN**
14 **THE ALTERNATIVE MOTION TO SET REASONABLE BAIL**

15 Defendant JARELL WASHINGTON, by and through his attorneys, JAMES A.
16 ORONOZ, ESQ., and THOMAS A. ERICSSON, ESQ., hereby submits the following Motion
17 for Release on His Own Recognizance or in the Alternative Motion to Set Reasonable Bail.

18 This Motion is based upon the pleadings and papers on file in this matter, the Points and
19 Authorities provided herein, and any argument of counsel entertained at the hearing of this
20 matter.

21 DATED this 11th day of December, 2020.

22 /s/ James A. Oronoz
23 James A. Oronoz, Esq.
24 Nevada Bar No. 6769
Thomas A. Ericsson, Esq.
Nevada Bar No. 4982
1050 Indigo Drive, Suite 120
Las Vegas, Nevada 89145

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NOTICE OF MOTION

TO: STATE OF NEVADA, Plaintiff;

TO: STEVEN B. WOLFSON, District Attorney, Attorney for Plaintiff;

YOU, AND EACH OF YOU, will please take notice that the undersigned will bring the foregoing Defendant’s Motion for Release on His Own Recognizance or in the Alternative Motion to Set Reasonable Bail on for hearing at the Regional Justice Center, 200 Lewis Avenue in Department X of the Eighth Judicial District Court, on the _____ day of _____, 202___, at the hour of _____ a.m./p.m. or as soon thereafter as Counsel may be heard.

DATED this 11th day of December, 2020.

/s/ James A. Oronoz
James A. Oronoz, Esq.
Nevada Bar No. 6769
Thomas A. Ericsson, Esq.
Nevada Bar No. 4982
1050 Indigo Drive, Suite 120
Las Vegas, Nevada 89145
Attorneys for Defendant

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. PROCEDURAL HISTORY AND RELEVANT FACTS**

3 On June 26, 2019, Jarell Washington was charged by way of indictment with one count
4 of Murder with Use of a Deadly Weapon and one count of Robbery with Use of a Deadly
5 Weapon. The homicide at issue in this case took place on August 19, 2007.

6 Mr. Washington was arrested on these charges on June 26, 2019. He entered a guilty
7 plea agreement on February 10, 2020. After entering the plea agreement, Mr. Washington
8 sought to withdraw his guilty plea. Mr. Washington's Motion to Withdraw Plea has been
9 briefed, and the case is scheduled to proceed with an evidentiary hearing on February 19, 2021.

10 To date, Mr. Washington has spent 530 days in custody on these charges. If the
11 evidentiary hearing goes forward on February 19, 2021, Mr. Washington will have spent 604
12 days in custody by that time.

13 Additionally, the COVID-19 virus has created a worldwide pandemic, and the current
14 number of COVID-19 cases is rapidly rising in Nevada. Throughout this past year, COVID-19
15 has proven to be a very dangerous virus that presents risks of serious illness and death.

16 At this time, Mr. Washington requests release from custody, or in the alternative to set
17 reasonable bail, so that he can remain safe from the virus while working with counsel to
18 prepare for the upcoming evidentiary hearing.

19 **II. ARGUMENT**

20 The United States Constitution clearly provides, "Excessive bail shall not be required."
21 U.S. Const. amend. VIII. Additionally, the Nevada Constitution provides: "All persons shall be
22 bailable by sufficient sureties; unless for Capital Offenses or murders punishable by life
23 imprisonment without possibility of parole when the proof is evident or the presumption
24 great." Nevada Const. Art. 1, § 7.

1 Under NRS 178.484(4), a court may set bail when a person is arrested for first degree
2 murder. Courts must consider whether the bail amount is so great that “it functions as a
3 detention order.” *Valdez-Jimenez v. Eighth Jud. Dist. Court of the State of Nevada*, 460 P.3d
4 976, 987, 136 Nev. Adv. Op. 20 (2020). In *Valdez-Jimenez*, the Nevada Supreme Court
5 explained that a defendant is entitled to an “individualized hearing on his or her custody
6 status.” *Id.* at 985. Additionally, the State must prove by clear and convincing evidence “that
7 no less restrictive alternative will satisfy its interests in ensuring the defendant’s presence and
8 the community’s safety.” *Id.* at 987.

9 In addition to considering the factors set forth in NRS 178.4853, Mr. Washington
10 requests that the Court release him from custody because of the dangers associated with the
11 COVID-19 pandemic. COVID-19 has proven to be incredibly dangerous to human life, and
12 Mr. Washington submits that he will be safer from the virus if released from custody.

13 Accordingly, Mr. Washington requests that this Court release him on his own
14 recognizance, or alternatively, Mr. Washington requests that the Court set a reasonable bail.

15 III. CONCLUSION

16 Mr. Washington respectfully requests that this Court grant him release on his own
17 recognizance, or in the alternative, to grant reasonable bail.

18 DATED this 11th day of December, 2020.

19
20 /s/ James A. Oronoz
James A. Oronoz, Esq.
Nevada Bar No. 6769
21 Thomas A. Ericsson, Esq.
Nevada Bar No. 4982
22 1050 Indigo Drive, Suite 120
Las Vegas, Nevada 89145
23 *Attorneys for Defendant*
24

1 **AFFIDAVIT OF JAMES A. ORONOZ, ESQ., IN SUPPORT OF DEFENDANT’S**
2 **MOTION FOR RELEASE ON HIS OWN RECOGNIZANCE OR IN THE**
3 **ALTERNATIVE MOTION TO SET REASONABLE BAIL**

3 COUNTY OF CLARK)
4 STATE OF NEVADA)

5 Affiant, JAMES A. ORONOZ, ESQ., being first duly sworn, deposes, and states as
6 follows:

- 7 1. That I am an attorney duly licensed to practice law before all Courts in the State of
8 Nevada;
- 9 2. That I have been appointed to represent Defendant Jarell Washington in this matter;
- 10 3. That I have knowledge of the facts contained herein, and I am competent to testify as to
11 those facts.
- 12 4. That I submit this affidavit in support of Mr. Washington’s Motion for Release on his
13 Own Recognizance or in the Alternative Motion to Set Reasonable Bail;
- 14 5. That Mr. Washington was arrested on these charges on June 7, 2019;
- 15 6. On June 26, 2019, Mr. Washington was indicted on charges of Murder with Use of a
16 Deadly Weapon, and Robbery with Use of a Deadly Weapon;
- 17 7. That Mr. Washington has pleaded guilty, but that he is in the process of seeking to
18 withdraw his plea;
- 19 8. That Mr. Washington has spent 530 days in custody on these charges, and if he is not
20 released prior to trial, he will have spent 604 days in custody by the time of the
21 evidentiary hearing on February 19, 2021;
- 22 9. That due to the COVID-19 pandemic, there is a high risk of infection and severe danger
23 to human life;
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10. That Mr. Washington requests that the Court grant him release on his own recognizance
or in the alternative, set reasonable bail;

11. That I affirm under the penalty of perjury, the foregoing is true and correct.

FURTHER YOUR AFFIANT SAYETH NAUGHT

DATED this 11th day of December, 2020.

JAMES A. ORONNOZ, ESQ.

SUBSCRIBED AND SWORN TO before me
This 11th day of December, 2020.

NOTARY PUBLIC in and for said
County and State



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CERTIFICATE OF SERVICE

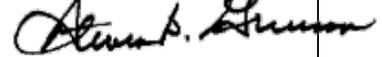
I hereby certify and affirm that this document was filed electronically with the Eighth Judicial District Court, in Clark County, Nevada, on December 11, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

STEVEN B. WOLFSON
Chief Deputy District Attorney
pdmotions@clarkcountyda.com

NICK PORTZ, ESQ.
Chief Deputy District Attorney
kenneth.portz@clarkcountyda.com

ERIKA MENDOZA, ESQ.
Erika.mendoza@clarkcountyda.com

By: /s/ Rachael Stewart
ORNOZ & ERICSSON LLC



1 RTRAN

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DISTRICT COURT
CLARK COUNTY, NEVADA

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8 STATE OF NEVADA,

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9 Plaintiff,

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10 vs.

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11 JARELL WASHINGTON.

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12 Defendant.

12

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BEFORE THE HONORABLE JUDGE TIERRA JONES, DISTRICT COURT JUDGE

14

***WENDESDAY, DECEMBER 16, 2020
RECORDER'S TRANSCRIPT RE:
MOTION FOR OR***

15

16

17 APPEARANCES:

17

18 For the State:

18

ERIKA MENDOZA, Esq.
Chief Deputy District Attorney

19

20

21 For the Defendant:

21

THOMAS ERICSSON, Esq.

22

23

24

25

RECORDED BY: VICTORIA BOYD, COURT RECORDER

1 Las Vegas, Nevada, Wednesday, December 16, 2020 at 8:36 a.m.

2
3
4 THE COURT: Mr. Washington is present in custody. Mr. Ericsson is here on
5 his behalf. Ms. Mendoza is here on behalf of the State. This is the date and time
6 set for the defendant's motion for release on his own recognizance or in the
7 alternative a motion to set reasonable bail. I have seen the motion, Mr. Ericsson,
8 that you filed. I did read the State's opposition,

9 Mr. Ericsson, do you have anything you would like to add?

10 MR. ERICSSON: Your Honor, just a couple of important things I think to
11 make sure is in front of you for your consideration, obviously when you look at the
12 timing of this case, this is a case back from 2007. Mr. Washington was arrested in
13 2019. During that 12 year period Mr. Washington has complied with the
14 requirements of society. He's been working full time. He has a job waiting for him
15 with the union if he is released and able to get back to take care of his young child.
16 He understands that he needs to comply with any requirements that Your Honor
17 would place on him if he is given the opportunity to be released while this case is
18 pending.

19 He has full responsibility financially trying to take care of the child that he
20 shares with his girlfriend, and one of the things that I think speaks a lot to his
21 credibility is that he has not had any significant issues with the law since 2007 when
22 this - - when these charges arose. So, Your Honor, we are respectfully requesting
23 that he be given the opportunity, placed on intensive supervision restrictions if you
24 believe that is necessary and he only be allowed go and work and then be at home
25 on house arrest. But I do think that given his long term history of not having any
other problems or any things of that nature that this would be an appropriate

1 situation that he be given an OR and that he be able to be outside of custody - - one
2 of the difficulties we have in trying to prepare these cases is the restrictions of very
3 limited contact with clients while they are at CCDC and it makes it very, very hard for
4 the clients and counsel to properly prepare these cases.

5 THE COURT: Thank you, Mr. Ericsson.

6 Ms. Mendoza.

7 MS. MENDOZA: Your Honor, Mr. Ericsson is right that he does have very
8 limited criminal history. I would add that immediately after the murder he fled to
9 Chicago, I believe it was, and I know that beyond Chicago he also has some family
10 ties in Texas right now. While he has not criminal history he has now pled guilty to
11 second degree murder so I don't think this should really even be a conversation.
12 The State's position would be he should be remanded without bail.

13 THE DEFENDANT: I was coerced by my last lawyer.

14 THE COURT: Mr. Ericsson, your response.

15 MR. ERICSSON: Your Honor, as you're aware we have an upcoming
16 evidentiary hearing as to that plea that he entered into, and I do think that there is
17 full legal justification for him to be allowed to withdraw his plea, but that's obviously
18 an argument down the road. But he plans to if he's allowed to withdraw his plea to
19 take this case to trial and to establish his innocence.

20 THE COURT: Mr. Washington, what were you saying?

21 THE DEFENDANT: I was just saying {inaudible} that's the reason why that I
22 would put in a motion to withdraw the guilty plea but, Your Honor, I'm just asking for
23 a chance to get to my son and just work. I'm not no flight risk. I don't have no
24 criminal record, Your Honor. I just need a chance. That's all. Just to better myself.
25 That's all I'm asking for.

1 THE COURT: All right. Well, I mean this is the situation. Right now this
2 Court is going to make a determination in February as to whether or not that plea is
3 going to be withdrawn. Right now this Court finds based on the evidence that is
4 currently before it that the bail at 1 million dollars will remain. This motion is denied.

5 MS. MENDOZA: Thank you, Your Honor.

6 MR. ERICSSON: Thank you.

7

8 (Proceedings concluded at 8:41 a.m.)

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

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17 *Victoria W. Boyd*

8-5-21

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19 _____
Victoria W. Boyd
Court Recorder/Transcriber

Date

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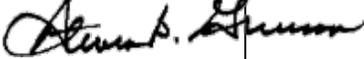
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RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,
Plaintiff,
vs.
JARELL WASHINGTON,
Defendant.

CASE NO: C-19-341380-1
DEPT. X

BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE
FRIDAY, FEBRUARY 19, 2021

**RECORDER'S TRANSCRIPT OF PROCEEDINGS:
EVIDENTIARY HEARING**

APPEARANCES:

For the State: KENNETH N. PORTZ, ESQ.
Chief Deputy District Attorney

For the Defendant: THOMAS A. ERICSSON, ESQ.

RECORDED BY: VICTORIA BOYD, COURT RECORDER

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Las Vegas, Nevada; Friday, February 19, 2021

[Proceeding commenced at 10:58 a.m.]

THE COURT: Good afternoon, everyone. We are going to go on the record in C341380 State of Nevada versus Jarrel Washington. Mr. Washington -- hold on, I believe BlueJeans is frozen.

No, there we go. Mr. Washington is present in custody. Mr. Ericsson is here on his behalf. Who's here on behalf of the State?

MR. PORTZ: Good morning, Nick Portz, Your Honor --

THE COURT: Mr. --

MR. PORTZ: -- for the State.

THE COURT: Okay, Mr. Portz is here on behalf of the State. All right, so this is the date and time set for the evidentiary hearing regarding Mr. Washington's motion to withdraw his guilty plea. Are you guys prepared to go forward?

MR. PORTZ: Yes, Your Honor.

MR. ERICSSON: The defense is, Your Honor.

THE COURT: Okay. All right, so we have Mr. Ericsson, you may call your first witness.

MR. ERICSSON: Thank you, Your Honor. And Your Honor, I'm not sure if -- I am not seeing your screen, I don't know if I need to do something on my end or if you're just not broadcasting.

THE COURT: No, I can see all of you guys.

MR. ERICSSON: I'm hearing your voice.

THE COURT: I see Mr. Kocka, Mr. Portz.

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[Colloquy between the Court and the Court Recorder]

MR. ERICSSON: Okay.

THE COURT: Okay, the camera's not showing me, Mr. Ericsson.

[Colloquy between the Court and the Court Recorder]

MR. ERICSSON: Okay.

THE COURT: Yeah.

MR. ERICSSON: The first witness we would call is Mr. Frank Kocka.

THE COURT: Okay, and before we call Mr. Kocka, just one second. Mr. Washington, sir, are you agreeing to waive your attorney-client privilege with Mr. Kocka for the limited purposes of him testifying at this hearing?

THE DEFENDANT: I don't understand the question, Your Honor.

THE COURT: Well, what I'm asking you is what -- Mr. Kocka - I'm assuming, Mr. Ericsson and yourself, you want Mr. Kocka to testify about conversations and things that you and Mr. Kocka talked about; is that true?

THE DEFENDANT: If you can repeat that one more time, Your Honor, I couldn't hear you.

THE COURT: Okay. So, basically, the purpose of this hearing is so Mr. Kocka can talk about conversations and discussions he had with you regarding you entering this plea; is that correct?

THE DEFENDANT: Yes.

1 THE COURT: Okay, and you understand that when Mr.
2 Kocka was your lawyer, the things that you and him talked about were
3 covered under the attorney-client privilege, so he cannot talk about
4 those things unless you waive that privilege; do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: Okay, so are you willing to waive that privilege
7 today for the limited purpose of Mr. Kocka discussing things that you
8 and him talked about regarding this guilty plea?

9 THE DEFENDANT: Yes.

10 THE COURT: Okay. All right. Mr. Kocka is here on
11 BlueJeans. Mr. Kocka, if you could raise your right hand, sir, so you can
12 be sworn.

13 Madame Clerk?

14 **FRANK KOCKA**

15 [having been called as a witness and being first duly sworn, testified as
16 follows:]

17 THE COURT CLERK: Please state your full name spelling
18 your first and last name for the record.

19 THE WITNESS: Frank, F --

20 THE COURT: And I'm sorry, Mr. Kocka, you're on --

21 THE WITNESS: Okay, can you hear me now, Judge?

22 THE COURT: Yeah, we can hear you now.

23 THE WITNESS: Okay, first name is Frank, F-R-A-N-K, middle
24 name Peter, P-E-T-E-R, last name Kocka, K-O-C-K-A.

25 THE COURT: Okay, Mr. Ericsson, whenever you're ready.

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MR. ERICSSON: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. ERICSSON:

Q Good morning, Mr. Kocka.

A Good morning, Mr. Ericsson.

Q Mr. Kocka, you are a licensed attorney in the State of Nevada, correct?

A I am, yes.

Q And you previously represented Jarrel Washington in a murder case in Clark County, correct?

I wasn't able to hear you. I don't know if --

THE COURT: I can't hear him either.

MR. ERICSSON: -- something --

THE WITNESS: Can you guys hear me?

THE COURT: Yeah, we can now.

THE WITNESS: Okay, I'm not muted, so maybe I just need to speak up a little bit.

MR. ERICSSON: Yes.

THE COURT: Okay.

MR. ERICSSON: Oh, yeah, so --

THE COURT: Can you --

MR. ERICSSON: -- just for the -- you previously represented Mr. Washington in a murder case in Clark County, correct?

THE WITNESS: I did.

BY MR. ERICSSON:

1 Q And at some point, he entered into a guilty plea agreement
2 prior to trial; is that right?

3 A Correct.

4 Q And the question I have for you is going to be pretty
5 straightforward and relatively brief. It -- is it accurate to say that he took
6 the -- entered the plea on the day the trial was scheduled to begin?

7 A That's correct.

8 Q And you had gone and gotten an actual written plea
9 agreement some time shortly before trial was to begin; is that correct?

10 A Correct.

11 Q Do you know when it was that you presented the written plea
12 agreement that he entered into?

13 A The morning of trial.

14 Q And is it your recollection that prior to entering the plea, Mr.
15 Washington had that morning requested a continuance of the trial?

16 A When we were there to go over the guilty plea agreement, he
17 indicated he no longer wanted to go through with the guilty plea
18 agreement and renewed his motion to continue the trial, which he had
19 previously addressed at calendar call, yes.

20 THE COURT: And Mr. Kocka, I'm sorry --

21 MR. ERICSSON: Okay.

22 THE COURT: -- I missed part of that. You said when we
23 were there, and then I didn't hear a lot of it until you said renewed his
24 motion. So, can you repeat that?

25 THE WITNESS: Yes, Your Honor. When we were there that

1 morning to start the trial and I presented him with the guilty plea
2 agreement to go over, he indicated he no longer wanted to go through
3 with the plea deal, and he wanted to renew his motion that he had
4 brought up at calendar call to continue the trial.

5 THE COURT: Okay.

6 BY MR. ERICSSON:

7 Q You remember what time that day was it that you presented
8 the written plea agreement to him?

9 A It would have been early morning because I believe, if it -- if
10 my memory serves me correctly, I contacted Mr. Portz the day before,
11 which would have been on Sunday. And we also contacted the Court
12 that we'd possibly have the case negotiated. So, Judge Herndon put it
13 on early in the morning, because I believe we were supposed to start
14 trial at 1 o'clock. And Judge Herndon made a special accommodation.
15 So, I want to say 9 or 10 o'clock, I don't know exactly, to see if we could
16 go forward and -- go forward with the plea negotiation.

17 Q And is it accurate to say that you were geared up and ready to
18 go to trial that day if the plea did not go forward; is that correct?

19 A That's correct.

20 Q And up until that morning, that was Mr. Washington's
21 instructions to you that he was wanting to go to trial on this case,
22 correct?

23 A That's correct. Yes.

24 Q Now, in reviewing the record, it looks like there were, in
25 statements made by Mr. Washington, that he had requested a full copy

1 of all of the discovery in the case. Do you recall that?

2 A Yes.

3 Q And he's indicated that he does not believe that he ever
4 received a full copy of the discovery. Is -- do you know whether or not
5 he did receive all of the discovery from your office in this case?

6 A He did not.

7 Q Do you know which parts of the discovery your office provided
8 to him prior to trial?

9 A We provided the police reports, forensics -- perhaps I can
10 back this up a little bit and explain to you what we did not give to him. It
11 would be easier, because there was -- I think my trial notebook was
12 probably about at least 9, 10 inches thick. It was a very complicated
13 case; it'd gone on for about 11 years. It was actually a cold case that
14 was reopened.

15 What we did not give him was specific information. This case
16 was reactivated by information given by an informant that was in
17 custody. And prior to that, there was information given by two or three
18 other people as to who the possible shooter was in the underlying
19 murder case.

20 Eventually, the informant in this case was able to give
21 information where the gun would be that was used in the murder and
22 also linking Mr. Washington to the murder, gave information in exchange
23 for a more lenient sentence. That information I discussed with Mr.
24 Washington, however, the actual hard copy with the specific details I did
25 not give to Mr. Washington for a couple of reasons.

1 Number one, as addressed both at the calendar call and also
2 the morning of trial, I made a very clear record that it is my policy,
3 especially in cases like this where the entire case revolves around a
4 witness with, shall we say, ulterior motives, a snitch, giving information
5 as to the whereabouts of the murder weapon and my client's
6 involvement, I did not want him having that in jail where others could
7 have access to it. And as we've often seen, corroborate the statement
8 for their own benefit.

9 Number two, Mr. Washington required glasses, and we had a
10 great deal of difficulty getting glasses to him. I, on a number of
11 occasions, dealt with Post-10 with the nurses trying to get him his
12 prescription glasses because he could not read without his glasses.
13 And it was my fear that him having someone read the discovery to him
14 would not only accelerate the possibility of someone finding the
15 discovery, but learning about the discovery and be -- the possibility of
16 one of the inmates becoming opportunistic and corroborating the State's
17 case against Mr. Washington.

18 So, I did not give him the specific part of discovery which
19 entailed the actual details regarding the statements that were given by
20 the snitch in this case.

21 Q Okay. And shortly after he entered the plea, did you become
22 aware that he had filed a motion requesting another attorney?

23 A Yes.

24 Q When did you first become aware that he was seeking to
25 withdraw the plea that he had entered the day the trial was scheduled to

1 begin?

2 A I'm sorry, don't remember the exact date. I believe I got
3 notification from the Court that he had filed a pro per motion. I don't
4 know the exact date that I learned, but it was shortly after.

5 MR. ERICSSON: Thank you very much. I have no further
6 questions of Mr. Kocka.

7 THE COURT: Okay. Ms. Capri, I need you to mute your
8 microphone.

9 [Colloquy between the Court and Unidentified Speaker]

10 THE COURT: Thank you. Thank you. Mr. Portz, your cross?

11 MR. PORTZ: Thank you.

12 **CROSS-EXAMINATION**

13 BY MR. PORTZ:

14 Q So, Mr. Kocka, you understand that we're here today because
15 Mr. Washington's attempting to withdraw his plea that he made in this
16 case on February 10th of 2020?

17 A Yes.

18 Q One of the grounds for which he is seeking to withdraw this
19 plea is he is claiming that he entered the deal with an unsure mind, in
20 part because he had received the offer on the morning of trial. Now, as
21 we discussed, the morning of trial was February 10th, 2020. That was
22 not the first time that you had received or discussed the offer with Mr.
23 Washington; is that correct?

24 A That's correct.

25 Q Okay. And in fact, on January 7th, 2020, more than a month

1 before trial, you had put on the record, and it's in the minutes, that you
2 had received an offer from the State on February 3rd of 2020; does that
3 sound right?

4 A That sounds -- actually, I believe that we received the offer
5 January 3rd, not February 3rd, 2020.

6 Q You're right, I misspoke, I apologize. January 3rd, 2020 --

7 A Uh-huh.

8 Q -- is what you put on the record. So, that's --

9 A Right, and --

10 Q -- five weeks prior to trial, not the morning of trial, in which you
11 received that offer?

12 A That is correct. And once I received the offer on January 3rd, I
13 relayed it to my client, which I believe he at some point -- I believe it was
14 around January 7th acknowledged in court that he did receive the offer.
15 So, there was a period of about four or five days that -- since the time
16 that it was relayed to me that I did discuss it with him, and he
17 acknowledged receiving the offer.

18 Q Okay. And that was the same offer that he ultimately entered
19 a plea deal to on February 10th?

20 A Correct.

21 Q Okay. So, he had had that particular offer for at least four
22 weeks, give or take, to mull over?

23 A Correct.

24 Q Okay. And you discussed, did you not, the offer with him,
25 meaning -- and in this case, it was a plea to second degree murder with

1 use of a deadly weapon. You discussed the sentencing parameters with
2 him if he took that deal?

3 A Yes.

4 Q And you discussed -- well, I guess, just go through what you
5 would -- what you would have discussed with Mr. Washington in January
6 when you conveyed what the State's offer was with him.

7 A What I would have discussed with him is what the charge
8 entailed, what the State would have to prove in order to substantiate the
9 second-degree murder, because of course, if it did go through a guilty
10 plea, he would have to acknowledge the facts that support the charge.
11 So, we went through the elements of the charge of second degree. We
12 talked about that with regards to what the State would have to prove if
13 we went to trial with the charge that he was currently facing.

14 The benefit of accepting the deal in terms of what the
15 sentence here would include versus what he was currently charged with.
16 And also, based upon the facts in the case whether or not it was a
17 strategically wise decision to accept the State's offer based upon what
18 the State had evidence-wise and what they could prove, and the
19 potential likelihood of the State being successful in coming back with a
20 conviction on a higher charge.

21 Q After having this conversation with Mr. Washington in January,
22 did he indicate to you his position on whether or not he wanted to take
23 that deal?

24 A Yes, he did.

25 Q And what was his position?

1 A In January, he did not want the offer; he wanted to proceed to
2 trial.

3 Q Okay. And because he did not want the offer, you would not
4 have then requested a guilty plea agreement formalized, written, and
5 sent to you; is that fair to say from the State?

6 A That's correct.

7 Q There would be no point in sending you a guilty plea
8 agreement on an offer he did not want?

9 A That's correct.

10 Q And how long have you been practicing Mr. Kocka?

11 A This makes 35 years this year.

12 Q Okay. And you're familiar, again, with what's contained in the
13 guilty plea agreement, the discussions that you would typically have with
14 a client when you're discussing their accepting a plea agreement; is that
15 fair to say?

16 A That's correct.

17 Q Okay. And you've just detailed everything that you went over
18 with Mr. Washington before he decided that he was going to reject the
19 offer; is that correct?

20 A That's correct. And of course, what I went through with him in
21 January, I did not have a guilty plea in front of me, so there's no reason
22 to go through all the specific details of a guilty plea agreement.
23 Obviously, you know as well as I do, most of it is boilerplate, so I would
24 not have gone through that. I would have gone through the essence of
25 the offer, not necessarily what would be contained in the guilty plea. But

1 the specific parts of what would be entailed with pleading to a second
2 degree, what the potential sentencing range would be, and what the
3 consequences to him would be I went through, yes.

4 Q Okay. And again, a bit repetitive, but all of this was made
5 aware to Mr. Washington a month in advance of trial, not the morning of
6 trial?

7 A That's correct. And in reviewing my notes and also the
8 Court's records prior to today's hearing, I do believe that actually there
9 was a January 7th date where the Defendant actually acknowledged
10 receipt of the offer.

11 Q Okay. Another reason he is claiming he ought to withdraw
12 from his plea is that he did not believe that you were ready for trial. I
13 want to touch on a few procedural points in the buildup to this trial. Is it
14 fair to say that you received all the discovery in the State's possession
15 while this case was still in Justice Court back in June of 2019?

16 A Not all of it. I received the bulk of it. There was one
17 outstanding part of discovery, and that was the forensics with regard to
18 the weapon that was recovered in the lake. There was forensic
19 evidence with regard to Metro's attempt to -- lack of a technical term
20 here, dry out the weapon and fire the weapon to see if the ballistics
21 matched the rifling of that weapon with the bullet that was found in the
22 Decedent.

23 Q And that would be a report that was not yet ready or available;
24 is that fair to say?

25 A Correct. And I remember distinctly you and I having

1 numerous conversations about trying to get some type of negotiation
2 while we were still down in Justice Court. And both of us were waiting to
3 see what that result would be. We continued the preliminary hearing a
4 couple of times waiting for that report to come in. And eventually, the
5 case was indicted at the Grand Jury because I believe --

6 Q [Indiscernible] --

7 A -- I'm not sure of the timing here. I believe either the forensics
8 came in or had not come in at that point yet.

9 Q Okay. And as this case built towards the trial date as
10 supplemental forensic testing came through, you were provided with that
11 -- those documents; is that correct?

12 A That's correct, yes.

13 Q Okay. So, would it be fair to say at least that outside of those
14 pending forensic documents that had not been generated yet because
15 testing was still ongoing, you had received the bulk of all the discovery in
16 this case in June of 2019?

17 A Yes.

18 Q Okay. And would it also be fair to say, as you acknowledged
19 on December 5th, 2019 in the minutes, that you had at that point in time
20 received all the discovery in the case?

21 A That's correct, yes.

22 Q And is it also correct that on January 7th, 2020, again per the
23 Court minutes, you announced that you were prepared to go to trial, the
24 trial that would be set on February 10th?

25 A That's correct.

1 Q All right. And in the weeks leading up to trial, was it your
2 understanding that both parties had come to the conclusion that this
3 would likely go to trial in early February, so we would begin preparation
4 in earnest for trial itself?

5 A Correct.

6 Q Okay. So, then the weeks leading up to trial, did you have
7 conversations with me and my co-Counsel about various pretrial issues,
8 witness coordination, etcetera?

9 A I did, yes.

10 Q And did you also hold meetings with your client during the
11 course of that time?

12 A With my client and also my client's family. There was one
13 particular piece of evidence after the discovery [indiscernible] and the
14 forensics that caused me great concern, I actually met with members of
15 his family because that specific part of the evidence had to do with a
16 family member of Mr. Washington's. And based upon the discovery that
17 was given to me by the State and statements by that family member
18 caused me great concern regarding the weapon.

19 And once the weapon was forensically able to be tied to the
20 bullet that was found in the Decedent, that caused me great concern.
21 And during that two-week period, I met with Mr. Jarrel Washington, his
22 brother, and various members of the family regarding that specific piece
23 of evidence.

24 Q Okay. And then at the calendar call in this case, did you in
25 fact announce ready?

1 A I did.

2 Q Okay. Was there any legal reason to continue the case or
3 were you fully prepared to go forward?

4 A I was fully prepared. There was one outstanding part that I
5 had concern about, and I was actually able to obtain the answer. We
6 did not hire an expert. But I did explore expert testimony -- potential
7 expert testimony before naming one with regard to whether or not a
8 weapon -- I believe you and I actually discussed this as well, whether or
9 not a weapon that had been at the bottom or submerged in water for 11
10 years could be still at that point with the deterioration, the metal,
11 significantly able to be fired, and the rifling due to the deterioration and
12 the rust, give a adequate or significant answer as to matching the rifling
13 on the slug.

14 People I spoke to within the field of firearm forensics
15 acknowledged that it could. They actually looked at the forensics and
16 gave me an answer that I wasn't too happy with, so in other words, I did
17 not notice them as experts.

18 Q Okay. Another claim put forward by Mr. Washington in his
19 motion to withdraw is it should not be considered valid because he
20 wasn't prepared to go forward to trial. In the months leading up to this,
21 as you've discussed, you talked to your client on multiple occasions, you
22 talked to his family on multiple occasions, you went over the State's plea
23 negotiations with him, and he told you he was not interested in taking
24 that offer, and he wanted to go to trial.

25 Were there not multiple court appearances since he was

1 indicted in which he stated and made clear to the Court that he wanted
2 to go forward to trial in February?

3 A Yes.

4 Q And did he also make repeated statements that he did not
5 want his trial continued, that he wanted it to go forward?

6 A Yes.

7 Q Did you advise him that he didn't have to go forward at the
8 February trial date, that he could have more time if he wanted?

9 A Yes.

10 Q And did he still insist on wanting to go forward to the February
11 trial date?

12 A He did, and I remember discussions that you and I had about
13 being very hard-pressed to -- from both your side and my side, with the
14 extent of the witnesses, and get this ready, which I know I dropped
15 everything. And I know discussions with you, you did as well, to get this
16 case ready to go in February.

17 Q And so, again, as we discussed, you announced ready at
18 calendar call. Had your -- had -- was it at that point in time at calendar
19 call that you learned Mr. Washington no longer wanted to go forward to
20 trial after all this work had been put into getting ready for trial?

21 A Yes.

22 Q Okay. And that was the morning of calendar call when he first
23 conveyed that to you?

24 A Correct.

25 Q And what was your reaction to this sudden change of heart?

1 A I was surprised because it had never been relayed to me
2 before. And prior to calendar call, we had talked through getting ready
3 to go, and he was still very anxious to go to trial. So, it took me by
4 surprise with regard to the fact that he had then announced he wasn't
5 ready. About it.

6 Q Did you -- despite that, did you raise his request with the Court
7 at the calendar call?

8 A I don't know if I raised it or if he raised it, but I know it was
9 raised, yes, because it was brought up in front of Judge Jones. I know
10 that the record with Judge Herndon keeps referring back to Judge Adair,
11 but it was raised before Judge Jones who heard the matter and decided.

12 Q Okay. And at that point, we discussed the case history
13 building up to the trial, the number of witnesses, the Defendant's
14 repeated insistence to go forward, and amongst the following argument,
15 the Court denied the Defendant's request at calendar call to continue?

16 A Correct.

17 Q Okay. Now, one of his claims is that he didn't enter his plea
18 with a clear mind because his request to continue was denied on the
19 morning of trial, but is it in fact true, as the record shows and you just
20 testified, his request to continue was denied at the calendar call a week
21 prior?

22 A Correct.

23 Q And the week following the calendar call and the buildup to
24 trial, did you continue to meet with your client?

25 A I did. And as a matter of fact, I met with him the day before

1 trial was to start, which was on Sunday, brought my entire trial notebook
2 with me again, we went through everything, and at that point, we had
3 discussions with regard to the reasons he felt he was not ready to go to
4 trial. And he said he did not have anything, didn't know anything. And
5 at that point, I sat and I broke down everything with him with regard to
6 the specific phone calls that were made on the date of the murder.
7 There's long series of phone calls, we went through those. We went
8 through also that very concerning bit of evidence that I alluded to earlier
9 with regard to one of his family members.

10 We went through the forensics. We went through the
11 testimony of the, lack of a better word again, snitch witness. And also,
12 Mr. Washington had the benefit since very early on, he had the entire
13 Grand Jury transcript. I gave him the entire hard copy, so he would
14 know at least the basis of the testimony, not only of the police officers,
15 but also the snitch witness. And so, what he was facing, should that
16 witness get on the stand, we went over that yet again.

17 And it was actually during that meeting on Sunday at the jail,
18 prior to starting trial on Monday, that he told me at that point he wanted
19 to take the deal.

20 Q And that would be the deal that the State had offered back in
21 early January?

22 A That's correct. And after going through everything with him
23 and confirming he wanted to take the deal, I actually left the jail. And I'm
24 sure you recall this on Sunday afternoon, I got ahold of you on your
25 cellphone and quite literally had to -- you were very reluctant to re-offer

1 the deal, and I had to do quite a bit of begging to actually get the deal
2 back for him.

3 And that's why we did not have -- or I did not have the benefit
4 of the guilty plea agreement prior to Monday morning at trial because it
5 was not in existence until your staff had the opportunity to put it together
6 for me Monday morning. So, once I actually had the hard copy, I was
7 able to go through it with him the morning of trial, which would have
8 been the accommodation Judge Herndon made for us.

9 Q Now, as we know the next morning was the first day of trial.
10 We had the special setting in the early morning because he had
11 indicated he wanted a plea, and as you testified previously, he changed
12 his mind and asked to, I guess, continue the trial and have you taken off
13 the case; is that correct?

14 A Correct.

15 Q Okay. And Judge Herndon heard Mr. Washington's
16 complaints, he heard -- you made a very thorough record as you've --
17 most of the things you've discussed today and he denied that request; is
18 that correct?

19 A Correct.

20 Q Okay. After he denied that request, did the Court explain to
21 Mr. Washington, you can either go to trial or if the State keeps the offer
22 open, you can take it, but one way or the other, you wanted a trial,
23 you're getting a trial. If you want the deal, we can take it; we can deal?

24 A Correct.

25 Q And after that, did you meet again with Mr. Washington in

1 private?

2 A I did.

3 Q And would you discuss what happened during that meeting?

4 A During that meeting, I said we're prepared to go to trial. I
5 actually had the trial notebook there with me because if we had not dealt
6 it, I anticipated in a couple hours we were about ready to start. And I
7 believe we actually had an opportunity to meet back in the holding cell.
8 He indicated to me that he did want to take the guilty plea. At that point,
9 I did have the benefit of having the guilty plea, and we went through it
10 line by line. He signed it, and after that Judge Herndon canvassed him.

11 Q When you went through it line by line, did he have any
12 questions for you that you were unable to answer?

13 A No.

14 Q Did he appear to understand everything contained in the guilty
15 plea agreement as you described it to him?

16 A Yes.

17 Q And then you said that he signed the guilty plea agreement
18 after you went through it with him?

19 A Correct.

20 Q And then as you testified, after that, we came back out, we
21 went on the record, and he was canvassed by Judge Herndon; is that
22 correct?

23 A Correct.

24 Q Okay. And was it a typical and thorough canvass that we
25 typically see in the Eighth Judicial District Court?

1 A I think in light of everything, it was pretty much a little bit more
2 than thorough because I think Judge Herndon, knowing the posture of
3 where we were that morning, took great pains to make sure it was
4 thorough.

5 Q And at any point, did the Defendant appear to not understand
6 anything that was being discussed during the canvass?

7 A I cannot recall at any point that he did not understand. And
8 then reading through the transcript of the canvass, I don't see any point
9 where he paused to ask any questions of me.

10 Q At any time during this process did you believe that he was
11 confused at all as to the terms of the agreement or what he was signing
12 up for in that guilty plea agreement?

13 A I do not. Because normally it's my practice if someone
14 hesitates or looks to me at some point, I would ask the Court's
15 indulgence and ask the client -- and this is just my practice, I can't recall
16 it was done here or not, but my practice would be to say do you have
17 any questions, or what is the issue, or what's the problem if they usually
18 hesitate or get hung up on something.

19 Q And to your recollection, and the transcript could bear that out,
20 that did not happen in this case?

21 A Correct.

22 Q All right. I have no further questions, Mr. Kocka.

23 MR. PORTZ: Thank you, Your Honor.

24 THE COURT: Okay. Any redirect, Mr. Ericsson? Mr.
25 Ericsson, you're muted. Okay.

1 MR. ERICSSON: Sorry about that. Yes, just a couple of brief
2 follow-up questions.

3 **REDIRECT EXAMINATION**

4 BY MR. ERICSSON:

5 Q Mr. Kocka, you indicated that during the representation of Mr.
6 Washington that you had difficulty getting prescription reading glasses to
7 him; is that correct?

8 A Correct.

9 Q And it was your concern that because of that he was going to
10 possibly have to have other CCDC inmates read materials to him?

11 A Correct.

12 Q Thank you very much.

13 MR. ERICSSON: I have no further questions.

14 THE COURT: All right, any follow-up based on that, Mr.
15 Portz?

16 MR. PORTZ: No, Your Honor. Thank you.

17 THE COURT: Okay. Mr. Kocka, thank you very much for
18 your testimony here today, you are excused.

19 THE WITNESS: Thank you, Your Honor.

20 MR. PORTZ: Thank you, Mr. Kocka.

21 THE COURT: Mr. Ericsson, do you have any other witnesses
22 you wish to call?

23 MR. ERICSSON: Yes, Your Honor. Mr. Washington would
24 like to testify as well.

25 THE COURT: Okay, Mr. Washington, can you stand up for

1 me briefly, so I can see that your right hand is raised? Can you raise
2 your right hand, sir? And Officer, I'll allow him to sit during his
3 testimony, but I just need to see his hand raised.

4 THE CORRECTIONS OFFICER: Yes, ma'am.

5 THE COURT: If that's okay with you? Okay, thank you.

6 THE CORRECTIONS OFFICER: That's fine.

7 THE COURT: Madame Clerk?

8 **JARREL WASHINGTON**

9 [having been called as a witness and being first duly sworn, testified as
10 follows:]

11 THE COURT CLERK: Please state your full name spelling
12 your first and last name for the record.

13 THE DEFENDANT: Jarrel, J-A-R-R-E-L, Dion, D-I-O-N,
14 Washington, W-A-S-H-I-N-G-T-O-N.

15 THE COURT: Okay, Mr. Washington, you can have a seat as
16 long as that's okay with CCDC.

17 THE CORRECTIONS OFFICER: We're good with it, ma'am.

18 THE DEFENDANT: Thank you.

19 THE COURT: Okay, thank you. Mr. Ericsson, whenever
20 you're ready, sir.

21 MR. ERICSSON: Thank you, Your Honor.

22 **DIRECT EXAMINATION**

23 BY MR. ERICSSON:

24 Q Good morning, Jarrel.

25 A Morning.

1 Q Jarrel, how old are you now?

2 A Thirty-one.

3 Q Right. And I -- you obviously have had discussions with me
4 about the focus of this hearing this morning, and that's all that I'm going
5 to be asking you about. But please describe for the Court any concerns
6 you had back in February of 2020 about the readiness of your attorney
7 for the trial.

8 A Well, I told him -- when he forced me to move forward, at the
9 time, he kept telling me like, let's move forward, let's move forward. The
10 DA wanted to use a defensive tactic. They want to push it back nine
11 months. And he believed that we have a good chance at going to trial.
12 So, I kept telling him I'm not ready. But then when we get back on the
13 stand, he like, just trust him. So, I did, so we moved forward.

14 So, when we moved forward, then he come again and say that
15 the DA want to use a defensive tactic. And then also, he said that he
16 think that I can't beat this case. And he told me that, oh, he was going
17 to give me my discovery. And I asked him. He only came to see me like
18 three times. He only spoke to my family once.

19 And I had to call my family every time to ask him why he can't
20 come see me. What's going on with my case? It's too early. But then
21 he just told me to trust him, he knew what he was doing. So, I did.

22 So, when we go to calendar call, when Ms. Tierra Jones filled
23 in for Valerie Adair, I told them that I wasn't ready because the DA said
24 that they was ready. They had 20 to 25 witnesses. And he said that he
25 was ready. And when she asked him why I wasn't ready, I told him

1 because I don't have my discovery and I didn't feel comfortable with
2 going to trial not having my discovery because this was my life and I
3 didn't want to enter no plea to something I didn't do.

4 But Frank Kocka kept just pushing me saying he know what
5 he's doing, let's just go, and that they had a courtroom with Douglas
6 Herndon that he felt good about the Judge and that we'd have a fair trial.
7 So, I said okay. So, when we went to calendar call, he was supposed to
8 come see me the next day and asked by Tierra Jones to give me a copy
9 of my discovery. And then he continued to February 10th. He never
10 came to see me the day after, which would have been Friday, February
11 7th. He never came to see me.

12 I called -- kept calling my family like what's going on with him
13 because ever since I -- my family missed a payment, it seemed like he
14 been wanted to resign off my case. But then he told me, he was like,
15 well the good thing and the bad thing is that your -- the State is paying
16 me now and that your family missed a payment.

17 So, he didn't come see me. So, I called my family, asked
18 them what's going on. He never came to see me until that Sunday. And
19 he told me that Sunday that I need to know in the morning what I wanted
20 to do, if I wanted to go to trial or if I wanted to take the deal. And I told
21 him that I'm not pleading to nothing I'm not doing. So, he said well,
22 okay, we going to trial.

23 And I told him that I don't want to go to trial. I want to dismiss
24 him because that I'm not ready and he's not prepared. And I don't have
25 a copy of the discovery, was something that, you know, this is my life,

1 and I felt like he didn't have my best interest. And I felt like I wasn't
2 ready and it was too early in this case, but it's serious case, and this the
3 first time I've been in trouble, and I didn't understand things. And he tell
4 me that what he went over facts and stuff like that.

5 I didn't know anything that he was talking about. The only
6 thing he was telling me was that it's a informant on this case and that
7 he's scared that somebody else can get my discovery and use it against
8 me. He never showed me anything. All he told me was this informant
9 will sign a 4 to 20 to come testify against me, and that he had to get it
10 unsealed. And I told him, I said well, I need a copy of my own so I can
11 go over it. All I have is transcripts from the Jury Indictment, that's all I
12 had. I didn't have no [indiscernible], I didn't have no witness statements
13 from, I guess he said my family -- I didn't know what was going on. I
14 only seen what he showed me, and he didn't show me much.

15 So, I didn't know what to believe. I was confused. I'm like,
16 this is my life, and he just kept telling me to trust him. So, when we go
17 to trial, I told him that I want to dismiss counsel, and I didn't want to
18 move forward, and he kept -- he thrust it upon me. And when we was in
19 that holding cell, he told me, he said if I don't sign this deal, I will get life
20 without and won't see daylight. And if I sign this deal that I will go home
21 on probation. He told my family that.

22 With me not knowing the system, and me not have no -- been
23 in trouble before, I believed him. I put my trust in him. And then I told
24 him, I said, I don't understand why I should plead to something I didn't
25 do, and that I don't have no discovery of anything and I can't prepare

1 myself. And I said I don't believe that you will represent me right
2 because you misled me, and I don't think you would represent me right
3 for this trial.

4 And he was telling me well, we would have to go. And he said
5 that the Court wouldn't listen to me. And I said, well, this is not right.
6 So, when we went out there, they asked me to go -- what I want to do.
7 He just told me just to say yes. I said that don't make no sense.

8 Q Let me stop you just for a clarification of which hearing you're
9 talking about now what -- when you're --

10 A This is on the -- on trial. When he came at me --

11 Q [Indiscernible].

12 A -- when he came at me with the deal that day at that time.

13 Q So, this was the day the trial was to start?

14 A Yeah, he thrustured upon -- he just came at me with it and told
15 me that either I can sign this deal or I'm going to get life without and
16 won't see daylight. But if I sign it, I will go home on probation. I told
17 him, I said well, I don't want to -- I don't feel comfortable. He said, well,
18 the Court is not going to listen to you. And then he said when you go in
19 there, just say yes no matter what. I said that don't make no sense. I
20 said I got to plead to something I didn't do?

21 And then, I didn't know right then and there when Douglas
22 Herndon asked me all those questions that I could have said and spoke
23 -- I was fearing for my life. I felt like I was trapped. I was confused. I
24 didn't know what -- right there on record that I could have said
25 something to defend myself.

1 And I was confused. I told her -- I kept telling him in that
2 holding cell. I said, I don't want to do this. I said, I want to just dismiss
3 you. I don't want to -- I said, we can just continue this. He said, well, I
4 know the Judge. The Judge ain't going to listen to you. And I was
5 confused. And he said, well if you sign, you going to go home, you go
6 on probation. So, I said okay, I want to go home.

7 I did not know that you can't get probation on the deal that he
8 trying to just give to me, a 10 to 25 with gun enhancement and all of this
9 until I got back into my unit when somebody told me like look, man, this
10 is a crazy deal that he made you sign. And he coerced me and lied to
11 me and misled me, and I told him that I didn't want to do it. I didn't know
12 what was going on. He told me to trust him and just to say yes. Just
13 say yes.

14 Q So --

15 A And told me I wasn't going to see daylight if I didn't sign it.
16 And I was scared. I didn't know what to do. I didn't know that I could
17 have just said something right then and there. He made it seem like I
18 had no choice. I had to decide within that time that I was in there and at
19 court.

20 And then he said, well, if not, we're going to have to go to trial
21 at 1:30. And I told him, I said, I don't even feel comfortable going to trial
22 with you because I feel like you're not going to defend me. You're going
23 to go to trial and defend me with no grounds and I can't -- I'm supposed
24 to just trust you, which I already did. And I don't have no discovery
25 myself to prepare, and I'm supposed to go off your word, and it's only

1 been eight months.

2 And the whole time you've been telling me that the DA want to
3 push it back nine months. And I told them, well, let's push it back
4 because I'm new to this. You never came to see me. You only talked to
5 my family and told them what you wanted to hear. You didn't come see
6 me at all. The only time you did come see me was to tell me that it's a
7 informant on your case. You never showed me anything.

8 Q Let me back up and ask some specifics about the discovery.
9 So, is it accurate that you received transcripts from the Grand Jury
10 testimony?

11 A Yes, that's it.

12 Q Did you receive any other reports or photographs related to
13 your case from your attorney?

14 A I didn't get nothing. All I got is transcripts that's in my
15 possession now. And the only discovery that I did get was thanks to
16 you, the discovery that I got when I first got you. Afterwards when I got
17 you, that was the only discovery that I have. I didn't get no photos, I
18 didn't get no statement, I didn't get no police reports. I didn't get
19 anything. All the witnesses that he said he had against me or whatever,
20 that was -- I didn't see nothing.

21 Only thing I seen was that he said the informant, and he said I
22 had to get the informant deal unsealed and told me that the informant
23 took a 4 to 20. He said that I think you don't have no chance because
24 you got a informant on you. I said, well, I still want to plead my case,
25 this is my life. I don't care about none of that. I said, I want to plead my

1 case, this is my life. And I want a copy so I can study myself.

2 And then he just kept telling me to put my trust in him when he
3 didn't want to show me nothing. I felt like he was hiding something from
4 me. I felt like he just misled me and misrepresented me. And he just
5 gave up. And because my family wasn't fortunate to pay him like that.
6 And he already tried to resign on my case earlier.

7 I just wanted a chance to fight for my life and he didn't give me
8 that opportunity. He basically told me if I didn't sign it, I'll do life and
9 won't see daylight. And if I want to go home, sign it. So, I didn't know
10 what to do. I was confused. This is the first time I've been through this.

11 Q To be clear, was the first day that you saw the written plea
12 agreement the day that you ended up signing that agreement?

13 A Yes, sir, February 10th.

14 Q And when was it that you began preparing the motion that you
15 filed after signing the agreement to get a new attorney appointed to your
16 case?

17 A To withdraw my guilty plea or to get a new attorney?

18 Q Well --

19 A Oh --

20 Q -- after you entered that plea in front of Judge Herndon, what
21 day was it that you started preparing the motion to get a new attorney to
22 withdraw your plea?

23 A It was calendar call, February 6th. And February 12th was
24 when I put in --

25 THE COURT: Okay, Mr. Washington, Mr. Washington, Mr.

1 Washington. I know you have a lot to say, and you're super energized
2 about this, but you got to listen to Mr. Ericsson's question because
3 you're not answering his question. He said, after you entered your plea,
4 which was February 10th, when did you start drafting your motion to get
5 a new attorney to withdraw your plea? I need you to let him finish his
6 questions, I need you to listen to his questions, and I need you to
7 answer his questions.

8 THE DEFENDANT: Okay.

9 THE COURT: Okay, did you understand the question?

10 THE DEFENDANT: No, can you repeat it one more time?

11 THE COURT: He said, after you entered your plea on
12 February 10th in front of Judge Herndon, when did you start writing your
13 motion to withdraw your lawyer and attempt to withdraw your plea?

14 THE DEFENDANT: February --

15 THE COURT: So, not February 6th.

16 THE DEFENDANT: -- February 12th.

17 BY MR. ERICSSON:

18 Q Okay. And so, it was two days after you entered your plea is
19 your best recollection?

20 A Yes, sir. Because I had started written it up and I got a
21 envelope and I had to send it out. And I got it, the envelope, February
22 12th. And I sent it out that same day.

23 Q So, just to be -- did you write it the same day that you sent it
24 out?

25 A Yes.

1 Q Okay.

2 A I wrote it February 10th and I sent it out February 12th.

3 Q That's what I'm trying to understand. When did you begin
4 writing that motion?

5 A Once I got back to my unit.

6 Q So, it was the same day that you entered the plea; is that
7 correct?

8 A Yes.

9 Q You heard Mr. Kocka indicate that he thought there was an
10 issue of you getting your prescription glasses during at least part of the
11 time that he was representing you. Is that something that you
12 remember?

13 A No, I been asking -- when he first took my case, my aunt had
14 my glasses. And I told her I needed my glasses because I always wore
15 glasses all my life. And I told him -- and he told me that my family, they
16 couldn't bring it. So, my aunt had to give him my glasses to -- for him to
17 come bring me my glasses. But he never came to see me. He only
18 brung me my glasses when it was up to the time to go to trial.

19 Q Were you able to read the -- your transcripts prior to receiving
20 your glasses?

21 A Yes.

22 Q Okay. So, you had filed a motion to have him withdrawn as
23 counsel prior to the beginning of the trial; is that correct?

24 A Yes.

25 Q And that was ultimately denied by the Court, correct?

1 A Yes.

2 Q And just for the record, why was it that you had filed a motion
3 to have him removed as your counsel prior to the trial?

4 A Because I wasn't -- I didn't feel like he had my best interest at
5 heart. I didn't trust him anymore and he didn't -- I felt like it was
6 ineffective assistance of counsel. And I felt like --

7 Q And he --

8 A -- misled me, and he coerced me, and I just didn't feel right. I
9 felt like he didn't give me a chance to fight for me. He didn't show me
10 that he was willing to fight for me.

11 Q Is it your testimony and best recollection that he saw you at
12 CCDC approximately three times prior to your trial?

13 A That's it, yes.

14 Q Thank you. I have no further questions at this time.

15 THE COURT: Just one thing before Mr. Portz -- one thing.
16 Mr. Washington, you said that you previously filed a motion to withdraw
17 counsel; when was that? When did you file the first one?

18 THE DEFENDANT: Pretty sure, I -- it was -- I think it was
19 before February 10th.

20 THE COURT: Do you know when?

21 THE DEFENDANT: It got to be around calendar call,
22 February 6th, February 7th and -- because I -- it was before because I
23 had it when I came to calendar call, but I didn't get to give it -- I didn't
24 give -- get to give it to you when you was filling in for Valerie Adair. And
25 he was supposed to come. And you -- when you told him to give me my

1 discovery, he said he was going to come see me Friday, so he never
2 came to see me.

3 So, when -- I can tell him then. I can -- I tried to call my family
4 and let them know because I thought he was going to come see me.
5 And I kept telling him, but he didn't come see me until Sunday, so I -- it
6 wasn't nothing I can do.

7 THE COURT: Right. But Mr. Ericsson just asked you, did you
8 file a motion that was denied by the Court, and you said yes. And I just
9 don't see that in Odyssey, so I'm wondering what date that was. Mr.
10 Ericsson, do you know?

11 THE DEFENDANT: Oh --

12 THE COURT: Mr. Washington, stop talking. I asked Mr.
13 Ericsson a question.

14 THE DEFENDANT: All right.

15 MR. ERICSSON: And Your Honor, I -- I'm also looking
16 through my document history here, and I'm -- I haven't found it yet
17 either. I don't know if it was one that he had filed that didn't formally get
18 presented to the Court. I do know that there was discussions when he
19 was in front of Judge Adair about his concern about his counsel. But --

20 THE COURT: Okay, I'm just wondering because I just don't
21 see it in Odyssey, so I'm wondering the date. Because your client is
22 saying that he filed this motion because he didn't trust Mr. Kocka, so I'm
23 interested in what date it was that this occurred. And so, I'm looking --
24 hold on -- at the minutes from the court hearing. You said it was brought
25 up in front of Judge Adair?

1 MR. ERICSSON: Yes. And -- if I can find that date as well.

2 THE DEFENDANT: I brought the motion with me.

3 THE COURT: Do you have a file-stamped --

4 THE DEFENDANT: That's why you probably can't find it.

5 THE COURT: -- copy from the Court, Mr. Washington?

6 THE DEFENDANT: Huh?

7 THE COURT: Do you have the file-stamped copy from the
8 Court?

9 THE DEFENDANT: No, that's why I was confused. I had it
10 written with me that day of. Because I didn't know --

11 THE COURT: But did you file one -- did you file a motion to
12 dismiss Mr. Kocka prior to the calendar call on February 6th?

13 THE DEFENDANT: No, ma'am. I don't think so.

14 THE COURT: Okay. That's what I wanted to know. Okay.
15 So, when --

16 THE DEFENDANT: I just had it written.

17 THE COURT: -- Mr. Washington, when I'm talking, you're not.

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Mr. Washington, Mr. Ericsson just asked you
20 had you previously filed a motion to dismiss Mr. Kocka, and you said
21 yes, what were you referring to?

22 THE DEFENDANT: I was referring to -- I'm sorry, I was
23 referring to the handwritten motion that I had that day to dismiss him.

24 THE COURT: And this --

25 THE DEFENDANT: I had it with me.

1 THE COURT: And you brought this motion to calendar call?
2 THE DEFENDANT: Yes, ma'am.
3 THE COURT: Okay, so that's the one that you're referring to?
4 THE DEFENDANT: Yes, ma'am. I'm sorry, I apologize.
5 THE COURT: Okay. And so you're --
6 MR. ERICSSON: Okay, and I apologize for adding to that
7 confusion. That's what I was --
8 THE COURT: Oh, no, I just --
9 MR. ERICSSON: -- confused as well.
10 THE COURT: -- and that's why I wanted to clear that up
11 because I didn't know if Mr. Portz was going to clear that up. But that's
12 important for me because Mr. Washington's testimony was that that
13 motion had been written because he didn't trust Mr. Kocka. So, I
14 wanted to put a date on him not trusting Mr. Kocka.
15 So, Mr. Washington, you didn't trust Mr. Kocka at calendar call
16 on February 6th of 2020?
17 THE DEFENDANT: Yes, ma'am.
18 THE COURT: Okay. Thank you, sir. Mr. Portz.
19 MR. PORTZ: Thank you, Your Honor. And just because it
20 was brought up, part of that confusion, I don't have any recollection at all
21 of him ever discussing or describing any displeasure with Mr. Kocka.
22 The entire time, this case was before Judge Adair, so barring any sort of
23 minutes or transcripts suggesting otherwise, I would ask that that not be
24 considered and those statements be stricken.
25 Also, we requested a transcript from the calendar call, so I'd

1 let that speak to itself because I don't recall him describing displeasure
2 with Mr. Kocka at calendar call either, just requesting a continuance.
3 The first of my recollection of him describing or wanting Mr. Kocka
4 kicked off the case was the morning of trial. It's possible he discussed it
5 at calendar call, but there's a transcript that would bear that out. I don't
6 think that that's going to play too much to our position on this motion, but
7 I just wanted to make that record.

8 THE COURT: Okay, did you order that transcript, Mr. Portz?
9 Because I don't see that in Odyssey.

10 MR. PORTZ: I did, Your Honor.

11 THE COURT: I don't see the transcript from the calendar call.

12 MR. PORTZ: But you know, the case was jumping between
13 courts. As you know, it went from Judge Adair to Your Honor to handle
14 calendar call.

15 THE COURT: Right.

16 MR. PORTZ: And it was going to be heard by Judge
17 Herndon.

18 THE COURT: Herndon for trial. And I have to say, I mean,
19 the reference keeps being made that I handled the calendar call. And
20 pursuant to the minutes in Odyssey, I did handle the calendar call, but I
21 have no independent recollection of what occurred at this calendar call
22 on February 6th of 2020. To the best of my recollection, I'm assuming
23 Judge Adair had asked me to handle her entire calendar for her because
24 she was unavailable that day. So, I handled this, and the minutes
25 indicate that it was me. But I have no independent recollection, which is

1 why I'm asking if there is a transcript from the calendar call.

2 MR. PORTZ: I thought I ordered that. I would have to look.

3 THE COURT: Okay.

4 MR. PORTZ: And if the Court needs that as part of the record
5 in this case, I can look into it and see, or we can -- if it's not there, we
6 can request it.

7 THE COURT: Okay. I am going to --

8 MR. PORTZ: But again, the State's position is even if he did
9 express at that point in time that he was upset with Mr. Kocka is not
10 going to really affect our argument.

11 THE COURT: Okay, but I will tell you that I'm interested in
12 what was said at that calendar call. Like I said, I presided over it, and
13 I'm not denying that because that's what the minutes reflect, but I have
14 no independent knowledge of that court appearance. I'm assuming I did
15 the whole calendar, and I have no independent recollection of any of
16 those cases.

17 MR. PORTZ: Then we may have to order that at this time. I
18 thought I did. Maybe I -- JAVS or something, but --

19 THE COURT: Okay. Okay, that's fine. You can go forward
20 with your questioning, Mr. Portz.

21 MR. PORTZ: Okay, thank you very much, Your Honor.

22 **CROSS-EXAMINATION**

23 BY MR. PORTZ:

24 Q Mr. Washington, are you there?

25 A Yes.

1 Q Okay. And so, you said, I think repeatedly throughout the
2 direct examination by your attorney, Mr. Ericsson, that one of the
3 reasons you felt forced into this is you didn't want to enter a plea into
4 something you didn't do. Do you recall saying that a number of times
5 during your direct testimony?

6 A Yes.

7 Q Okay. You're currently housed at the Clark County Detention
8 Center; are you not?

9 A Yes.

10 Q And you have access to the phones at Clark County Detention
11 Center?

12 A Yes.

13 Q And every time you make a call on one of those phones, you
14 understand those phone calls are recorded; is that correct?

15 A Yes.

16 Q Okay. So, any time you made a call to your wife or your
17 girlfriend or a call to your mother to discuss your case or your brother,
18 Kevin, those are all recorded; do you -- you understand that, correct?

19 A Yes.

20 Q Okay. And isn't it true that on calls with family members, you
21 had told your mother that if you were allowed to withdraw the plea, you
22 would just be looking to get a better plea deal in this case, that you
23 would plead to a better plea deal and not go to trial?

24 A I don't recall.

25 Q Okay. You don't recall ever making those statements on a

1 phone call with your mother?

2 A No, I don't recall.

3 Q Okay.

4 THE COURT: And Mr. Portz, before you stop, can you stop
5 doing that with your pen? I hear a clicking noise every time that pen hits
6 the desk. Sorry, I do it too.

7 MR. PORTZ: Yes, Your Honor.

8 THE COURT: Thank you.

9 MR. PORTZ: All right. Okay.

10 BY MR. PORTZ:

11 Q Turning to when you entered your plea on February 10th, the
12 first thing that the Court, Judge Herndon, asked you, he said, my
13 understanding, Mr. Washington, is that you decided to go ahead and
14 accept the negotiation that's been offered by the State, and you
15 responded, yes, sir. Do you recall that with the Judge?

16 A Yes.

17 Q Okay. So, you understood at that point in time that you were
18 entering into a plea deal for second-degree murder with use of a deadly
19 weapon?

20 A Yes because I was trusting Kocka, and he just told me just to
21 say yes to whatever he asked me. So, that's the only reason why I --

22 Q Mr. --

23 THE COURT: Mr. Washington. Mr. Washington.

24 Q -- Washington, I just --

25 THE COURT: Hold on. Hold on, Mr. Portz. Mr. Portz, hold

1 on.

2 Mr. Washington, Mr. Portz is cross-examining you. The way
3 cross-examination --

4 THE DEFENDANT: Okay.

5 THE COURT: -- works is the majority of the questions he's
6 going to ask you are yes or no questions, okay? I know you got a lot
7 that --

8 THE DEFENDANT: Oh, yes.

9 THE COURT: -- you want to say and a lot of things you want
10 to get out. Mr. Ericsson and Mr. Portz are both fine lawyers. Mr.
11 Ericsson has been doing this for a number of years and is a fine lawyer.
12 If he thinks Mr. Portz is asking you something that requires you to follow
13 up and answer more than yes or no, he's going to be allowed to ask you
14 some follow-up questions. You understand?

15 THE DEFENDANT: Yes, ma'am. I apologize.

16 THE COURT: Okay, so I want you to just listen to Mr. Portz's
17 questions and just answer his questions. Mr. Ericsson is listening
18 intently as well and he will be able -- I'm going to allow him to follow up
19 and ask you anything else that he thinks needs to be clarified after Mr.
20 Portz questions you; do you understand?

21 THE DEFENDANT: Yes.

22 THE COURT: Okay. Mr. Portz?

23 MR. PORTZ: Thank you.

24 BY MR. PORTZ:

25 Q So, Mr. Washington, you had just gone over the whole guilty

1 plea agreement with Mr. Kocka; is that right?

2 A Yeah.

3 Q And then you signed that guilty plea agreement; do you recall
4 that?

5 A Yes.

6 Q And then the Court asked you that you wanted to enter a plea
7 to a second-degree murder with use of a deadly weapon, and you said
8 yes, sir. Is that correct?

9 A Yes.

10 Q Okay. And then the Court asked you a whole bunch of
11 questions after that to make sure that your plea was what he said is free
12 and voluntary. Do you remember he got that whole canvass, all those
13 questions that followed?

14 A Yes, I remember.

15 Q Okay. And you understand pleading guilty to a murder
16 charge, that's not an everyday thing, that's a pretty serious deal; is that
17 correct, Mr. Washington?

18 A Yes.

19 Q Okay. So, understanding the gravity of the situation, the Court
20 asked you if you had a chance to discuss the charge and the case with
21 your attorney, Mr. Kocka, and you responded, yes; is that correct?

22 A Yes.

23 Q Okay. And the Court asked if Mr. Kocka had explained all the
24 different types of murder that you could be convicted of and whether you
25 were comfortable with your understanding of that, and you said, yes; is

1 that correct?

2 A Yes.

3 Q Okay. The Court is -- the Court also asked if you had any
4 questions before -- for the Court before the Court accepted your plea,
5 and you said, no, you didn't have any questions? Is that correct?

6 A Yes.

7 Q And asked if there's anything about your plea agreement that
8 you did not understand, and you said, no, you understood everything; is
9 that correct?

10 A Yes.

11 Q Okay. Then the Court asked you if on the 19th of August,
12 2007, in Clark County, Nevada, you willfully, unlawfully, feloniously, and
13 with malice aforethought killed Cory lascone with a deadly weapon by
14 shooting the gentleman with a firearm; is that correct? And you said,
15 yes, sir. Is that your response?

16 A Yes.

17 Q Okay. Now, you've made a few allegations during your direct
18 examination that you were told you could get probation for pleading
19 guilty to second-degree murder; is that what you -- you're saying?

20 A That's what Frank Kocka told me if I were to sign, yes.

21 Q And again, going back to your canvass with the Judge, the
22 Court asked if there was anything about your plea agreement that you
23 didn't understand, and you said no, right? You said you understood
24 everything about your plea agreement, correct?

25 A Yes.

1 Q And you already testified that before this canvass, you went
2 through the whole guilty plea agreement with Mr. Kocka, and then you
3 signed it; is that correct?

4 A Yes.

5 Q Okay. And on page 2, lines 22 through 23 of your guilty plea
6 agreement, it reads: I understand that I am not eligible for probation for
7 the offenses to which I am pleading guilty; is that correct?

8 A Yes.

9 Q Thank you, Mr. Washington. I have no further questions.

10 THE COURT: Mr. Ericsson, your redirect?

11 MR. ERICSSON: Yes, thank you. Thank you, Your Honor.

12 **REDIRECT EXAMINATION**

13 BY MR. ERICSSON:

14 Q Jarrel, at the time that you had the discussion the morning the
15 trial was to begin, what was it that Mr. Kocka either did or had not done
16 that caused you to believe you and he were not ready for the trial that
17 was scheduled to begin that afternoon?

18 A He didn't give me my copy of my discovery like he was told.

19 And --

20 Q And let me ask, and in your mind, what was the significance of
21 you having the discovery prior to trial -- what was the importance or
22 relevance of that?

23 A For me to face everything that's against me, to -- you know,
24 this is my life, and I wanted to know everything that he said that was
25 against me. Everything he said he had, I wanted a copy of it, so I can

1 study my life, so I can study my case.

2 Q Thank you. I have no further questions at this time.

3 THE COURT: Mr. Portz?

4 MR. PORTZ: Nothing further, Your Honor. Thank you.

5 THE COURT: Okay, I have a couple questions. Mr.

6 Washington, is it your testimony today that -- do you recall ever telling
7 Judge Adair that you were unhappy with Mr. Kocka?

8 THE DEFENDANT: No, I don't recall.

9 THE COURT: But it's your testimony today that you told me
10 on February 6th that you were unhappy with Mr. Kocka; is that correct?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Okay. And is it your testimony that -- because
13 like I said, I have no independent recollection of my interaction with you.
14 So, what did you say to me on February 6th?

15 THE DEFENDANT: When you asked me, you said, Mr.
16 Washington, well if the DA ready and your lawyer's ready, why is you
17 not ready? I said because I don't feel comfortable because I don't have
18 my discovery. And then you had told Frank Kocka to give me my
19 discovery, and he said that he was going to come see me the following
20 day and give me a copy. And then you told -- you continued to Monday
21 because the DA said they had the 20 to 25 witnesses ready and Frank
22 Kocka said they have a courtroom ready. And it was Douglas Herndon
23 and everything.

24 And I -- and then you asked me, what was my problem. I said
25 I wasn't ready because he didn't give me a full copy of my discovery.

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THE COURT: Okay.

THE DEFENDANT: And that's when he told me it's a informant on my case, and he didn't feel comfortable. And he showed me hardcore facts. That was his words.

THE COURT: So, you agree that when -- that Mr. Kocka did tell you that he wasn't giving you all that discovery because there was an informant on your case?

THE DEFENDANT: Huh?

THE COURT: Do you agree that Mr. Kocka is telling the truth when he testified here today and said that he wasn't giving you all of your discovery because of the informant on your case?

THE DEFENDANT: Yes.

THE COURT: Okay. And so, you felt comfortable to tell me on February 6th that you didn't feel comfortable with Mr. Kocka, correct?

THE DEFENDANT: Yes.

THE COURT: But is it your testimony today that you didn't feel comfortable telling Judge Herndon that on the morning of trial?

THE DEFENDANT: Yes, I was scared.

THE COURT: Okay. And didn't Judge Herndon tell you that you were ineligible for probation?

THE DEFENDANT: Yeah, after -- yes.

THE COURT: During his plea canvass, he told you that you must go to prison, right?

THE DEFENDANT: Yes, and I was just going off what Frank Kocka told me.

1 THE COURT: Right, but Frank Kocka had told you you were
2 getting probation, but then when you walked out of that holding cell and
3 you faced Judge Herndon, Judge Herndon, who is the Judge in this
4 case, said you are not getting probation. Didn't he say that? He said
5 you must do a prison --

6 THE DEFENDANT: Yeah.

7 THE COURT: -- sentence, and you acknowledged that you
8 understood that, correct?

9 THE DEFENDANT: Yes because I was scared. I didn't know
10 if I could have said anything right then and there to him about what the
11 conversation been -- Frank Kocka had said.

12 THE COURT: Okay.

13 THE DEFENDANT: I was fearing for my life. I didn't --

14 THE COURT: Okay. Those are my questions. Mr. Ericsson,
15 based on my questions, do you have any follow up?

16 MR. ERICSSON: No, Your Honor. But I do think that it
17 probably would be helpful for all parties involved if we do get the formal
18 transcript from the February 6th hearing.

19 THE COURT: Yes --

20 MR. ERICSSON: And --

21 THE COURT: -- I intend to order that, Mr. Ericsson. I intend
22 to get that.

23 MR. ERICSSON: Okay, yeah. Because -- just so -- there's
24 part of the argument that I'll make from that, and --

25 THE COURT: Okay.

1 MR. ERICSSON: -- yeah. I have no further questions though
2 of Mr. Washington at this point.

3 THE COURT: Okay. And based upon my questions, Mr.
4 Portz, do you have any further questions?

5 MR. PORTZ: No, Your Honor. Thank you.

6 THE COURT: Okay. And I agree with Mr. Ericsson. Because
7 like I said, I have no independent recollection of having a discussion with
8 Mr. Washington. But even if I did, that wouldn't be fair to either of you
9 because neither of -- Mr. Portz, I believe you were there. But Mr.
10 Ericsson would not have been there on the date of calendar call, so he
11 would still have no knowledge of what had happened.

12 So, Mr. Portz, I'm going to need you to prepare an order for
13 the transcripts from that February 6th hearing. And I'll find out -- like
14 submit it to me, I'll sign it, and I'll find out what the policy is because I
15 don't know now. Does it go back to Judge Adair? It goes back to --

16 [Colloquy between the Court and the Court Clerk]

17 THE COURT: And I don't know who would have -- hold on, let
18 me see who would have been there if that person is around.

19 [Colloquy between the Court and the Court Clerk]

20 MR. ERICSSON: As to who the Court Clerk was -- or you
21 mean the Recorder?

22 THE COURT: Yeah, the Recorder. Is Robin Page still here?

23 THE COURT RECORDER: She is.

24 THE COURT CLERK: Yes.

25 THE COURT: She is? Okay, it appears she's still there and it

1 would go back to that department. So, Mr. Portz, if you send the order
2 over, I will reach out to the department and make sure that they get that
3 to us in a speedy manner. And so, Mr. Ericsson, in light of the fact that
4 you were not there, the date of that calendar call, so you only know
5 what's been said about what happened that day, I'm not going to ask
6 you guys to argue this today. I'm going to give you guys the opportunity
7 to review that transcript. I know Mr. Portz made representations that
8 that wouldn't affect his argument, but because Mr. Ericsson wasn't
9 there, I don't think it would be fair to him to force you guys to argue this if
10 that does have some bearing on what Mr. Ericsson wants to argue.

11 So, without that transcript, I'm not going to ask you guys to
12 argue this today. So, what I'm going to do is -- I think we should be able
13 to get that in about two weeks or so. So, what I'm going to do is I'm
14 going to continue this for a decision and argument to March 12th at 8:30
15 on the homicide calendar.

16 MR. ERICSSON: Your Honor, I actually -- I'm going to likely
17 be out of the jurisdiction that day.

18 THE COURT: Okay.

19 MR. ERICSSON: I don't know if we can move it a week
20 before or after, but --

21 THE COURT: We can do it on the 5th if that works for the
22 State. Mr. Portz, does it work for you to do it on the 5th?

23 MR. PORTZ: Yes, Your Honor.

24 THE COURT: Okay, we'll continue it to March 5th at 8:30.
25 And I'll make a decision after we -- like I said, Mr. Portz, as soon as you

1 submit that request, I will sign -- but I don't know. Do you submit it to me
2 or do -- well, I'm ordering it. So, if you submit it to me, I'll sign it and I'll
3 follow up with Department XXI and make sure we get that done.

4 MR. PORTZ: Yes, Your Honor.

5 THE COURT: Okay.

6 MR. PORTZ: We'll get that sent over.

7 THE COURT: All right, so send it over, I'll sign it, and I'll
8 follow up with Department XXI and make sure we get it done. And as
9 soon as we receive it, I'll have my staff reach out to you guys and make
10 sure Mr. Ericsson and the State has a copy of that.

11 MR. PORTZ: Thank you.

12 MR. ERICSSON: Thank you very much, Your Honor.

13 THE COURT: Okay. So, we'll be back here March 5th at 8:30
14 for argument on the writ and decision.

15 MR. ERICSSON: All right, have a good day. Thank you.

16 THE COURT: Thank you, everyone.

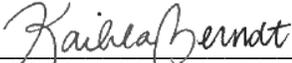
17 MR. PORTZ: Good day, everyone.

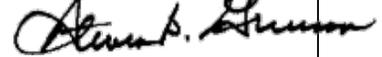
18 THE COURT: Thank you.

19 [Proceeding concluded at 12:08 p.m.]

20 * * * * *

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

24 
25 Kaihla Berndt
Court Recorder/Transcriber



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DISTRICT COURT
CLARK COUNTY, NEVADA

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8 STATE OF NEVADA,

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9 Plaintiff,

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10 vs.

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11 JARELL WASHINGTON.

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12 Defendant.

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BEFORE THE HONORABLE JUDGE TIERRA JONES, DISTRICT COURT JUDGE

14

***FRIDAY, MARCH 5, 2021
RECORDER'S TRANSCRIPT RE:
HEARING***

15

16

17 APPEARANCES:

17

18 For the State:

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KENNETH PORTZ, Esq.
Chief Deputy District Attorney

19

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21 For the Defendant:

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THOMAS ERICSSON, Esq.

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RECORDED BY: VICTORIA BOYD, COURT RECORDER

1 Las Vegas, Nevada, Friday, March 5, 2021 at 8:45 a.m.

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4 MR. PORTZ: Good morning, Your Honor. Nick Portz for the State, 12473.

5 THE COURT: Who is present for the State?

6 MR. PORTZ: Nick Portz for the State.

7 THE COURT: Mr. Portz is here on behalf of the State. Mr. Washington is
8 present in custody.

9 Mr. Ericsson, are you here? Mr. Ericsson. It shows that he's still on. Mr.
10 Ericsson, can you hear us?

11 MR. ERICSSON: Yes, Your Honor. Sorry about that.

12 THE COURT: It's okay. Mr. Ericsson is here on behalf of Mr. Washington.
13 So this is the date and time set for an argument and decision. I did receive the
14 transcript. Have you guys both had an opportunity to review

15 Mr. Ericsson, do you have anything you would like to add?

16 MR. ERICSSON: Your Honor, just a couple of important things I think to
17 make sure is in front of you for your consideration, obviously when you look at the
18 timing of this case, this is a case back from 2007. Mr. Washington was arrested in
19 2019. During that 12 year period Mr. Washington has complied with the
20 requirements of society. He's been working full time. He has a job waiting for him
21 with the union if he is released and able to get back to take care of his young child.
22 He understands that he needs to comply with any requirements that Your Honor
23 would place on him if he is given the opportunity to be released while this case is
24 pending.

25 He has full responsibility financially trying to take care of the child that he
shares with his girlfriend, and one of the things that I think speaks a lot to his

1 credibility is that he has not had any significant issues with the law since 2007 when
2 this - - when these charges arose. So, Your Honor, we are respectfully requesting
3 that he be given the opportunity, placed on intensive supervision restrictions if you
4 believe that is necessary and he only be allowed go and work and then be at home
5 on house arrest. But I do think that given his long term history of not having any
6 other problems or any things of that nature that this would be an appropriate
7 situation that he be given an OR and that he be able to be outside of custody - - one
8 of the difficulties we have in trying to prepare these cases is the restrictions of very
9 limited contact with clients while they are at CCDC and it makes it very, very hard for
10 the clients and counsel to properly prepare these cases.

11 THE COURT: Thank you, Mr. Ericsson.

12 Ms. Mendoza.

13 MS. MENDOZA: Your Honor, Mr. Ericsson is right that he does have very
14 limited criminal history. I would add that immediately after the murder he fled to
15 Chicago, I believe it was, and I know that beyond Chicago he also has some family
16 ties in Texas right now. While he has not criminal history he has now pled guilty to
17 second degree murder so I don't think this should really even be a conversation.
18 The State's position would be he should be remanded without bail.

19 THE DEFENDANT: I was coerced by my last lawyer.

20 THE COURT: Mr. Ericsson, your response.

21 MR. ERICSSON: Your Honor, as you're aware we have an upcoming
22 evidentiary hearing as to that plea that he entered into, and I do think that there is
23 full legal justification for him to be allowed to withdraw his plea, but that's obviously
24 an argument down the road. But he plans to if he's allowed to withdraw his plea to
25 take this case to trial and to establish his innocence.

1 THE COURT: Mr. Washington, what were you saying?

2 THE DEFENDANT: I was just saying {inaudible} that's the reason why that I
3 would put in a motion to withdraw the guilty plea but, Your Honor, I'm just asking for
4 a chance to get to my son and just work. I'm not no flight risk. I don't have no
5 criminal record, Your Honor. I just need a chance. That's all. Just to better myself.
6 That's all I'm asking for.

7 THE COURT: All right. Well, I mean this is the situation. Right now this
8 Court is going to make a determination in February as to whether or not that plea is
9 going to be withdrawn. Right now this Court finds based on the evidence that is
10 currently before it that the bail at 1 million dollars will remain. This motion is denied.

11 MS. MENDOZA: Thank you, Your Honor.

12 MR. ERICSSON: Thank you.

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14 (Proceedings concluded at 8:47 a.m.)

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

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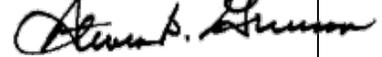
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24 *Victoria W. Boyd*

8-5-21

25 _____
Victoria W. Boyd
Court Recorder/Transcriber

Date



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DISTRICT COURT
CLARK COUNTY, NEVADA

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8 STATE OF NEVADA,

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9 Plaintiff,

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10 vs.

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11 JARELL WASHINGTON.

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12 Defendant.

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BEFORE THE HONORABLE DAVID BARKER, SENIOR DISTRICT COURT JUDGE

14

***WEDNESDAY, MARCH 10, 2021
RECORDER'S TRANSCRIPT RE:
HEARING***

15

16

17 APPEARANCES:

18

For the State:

KENNETH PORTZ, Esq.
Chief Deputy District Attorney

19

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For the Defendant:

THOMAS ERICSSON, Esq.

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RECORDED BY: VICTORIA BOYD, COURT RECORDER

1 Las Vegas, Nevada, Wednesday, March 10, 2021 at 9:07 a.m.

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4 THE COURT: That's 341380, State of Nevada v. Jarell Washington. Mr.
5 Washington, are you in Clark County Detention Center? Mr. Washington, can you
6 hear?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Very good. I have Mr. Ericsson I believe checked in on the
9 case. Mr. Ericsson, can you hear me?

10 MR. ERICSSON: Yes, Your Honor. Good morning.

11 THE COURT: Do I have a District Attorney on this case?

12 MR. PORTZ: Nick Portz for the State. Good morning, Your Honor.

13 Time set argument, decision. My notes reflect from Judge Jones direction to
14 me is that I'm to pass this one week so she can answer or enter the decision and
15 discuss with parties. One week.

16 THE CLERK: March 17, 8:30.

17 MR. PORTZ: Thank you, Your Honor.

18 MR. ERICSSON: Thank you.

19 THE COURT: Thank you all.

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21 (Proceedings concluded at 9:08 a.m.)
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1 ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video
2 proceedings in the above-entitled case to the best of my ability.

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Victoria W. Boyd

8-6-21

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Victoria W. Boyd
Court Recorder/Transcriber

Date

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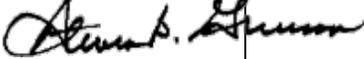
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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
vs.
JARELL WASHINGTON,
Defendant.

CASE#: C-19-341380-1
DEPT. X

BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE
WEDNESDAY, MARCH 17, 2021

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

APPEARANCES:

For the State: KENNETH PORTZ, ESQ.
Deputy District Attorney
Appeared By Video
For the Defendant: THOMAS ERICSSON, ESQ.,
Appeared By Video

RECORDED BY: VICTORIA BOYD, COURT RECORDER

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Las Vegas, Nevada, Wednesday, March 17, 2021

[Case called at 8:38 a.m.]

MR. PORTZ: Nick Portz for the State. Good Morning, Your Honor.

THE COURT: Mr. Washington is present in custody. Mr. Ericsson is here on his behalf. This is on for argument on the Motion to Withdraw the Plea.

Mr. Ericsson, are you prepared to argue?

MR. ERICSSON: Yes, Your Honor, we are.

THE COURT: Okay. Mr. Ericsson these are your moving papers so go forward.

MR. ERICSSON: Thank you, Your Honor. You have obviously sat through the evidentiary hearing that we had several weeks ago. It was continued so that we could get the transcript from the February 6th, 2020 hearing.

I want to just point out a few things from that hearing. And -- that was the first time that Mr. Washington indicated that he was not comfortable and ready to go forward with trial. And -- I know that you do a lot of these but -- and you wouldn't have remembered this but you were actually the Judge who was handling that hearing for another Judge. And you had asked him, and this is page two, all right well Mr. Washington what's your issue with wanting the case continued, and he responded I just haven't had the chance to look over the full discovery and I just feel like I need more time to look over everything I don't feel

1 like -- I don't feel like I just want to push it back. And then there's
2 discussion about whether Mr. Kocka can provide him with the discovery.

3 One of the things I wanted to call your attention to in our
4 motion to allow him to withdraw his plea down in our footnote on -- let
5 me get the right page here -- on page three we list the discovery that
6 was provided to us by prior counsel and it was -- it's an extensive
7 amount of discovery. It indicates that there was 1,134 pages of written
8 discovery, 3,108 photographs, 48 minutes of video recording, and 273
9 minutes of audio recordings. The representation that was given by prior
10 counsel at the evidentiary hearing a couple weeks ago -- and is
11 consistent with what's mentioned in the transcripts that we have is that
12 he had provided copies of the grand jury transcripts to Mr. Washington
13 as well as some of the reports but the rest of the materials, the way he
14 describes it, was it was demonstrative materials and that those had not
15 been provided to Mr. Washington because he was concerned about
16 somebody else getting ahold of them and a snitch coming forward.

17 Mr. Washington has indicated in his affidavit that he only had
18 a few visits from his counsel prior to this case going to trial -- or it was on
19 the verge of trial when the plea was entered the day of the trial was
20 supposed to begin is when he entered his plea. If you look at how much
21 discovery there was I think it would almost be impossible for an attorney
22 in a few visits to go through that amount of material. When Mr.
23 Washington heard the State say that they had 20-25 witnesses planned
24 for the trial he realized that he had no idea of what was going to be
25 presented to him from his interactions with his counsel and the fact that

1 he was just given some grand jury transcripts and a few reports, I think
2 would certainly give him pause that he had any ability to know what was
3 going to be presented or be ready to assist his counsel at trial.

4 As Your Honor's aware from the pleadings the Nevada
5 Supreme Court -- originally its 2015 cited some out of state cases as to
6 one of the important factors that Your Honor's to take into consideration
7 as to whether he's to be allowed to withdraw this plea. And one of the
8 critical factors is the timing of the request to withdraw the plea. And just
9 a reminder this is a request that is being made prior to him having been
10 sentenced. And the Nevada Supreme Court *Stevenson* decision it
11 quotes from the *United States versus Alexander* case and it -- and I'm
12 quoting now from the brief:

13 Explain one of the goals of the fair and just
14 analysis quote is to allow a hastily entered plea
15 made with unsure heart and confused mind -- to
16 be undone.

17 And Your Honor, I would submit to you that is the exact
18 situation we have here. Mr. Washington entered that plea the morning
19 he was scheduled to start trial. He was shown the plea, from what I can
20 tell here, the day before that trial was to begin is was when he was first
21 given that and I would submit Your Honor, with the totality of the
22 circumstances that you're to consider whether it be fair and just for him
23 to be allowed to withdraw his plea you look at the amount of discovery,
24 what was actually presented to him, which was very minimal of this
25 extensive amount of discovery, him requesting more time to be

1 prepared, the Court's indicating that his attorney was saying that the
2 attorney was prepared. So Mr. Washington under duress entered that
3 plea the day that he was scheduled to start that trial and that very same
4 day he began -- preparing his motion that was short -- filed shortly after
5 that, requesting new counsel and that he can withdraw his plea.

6 So, Your Honor, I think that when you take into consideration
7 everything that went on, with how this plea went down that -- it certainly
8 was done when he did not understand the full ramifications, did so under
9 duress, and that it would be just and proper for him to be allowed to
10 withdraw his plea and proceed to trial in this case.

11 THE COURT: Okay, Mr. Portz.

12 MR. PORTZ: Thank you. Your Honor, I think it would be hard
13 pressed and having -- operated in the criminal justice system here for as
14 long as you have to find a defendant who has had their discovery for
15 such an extensive period of time, and have had the offer on the table for
16 such an -- extensive period of time, rejected that offer, and then begged
17 for it back, gone over it multiple times with counsel, and then intelligently
18 entered the plea. I don't think you would find many defendants who have
19 had that much time -- the luxury of that much time to go through the offer
20 and the discovery that was presented in this case.

21 I want to go through just kind of briefly the ground rules of this
22 hearing. It is his burden right now, he has filed this motion to withdraw
23 these are his moving papers. It is his burden to show that: one, there's a
24 substantial reason to withdraw his plea, and two that fairness and justice
25 require a withdrawal. It's his burden; he must show both of those, not

1 one not the other and he has failed to show either.

2 Regarding whether or not he's established that there is a
3 substantial reason to withdraw his plea he simply has not done this. In
4 his motion, in his moving papers, he's raised a lot of issues -- on the fly
5 and in the -- in his testimony and oral argument today that were not
6 placed in his moving papers. In his moving papers he said the reasons
7 to withdraw his plea is because he was presented with the deal on the
8 morning of trial. That's an absolute lie, that's an absolute fabrication. He
9 also claims that a substantial reason to withdraw his plea is because he
10 was under pressure of trials immense start, again the State's provided
11 ample case law that the pressures associated [indiscernible] with the
12 entry of plea including deadlines and upcoming trial dates while are
13 certainly present are absolutely not a grounds to find a reason to
14 withdraw a plea. So legally on its face that second claim, under pressure
15 to start trial is false -- it does not satisfy or qualify as a reason to
16 withdraw his plea. More importantly it is once again false because he
17 had that plea agreement available to him for more than a month prior to
18 the trial date that he was pushing to go.

19 Regarding the allegation that he received the plea the morning
20 of, again as I stated that's just a complete lie. He is twisting receiving the
21 actual physical copy of the guilty plea agreement -- with having received
22 the offer that he had. The offer never changed. He simply rejected it
23 therefore there was no reason to generate a physical guilty plea
24 agreement. Mr. Kocka testified that he went over the ins and outs of the
25 plea that he took five weeks before this case started and he decided to

1 reject it. He went over everything that's constitutionally required for Mr.
2 Washington to know, he went over the evidence in detail and he put it on
3 record weeks before that the defendant rejected it. During trial prep the
4 day before trial the defendant asked Mr. Kocka to reach out to us and
5 basically as Mr. Kocka put it beg to get the deal back. And he did
6 because the State's intention at that point was not to -- reoffer that deal
7 because all the parties at Mr. Washington's insistence for a week or two
8 prior were pushing this thing for trial. We had prepared twenty some
9 witnesses, multiple people from out of state, it's a case that was fourteen
10 years old and because Judge Adair was unavailable to hear it they had
11 already weeks in advance made plans for Judge Herndon to hear the
12 case and for the calendar call to go through Your Honor. That's why all
13 these hoops were jumped through to get him to trial was because at his
14 insistence with all the discovery in his possession for a month already in
15 advance he wanted this thing to go to trial and all the parties were
16 getting prepared. He was given that offer he had more than a month to
17 consider it. So this notion that he just received it the morning of is
18 completely false and is not a reason to withdraw a plea.

19 The suggestion again that the imminent start of trial coerced
20 him or forced him somehow again we've established case law as to why
21 that's not grounds. You heard testimony from Mr. Kocka that the
22 defendant pushed for the trial to go for more than a month. This trial was
23 the defendant's own doing the parties prepared and he -- the defendant
24 is the only one to blame for the trial's immense start as he puts it, the
25 trial's start date was at defendant's insistence, and again he had a long

1 time to review the -- offer and the case law shows that this is not a
2 substantial reason to withdraw his plea.

3 So he has failed to show any substantial reason to withdraw
4 plea that's -- in itself is sufficient to deny his motion. If we turn and look
5 at his burden to show the fairness and justice require the withdrawal --
6 require the withdrawal of this plea he has once again failed to meet that
7 burden. It would not be fair and just that after a month with the deal,
8 multiple conversations and consultations with counsel regarding the
9 deal, a perfect canvass by Judge Herndon that he simply be permitted to
10 withdraw his deal because he -- because he's changing his mind. It's
11 unfair to the State who was prepared to go to trial at the defendant's
12 insistence, had dozens of witnesses ready to go that we had to round up
13 from a fourteen year old case and were coming in from out of state. Its
14 unjust to the family of Cory lascone who had waited years, more than a
15 decade, to see their son's killer brought to justice and were ready for trial
16 to start and then watched him plead, watched the Court canvass him,
17 watched him admit and acknowledged to him pulling the trigger and
18 killing their son and close this case and at least start twelve years later
19 to begin that process of healing and moving on. To have this ripped
20 away simply because what, Jarell Washington changed his mind. To
21 allow him to withdraw a plea at this point would render the solemn act of
22 an entry of plea nothing more than, as the case law puts it, a mere trifle.

23 Now as an aside he testified at the hearing before Your Honor
24 that at calendar call he was trying to get rid of Mr. Kocka. That's why
25 Your Honor ordered the transcript, not to go into the discovery issue,

1 which again I've addressed at nauseam already in this argument, but the
2 discovery issue that they're raising now in oral argument. The reason the
3 Court ordered the transcript is because the Court was interested in
4 seeing whether the defendant had expressed dissatisfaction with his
5 counsel Mr. Kocka. And when he testified to that at the -- hearing, the
6 evidentiary hearing, that testimony is an absolute lie, you go through that
7 entire transcript and never once do you hear him say I don't trust Mr.
8 Kocka, I don't think he's doing a good job or anything on my behalf. He
9 just says that he wants more time after spending months pushing this
10 case to go to trial and having Courts move heaven and earth so that Mr.
11 Washington can have his day in trial at the very last moment he decides
12 he wants to have more time.

13 And that's just not how this works. It was explained to him,
14 counsel was ready to go, the State was ready to go and as Mr. Kocka
15 testified it was an absolute complete shock to him that Mr. Washington
16 all of a sudden didn't want to go to trial. And it is what it is, he was
17 scared. He was facing the witnesses and the evidence of his guilt. He
18 was facing a first degree murder conviction and he decided at the last
19 minute that he's better off with a second degree murder conviction than
20 a first degree murder conviction and he took that deal.

21 I'd also point out Your Honor that -- claim about wanting to get
22 rid of Mr. Kocka was not brought up in the written motion and I think that
23 matters because these moving papers that they filed come after
24 consultation between counsel and Mr. Washington to decide, well why
25 do you want to withdraw your plea, what happened, let's go into detail

1 about everything around your plea that -- should show that it would be
2 fair and just to withdraw it. And the only grounds they brought up were
3 the ones that we mentioned before, that trials immense start forced him
4 to withdraw the plea and that he received the deal the morning of. He
5 never once brought up in the moving papers anything about wanting to
6 get rid of Kocka as counsel. And I also think that it's worth pointing out
7 that he's kinda talking out of two sides of his mouth during his testimony
8 because on the one hand he tells this Court that he didn't trust Mr.
9 Kocka and Mr. Kocka was not looking out for his best interest and he
10 had been trying to get Mr. Kocka kicked off the case. Well we know
11 that's not true because you see that in the transcript the Court ordered
12 he never once makes that representation.

13 But also he attempts to tell Your Honor that the plea canvass
14 should be disregarded during his testimony at the evidentiary hearing
15 because he only answered yes to all the questions posed to him by
16 Judge Herndon because he just trusts Mr. Kocka. I mean he's talking out
17 of two sides of his mouth here, those are completely contradictory
18 statements. I didn't trust my attorney, he didn't have my best interest in
19 mind but I went through the plea canvass and just said yes to everything
20 because I trusted Mr. Kocka. It's -- incompatible logic and it shows how
21 baseless this motion is, and I think if you obviously read through that
22 transcript, which I know Your Honor has, what you see is not someone
23 simply saying yes but someone who's being probed and questioned and
24 thoughtfully made sure by Judge Herndon that he's entering this plea
25 freely and voluntarily. His questions and his answers don't show an

1 unsure part or a confused mind it shows someone who understands
2 what he's doing, what he's pleading to and the repercussions of his plea.

3 Finally I'd just point out again something that wasn't raised in
4 the pleadings but he brought up at the testimony is this notion that he
5 thought second degree murder with use of a deadly weapon was
6 probationable offense. Well as we pointed out and in the canvass the
7 guilty plea agreement that he signed, that he said -- that he testified he
8 went over with counsel and that he was canvassed on all state that he
9 can't get probation for this.

10 So with that, Your Honor, I think we've covered all the issues
11 that were raised in the written documents, we've covered the ones that
12 were just kind of brought up spur of the moment by the defendant. I think
13 that we should call this what it is, nothing more than a recognition that he
14 was actually looking at a first degree murder conviction and chose to
15 plead out to a better deal to avoid basically a sentence that would be
16 double what he's looking at now. He should not be permitted to withdraw
17 his plea it would not be fair to the State or to the family in this case and
18 there are just no legal grounds for it.

19 THE COURT: Okay, Mr. Ericsson your response.

20 MR. ERICSSON: Your Honor, may I respond to one important
21 point?

22 THE COURT: Yes.

23 MR. ERICSSON: The State argues that -- it was not brought
24 up in our moving papers the issue of the lack of discovery and his belief
25 that his attorney was not prepared for that trial and that he felt under

1 those circumstances coerced to enter into the plea, because he clearly
2 was planning to go to trial that's what this was all about. That's why this
3 takes place the morning of trial. He was planning to go to trial but he
4 realizes his attorney is not ready and that he has not had -- when he
5 hears that there are twenty-five witnesses the State is planning to bring
6 at his trial, that he and his attorney are willfully unprepared in his mind,
7 and I will direct you to the declaration that we have attached to the
8 moving document, the motion, as exhibit C to our motion and it goes
9 through in detail and I'm just going to read three sections from it:

10 At number four he says my prior attorney only visited
11 with me several times while I have been in custody in this
12 matter. My prior attorney never provided me with the police
13 reports, witness statements, and other discovery materials
14 to allow me to help him prepare my case. I repeatedly
15 requested that my prior counsel that I receive a copy of the
16 discovery materials provided to him by the prosecution. At
17 the time I entered this plea it was very clear to me that my
18 prior counsel was not prepared for trial and did not have
19 my best interest at heart.

20 So that is why on the morning of trial he -- entered that plea.
21 He felt he had no choice given the, in his mind, lack of preparation
22 between him and his attorney. And the State is arguing that, well he
23 knew of this deal a month or so before, the State just acknowledged they
24 did not prepare a guilty plea agreement until that weekend and it was
25 apparently the day before, I think, which is a Sunday trial was to being

1 on Monday, Sunday that his prior attorney apparently went over to the
2 jail and showed him the actual written plea agreement. So I -- it'd from
3 our moving papers we are outlining the heart of his mindset as to there
4 was no way his attorney was prepared or he was prepared to face
5 twenty to twenty-five witnesses against him.

6 THE COURT: Okay.

7 MR. PORTZ: Your Honor can I just briefly respond to that?

8 THE COURT: No Mr. Portz, its Mr. Ericsson's moving papers
9 so he gets to go first and last.

10 Okay so what I'm going to do is I'm going to issue a written
11 decision on this. I'm going to issue a written decision and then you guys
12 will be back on the status check. I will set the status check date in that
13 decision because if this motion is granted we'll need a status check for
14 resetting of the trial. If this motion -- if this motion is not granted then
15 we'll need a status check to set a sentencing date. So I'll issue a written
16 decision and there'll be a status check date in the decision.

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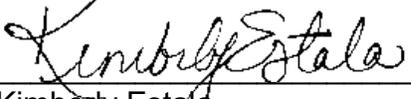
MR. ERICSSON: Thank you, Your Honor.

THE COURT: Thank you.

[Proceedings concluded at 9:00 a.m.]

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability. Please note: Technical glitches which resulted in distortion in the Bluejeans audio/video and/or audio cutting out completely were experienced and are reflected in the transcript.



Kimberly Estala
Court Recorder/Transcriber

C-19-341380-1

for signature within 10 days of receipt of this Court's order.

This case will be set for status check: sentencing date on April 2, 2021 at 8:30 a.m.

04/02/21 8:30 A.M. STATUS CHECK: SENTENCING

Clerk's Note: This Minute Order was electronically served by Courtroom Clerk, Teri Berkshire, to all registered parties for Odyssey File & Serve. /tb

1 **ORDR**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 K. NICHOLAS PORTZ
6 Chief Deputy District Attorney
7 Nevada Bar #012473
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,
11 Plaintiff,

12 -vs-

13 JARELL WASHINGTON,
14 aka Jarrell Washington, #2665695
15 Defendant.

CASE NO: C-19-341380-1
DEPT NO: X

16 **ORDER DENYING DEFENDANT'S MOTION TO WITHDRAW GUILTY PLEA**

17 DATE OF HEARING: 3/17/2021
18 TIME OF HEARING: 8:30 A.M.

19 THIS MATTER having come on for hearing before the above entitled Court on the
20 17th day of March, 2021, the Defendant being present, REPRESENTED BY JAMES
21 ORONOZ ESQ. via Blue jeans technology, the Plaintiff being represented by STEVEN B.
22 WOLFSON, District Attorney, through K. NICHOLAS PORTZ, Chief Deputy District
23 Attorney, and the Court having heard the arguments of counsel and noted that a Decision will
24 issue,

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1 Following review of the papers and pleadings on file herein, hearing evidence at an
2 evidentiary hearing, and considering the arguments of counsel,

3 COURT ORDERED, Defendant s Motion to Withdraw Plea is DENIED.

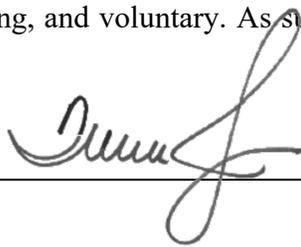
4 The COURT FINDS that Defendant insisted on proceeding to trial on multiple
5 occasions and defense counsel was prepared to proceed to trial.

6 The COURT FURTHER FINDS that Defendant s request to continue the trial date was
7 denied on February 6, 2020.

8 The COURT FURTHER FINDS that Defendant acknowledged receipt of an offer
9 from the State on January 7, 2020 and accepted said offer on February 10, 2020, more than a
10 month after receiving said offer; after his request to renew his motion to continue the trial was
11 denied.

12 The COURT FURTHER FINDS that Defendant was thoroughly canvassed regarding
13 the plea agreement and never indicated that he did not wish to accept the agreement or that
14 he was under duress during the plea canvass. Defendant argues that he was promised
15 probation by his lawyer, if he accepted the negotiation. This claim is belied by the record, as
16 the Court thoroughly canvassed the Defendant regarding the sentence and notified him that
17 he was not eligible for probation for the offense to which he was pleading guilty.

18 The COURT FINDS that there has been insufficient evidence presented to determine
19 that the Defendants plea was not knowing, willing, and voluntary. As such, the Defendants
20 Motion to Withdraw Guilty Plea is DENIED

Dated this 23rd day of March, 2021


21
22
23 STEVEN B. WOLFSON
24 Clark County District Attorney
25 Nevada Bar #001565

0DA 3A8 82EB 3C77
Tierra Jones
District Court Judge

26 BY /s/ K. NICHOLAS PORTZ
27 K. NICHOLAS PORTZ
28 Chief Deputy District Attorney
Nevada Bar #012473

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DISTRICT COURT
CLARK COUNTY, NEVADA

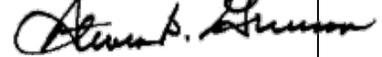
State of Nevada	CASE NO: C-19-341380-1
vs	DEPT. NO. Department 10
Jarell Washington	

AUTOMATED CERTIFICATE OF SERVICE

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

Service Date: 3/23/2021

- James Oronoz jim@oronozlawyers.com
- Thomas Ericsson tom@oronozlawyers.com
- Alicia Oronoz alicia@oronozlawyers.com
- Rachael Stewart rachael@oronozlawyers.com
- Frank Kocka kocka2001@gmail.com
- District Attorney pdmotions@clarkcountyda.com
- Kenneth Portz kenneth.portz@clarkcountyda.com
- Erika Mendoza erika.mendoza@clarkcountyda.com
- Dept Law Clerk dept10lc@clarkcountycourts.us



1 RTRAN

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DISTRICT COURT
CLARK COUNTY, NEVADA

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8 STATE OF NEVADA,

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9 Plaintiff,

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10 vs.

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11 JARELL WASHINGTON.

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12 Defendant.

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BEFORE THE HONORABLE JUDGE TIERRA JONES, DISTRICT COURT JUDGE

14

***FRIDAY, APRIL 2, 2021
RECORDER'S TRANSCRIPT RE:
HEARING***

15

16

17 APPEARANCES:

18

For the State:

ERIKA MENDOZA, Esq.
Chief Deputy District Attorney

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For the Defendant:

THOMAS ERICSSON, Esq.

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RECORDED BY: VICTORIA BOYD, COURT RECORDER

1 Las Vegas, Nevada, Friday, April 2, 2021 at 8:52 a.m.

2
3
4 THE COURT: State of Nevada v. Jarell Washington. May the record reflect
5 Mr. Washington is present in custody. Mr. Ericsson is here on his behalf. Who has
6 this case from the State?

7 MS. MENDOZA: Erika Mendoza, your Honor.

8 THE COURT: Mr. Ericsson, we need to set a date for sentencing. Have you
9 discussed which dates you want?

10 MR. ERICSSON: Your Honor, we haven't discussed a date but we're quite
11 open. I've got my calendar in front of me so whatever date works for the Court and
12 the State.

13 MS. MENDOZA: Your Honor, I don't if it would be possible to handle this on
14 one of your calendars on another date but if it is I was hoping to try and get in the
15 week. I'll be gone pretty soon. I would rather handle it myself then turn it over to
16 someone else.

17 THE COURT: Well, the thing is I'm in trial next week so I'm not here on
18 Wednesday. Judge Silva will be here. If you guys have no opposition to her doing it
19 you can set it on Wednesday.

20 MS. MENDOZA: Since you already have everything for the motion I prefer it
21 just stay with you so we can go out further.

22 THE COURT: Okay. We're going to set the sentencing date for April 16th,
23 2021 at 8:30.

24 THE DEFENDANT: So my motion was denied, Your Honor.

25 THE COURT: Yes, your motion was denied, Mr. Washington.

THE DEFENDANT: Okay. Thank you.

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THE COURT: Thank you.

MS. MENDOZA: Thank you, Your Honor.

(Proceedings concluded at 8:53 a.m.)

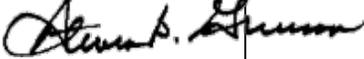
ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.

Victoria W. Boyd

Victoria W. Boyd
Court Recorder/Transcriber

8-19-21

Date



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RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
vs.
JARELL WASHINGTON,
Defendant.

CASE#: C-19-341380-1
DEPT. X

BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE
FRIDAY, APRIL 16, 2021

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

APPEARANCES:

For the State: MICHELLE FLECK, ESQ.
Chief Deputy District Attorney

For the Defendant: THOMAS A. ERICSSON, ESQ.

RECORDED BY: VICTORIA BOYD, COURT RECORDER

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Las Vegas, Nevada, Friday, April 16, 2021

[Hearing commenced at 9:13 a.m.]

THE COURT: Let's go to page 11, C341380, State of Nevada versus Jarell Washington.

May the record reflect that Mr. Washington is present.

Mr. Washington, go ahead and have a seat really quick. Let me do Bradford really quick and I'm going to come right back to you.

MS. FLECK: Judge, can I allow the family to come in for the sentencing?

THE COURT: Yeah, just one second.

[Hearing trailed at 9:13 a.m.]

[Hearing recalled at 9:15 a.m.]

THE COURT: Let's go to page 11, C341380, State of Nevada versus Jarell Washington.

May the record reflect that Mr. Washington is present in custody; Mr. Ericsson is here on his behalf. Ms. Fleck is here on behalf of the State.

This is the date and time set for sentencing, are both parties prepared to go forward with sentencing?

MS. FLECK: Yes, Your Honor.

MR. ERICSSON: Yes, Your Honor.

THE COURT: Okay. State, you have retained the right to argue.

MS. FLECK: Thank you, Your Honor.

1 And may I approach? The victim's family has made a binder --
2 and I have shown it to Mr. Ericsson -- that I think that they would like for
3 the Court to see.

4 THE COURT: Okay. And I do have three victim speakers; is
5 that correct, State?

6 MS. FLECK: That's correct, Your Honor.

7 THE COURT: Okay. And pursuant to statute, would you like
8 them to speak last?

9 MS. FLECK: Yes, please.

10 THE COURT: Okay.

11 MS. FLECK: Judge, this is a case where justice for Cory
12 lascone has been delayed for far too long. For 14 years now Cory's
13 murder has gone unanswered. And for 14 years Cory's mother and his
14 father and his sister have been frozen in time, unable to move past this
15 brutal loss, and waiting for the day when justice would ultimately occur for
16 Cory and his family.

17 And the sole cause for this delay is the defendant, Jarell
18 Washington. From the second that he pulled the trigger, that ended
19 Cory's life, he's run from responsibility for this heinous crime. He
20 destroyed evidence, he fled the State, and he lied to the police. And
21 when he was finally arrested he refused to take responsibility until literally
22 the 11th hour when the jury was coming into the room for the start of his
23 trial.

24 Even after he pled guilty he filed motions, attempting to
25 withdraw his plea with no basis, again, delaying justice for Cory and his

1 family.

2 In short, he's done everything in his power to keep this
3 particular day from coming and the day that Cory and his family would
4 finally receive justice for this senseless and brutal taking of this young
5 man's life.

6 Jarell Washington executed Cory on a public road of the
7 Desert Shores community in broad daylight and he shot him in the head
8 while Cory was giving him a ride. He thought that this man was his
9 friend. He trusted him. The defendant left his lifeless body there in the
10 middle of the road to be discovered by strangers. And why might you ask
11 did this happen, over a small amount of marijuana and a couple of
12 hundred dollars that the defendant found the time to take after he had
13 murdered his friend.

14 After killing Cory he fled the State. Well, first he fled on foot to
15 the nearby lakes, Desert Shores, a lake in the Desert Shores, he
16 disposed of the gun. And that gun would sit there for over a decade. It
17 wasn't until Metro's Search and Rescue learned about the gun, they
18 combed that entire lake, literally like a needle in a haystack, found it,
19 reconstructed the gun, and were able to confirm that that was the murder
20 weapon. They also then confirmed that the firearm and ammunition that
21 had been used in the crime had originally belonged to the defendant's
22 uncle and it had gone missing while the defendant was staying with his
23 uncle.

24 After killing Cory the defendant fled to Chicago, when he
25 returned he was questioned by police, he lied to them again. He denied

1 that he knew Cory despite the fact that there's photos of them together,
2 calls between the two of them before his death.

3 And for the next 14 years he would go on living his life as if
4 nothing ever happened. Cory on the other hand had just turned 18 years
5 old at the time of his death.

6 This is a case of first degree murder by way of premeditation
7 and deliberation and by way of felony murder. And as you know that
8 would carry a sentence, a minimum sentence of 21 years in prison with --
9 up to life without the possibility of parole.

10 So despite all of the defendant's efforts, both legal and illegal,
11 to delay justice and to avoid this particular hearing the defendant will
12 now, of course, ask for leniency; however, great leniency has already
13 been given to this defendant by way of the plea. He pled to a second
14 degree murder with use of a deadly weapon and a maximum sentence
15 under this plea deal is still years less than the sentence he could receive
16 for the crime that he actually committed.

17 The State is asking that this Court sentence Mr. Washington to
18 18 to 45 years. This sentence is fair, it's equitable, and it's just. 18 years
19 is all of the time that Cory got before Mr. Washington murdered him. It's
20 all the time that his mother got with him. It's all the time that his sister
21 had with her only brother.

22 And I guarantee that if you ask the family, Your Honor, 18
23 years is nothing. Those 18 years that this family had with their son went
24 by in the blink of an eye.

25 I'll submit that to you and I'd ask for the victim's father Gary, his

1 sister Ashley, and his mother Shannon to all be able to speak.

2 THE COURT: Okay. And I did read the letters that were
3 submitted by Stephanie, Steven, Jacqueline, and Keo.

4 Mr. Washington, what, if anything, would you like to say before
5 I pronounce sentence against you?

6 THE DEFENDANT: I can't imagine the pain and the suffering
7 that any family goes through, even the victim family. My heart go out to
8 the victim family and their loss. And I just want to say God bless, Your
9 Honor.

10 THE COURT: Okay. Thank you, sir.

11 Mr. Ericsson.

12 MR. ERICSSON: Thank you, Your Honor.

13 I want to point out that Mr. Washington's family -- they are
14 appearing by BlueJeans --

15 THE COURT: Okay.

16 MR. ERICSSON: -- his mother, his wife, and his aunt.

17 These are the hardest cases anybody shows up on, whatever
18 position you're in. The family, I can't imagine that the loss of a child.

19 Both of these young men were 18 years old when this took
20 place. And I think how this case ultimately was brought back into the
21 justice system was somebody ten years later came and talked to the
22 police. And I think that this is important for Your Honor's consideration of
23 the mindset of a dumb 18 year old who did something incredibly tragic
24 and has hurt a lot of people.

25 And, again, I can't imagine what the families going through, but

1 I know his family is going through the tremendous loss as well, as he is
2 going to be going to prison for a long time.

3 But in the PSI it reads: On August 8th, 2018, officers received
4 information from a male who reported that he was very good friends with
5 Mr. Washington, during the summer of 2007 -- that's when this took
6 place -- he received a call from Mr. Washington to meet him. Upon
7 meeting Mr. Washington, the male noticed he was sweating and
8 breathing heavily as if he had been running. Mr. Washington was crying,
9 he stated he had robbed a boy of his weed, but during the robbery the
10 victim reached for a gun so Mr. Washington shot with a "deuce deuce",
11 which is referring to a .22 caliber handgun.

12 Unbelievably stupid to be robbing somebody over some
13 marijuana and some cash. Both of them were doing stupid things. But
14 when, according to him, he thought the victim was reaching for a gun and
15 he shot him, unfortunately.

16 But I think it speaks a lot to -- this is not a cold blooded killer,
17 this is -- was an 18 year old, he's crying when he calls -- his friend shows
18 up to pick him up. This did not go how he planned it to go and
19 unfortunately the consequences are horrendous.

20 Your Honor, he has a six year old son. One of the things that
21 does speak very favorably for him is that since this took place in 2007 he
22 has -- he has one -- he has a misdemeanor for a DUI, no other felony
23 charges, no gross misdemeanors, nothing.

24 So he's now 30 years old. He's been taking care of his family.
25 I think I mentioned he's got a six year old boy. He's married. And now

1 he's going to be going to prison because of this terrible decision that he
2 made as an 18 year old.

3 We would ask Your Honor to sentence him to the 10 to 25 on
4 the second degree murder charge and then the minimum sentencing on
5 the mandatory consecutive weapon enhancement, which would be a 12
6 to 30 month sentence on top of that.

7 Thank you.

8 THE COURT: Thank you, Mr. Ericsson.

9 And there is \$3,580 worth of restitution that's owed to Victims
10 of Crime.

11 Mr. Ericsson, do you have any objection to that?

12 MR. ERICSSON: No, Your Honor.

13 THE COURT: Okay. State, who would you like to speak
14 first?

15 MS. FLECK: I believe that the victim's mother, Shannon, is
16 going to speak first and she's on BlueJeans.

17 THE COURT: Okay. Shannon, can you hear me?

18 THE VICTIM SPEAKER: Yes.

19 Can you hear me, Judge?

20 THE COURT: Yes, I can; yes, ma'am.

21 THE VICTIM SPEAKER: Okay.

22 THE COURT: Ma'am, if you could just raise your right hand for
23 me, my clerk just needs to swear you in.

24 THE VICTIM SPEAKER: Okay. Thank you.

25 THE COURT: Madam clerk.

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SHANNON CAPRI

[Having been called as a speaker and being first duly sworn, testified as follows:]

THE CLERK: Please state your full name, spelling your first and last name for the record.

THE VICTIM SPEAKER: Shannon, S-H-A-N-N-O-N; Capri, C-A-P-R-I.

THE COURT: And, ma'am, what would you like to tell me today.

THE VICTIM SPEAKER: I would just like to state a couple of things about the impact that this has had on my life. And I'd like to thank you first, Judge, and the Court, respectfully, for the time that you've given to ensure justice is served.

And next I would like to address the person that I'm told is responsible for my son no longer being here.

THE COURT: Okay, miss --

THE VICTIM SPEAKER: And what I would like to --

THE COURT: -- and, ma'am, I don't mean to cut you off --

THE VICTIM SPEAKER: -- but --

THE COURT: -- I don't mean to cut you off, but you can't speak to Mr. Washington directly, you can only speak to me. You can tell me --

THE VICTIM SPEAKER: Okay. All right.

THE COURT: -- anything that you want me to know about how this has impacted your life.

1 THE VICTIM SPEAKER: Okay.

2 THE COURT: But you can't speak to him directly.

3 THE VICTIM SPEAKER: Okay.

4 THE COURT: Okay.

5 THE VICTIM SPEAKER: Okay. All right.

6 Anyway, that's -- basically, I wanted to say thank you to you.

7 And I wanted to just talk about the fact that my son is no longer here and
8 the fact that we are here today for the purposes of determining what
9 justice looks like when it's turned into a number.

10 And I did not ask to be here today, but this is all I have left to
11 do is to tell the Court how I've been impacted. And I'm to try and explain
12 how it feels to have part of you that has died but another part that is still
13 here. And it's almost impossible to explain it to my daughter, my
14 granddaughter, my grandson. And it is with these things in mind that I'm
15 wondering if it should, you know, matter how much time it took for him to
16 pull that trigger, and anymore -- I mean, Cory would have never done
17 anything to him to hurt him, never. He would have never hurt anyone.

18 And I just would like to -- I guess I'm personally looking to
19 whether or not there's any others -- I've looked for other circumstances in
20 people that I, you know, could hold responsible but I haven't been able to
21 find any.

22 And I would just, you know, like to know when the day that you
23 chose to end the life of my son that you chose to also end a part of my
24 life. And that, I mean, I didn't know if that was the reason you picked him
25 because he was not his friend. And he, you know, didn't have any life

1 experience. He was just barely 18.

2 But that's it. I just, I mean, I guess, I'm never going to get that
3 answer and so I'm just hoping that the time that, you know, is given, you
4 know, served to him today is helpful in letting him think about what it is
5 that he has done to impact our lives, my daughter, me, and Cory's dad.

6 Thank you.

7 THE COURT: And thank you, ma'am.

8 Mr. Ericsson, do you have any questions?

9 MR. ERICSSON: No, Your Honor. Thank you.

10 THE COURT: Ms. Fleck?

11 MS. FLECK: No, Your Honor.

12 THE COURT: And, ma'am, thank you very much for being
13 here today.

14 MS. FLECK: And, Judge, the victim's sister Ashley will speak
15 next.

16 THE COURT: Okay. Ma'am, if you could step up to counsel
17 table. If you could just raise your right hand so the clerk can swear you
18 in.

19 **ASHLEY MACCLATCHEY**

20 [Having been called as a speaker and being first duly sworn, testified as
21 follows:]

22 THE CLERK: Please state your full name, spelling your first
23 and last name for the record.

24 THE VICTIM SPEAKER: Ashley MacClatchey, A-S-H-L-E-Y;
25 my last name is MacClatchey, M-A-C-C-L-A-T-C-H-E-Y.

1 THE COURT: Ma'am, what would you like to tell me today.

2 THE VICTIM SPEAKER: Even though I've had 13 years to find
3 the words to say it's not long enough. Unfortunately I have come to the
4 realization that there are no words that can truly express what we have
5 gone through. I will attempt to give you a glimpse of the impact, but trust
6 me when I tell you it will only be that, a glimpse into the lives of our family
7 after the core of it was taken away.

8 On that sunny Sunday I was asleep when my brother's life was
9 taken. It was the last night of peaceful sleep I've had. Since then my
10 nights are spent fragmented as I wake up sometimes hoping it was all a
11 dream and sometimes I am awoken from nightmares. In these
12 nightmares I can feel the fear in my brother. I am him sitting in the car. I
13 can feel the bullet rip through my head and corrupt my defenseless
14 body. The bullet burns, it's hot, and my ears are ringing. I quickly realize
15 that my life is ending and I am scared. I think of me and my mom and my
16 dad. I think of the goals and hopes of what could have been. And I lay
17 there alone. The evil that I call my friend runs away and doesn't call for
18 help. And the fear really hits me. The evil that I call my friend runs away
19 and doesn't call for help. No pleads, not yet, I'm only 18 one month and
20 four days. I awake from these nightmares with physical pain in my heart.
21 I feel as though my chest will shatter at times from the physical pain I feel
22 thinking of my brother.

23 These nightmares and constant reminders are my life. There
24 is no solace; nowhere to take refuge. These continuous nightmare is
25 now my life. I still have yet to accept this reality. I buy him Christmas

1 presents and birthday presents and wait for my best friend and only
2 brother to come home.

3 I'm sorry.

4 THE COURT: That's okay.

5 THE VICTIM SPEAKER: That Sunday, by 4:00 p.m., my
6 mother was crawling on the floor. She was crying a cry that I had never
7 heard before. She already knew intuitively what we refused to believe.
8 There was no formal notification. When detectives went to my father's
9 house to notify him we were looking for him, driving around, frantically
10 calling friends as we searched the city. He was due home to swim with
11 friends and my mother planned on making him chicken.

12 Cory and I are extremely close. Our relationship was unlike
13 any other brother/sister bond I have seen previously. We protected each
14 other from everything and shared common dreams for our lives. We
15 shared inside jokes and referred to one another as my crazy life partner.

16 Cory's death has left me wandering this earth impatiently
17 awaiting the day when I get to see him again. If it wasn't for my parents, I
18 would not have survived the first two years. I counted the seconds for a
19 long time. I was unable to sleep in a bedroom as closed spaces without
20 distraction left me alone with my vivid and destructive thoughts.

21 The emotional and physical impact that Cory's death has had
22 on me has forced me to live a life that I don't recognize and become a
23 person that I don't know. I am devoid of true love, enthusiasm, and zest
24 for life. I have excommunicated all relationships with people who know
25 the truth about where he is, as watching them grow up proved simply too

1 painful for me to watch. I hide in the shadows explaining to strangers
2 that he is away at college, or I speak about him as if he were simply
3 down the street. I refuse to interact with the loving group of friends who
4 desperately wanted to be there for me following his demise. Every
5 relationship I have is superficial as I don't allow anyone to see the hatred
6 that hides in my heart for everyone who got to go on with their life and
7 have not been tainted by the sharp knife of a short life. If I explain all the
8 areas that this has affected, we would be here for weeks.

9 All of my most fond memories growing up include him,
10 juxtapose with all these pleasant memories is this disgusting crime, him
11 lying in a pool of his own blood, the stench of death that I will never
12 forget. He sits in the car forever.

13 For 13 years we have suffered and contemplated scenarios
14 and nothing makes sense. He was no threat to him. He would have
15 given him whatever he wanted had he just asked. What did his life mean
16 to him? How could he be so careless? What happened? Why? His
17 answers will never be good enough. These are answers we don't know
18 the answer to and shouldn't have to ask.

19 He trusted him. His unassuming nature cost him his life. Guns
20 are innocent objects unless held by evil people when they become great
21 equalizers. Unfortunately the smaller man that needed equalizing didn't
22 have a gun. That gun was not the only way for him to take what he
23 needed, yet he used it so mindlessly.

24 My every day replaying nightmare is now my life. This reality is
25 brutally painful and simply unfair. Christmas, Thanksgiving, birthdays,

1 Halloween, how are these holidays? Do you ever think of how they are in
2 my home? For years they did not exist. Now that we have begun to
3 celebrate them they will never be the same. In order to spend holidays
4 with the heartbeat and center of our lives we must go to a cemetery.

5 We are no longer the family we once were. My parents are
6 shells of the human that they were. They were successful, confident,
7 strong, and secure people who protected and sheltered us from the cruel
8 world.

9 Since August 2007 this has become my role for them. I have
10 held them in my arms as they cry for their son. Helplessness does not
11 begin to describe the agony I have endured being forced to take on their
12 role and watch them fall apart as human beings. They are depressed,
13 demoralized, and unable to function in nearly all aspects of normal life.

14 At 20 years old I was faced with their death, as well as Cory's.
15 The people I know and love are broken with no chance of being put back
16 together again. Real loss is only this palpable when you love something
17 more than you love yourself. All of us loved Cory more than we love
18 ourselves, which leaves an unfillable void. I have watched my parents,
19 who not only loved their child but adored him, clean his blood out of their
20 car. They made decisions about his belongings and picked out a
21 gravestone to mark his final resting place. They will never experience
22 true happiness again.

23 He not only killed him that day but his children and their
24 children. He murdered generations of our family. He stole from us
25 sharing the experience of meeting and loving the woman he would have

1 married and partaking in their would be beautiful wedding.

2 My children don't know their cousins. How many do they
3 have? My parents don't know their grandchildren. Were they named
4 after him? The ability to make new memories was stolen from us and
5 this loss is infinite.

6 I am nothing like him. I hope that during his sentence he finds
7 the peace that we will never have.

8 While I respectfully request from this Court the maximum
9 sentence judicially allowed, I hope that while he lives out his days he
10 becomes something more than what he was taught to be in his life. I
11 hope he gets the help he was not provided as a child. Had he been
12 raised in our family, he never would have taken another human's life. He
13 would have been taught right from wrong, personal responsibility, and
14 empathy. He would have valued this precious gift of life, both his and
15 others.

16 If he has children, I hope they're brought up far away from the
17 life he's lived. I hope that whatever it is that he wanted so badly that day
18 was worth these years of his life. Most of all I wish for him the broken
19 record my thoughts have become. Maybe there will come a day when I
20 can forgive him, as I'm actively trying to do so, but for now please excuse
21 me if I don't.

22 Thank you for allowing me to share my thoughts.

23 THE COURT: Thank you.

24 Any questions, Mr. Ericsson?

25 MR. ERICSSON: No. Thank you, Your Honor.

1 THE COURT: Thank you for being here, ma'am.

2 Ms. Fleck --

3 MS. FLECK: Thank you, Your Honor.

4 THE COURT: -- your next victim.

5 MS. FLECK: And the final speaker will be the victim's father

6 Gary.

7 THE COURT: Okay, sir.

8 And, sir, if you could just raise your right hand for me, the clerk
9 will swear you in.

10 **GARY IASCONE**

11 [Having been called as a speaker and being first duly sworn, testified as
12 follows:]

13 THE CLERK: Please state your full name, spelling your first
14 and last name.

15 THE VICTIM SPEAKER: Gary Iascone, G-A-R-Y;
16 I-A-S-C-O-N-E.

17 THE COURT: And, sir, what would you like to tell me today.

18 THE VICTIM SPEAKER: On July 15th, 1989, my son Cory
19 Bernard Iascone was born. He was my second child and a boy, so surely
20 after his birth his mother and I discussed the future of our family. Since
21 we now had a girl and a boy, we agreed to one of us being sterilized.

22 Excuse me.

23 [Colloquy]

24 THE VICTIM SPEAKER: I'm sorry.

25 THE COURT: That's okay.

1 THE VICTIM SPEAKER: Since we now had a girl and a boy
2 we agreed to one of us being sterilized, and because it was easier for me
3 to get a vasectomy I agreed to have the procedure done on one condition
4 that Cory reach the age of one year old. He would be the own and only
5 key to my legacy as an lascone, and I wanted to be sure he survived
6 what I believed to be a person's most dangerous period of life. True to
7 my word at the end of August 1990 I completed this procedure which
8 would ensure I would have no other children.

9 For the next 17 years I tried to be the best father I could be,
10 using my own father's example of the kind of dad I did not want to be. As
11 a result, I started to teach my son how to paint at the end age of three, as
12 well as play golf, baseball, bowling and other sports. My efforts paid off
13 as -- by the time he was ten he was a regular employee of my contracting
14 business during the summer and on most vacations.

15 He also supplied me many hours of enjoyment while watching
16 him play lacrosse, baseball, and hockey for a variety of rec teams until he
17 became a star player for his high school lacrosse team at Palo Verde
18 High School. Of course I also enjoyed his company on the golf course. I
19 still remember his first legitimate par and a par five where he sunk an
20 eight-footer right before I missed my three foot putt to tie him. He was
21 elated and I was elated for him.

22 When he was 11 I took him to his first professional football
23 game in Buffalo. I rooted for the Bills while he rooted for his beloved
24 Dolphins. Once again he got the better of me at this game, which much
25 to my chagrin and his delight.

1 As he grew older our relationship also grew. By the time he
2 was 15 I could leave him alone at a million dollar home to paint any room
3 that needed it. By 17 I was teaching him how to shave and how to deal
4 with certain parts of his budding relationship with girls. His life was just
5 beginning and I had a front row seat.

6 The week of his 18th birthday we played golf together and on
7 the 18th hole he drove the ball 250 yards down the middle of the fairway.
8 His ball settled within ten feet of mine and I will never forget his beaming
9 smile as we prepared to hit our next shot. Life was good.

10 Sorry.

11 THE COURT: That's okay.

12 THE VICTIM SPEAKER: On the day before his last day of his
13 life he and five of his friends were over to the house. I tried to get him to
14 let me give him a kiss and of course he fought me all the way. I ended
15 up giving him a kiss on the top of his head while all his friends laughed
16 and joked about it. Little did I know that it was the last kiss I would ever
17 give him while he was alive.

18 I got a call from my sister the following night, she opened the
19 conversation with, Gary, I don't know how to tell you this. I replied that
20 whatever it was couldn't be so bad that she couldn't tell me. I've never
21 been so wrong in my entire life. I put the phone down in shock. After a
22 while I began making phone calls to confirm what I already knew deep in
23 my heart was true. My boy was dead. And so was my life as I had
24 known it.

25 The next day I went to work where I stared at the wall I was

1 supposed to paint for two hours before calling it a day and went home to
2 cry. Something I would do every day for the next two plus years. I never
3 painted another thing. My business was ruined and unimportant. In
4 September of 2009 I was prescribed Prozac and after two weeks I
5 stopped crying. I was 51 years old, unemployed, running through my
6 retirement fund and not caring about anything or anyone. The only
7 accomplishment I can boast of is that I wrote a book during this time in
8 which I immortalized my son who was the hero of the book. Although it
9 was fiction, it was a good depiction of his true self.

10 When my money ran out I began to live with friends and
11 relatives until 2015 when I began receiving SSDI for depression. In 2010
12 I'd lost my second wife to suicide. In 2011 I lost my sister. In 2013 I lost
13 my youngest brother. And in 2016 I lost my other brother. In 2019 I lost
14 my dad. I never wept a single tear for any of them for you see death no
15 longer has any meaning for me. And if it weren't for my daughter and my
16 two grandchildren, neither would life. Once the worst thing in the world
17 has already happened to you, nothing can hurt you.

18 It has been almost 14 years since I lost my son and still not a
19 day passes that I don't think about him. This has left a void in my life that
20 will probably never be filled no matter how hard I try I can't stop blaming
21 myself for contributing to his death. If only I had been a better father. If
22 only I had been more strict. If only I had done something to stop him
23 from going to that fateful meeting on that day. If only.

24 I miss my amazing son and all the things he would have
25 shared and our future together. I not only lost my son that day but also

1 the chance to continue the legacy I might have left through his progeny.

2 I suppose I could go on and on describing my loss, my
3 depression, and my despair but to what end? It will not return my son to
4 me or the life that might have been had he not been murdered.

5 While I'm glad his killer will be brought to justice I can't help but
6 think he will be getting the better end of this deal. He gets to live. My
7 son didn't. He will get to go on with his life. I only get to go on with a
8 portion of mine, a mere half shadow of what it should have been.

9 In conclusion, no parent should ever have to bury their child,
10 especially for no good reason. I lost my son, my legacy, my desire to
11 work or live, and my relationship with God. A heavy price to pay that
12 makes we wonder what I ever did to deserve such a devastating life
13 sentence.

14 Thank you.

15 THE COURT: Thank you, sir. And thank you for being here.

16 Mr. Ericsson, do you have any questions?

17 MR. ERICSSON: No.

18 THE COURT: All right. I think Mr. Ericsson said it best, this
19 is -- these situations are so tragic. These situations are so tragic for
20 everyone who's involved in these situations. And I think as a judge you
21 wish that there was something that you could say that's going to stop this
22 tragedy from continuing and going to stop it from affecting people's lives.
23 But unfortunately there's nothing I can say that's going to stop the hurt
24 that this situation has caused and there's -- I mean, there just isn't. The
25 only thing that's going to help that is the healing that's going to occur and

1 it's not going to be done by the words that I speak today.

2 However, it is important to think about what is justice and what
3 does justice look like? And one of the things that was said here today is
4 what does justice look like from a number standpoint? And unfortunately
5 from the Court standpoint, I mean, that's exactly what we have, is the
6 Court has to put a number on what justice is.

7 And, I mean, like I said, this situation is tragic and these
8 murder cases are always very tragic.

9 In accordance with the laws of the State of Nevada,
10 Mr. Washington, you're going to be adjudicated guilty of second degree
11 murder with use of a deadly weapon.

12 In addition to the \$25 administrative assessment fee, the \$150
13 DNA testing fee, and the \$3 DNA assessment fee, you are going to be
14 sentenced to 120 to 300 months in the Nevada Department of
15 Corrections. You are going to be sentenced to a consecutive 72 to 180
16 months in the Nevada Department of Corrections for the weapons
17 enhancement. You have 680 days credit for time served.

18 You're going to be ordered to pay restitution in the amount of
19 \$3,580 and that will be made out to Victims of Crime.

20 And the Court would like the record to reflect I've considered all
21 the factors under NRS 193.165 in determining the length of additional
22 penalty to be imposed for the weapons enhancement.

23 Thank you, guys.

24 MS. FLECK: Thank you, Your Honor.

25 MR. ERICSSON: Thank you, Your Honor.

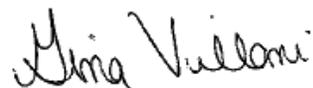
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THE COURT: Thank you.

[Hearing concluded at 9:48 a.m.]

* * * * *

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



Gina Villani
Court Recorder/Transcriber
District Court Dept. IX

1 JOCP
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4 DISTRICT COURT
5 CLARK COUNTY, NEVADA
6

7 THE STATE OF NEVADA,
8

9 Plaintiff,

10 -vs-

CASE NO. C-19-341380-1

DEPT. NO. X

11 JARELL WASHINGTON aka
12 Jarrell Washington
13 #2665695

14 Defendant.
15

16 JUDGMENT OF CONVICTION
17 (PLEA OF GUILTY)
18

19 The Defendant previously appeared before the Court with counsel and entered a plea of
20 guilty to the crime of MURDER (SECOND DEGREE) WITH USE OF A DEADLY
21 WEAPON (Category B Felony) in violation of NRS 200.010, 200.030.2, 193.165; thereafter,
22 on the 16th day of April, 2021, the Defendant was present in court for sentencing with counsel
23 THOMAS A. ERICSSON, ESQ., and good cause appearing,
24

25 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense and, in addition
26 to the \$25.00 Administrative Assessment Fee, \$3,580.00 Restitution payable to Victims of
27 Crime and \$150.00 DNA Analysis Fee including testing to determine genetic markers plus
28

1 \$3.00 DNA Collection Fee, the Defendant is sentenced to the Nevada Department of
2 Corrections (NDC) as follows: a MAXIMUM of THREE HUNDRED (300) MONTHS with a
3 MINIMUM parole eligibility of ONE HUNDRED TWENTY (120) MONTHS plus a
4 CONSECUTIVE term of ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM
5 parole eligibility of SEVENTY-TWO (72) MONTHS for the Use of a Deadly Weapon; with
6 SIX HUNDRED EIGHTY (680) DAYS credit for time served.
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10 Dated this 6th day of May, 2021

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Tierra Jones
District Court Judge

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CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

State of Nevada

CASE NO: C-19-341380-1

vs

DEPT. NO. Department 10

Jarell Washington

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Judgment of Conviction was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 5/6/2021

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