

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

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Elizabeth A. Brown
Clerk of Supreme Court

CRAIG ALLEN RODGERS,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Case No: C-16-314359-1

Docket No: 83301-COA

RECORD ON APPEAL VOLUME 6

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TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA

Plaintiff,

vs.

CRAIG RODGERS

Defendant.

CASE NO. C-314359

DEPT. XXII

BEFORE THE HONORABLE SUSAN JOHNSON, DISTRICT COURT JUDGE

AUGUST 6, 2019

RECORDER'S TRANSCRIPT OF HEARING RE

JURY TRIAL - DAY 2

APPEARANCES:

For the Plaintiff:

STEVEN ROSE, ESQ.
TINA MORALES, ESQ.

For the Defendant:

JOHN PARRIS, ESQ.

RECORDED BY: NORMA RAMIREZ, COURT RECORDER

1 TUESDAY, AUGUST 6, 2019 AT 1:36 P.M.

2
3 THE COURT: We're here on State of Nevada versus Craig Rodgers, case
4 number C16-314359-1. And I'm sorry, Miss Recorder, are you -- are we on the
5 record?

6 THE COURT RECORDER: We're good.

7 THE COURT: All right. Would counsel please identify themselves for the
8 record?

9 MR. ROSE: Steven Rose and Tina Morales for the State, Your Honor.

10 MR. PARRIS: And John Parris appearing with Mr. Rodgers who is present, in
11 custody outside the presence of the jury panel.

12 THE COURT: And, counsel, what I've got in front of me is a guilty plea
13 agreement, is that right?

14 MR ROSE: That is.

15 MR. PARRIS: That's correct, Your Honor.

16 THE COURT And the State did file a second amended information?

17 MR. ROSE: Correct.

18 THE COURT: Okay. And that by the way is in lieu of the previous one that
19 was stricken by the Court?

20 MR. ROSE: Correct.

21 THE COURT: Okay. All right. I take it that this case then is negotiated given
22 that I've seen the guilty plea agreement.

23 MR PARRIS: That is correct, Your Honor.

24 MR. ROSE: That is.

25 THE COURT: Okay. Do you want to tell me what the negotiations are?

1 MR. PARRIS: Certainly. Today Mr. Rodgers will plead guilty to one Count of
2 Second Degree Kidnapping, one Count of Robbery, one Count of Mayhem and one
3 Count of Pandering in this case. AT the rendition of sentence the State and the
4 Defense have stipulated to recommend a sentence -- of a aggregate sentence of a 6
5 year minimum with a 20 year maximum. And this plea is conditional upon the
6 Court's acceptance of the same. Furthermore the State does not oppose dismissal
7 for case C316167 upon rendition of sentence in this particular matter.

8 MR. ROSE: That's all correct.

9 THE COURT: Okay.

10 MR. PARRIS: From a numerical perspective -- assuming the Court is inclined
11 to follow these negotiations which it appears that it is, we would recommend that on
12 the secondary kidnapping count that the Court sentence Mr. Rodgers to a, what is it,
13 four year --

14 MR. ROSE: Four to fifteen year sentence on Count 1. On Count 2, a 2 to 5
15 to run consecutive.

16 THE COURT: Okay. Hold on just a second.

17 MR. ROSE: I apologize.

18 THE COURT: That's all right. Count 1 --

19 MR. ROSE: Four to fifteen.

20 THE COURT: Four to fifteen.

21 MR. ROSE: On Count 2, two to five consecutive. On Count 3 a two to five
22 year concurrent sentence. On Count 4, again, a 2 to 5 concurrent sentence. So by
23 our calculations, that should result in an aggregate of 6 to 20.

24 THE COURT: Okay. Let me repeat that. So, I understand the parties are
25 agreeing to a sentence with respect to Count 1 of a minimum term of 4 years or 48

1 months to a maximum of 15 years and I believe that's 180 months.

2 MR. ROSE: It is.

3 THE COURT: Count 2 would be a minimum of 2 years or 24 months to a
4 maximum of 5 years or 60 months and that would run consecutive to the sentence
5 imposed -- or the time imposed with respect to Count 1.

6 MR. ROSE: Correct.

7 THE COURT: Count 3 would be 2 years or 24 months to a maximum of 5
8 years or 60 months. That would run concurrent to the time set forth in Count 2.

9 MR. ROSE: Correct.

10 THE COURT: And with respect to Count 4 the minimum term would be 2
11 years or 24 months with a maximum of 5 years or 60 months and that would also
12 run concurrent to that set forth in Count 3.

13 MR. ROSE: Correct.

14 THE COURT: Okay.

15 MR. ROSE: From a monthly aggregate adding it will be 72 to 240 at the end
16 of the day.

17 THE COURT: Okay. Is that right?

18 MR. PARRIS: Yes, Your Honor.

19 THE COURT: Okay. Okay. Mr. Rodgers --

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: -- will you -- will you waive the formal reading of the charges?

22 THE DEFENDANT: You said what?

23 THE COURT: Will you waive a formal reading of the charges?

24 THE DEFENDANT: Yes.

25 THE COURT: Okay. And is Craig Rodgers your true name?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Okay. Is it also Craig Allen Rodgers?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Okay. And that is your true name?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: How old are you, sir?

7 THE DEFENDANT: 38.

8 THE COURT: Are you a United States citizen?

9 THE DEFENDANT: Yes.

10 THE COURT: And how far did you go in school?

11 THE DEFENDANT: Some college.

12 THE COURT: What is some college?

13 THE DEFENDANT: I went to a course in California, I went to a course out

14 here but I didn't get a degree.

15 THE COURT: Okay. So, two college courses?

16 THE DEFENDANT: Yeah.

17 THE COURT: Did you graduate from high school?

18 THE DEFENDANT: No, I got my G.E.D.

19 THE COURT: Okay. Was that in North Carolina?

20 THE DEFENDANT: Yes.

21 THE COURT: Okay. I read something about that in the pre-sentence

22 investigation report. While -- and you did that while you were incarcerated?

23 THE DEFENDANT: Yes.

24 THE COURT: Okay. Do you have any sort of learning disabilities, sir?

25 THE DEFENDANT: No, ma'am.

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

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Have you been treated recently for any mental illness or
4 addiction of any kind?

5 THE DEFENDANT: No, ma'am.

6 THE COURT: Okay. Has anyone ever suggested to you that you should be
7 treated for a mental health or a emotional condition?

8 THE DEFENDANT: No, ma'am.

9 THE COURT: Are you currently under the influence of any drug, medication
10 or alcoholic beverage?

11 THE DEFENDANT: No.

12 THE COURT: Have you been on any medication during your time in jail?

13 THE DEFENDANT: Yes.

14 THE COURT: What medications?

15 THE DEFENDANT: Celexa.

16 THE COURT: And what does that do for you?

17 THE DEFENDANT: It's a anti-depressant.

18 THE COURT: Okay. Do you -- other than Alexa [sic] do you take any other
19 mental health medications?

20 THE DEFENDANT: No, ma'am.

21 THE COURT: Okay. Did you take any mental health medications prior to
22 being in custody?

23 THE DEFENDANT: I used to but I stopped.

24 THE COURT: What was it?

25 THE DEFENDANT: I used to but I stopped.

1 THE COURT: What was the medication?
2 THE DEFENDANT: Oh, Celexa also,
3 THE COURT: Okay. When was the last time you had an alcoholic beverage?
4 THE DEFENDANT: About twelve-hundred and seventeen days ago.
5 THE COURT: Wow, you kept track.
6 THE DEFENDANT: Yes.
7 THE COURT: Okay. Well, how do you feel today?
8 THE DEFENDANT: I feel -- better to get this overwith.
9 THE COURT: Okay. Do you understand everything that's happening here?
10 THE DEFENDANT: Yes, ma'am.
11 THE COURT: Okay. In fact, Mr. Parris, have you noticed any cognitive
12 difficulties with your client?
13 MR PARRIS: No, Your Honor.
14 THE COURT: Okay. Mr. Rodgers, have you received a copy of the second
15 amended information?
16 THE DEFENDANT: Yes, ma'am.
17 THE COURT: Okay. You understand, just so that we are all clear, that it is
18 the second amended information which was filed today is charging with Count 1,
19 Second Degree Kidnapping a Category B Felony in violation of NRS 200.310,
20 200.330. Count 2, Robbery, a Category B Felony in violation of NRS 200.380,
21 Mayhem which is Count 3, a Category B Felony in violation of NRS 200.280 and
22 Count 4, Pandering, a Category C Felony in violation of NRS 201.300 subsection 1.
23 Do you understand that?
24 THE DEFENDANT: Yes, ma'am.
25 THE COURT: How do you plead to those charges?

1 THE DEFENDANT: Guilty.

2 THE COURT: Are you pleading guilty because you are in fact guilty of
3 committing these crimes?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Okay. Is anyone forcing you to plead guilty?

6 THE DEFENDANT: No, ma'am.

7 THE COURT: You're pleading guilty of your own free will?

8 THE DEFENDANT: Yes, I am.

9 THE COURT: Okay. Has anyone made you any promises other than what's
10 set forth in the guilty plea agreement to what you will receive in order to enter this
11 plea?

12 THE DEFENDANT: No, ma'am.

13 THE COURT: Okay. And just so that I am clear, no one has forced or
14 threatened you in any way to have you enter this plea?

15 THE DEFENDANT: No, ma'am.

16 THE COURT: Okay. Have you discussed your case with your lawyer?

17 THE DEFENDANT: Yes, I have.

18 THE COURT: Are you satisfied with the representation and advice given to
19 you by your lawyer?

20 THE DEFENDANT: Yes, I am.

21 THE COURT: Okay. I have before me a guilty plea agreement which is filed
22 in open court a few moments ago -- ago. It appears to me that you signed this
23 agreement. Did you sign it?

24 THE DEFENDANT: Yes, I did.

25 THE COURT: And just so that I'm clear, your signature, I know it's probably

1 hard to see, appears on six -- page six of the agreement?

2 THE DEFENDANT: Yes.

3 THE COURT: Did your lawyer also sign it?

4 THE DEFEDANT: Yes, he did.

5 THE COURT: Okay. Prior to signing this agreement did you have an
6 opportunity to review the agreement and did you review it and understand the
7 terms?

8 THE DEFENDANT: Yes, we did.

9 THE COURT: Okay. And did you review this agreement with your lawyer,
10 Mr. Parris?

11 THE DEFENDANT: Yes, I did.

12 THE COURT: Okay. And like I said, he also signed this agreement.

13 THE DEFENDANT: Yes, he did.

14 THE COURT: Okay. Do you understand that you are giving up certain
15 constitutional rights by entering into this guilty plea?

16 THE DEFENDANT: Yes, I do.

17 THE COURT: Do you understand that you have the right to appeal on
18 reasonable constitutional, jurisdictional or other grounds that challenge the legality
19 of the proceedings?

20 THE DEFENDANT: Yes.

21 THE COURT: Okay. Do you -- do you understand the range of punishments
22 for these crimes?

23 THE DEFENDANT: Yes, I do.

24 THE COURT: Okay. And just so that I am clear, do you understand that as a
25 consequence of your guilty plea as to Count 1 you must be sentenced to a term of

1 not less than two years and not more than fifteen years to be served in the Nevada
2 Department of Corrections?

3 THE DEFENDANT: Yes.

4 THE COURT: Do you also understand that you could be fined up to
5 \$15,000.00?

6 THE DEFENDANT: Yes.

7 THE COURT: As to Count 2, do you understand that as a consequence of
8 your guilty plea that you must be sentenced to a term of not less than two years and
9 not more than fifteen years to be served in the Nevada Department of Corrections?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you also understand as to Count 3 that as a consequence
12 of your guilty plea that you must be sentenced to a term of not less than two years
13 and not more than ten years to be served in the Nevada Department of
14 Corrections?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you also understand that you could be fined up to
17 \$10,000.00?

18 THE DEFENDANT: Yes.

19 THE COURT: As to Count 4, do you understand that as a consequence of
20 your guilty plea that you must be sentenced to a term of not less than one year and
21 not more than five years to be served in the Nevada Department of Corrections?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you also understand that you could be fined up to
24 \$10,000.00?

25 THE DEFENDANT: Yes.

1 THE COURT: Do you also understand that the law does require you to pay
2 certain administrative assessment fees?

3 THE DEFENDANT: Yes.

4 THE COURT: In order to get you to plead guilty to these charges, do you also
5 understand that no one is in a position to promise you probation, leniency or other
6 special treatment?

7 THE DEFENDANT: I understand that.

8 THE COURT: Do you understand that sentencing is up to the Court --

9 THE DEFENDANT: Yeah.

10 THE COURT: -- and that this guilty plea is between you and the D.A.'s office
11 and it's a deal between you two --

12 THE DEFENDANT: [indecipherable]

13 THE COURT: -- and then I as the Court do not necessarily have to follow it?

14 THE DEFENDANT: I understand that.

15 THE COURT: Do you have any questions you would like to ask me or your
16 lawyer before I accept this plea?

17 THE DEFENDANT: No. He talked to me about everything, he explained it
18 very well.

19 THE COURT: Okay. That's good to know. Okay. The Court finds that your
20 plea of guilty, sir, is freely and voluntarily made. Well, before I say that I need you to
21 tell me what you did.

22 THE DEFENDANT: In which terms? I'm guilty or --

23 THE COURT: Well, let me just ask you this. Sir, you're pleading guilty
24 because in truth and in fact with respect to Count 1, on or about March 6 of 2015,
25 did you willfully, unlawfully, and feloniously seize, inveigle, take, carry away or

1 kidnap Anntoinette Martinez, a human being against her will and without her consent
2 with the intent to keep Anntoinette Martinez detained against her will?

3 THE DEFENDANT: Yes.

4 THE COURT: With respect to Count 2, Robbery, did you on or about March
5 6, 2015 did you willfully, unlawfully and feloniously take personal property to wit:
6 U.S. currency and/or personal property from the person of Anntoinette Martinez or in
7 her presence by means of force or violence or fear of injury to and without the
8 consent and against the will of Anntoinette Martinez?

9 THE DEFENDANT: Yes.

10 THE COURT: With respect to Count 3, Mayhem, did you, sir, on or about
11 March 6, 2015 willfully, maliciously and feloniously deprive a person to wit:
12 Anntoinette Martinez of a body member or did disfigure or render a body member
13 useless to wit: ear by slitting the ear of said Anntoinette Martinez?

14 THE DEFENDANT: Yes.

15 THE COURT: With respect to Count 4, Pandering, did you, sir, on or between
16 June 1 of 2013 and June 1 of 2016 willfully, unlawfully, and feloniously induce
17 Savannah Taylor to unlawfully become a prostitute and/or to continue to engage in
18 prostitution?

19 THE DEFENDANT: Yes.

20 THE COURT: Okay. Is the State satisfied with that canvass?

21 MR. ROSE: We are, Your Honor.

22 THE COURT: Okay. The Court finds that the Defendant's plea is being freely
23 and voluntarily given and I will accept that plea.

24 Now, I understand with respect to sentencing the parties have made
25 certain agreements with respect to that.

1 MR. ROSE: We have, Your Honor, particularly with respect to the joint
2 recommendations as to the sentencing breakdown and also to the credit for time
3 served. Given the fact that we already had a PSI what the State's request is gonna
4 be is for sentencing to happen today with one particular note. The PSI was done
5 previously on this. In between when the PSI was prepared and today Mr. Parris
6 went and addressed the felony conviction which is noted at the top of page 4. It was
7 a 2001 conviction from the State of Nevada. Well, I had not realized until Mr. Parris
8 informed us of it because that charge is actually treated under the 453.3363 statute
9 which allows for a dismissal upon honorable discharge. As it's noted on page 4, Mr.
10 Rodgers was in fact honorably discharged. Since the time of the preparation of the
11 PSI, Mr. Parris has gone and actually had that case dismissed as it should have
12 been pursuant to that particular statute. So, the request by the state of Court today
13 is within the judgment of conviction we would ask the Court to note that the felony
14 conviction at the top of page 4 from 2001 you ordered stricken from the PSI
15 pursuant to *Stockmeier*.

16 THE COURT: Okay. I assume you have no problem with that, Mr. Parris?

17 MR. PARRIS: No, Your Honor. That's an accurate assessment of the history
18 regarding that particular charge. Everyone agrees it ought to have been dismissed
19 literally 16, 17 years ago. Procedurally it was not done. Mr. Rodgers actually
20 brought that to my -- my own and the Court's attention six months ago or so and that
21 matter ultimately was resolved in District Court 3 I believe in early July of this year.

22 THE COURT: All right. I will order stricken the -- the crime that is listed --
23 dated April 20th of 2001 as it was dismissed pursuant to NRS 453.3363 and the
24 *Stockmeier* decision. So, we will go ahead and have that stricken from the pre-
25 sentence investigation report. Okay. I have no problem with that. Okay.

1 Then are we all agreeing to sentence today?

2 MR. PARRIS: I believe the State would like to proceed forward with the
3 sentencing, Mr. Rodgers has indicated to me that he would like a brief continuance
4 for the purposes of sentencing. We've addressed one of the -- one of the biggest
5 concerns was the existence of that prior conviction which is no longer a conviction
6 and that has been addressed and taken care of pursuant to the amended -- or
7 excuse me, pursuant to the judgment of conviction that we filed in this case. Mr.
8 Rodgers has indicated he has some personal reasons why he would like some
9 additional time prior to sentencing.

10 THE COURT: And what is -- what are those personal reasons?

11 MR. PARRIS: I -- quite candidly I did not get into the specifics of those
12 reasons, any significant detail as I realized we have Your Honor waiting as well as
13 the jury out in the hallway. I believe one of the issues he had was -- and may I say
14 the financial issue?

15 THE DEFENDANT: Yes.

16 MR. PARRIS: -- is financial and that he would like some additional time to get
17 his finances in order since it will be more difficult for him once he is transferred to
18 the Nevada Department of Corrections which would probably happen within two
19 weeks or so of him being sentenced. When he originally gets there -- excuse me,
20 when he initially gets to the NDOC he'll be in the tank or their classification unit for
21 approximately one month during which time he really won't have any access to the
22 outside world for lack of a better term. Then he'll be classified into an appropriate
23 unit however the NDOC sees fit. However he would like some additional time to
24 speak to -- reach out to relatives, friends, other family members in hopes of building
25 up, for a lack of a better term, a bankroll to allow him a more comfortable initial start

1 to his incarceration which we all agree and we all are well aware pursuant to these
2 negotiations is forthcoming.

3 THE COURT: What's -- how does the State feel?

4 MR. ROSE: We're -- we're ready to proceed today. I would largely submit it to
5 the Court's discretion. The other, I guess, potential though I had is there is a
6 restitution request. I have no information about that. If Your Honor wanted to
7 sentence today but hold over actually filing of the judgment of conviction, gives us a
8 status check on restitution. I don't believe that there will be much forthcoming on
9 that but we could then have Mr. Rodgers remain at the Clark County Detention
10 Center until that restitution hearing in order to allow him also that additional time.
11 My preference would be to get everything done; today I'm just trying to come up with
12 a potentially creative solution if the Court's inclined.

13 THE COURT: Okay. Well, the only restitution I've got reflected in here is
14 \$500.00.

15 MR. ROSE: Correct. The one problem is typically with that because it is a
16 portion of the sentence, Defense has the right to challenge that. I don't have any
17 supporting documentation of that at this point in time.

18 THE COURT: Okay. Well --

19 MR. PARRIS: And in all candor to the court, just to piggyback on that, at the
20 time that this PSI was prepared I did not represent Mr. Rodgers. I believe I started
21 -- I began representing him in November of last year I want to say and this was
22 dated I August of last year -- or filed in August of last year. I have not discussed --
23 in all candor to the Court, I have not discussed any restitution related issues with Mr.
24 Rodgers even this afternoon as it was not at the forefront of my priorities with
25 respect to dealing with the pending trial that we are in and potentially -- and

1 ultimately resolving this case.

2 THE COURT: Okay.

3 MR. PARRIS: So, we would not object to the Court to that solution if the
4 Court's inclined to indulge us and give us an opportunity to flush out that restitution
5 amount and retain jurisdiction to do the same and that would allow Mr. Rodgers to
6 remain at the Clark County Detention Center for another however long the State
7 needs to get its paperwork. Two weeks I think would be sufficient.

8 MR. ROSE: Essentially --

9 MR. PARRIS: The State can do it.

10 MR. ROSE: We would be able to make sure that if we do -- if there is any
11 documentation out there we will be able to get it within the next two weeks. So,
12 essentially what this would allow us to do is to accomplish both days. Have
13 sentencing happen today but also provide a little bit of additional time for Mr.
14 Rodgers given the -- kind of the circumstances of moving up to NDOC.

15 THE COURT: Okay. Well, I'm getting a sense that you guys want to
16 postpone sentencing. You're telling me no?

17 MR. ROSE: I'm asking for the sentencing to happen today in terms of the
18 aggregate sentencing and then to only have one additional hearing just for purposes
19 of proving up if there is any proof to be provided of the restitution. So, he would not
20 be sentenced on an additional day, be sentenced today but we then have an
21 additional hearing where he can remain for another couple of weeks, get his
22 finances in order. It kind of accomplishes both people's goals at the same time.

23 THE COURT: Are you okay with that?

24 MR. PARRIS: I would have no objection to the Court retaining jurisdiction for
25 purposes of the restitution related issue. That is -- it's not common but it is not

1 something that strikes me as being so uncommon or inappropriate that it would run
2 afoul of any statutory guidelines. In fact, I've done this in many courtrooms even in
3 the last -- about two weeks ago I did this exact same thing in District Court 30 on an
4 -- obviously an unrelated case. So, this is not -- this is not completely out of the
5 realm of normalcy.

6 THE COURT: Okay. All right, I will go ahead and sentence today. I'd like to
7 hear from the State.

8 MR. ROSE: Your Honor, I'm gonna be asking the Court to follow the
9 recommendations that we had laid out previously. So, again, as to Count 1 I'm
10 gonna be asking you for that 4 to 15 or that 48 to 180 month sentence. As to Count
11 2 I'm gonna be asking for a 2 to 5 year or a 60 to -- sorry, a 24 to 60 month
12 sentence to run consecutive to Count 1. As to Counts 3 and 4 I'm gonna be asking
13 for a 24 to 60 month sentence on each to run concurrent not only to one another but
14 also to Count 2 for an aggregate sentence of 6 to 20 years or a 72 to 240 months. I
15 would submit, Your Honor, with that from my calculations I believe you're looking at
16 1,163 days credit.

17 THE COURT: One thousand --

18 MR ROSE: 163.

19 THE COURT: 1,163 days.

20 MR. ROSE: That's what I had calculated based upon what was in the PSI
21 and then going from the PSI up and till today. My numbers might be a little bit off
22 but if counsel wants to address it I have no objection.

23 THE COURT: Okay. Well, I was gonna go ahead and do the calculation
24 myself but I appreciate this at least as a starting point.

25 MR. PARRIS: Now, Your Honor, with respect to the credit for time served I

1 actually had a different number. I used a day to calculating websites and I got 1,218
2 days from April 6, 2016 through today and I'm happy to pull up the website right
3 now. And I very well may have entered it incorrectly but --

4 THE ROSE: We're fine with that since -- in looking at it I think I had the wrong
5 date in there and I apologize for that.

6 THE COURT: 1,218 days?

7 MR. ROSE: Correct.

8 THE COURT: Okay. Mr. Parris.

9 MR. PARRIS: With respect to the sentence itself as we laid out during the
10 plea canvass as well as in the State's argument, we are completely in accordance
11 with their recommendation that was contemplated by all parties.

12 Now, so Your Honor knows, Mr. Rodgers has now indicated to me that
13 his prior counsel never provided him with a copy of the PSI. I am taking him at his
14 word. I did not provide him with a copy -- a prior copy of his PSI until this afternoon
15 since it was not yet right for me to do so. In reviewing it, it does not appear that he
16 is contesting any of the information in there as being accurate other than that which
17 we've already resolved with respect to his 2001 conviction. He did indicate to me
18 that he would prefer that the information contained on page five regarding the
19 District Court 23 case be stricken. And I apologize; he had said that to me when
20 Your Honor had asked me my position on sentencing. Obviously the fact that he
21 was re-booked -- that middle column for lack of a better term, obviously the fact that
22 he was re-booked on that date on May 11th of 2016 and was charged with Counts 1
23 through 6 would still be on any PSI that he ever had in his life. It would just be on
24 the right hand column on page 5 after that May 1, 2016 date that that case would be
25 dismissed --

1 THE COURT: Per negotiations.

2 MR. PARRIS: -- per negotiations rather than on for a guilty plea agreement
3 [indecipherable] as stated on the document.

4 THE COURT: Okay. I understand that.

5 MR. ROSE: And we're fully on board with that, Your Honor. I apologize. I
6 should have caught that earlier.

7 MR. PARRIS: He is also informing me his belief that Count 3 listed on that
8 same conviction, the Attempt Kidnapping First Degree, that he was never charged
9 with that at the Justice Court level. I --

10 THE COURT: Okay.

11 MR. PARRIS: -- or at least he may have been booked on it, he's saying he
12 was never charged with it. I have no idea since I did not represent him on that case
13 three years ago. I do not know if that is incorrect.

14 THE DEFENDANT: Those charges were added at the preliminary hearing,
15 dismissed at the preliminary hearing.

16 MR. PARRIS: I'm sorry; they were added and then dismissed?

17 THE DEFENDANT: [indecipherable] yeah. They were dismissed. They
18 wanted to add them and then those charges were dismissed.

19 MR. PARRIS: Okay. So, it sounds like at some point in time at least for a
20 brief period there was an amended criminal complaint charging you -- and forgive
21 me, and I'm speaking to you, Mr. Rodgers. There is an amended criminal complaint
22 filed at least for some period of time charging you with all six of those offenses,
23 correct?

24 THE DEFENDANT: Yes.

25 MR. PARRIS: Ultimately not all six of them made it up to the District Court

1 level?

2 THE DEFENDANT: Correct. That's why I wanted to put this on too because I
3 had never seen this PSI at all so I wanted to have a new one.

4 MR. PARRIS: Obviously nothing has changed in his criminal history for the
5 negative since this document was prepared and I want to say August 23rd of last
6 year. I don't -- I'm doing that from memory.

7 THE DEFENDANT: Everything is fine, Your Honor, I just know I have a right
8 to go over my PSI before sentencing. That's all I want to do. Everything else is fine.
9 I have no complaints with anything. I just wanted to be able to go over this and have
10 everything right on there.

11 THE COURT: Do we need a new PSI?

12 THE DEFENDANT: Yes, please.

13 MR. ROSE: My only concern with a new PSI is that typically it's multiple
14 weeks to months. What my request of this Court would be is I can pull up
15 everything that happened with that other case if we have a two week date I'll be able
16 to provide the Court with all of that information and in between then and now Mr.
17 Rodgers can provide Mr. Parris with any other potential concerns. We will be able
18 to provide the Court in two weeks with anything that does need to be changed
19 because the JOC won't actually be entered until after the restitution amount if any is
20 determined. So, we can then have all of the corrections listed out in that. That's my
21 request to the Court but --

22 MR. PARRIS: And I think through -- just as we modified the PSI regarding the
23 2001 conviction any modifications that need to be made to the PSI regarding his
24 criminal history could be done in that same or similar fashion.

25 THE COURT: Well, that seems good to me. Is everybody okay with doing

1 that?

2 THE DEFENDANT: Say that again so I can make sure I understand it fully.

3 THE COURT: You didn't hear what your attorney just said?

4 THE DEFENDANT: No, not all of it. I was still trying to read this.

5 THE COURT: Okay. Well, why don't you listen to your lawyer?

6 MR. PARRIS: Okay. What the suggestion is is that we will go forward with
7 sentencing today, we will come back in two-ish weeks or as close to it as the Court's
8 calendar can allow for purposes of determining what restitution if any should be
9 ordered in this case. In the Psi there was a reference on page 7 or 8 to owing Ms.
10 Martinez \$500.00 for her cellular phone, however the state had indicated it would be
11 requesting some documentation of that restitution amount from her. If they can
12 provide to us and provide proof okay if not, okay, but the State didn't necessarily
13 anticipate the case resolving today so it hasn't asked for any -- any documentation
14 she may have. Furthermore, we are not going to sentence you -- excuse me, we
15 are not going to file -- we meaning the Court, will not file a judgment of conviction in
16 this case. If there are issues that need to be corrected in the PSI other than the
17 2001 conviction which we will incorporate definitively into that judgment of
18 conviction. If there are any other issues that need to be -- excuse me. any other
19 issues with the PSI that need to be similarly modified we well do so at that time once
20 the JOC is filed, but the JOC will not be filed until we have the restitution issue dealt
21 with.

22 THE DEFENDANT: Okay.

23 MR PARRIS: And, Your Honor, and the State, is that an accurate
24 assessment?

25 MR. ROSE: I think it is. It essentially gives us to two weeks to go through the

1 PSI, figure out what if anything is wrong and then address it all at once as opposed
2 to trying to do it piecemeal but also not having to go back and take a ton of time to
3 get second PSI done.

4 THE COURT: Okay.

5 THE DEFENDANT: Okay.

6 THE COURT: All right. Okay. Anything else, Mr. Parris?

7 MR. PARRIS: Otherwise we'll submit it, Your Honor.

8 THE COURT: Okay. Okay. Mr. Rodgers, is there anything you'd like to say
9 to me before sentence?

10 THE DEFENDANT: No, Your Honor. I'm terribly sorry about the incident that
11 occurred and I'm just ready to be on with my life.

12 THE COURT: Okay. All right. First I am going to -- as part of the sentence
13 assess you a \$25.00 administrative assessment fee, a \$3.00 DNA administrative
14 assessment fee. Now, has his DNA been taken before?

15 MR. ROSE: It would have for that 2001 charge.

16 THE COURT: Okay. I am not gonna issue the DNA genetic drug testing -- or
17 genetic testing fee because it's already been done. We don't need to do it more
18 than once. I just want to make sure.

19 All right. With respect to Count 1, Second Degree Kidnapping, -- well,
20 first of all, I have to do this. I have to adjudge him guilty first.

21 MR. ROSE: Yes.

22 THE COURT: Okay. Geez. Okay. Given -- I'm gonna have to back up.
23 Sorry, it's been a while, I'm a little rusty. Okay. Mr. Rodgers, I adjudge you guilty of
24 committing the crime of:

25 Second Degree Kidnapping, a Category B Felony in violation of NRS

1 200.310.

2 Count 2. Robbery. a Category B Felony in violation of NRS 200.380. C

3 Count 3. Mayhem. a Category B Felony in violation of NRS 200.280
4 and Count 4. Pandering, a Category C Felony in violation of NRS 201.300
5 subsection 1.

6 With respect to -- and then -- with respect to the sentence as I've
7 already indicated, I'm assessing you an administrative assessment fee of \$25.00, a
8 \$3.00 DNA administrative fee. I am waiving the DNA genetic testing fee as it's
9 already been taken. As I've indicated it only needs to be taken once.

10 With respect to the sentence, Count 1. Sir, the minimum term that you
11 will serve will be 48 months or 4 years and a maximum of 180 months or 15 years.

12 With respect to Count 2, the minimum term that you will serve will be 2
13 years or 24 months with a maximum of 5 years or 60 months. That term with
14 respect to Count 2 will run consecutive to that which is imposed with respect to
15 Count 1.

16 With respect to Count 3, Mayhem. Sir, the minimum term that you will
17 serve will be 2 years and the maximum term will be 5 years or 60 months. That
18 term imposed with respect to Count 3 will run concurrent to that imposed with
19 respect to Count 2.

20 With respect to Count 4, Pandering. The minimum term that you will
21 serve will be 2 years or 24 months with a maximum term of 60 months or 5 years
22 and that term will run concurrent to that imposed with respect to Count 3. The
23 aggregate term will be 72 months or 6 years and a maximum term of 240 months or
24 20 years.

25 You will be accorded 1,218 days credit for time served and I will be

1 dismissing case number C31616 -- 67.

2 MR. ROSE: Correct.

3 THE COURT: Okay. Is there anything else that we need to deal with?

4 MR. ROSE: The one last thing is just to find a time convenient to this Court in
5 approximately two weeks.

6 THE COURT: And that will deal with the restitution and any corrections we
7 need to make to the pre-sentence investigation report?

8 MR. ROSE: Correct.

9 MR. PARRIS: Yes, Your Honor.

10 THE COURT: All right. Do we have something in two weeks?

11 THE COURT CLERK: That's gonna be September 20th at 8:30.

12 MR. PARRIS: September -- I'm sorry, Miss Clerk, September or August?

13 THE COURTCLERK: August 20.

14 MR. PARRIS: Okay.

15 THE COURT CLERK: Sorry. August 20th.

16 THE COURT: And I have signed the ex-parte application and order recalling
17 the material witness warrant. And what else?

18 THE COURT CLERK: I was just gonna ask about that --

19 THE COURT: Okay.

20 THE COURT CLERK: -- so I'm good. We don't need anything.

21 THE COURT: Nothing more. Okay. Here is this.

22 Okay. I will see you guys here in two weeks at 8:30. Anything else that
23 we need to deal with? I'm gonna be calling the jury in and letting them know that the
24 parties resolved their differences.

25 THE COURT: Do you want us to stay and thank them and apologize for their

1 time? Does the Court want to essentially do that?

2 THE COURT: Oh, I -- well, I would say if you'd like to do that that'd be fine. I
3 think we can let Mr. Rodgers go.

4 MR. PARRIS: Yes. For the convenience of the transportation officers. Yeah,
5 I --

6 THE COURT: Okay.

7 MR. PARRIS: -- would not oppose that.

8 THE COURT: Why don't we do that.

9 [Courtroom at ease]

10 THE COURT: All right. Are we ready to bring the prospective jury panel in?

11 MR. ROSE: The State is. I believe we're ready to bring the prospective jury
12 in.

13 MR. PARRIS: Yes, Your Honor.

14 THE COURT: Okay. Nate?

15 THE MARSHAL: Yes, ma'am.

16 THE COURT: Let's bring the prospective jury panel in.

17 THE MARSHAL: All right.

18 [In the presence of the prospective jury]

19 THE MARSHAL: Please rise for the jury. All present, Your Honor.

20 THE COURT: Will counsel please stipulate to the presence of the prospective
21 jury panel?

22 MR. ROSE: We will.

23 MR. PARRIS: Yes, Your Honor.

24 THE COURT: All right. You all may be seated. Okay. Ladies and
25 gentlemen, it does not escape the attention of either the lawyers or me that you

1 have been waiting out in the hallway for an hour and forty-five minutes. I believe
2 that I -- whenever I saw you yesterday for jury orientation I asked for your patience
3 and I had indicated to you that sometimes the party -- the jury -- the prospective
4 jurors have to wait because things happen inside the courtroom or outside of your
5 presence. Well, that's exactly what happened here today is that the parties have
6 decided to resolve their differences and I think a lot of that happened because you
7 were all here ready to go. As I have told you before yesterday that, you know,
8 several months ago when a trial is scheduled everybody is just beating their chest,
9 they want to go to trial and then whenever they come to the courthouse and they
10 know the jury is waiting it suddenly becomes real. Well, it became very real and I
11 think that the parties came up with a good resolution between them.

12 So, I will -- unless the attorneys have -- anything you'd like to say I was
13 going to thank everybody and I'm going to excuse them but I didn't know if you
14 wanted to say anything.

15 MR. ROSE: Just to thank everybody for their time. We appreciate your
16 patience. I won't keep you any longer here.

17 THE COURT: Mr. Parris.

18 MR. PARRIS: Just to echo the same sentiment. On behalf of myself and Mr.
19 Rodgers, we wouldn't have dealt with this but for seeing the lights in all of your eyes.
20 So, we would apologize for keeping you out there for another hour and a half but we
21 figured we'd rather keep you out there for an hour and a half than make fourteen of
22 you wait another week and a half. So -- so thank you very much.

23 THE COURT: Okay. So, at this point I'm going to go ahead and excuse you
24 with my thanks. But I -- I will say this is a very important process and you helped a
25 lot, you have no idea, and I just want to thank you for that. Our job -- my job and

1 your job is to help resolve the parties' differences and you helped us do that today.
2 So, I want to thank you all very much for coming, okay?

3 [The prospective jury is excused]

4 THE COURT: Okay. Let the record reflect that the jury has left the
5 courtroom. And while I didn't get to see the full trial in action I do want to thank you
6 guys for allowing me to continue hearing this case and I hope to be able to hear
7 some more and have you guys here.

8 MR. PARRIS: I'd love to be back.

9 THE COURT: Yeah.

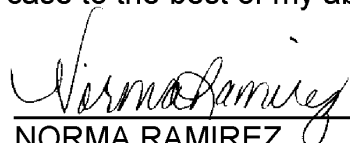
10 MR. ROSE: We could not more greatly appreciate the Court's patience with
11 us and I look forward to doing more trials in this department.

12 THE COURT: Okay. Well, I'll be continuing to volunteer for overflow cases
13 and we'll see what happens.

14 [Proceedings concluded at 2:54 p.m.]

15 * * * * *

16
17
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19
20 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.

21
22 
23 NORMA RAMIREZ
24 Court Recorder
25 District Court Dept. XXII
702 671-0572



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA

Plaintiff,

vs.

CRAIG ALLEN RODGERS

Defendant.

CASE NO. C-16-314359-1

DEPT. XXII

BEFORE THE HONORABLE SUSAN JOHNSON, DISTRICT COURT JUDGE
AUGUST 20, 2019

RECORDER'S TRANSCRIPT OF HEARING RE
ALL PENDING MOTIONS

APPEARANCES:

For the Plaintiff:

STEVEN ROSE, ESQ.
Deputy District Attorney

For the Defendant:

JOHN P. PARRIS, ESQ.

RECORDED BY: NORMA RAMIREZ, COURT RECORDER

1 AUGUST 20, 2019 AT 9:23 A.M.

2
3 THE COURT: State of Nevada versus Craig Rodgers, case number C16-
4 314359-1.

5 THE DEFENDANT: Good morning, Your Honor.

6 THE COURT: Okay.

7 THE DEFENDANT: Your Honor, quick question. Did --

8 THE COURT: Okay. And I -- wait a minute. I'd like the attorneys to identify
9 themselves for the record.

10 MR. ROSE: Good morning, Your Honor. Steven Rose on behalf of the State.

11 MR. PARRIS: Your Honor, John Parris appearing on behalf of Mr. Rodgers
12 who is present in custody.

13 THE COURT: Okay. And just an FYI, I guess yesterday -- or this morning I
14 received an ex parte communication letter and I understand my judicial executive
15 assistant emailed it to both of you?

16 MR. ROSE: That's correct.

17 MR. PARRIS: Yes, Your Honor. That's correct. I received it yesterday
18 afternoon some time as well.

19 THE COURT: Okay. And you've had an opportunity to review it.

20 MR. ROSE: I have.

21 THE COURT: Sir -- okay.

22 MR. PARRIS: Yes, Your Honor.

23 THE COURT: All right. Mr. Rodgers.

24 THE DEFENDANT: What ex parte -- what happened this morning?

25 THE COURT: Well, I received your letter, sir.

1 THE DEFENDANT: Okay, okay. That's what I -- that's what I was wondering.

2 I was --

3 THE COURT: And the -- and the lawyers received your letter as well.

4 THE DEFENDANT: Okay.

5 THE COURT: We -- we made --

6 THE DEFENDANT: Not a problem.

7 THE COURT: -- sure the copies got to your lawyers.

8 THE DEFENDANT: Okay. That is perfect.

9 THE COURT: Do you have anything to say to me?

10 THE DEFENDANT: About the letter. I wanted to talk to Mr. Parris first
11 because I didn't get a chance to talk to that.

12 THE COURT: I'm sorry?

13 THE DEFENDANT: I wanted to speak to Mr. Parris for a couple of minutes
14 please.

15 THE COURT: Okay.

16 MR. PARRIS: How would the Court like -- I know Your Honor doesn't like
17 when we speak in the box when court is in session.

18 THE COURT: Well, I'm not -- how long is this conversation gonna take place,
19 sir?

20 THE DEFENDANT: A couple of minutes.

21 THE COURT: Okay. We'll go ahead and allow it. Go ahead, sir.

22 MR. PARRIS: Thank you, Your Honor.

23 THE COURT: And we're here for -- to determine restitution and it's a status
24 check on the *Stockmeier* issues.

25 [Courtroom at ease]

1 MR. PARRIS: Thank you, Your Honor. I appreciate that. I [indecipherable] --

2 THE COURT: Okay. Well, Mr. Parris, make sure you get my a microphone,
3 okay?

4 MR. PARRIS: Your Honor, thank you for that time. I did have a chance to
5 clarify some of Mr. Rodgers issues. I believe he still does -- I mean, effectively in
6 the letter he's saying he wants to withdraw his guilty plea which would trigger a
7 whole cascade of events. I'm not necessarily opposed to that, however, what I'm
8 offering for the Court -- or offering to the Court is an opportunity to flush out some of
9 the what I feel to be inaccuracies that I see in the letter regarding my conversations
10 with Mr. Rodgers. Obviously that would need to be done outside the presence of
11 everybody except the court personnel and Mr. Rodgers. Ultimately if the Court
12 orders a motion to withdraw the guilty plea to be prepared and appoint a different
13 attorney we're gonna put me on the stand and I'm going to say this in three or four
14 months after a great deal of more work. I'm happy to inform the Court and clarify
15 some of the remarks he made in his letter ahead of time because that may -- and
16 then let the Court use that information however it sees fit but there's references in
17 here, two conversations that were had, and ostensibly your involvement in
18 settlement negotiations which did not occur at any point in time but I do want to
19 clarify my comments that I made not only to Your Honor in the presence of the D.A.
20 with respect to that comment but also I want to clarify what I told Mr. Rodgers about
21 that same comment -- or that same exchange that the Court, the State and myself
22 had regarding the negotiations in this particular matter.

23 Again, it was after the fact, it was after we had already negotiated the
24 case between myself and the State and I need to clarify what he's referencing in this
25 letter as obviously he made part of the record and I don't think this is an accurate

1 depiction of what actually occurred.

2 THE COURT: Okay.

3 MR. PARRIS: But I don't want to do that with a full civil calendar, four or five
4 matters sitting here. I can do that later this morning; we can set a different date. I
5 don't know how the Court wants to respond. And the Court may not even take me
6 up on my offer to do so but I'm making that offer because I want the record to be a
7 more accurate and faithful assessment of what my discussions with Mr. Rodgers
8 were before we proceed thereafter.

9 THE COURT: Okay. Mr. Rose, do you want to say anything?

10 MR. ROSE: Well -- so first, we did reach out to the victim. I don't have any
11 additional documentation to support the request for restitution so we will not be
12 requesting any restitution today. Just to put that matter to bed.

13 Having went through the letter that was provided to the Court and then
14 on to counsel, I would agree with Mr. Parris that I don't think that everything in there
15 is exactly representative of what happened in court that day. With respect to the
16 comment about, you know, the medical records or whatnot Your Honor already has
17 a copy of those medical records. He sent them on to the Court so those are already
18 part of the record. With respect to the rest of it, there are -- there's nothing that I can
19 say that would go to the discussions that Mr. Parris had with Mr. Rodgers. If the
20 Court feels that even if those things are true of what Mr. Rodgers indicated that that
21 would be a apparent reason to withdraw that guilty plea then I think we should have,
22 you know, a hearing either outside the presence of State so that Your Honor could
23 get a better feel for it or we can sit down at an evidentiary hearing with new counsel
24 appointed. Previously the last time that we were here on a Motion to Withdraw the
25 Guilty Plea the State had no objection at that point, we'll certainly be objecting this

1 time if that is what Mr. Rodgers eventually wants to do.

2 And then finally, I think if we do have an additional hearing that would
3 also give us time to then more fully address any potential *Stockmeier* issues without
4 holding up a whole gallery of civil attorneys as well.

5 THE COURT: Okay. I'm just ready to go today and decide -- deal with the
6 *Stockmeier* issues. Mr. Rodgers, I am not gonna entertain anymore motions to
7 withdraw a guilty plea. This is the second one that you're bringing and it's being
8 done after sentencing. I'm not gonna do it.

9 THE DEFENDANT: But, Your Honor, I wasn't supposed to get sentenced at
10 all. It was definitely [indecipherable] PSI never seen before at all.

11 THE COURT: We're gonna have to deal with the *Stockmeier* issues.

12 MR. ROSE: And, Your Honor, so just to be very clear. With respect to the
13 actual claims that were made. Your Honor, Mr. Rodgers had argued that when his
14 cousin spoke to Defense counsel was told that victim didn't want to testify and that's
15 apparently -- supposedly different from her not being well. Your Honor -- Your
16 Honor has already seen the medical records, those were provided to the Court and
17 to counsel. So, we'll go as to whether or not she wanted to testify. The genuine
18 reason why she wasn't here earlier that day was because she wasn't feeling well.
19 The Court had received that. In addition to that Your Honor did put on the record
20 that you're withdrawing the material witness warrant. Your Honor also --

21 THE COURT: I did -- I did that after he was sentenced.

22 MR. ROSE: Correct.

23 THE DEFENDANT: Your Honor --

24 MR. ROSE: One hundred percent correct.

25 THE COURT: Right.

1 MR. ROSE: In addition to that, the material witness warrant was an ex parte
2 application. The State has applied for that without Mr. Parris' knowledge. So, he
3 couldn't have been in a position to tell Mr. Rodgers that she was or want not in
4 custody, just that she could be put into custody because we have the ability to seek
5 that warrant. So, I don't think that that could have played a role in Mr. Rodgers'
6 decision at any point in time. I would also point out that Mr. Rodgers as we were
7 leading up to the trial had been asking for weeks or months to continue the trial and
8 the State had opposed that Your Honor had denied those motions. So, I don't know
9 that we're actually in a position where he would have simply insisted on going
10 forward because I think he was asking for a continuance even up and till that day.

11 Finally with respect to the PSI, Mr. Rodgers indicates in his letter that
12 he was not willing to go forward without a PSI that was free of inaccuracies. And I
13 don't fault him for wanting an accurate PSI; however we specifically crafted our
14 remedy of holding it over until today to give him a chance to then find any potential
15 inaccuracies and then correct them on -- today. So, I don't think that that would be a
16 basis either particularly because it was a stipulated joint recommendation. Finally
17 with respect to any involvement that Your Honor had, the only involvement that I
18 recall from it was Your Honor indicated -- with us essentially asking would Your
19 Honor follow the stipulated joint recommendation. It was not a do you like this, do
20 you dislike this, do you wish for a higher, do you wish for a lower, just if we were to
21 do this would Your Honor follow it which according to the *Cripps* case that's still
22 allowable, the Court can still say yes if you make a joint recommendation I will follow
23 that. So, that can't have any impact on this decision otherwise.

24 So, with -- though with representations I am more than happy to
25 address the PSI and any potential inaccuracies this morning.

1 THE COURT: Okay. That's what we're going to do. Yes, Mr. --

2 MR. PARRIS: And --

3 THE COURT: -- Parris.

4 MR. PARRIS: -- would it be later this morning.

5 THE COURT: We can do it right now. The inaccuracies?

6 MR. PARRIS: Okay. With respect to the PSI. I did have -- I do have -- and
7 I'm sorry, Mr. Rose, are you finished?

8 MR. ROSE: I'm done.

9 MR. PARRIS: I do have one modification to make to what Mr. Rose said with
10 respect to Your Honor's ostensible involvement in these negotiations. And the
11 reason I need to make that -- place that on the record is Mr. Rose wasn't present for
12 that. The State had -- co-counsel was present for that discussion in the hallway and
13 I believe that's what Mr. Rodgers is referring to with respect to the bottom -- as
14 referenced to Your Honor participating in the negotiations at the bottom of the
15 second page of his letter to the Court. And I need to clarify that. Does the Court
16 wasn't me to do that --

17 THE COURT: Go ahead.

18 MR. PARRIS: -- now? The clarification is this, at some point in time prior to
19 when we had asked Your Honor if the Court would be inclined to follow the
20 stipulated recommendation by the parties Your Honor retreated to her chambers
21 and reviewed the PSI in this -- well, that was done in this case approximately one
22 year ago.

23 THE COURT: Right.

24 MR. PARRIS: And Your Honor came out into the hall -- or called both myself
25 and Tina back into the hallway and we had some question and the Court had some

1 questions regarding the interplay between Mr. Rodgers credit for time served and
2 the minimum sentence and -- and again, this conversation was had directly outside
3 those doors but with myself and a representative from the State present and we
4 clarified a question in that the Court was uncertain with respect to truth and
5 sentencing guidelines whether -- and this was -- the Court didn't use this phrase but
6 I think this is what it was, whether Mr. Rodgers would genuinely be doing the full
7 minimum in this case which was six years minus the approximate three years for
8 which he previously had credit on this particular matter. And once we clarified that
9 issue that, yes, because of -- and I know the state legislature changed some
10 sentencing guidelines but the way that the law it is today because of the nature of
11 the crimes to which Mr. Rodgers pled guilty he would definitively be doing at least
12 the minimum sentence in this case which would be at least six years total
13 irrespective of his credit for time served. The Court had some concerns, the State
14 had some concerns but we were able to clarify that fact and it is at that time -- and
15 please, Your Honor, correct me if I'm wrong because clearly you were present for
16 this conversation. Once we clarified the fact that he, Mr. Rodgers, would be doing at
17 least six years aggregate for the offense the Court would be inclined to follow the
18 negotiations that we had worked out. Just to clarify, Your Honor had absolutely no
19 input at any point in time regarding those negotiations. In fact, the negotiations were
20 extended to me with the jury out in the hallway when we were addressing some of
21 the potential continuation issues due to the alleged victim -- well, I can now call her
22 a victim since the plea happened. Due to the victim's medical situation Mr. Rose
23 motioned me over, gave me a new offer, I communicated that to Mr. Rodgers.
24 Ultimately that was accepted. And I'll be honest, at no point in time was Your Honor
25 -- that I even approached Your Honor and I assumed the State did not approach

1 Your Honor also to get any input because we don't want your input, we don't need
2 your input, we can't have your input. The Court has no say on how the State nego --
3 and the Defense negotiate their case. The Court certainly plays a role with respect
4 to whether it would accept those negotiations and only after we dealt -- "dealt" the
5 case and came to a -- a mutual resolution between the parties did we then consult
6 Your Honor to say, hey, would you be willing to follow this -- those negotiations and
7 it's at that point in time that I guess in the mosaic time frame I laid out here that
8 Your Honor wasn't sure and retreated to chambers and reviewed the PSI and then
9 my conversation with Your Honor and Tina had occurred.

10 So, I just need to clarify that particular aspect because -- and Mr. Rose
11 didn't know that because he was actually downstairs literally working on the guilty
12 plea when that occurred. He was not in the courtroom therefore he wasn't present
13 and he didn't know about that discussion firsthand.

14 THE COURT: Okay. All right. We need to talk about *Stockmeier* because I
15 think we've addressed everything with respect to what happened --

16 MR. PARRIS: Okay.

17 THE COURT: -- and I would have to concur with what both of you had said
18 and particularly what you said, Mr. Parris, outside of Mr. Rose's presence, okay?

19 MR. PARRIS: There are other factual -- what I perceive to be factual
20 inaccuracies contained in this letter that I believe are similarly stronger, ostensible,
21 underlying basis for Mr. Rodgers requesting the withdrawal of his plea. I don't know
22 if Your Honor wants me to get into those and correct for example my discussions
23 with Mr. Rodgers that I -- I have to do in a closed setting. I don't know if Your Honor
24 wants to correct those --

25 THE COURT: Can -- can we do this today on that point after -- after I take

1 care of all the civil attorneys' issues?

2 MR. PARRIS: That's precisely what I'm offering, Your Honor. Yes.

3 THE COURT: Okay. Why don't we do that -- we can do that today then.

4 Let's deal with the *Stockmeier* issues then, Mr. Parris, I'll just need you to come
5 back after I finish the civil calendar and, Mr. Rose, I don't think you need to be here
6 for that.

7 MR. ROSE: I mean, I'm happy to come back if Your Honor wants me back.

8 THE COURT: Okay.

9 MR. ROSE: If Your Honor doesn't want me to come back for the conclusion
10 of that --

11 THE COURT: Well, you --

12 MR. ROSE: -- I won't.

13 THE COURT: -- wouldn't be able to hear what we've discussed.

14 MR. ROSE: Right. In case there -- you know, if the Court determines that
15 there needs to be either factual findings made by the Court or if the Court wants to
16 have, you know, an additional evidentiary hearing. Just because -- because you are
17 in a post-sentencing procedure where we're past the date of sentencing prior to the
18 entry of judgment of the plea I actually am not 100 percent certain whether this
19 particular motion would fall under a *Stevenson* standard or pursuant to *Harris* it
20 would have to be a post-conviction petition for writ of habeas corpus. I can look into
21 that issue as well but if the Court determines that you want to set some additional
22 hearing for any particular reason I can either come back this afternoon to find out
23 that date and make sure that it works or I'll just be here whenever the Court orders
24 me to be here.

25 THE COURT: Okay. I would rather deal with these issues after I deal with

1 the lawyers, but -- the civil lawyers' cases.

2 MR. ROSE: Yes, Your Honor.

3 THE COURT: All right. Let's talk *Stockmeier*. Have you guys had a chance
4 to look at the PSI?

5 MR. PARRIS: Certainly. I reviewed the PSI with Mr. Rodgers prior to the
6 sentencing two weeks ago. I don't know the date off the top of my head. I guess it
7 would be the 6th. I then followed up with Mr. Rodgers I think it was the following day,
8 it might have been two days after but within 48 hours of that sentencing I did a video
9 visit with Mr. Rodgers and my private investigator regarding some of the concerns
10 he had with the PSI. I do not believe that any of the concerns that he has
11 manifested are -- or require a -- a new PSI to be created or to be drafted. We did
12 address one issue through the JOC that struck one of the convictions that was listed
13 on -- and forgive me, I don't have my PSI in front of me.

14 THE COURT: I -- was that the one that occurred on April 20th of 2001 where
15 it indicates that he was convicted of possession of marijuana when actually it was
16 453.3363 treatment?

17 MR. PARRIS: That's correct. And the time this PSI was drafted it was still a
18 conviction. I subsequently filed the appropriate motion which ultimately was heard
19 by Judge Herndon some time earlier this summer and Judge Herndon agreed that
20 he, Mr. Rodgers, had complied literally over a decade and a half ago with the
21 requirements and then struck that conviction. So, that -- the drug charge from 2000,
22 the one that Your Honor had referenced, is no longer a felony conviction for Mr.
23 Rodgers and Your Honor was aware of that fact prior to the sentencing itself.

24 THE COURT: I was. And I certainly didn't consider that to be a felony at the
25 time, I considered it a dismissal under NRS 453.3363. And for the record, that is

1 case number 01C-175580 and the arrest date on that is April 20th of 2001 and it is
2 the first one discussed it looks like on page 4 of the pre-sentence investigation
3 report which was filed -- let me get that, August 23rd of 2018. Are there any other
4 corrections because I'd like that correction made on the record?

5 MR. PARRIS: And I believe we had handled that previously. I don't know if
6 that's one of the main issues Mr. Rodgers had that he wants to go over today. But
7 that is something that we had addressed prior to the sentencing. Mr. Rodgers had
8 some other concerns some of which were -- I don't want to use the term de minimis,
9 but for example I believe there was an aka that was referenced on page 2 that he
10 says he has never used. That's not the kind of item that is going to cause him any
11 additional harm. When someone else reads this PSI clearly the Court can careless
12 if he has six aka's versus seven. It didn't factor into his detriment for purposes of
13 the sentencing but many of his other concerns were of that nature but again that
14 was as of two weeks ago. I don't know if he has some additional concerns with the
15 PSI. I have not discussed that with him as I didn't get the letter saying he wanted to
16 withdraw his plea until yesterday late in the afternoon and I didn't have a chance to
17 speak with him.

18 THE COURT: Okay. All right. What other *Stockmeier* issues besides the
19 also known as?

20 THE DEFENDANT: All the charges on here, First Degree Kidnapping that I
21 haven't pled to; everything, Your Honor, basically on this whole PSI where I've never
22 seen until today that I was getting sentenced. I was in the second day of trial and
23 like I told Mr. Parris I would have never signed this deal where I was getting
24 sentenced on the same day. I don't know why he didn't bring that up to you --

25 THE COURT: Wait, wait, wait, wait, wait. You knew that that was gonna

1 happen.

2 THE DEFENDANT: No, I did not, Your Honor.

3 THE COURT: Yes, you did.

4 THE DEFENDANT: I told him back there, Your Honor.

5 THE COURT: You knew that was gonna happen.

6 THE DEFENDANT: No, I did not. I told him when we were back here. Mr.
7 Parris, didn't I tell you that, that I wouldn't sign this deal if I was getting sentenced
8 today?

9 MR. PARRIS: I can certainly get into that outside the presence of the State,
10 Your Honor. That's -- I can't -- Mr. Rodgers, I can't get into what you and I
11 discussed.

12 THE DEFENDANT: That's understandable.

13 THE COURT: Okay.

14 THE DEFENDANT: But there's a lot of discrepancies here, Your Honor.

15 MR. ROSE: Your Honor, just for purposes of the record. On page 5 when its
16 talking about the first degree kidnapping, in that particular column, that's the column
17 that -- of what he was charged with, not what he actually pled to.

18 THE COURT: Okay.

19 MR. ROSE: So, I don't know that that would be an issue.

20 THE COURT: Okay.

21 MR. ROSE: I don't know if there are any other particular issues that Mr.
22 Rodgers wanted to bring up.

23 THE COURT: Okay. You understand that, sir? You were charged with that,
24 you weren't convicted of that.

25 THE DEFENDANT: Yeah. I'm talking about on the front page where -- also

1 with Sara -- Melissa Saragosa where we got the child abuse -- where it was
2 dismissed from my baby mama that shouldn't be on there at all. That was a
3 felonious charge --

4 THE COURT: What --

5 THE DEFENDANT: -- it gone thrown out [indecipherable] charged.

6 THE COURT: What page, sir, of the --

7 THE DEFENDANT: Page 5.

8 MR. ROSE: Your Honor, I think this one was also brought up. It's -- the
9 charge that's listed as -- from 5-11-16 --

10 THE COURT: Right.

11 MR. ROSE: -- there's that child abuse charge. And I think we actually
12 brought --

13 THE COURT: Sir, please. I'm listening to Mr. Rose.

14 THE DEFENDANT: I thought you were talking to me.

15 THE COURT: No. I'm talking to him.

16 THE DEFENDANT: All right.

17 MR. ROSE: I think we've actually addressed this previously as well, Your
18 Honor, because that charge was one that was -- if my understanding is correct,
19 added at the time of preliminary hearing but then no probable cause was found. So,
20 he was for a brief point in time charged with that particular crime but there's nothing
21 that indicates that he's either pled to it or been adjudicated or anything like that. So,
22 again, because he was charged with it even for that small portion of time I think it's
23 still appropriate to have it in the list of what he had been facing and I think we had
24 addressed that two weeks ago as well.

25 THE COURT: Okay. Do you understand that, sir?

1 THE DEFENDANT: A little bit. [indecipherable] there's no way, shape or
2 form with my daughter at all and I don't appreciate it on there. The PSI where I'm
3 gonna have to be up here, I don't want stuff like that on my PSI at all, Your Honor.

4 THE COURT: Well --

5 THE DEFENDANT: That's why [indecipherable] --

6 THE COURT: -- the fact is you were charged -- sir, you were charged with
7 that but you were not convicted.

8 THE DEFENDANT: That was added at the preliminary hearing. It wasn't
9 charged, Your Honor. The only thing I was charged with was -- originally was the
10 first one on 5-11. That's the only one I was originally charged with; everything else
11 was added at the preliminary hearing.

12 THE COURT: Okay. Well, that -- that will remain in there.

13 THE DEFENDANT: I've never seen the charge in there. --

14 THE COURT: That will remain --

15 THE DEFENDANT: -- that's why I told Mr. Parris also.

16 THE COURT: Sir, that will remain in there. Any other changes to the pre-
17 sentence investigation report?

18 THE DEFENDANT: My social security number. There's a lot of things wrong.
19 I just want a new PSI where I told him that.

20 MR. PARRIS: And the Court is asking you what is wrong. So, your social
21 security number is inaccurate. Again, I don't --

22 THE DEFENDANT: [indecipherable]

23 MR. PARRIS: -- believe that -- in fact, I assume that's some sort of a
24 stenographer's error more than anything else. I don't believe that's gonna have any
25 negative impact.

1 THE DEFENDANT: My social security number, the date of birth.
2 THE COURT: Your date of birth is incorrect?
3 THE DEFENDANT: Date of birth where -- it has an additional date of birth, an
4 additional social security number. My social security number is wrong on here.
5 THE COURT: Okay. Sir, what is your social security number? You're --
6 THE DEFENDANT: 6 --
7 THE COURT: -- true one.
8 THE DEFENDANT: -- 22-12-3786.
9 THE COURT: Okay. 622?
10 THE DEFENDANT: 12-3786.
11 THE COURT: Okay. So, we'll make sure that that is corrected.
12 THE DEFENDANT: Your Honor, can I ask you a question?
13 THE COURT: Oh -- no. What is your date of birth, sir?
14 THE DEFENDANT: 3-27-81.
15 THE COURT: Okay. So, that's correct.
16 THE DEFENDANT: It says additional date of birth to the right of that.
17 THE COURT: Well, I'm not worrying about those.
18 THE DEFENDANT: I'm just telling what's wrong on the PSI,
19 THE COURT: Okay. Well, I'm gonna leave that information in here.
20 THE DEFENDANT: Okay.
21 THE COURT: Okay.
22 THE DEFENDANT: But why can't I just have a new PSI now, ma'am.
23 THE COURT: None. I said no.
24 THE DEFENDANT: I know but I'm saying why though?
25 THE COURT: Well, because I'm not going to do it. We're gonna take care of

1 things today. We can do this by interlineation. Okay.

2 THE DEFENDANT: Well, the United States Supreme Court [indecipherable]
3 I'm supposed to be able to look at this 35 days before sentencing.

4 THE COURT: Okay. And --

5 THE DEFENDANT: I didn't --

6 THE COURT: -- you -- you're making --

7 THE DEFENDANT: -- look at it until the end of it.

8 THE COURT: -- corrections, sir.

9 THE DEFENDANT: You said what, ma'am?

10 THE COURT: You're making corrections. We're correcting it.

11 THE DEFENDANT: I know.

12 THE COURT: Okay.

13 THE DEFENDANT: But I was supposed to see this before sentencing not the
14 day of sentencing.

15 THE COURT: Okay. Anything else?

16 MR. PARRIS: Not -- I don't recall anything else that we want to change in the
17 PSI. Mr. Rodgers, this is your opportunity.

18 THE DEFENDANT: No. But did you also tell her about my medical stuff that I
19 need to still go back to the hospital like I asked you to?

20 MR. PARRIS: I have not had any discussions with the Court since I left here
21 on the 6th. That is something -- I mean, because I clearly cannot have a one party
22 discussion because that would be ex parte in nature.

23 THE COURT: Well -- and medical issues can be addressed by the prison
24 system.

25 THE DEFENDANT: No, not these ones, Your Honor. I brought the

1 paperwork with me.

2 THE COURT: Okay. I think that they can be addressed by the prison system.

3 MR. PARRIS: And again, that's something he and I discussed that I can
4 discuss with Your Honor outside the presence of --

5 THE COURT: Sure.

6 MR. PARRIS: -- the State.

7 THE COURT: We can discuss it then, but I'm -- I'm convinced that the prison
8 system can take care of his medical issues so -- anything else that we need to
9 change?

10 MR. ROSE: Not by the State.

11 MR. PARRIS: I -- and again, I'm relying on Mr. Rodgers. He did reference
12 some changes. Is there anything else, Mr. Rodgers? Why don't we do this, Your
13 Honor. Let's give him -- I know you have a full courtroom and we're an hour behind
14 schedule because of the criminal matters today. Why don't we give Mr. Rodgers
15 some time -- he can look at it while Your Honor handles her civil calendar. I can
16 return whenever the Court tells me to come back. If Mr. Rose needs to be present
17 to make any additional changes to the PSI I can shoot him a text, we can get him
18 back here in a relatively short period of time. But that will give Mr. Rodgers a
19 chance to review the PSI, Your Honor a chance to continue with the court's docket
20 and then we can address this in whatever an hour, hour and a half, whenever Your
21 Honor wants me back.

22 THE COURT: Okay. Can you guys be back here in an hour, hour and a half,
23 something like that?

24 MR. ROSE: Yes, Your Honor.

25 THE COURT: Okay.

1 MR. PARRIS: It's 10:00 o'clock now so 11:15?

2 THE COURT: That sounds -- well, 11:00, 11:15? Sure. That sounds good.
3 Okay.

4 [Recessed at 9:50 a.m.]

5 [Reconvened at 11:10 a.m.]

6 THE MARSHAL: All rise. Department 22 back in session, the Honorable
7 Susan Johnson presiding.

8 THE COURT: All right. Okay. Mr. Rodgers, I'm gonna go ahead and listen to
9 everything. As you know I was leaning to deny your motion but I want to hear things
10 first, okay, because who knows maybe what comes out in this I may change my
11 mind, okay? But I'm gonna just tell you I'm leaning toward denying your motion and
12 -- but I'll tell you why. We've already gone through this. We had a jury here the first
13 time over a year ago ready to try the case, give you a fair trial and you opted to plea
14 to whatever the deal was then. Then we had Motion to Withdraw the Plea and
15 frankly one of the big reasons why I did grant the motion was because the State
16 stipulated to doing that. So, this last year another new trial, in the middle of the trial
17 or jury selection, again you agreed to take the plea and at that time we sentenced
18 and then of course we're here today to discuss of course the restitution which is no
19 longer an issue and discuss the *Stockmeier* issues and then now we've got you
20 wanting to withdraw your guilty plea again. So, you can where I'm a little bit on the
21 frustrated side.

22 THE DEFENDANT: I understand why you're frustrated, Your Honor, but you
23 have to see things from my point of view also though.

24 THE COURT: I understand and I'm gonna listen, okay?

25 THE DEFENDANT: Do we say this in front of Mr. Rose or wait --

1 MR. ROSE: And I'm about to kind of vacate the premises --

2 THE COURT: Right.

3 MR. ROSE: -- however when I was looking at the PSI and when I was
4 thinking back to what Mr. Rodgers had said this morning about certain concerns he
5 had, I now I think I understand some of what he was saying. So, I'm gonna ask the
6 Court to also order a couple of other parts of the PSI to be stricken.

7 THE COURT: Okay.

8 MR. ROSE: Specifically on page one where it says Roman numeral two
9 "Charge Information."

10 THE COURT: Okay. Hold on, let me get there.

11 MR. ROSE: Okay. I apologize.

12 THE COURT: Okay. Page 1.

13 MR. ROSE: Page 1. So, Roman numeral two "Charge Information." The
14 portion listed under that typically lists out what the person was being sentenced on.
15 Obviously this particular PSI was prepared under a different negotiation so he's not
16 in fact pleading to First Degree Kidnapping. So, I'm just gonna ask that -- and
17 essentially everything within section two be stricken because it's inaccurate at this
18 point --

19 THE COURT: Okay.

20 MR. ROSE: -- and then similarly on page seven.

21 THE COURT: All right. So, we will go ahead and -- you agree to strike out
22 charge information, Roman numeral two?

23 MR. PARRIS: Yes, Your Honor. That would be a factually accurate decision.

24 THE COURT: Okay. We will go ahead and strike that from the pre-sentence
25 investigation report as well as we're gonna be making the corrections to his social

1 security number as we've previously discussed and right now on page four we are
2 striking the disposition with respect to the arrest on April 20th of 2001 which I think
3 we've previously done --

4 MR. ROSE: Right.

5 THE COURT: -- and it's gonna reflect that there was a dismissal under NRS
6 453.3353. Okay.

7 MR. ROSE: And then finally on page 7, Your Honor.

8 THE COURT: Okay. Let's go to page 7. Yes.

9 MR. ROSE: Roman numeral 9, Plea Negotiations.

10 THE COURT: Right.

11 MR. ROSE: Obviously that also reflects what had been the negotiations
12 previously.

13 THE COURT: Right.

14 MR. ROSE: So, the only reason I'm asking to strike this is so that there isn't
15 any confusion when he gets up to the prison about either what he was pleading or
16 what the negotiations were versus what the JOC actually says. So, I'm just gonna
17 ask to strike everything within Roman numeral 9.

18 THE COURT: Any objection?

19 MR. PARRIS: None, Your Honor.

20 THE COURT: Okay. And you don't have any objection, right, Mr. Rodgers?

21 THE DEFENDANT: No, ma'am.

22 THE COURT: We will strike everything under plea negotiations; section
23 Roman numeral 9 on page 7.

24 THE ROSE: Thank you, Your Honor. I just wanted to make sure because I
25 think I now understand. He'd been mentioning that earlier and I now understand. I

1 think some of what he was saying with that and I wanted to be accurate what he
2 actually pled to and I wanted to make sure that that matches with the JOC.

3 So, with that, Your Honor, I will vacate and then the Court can have Mr.
4 Parris contact me if the Court needs me back --

5 THE COURT: Okay.

6 MR. ROSE: -- at any point.

7 THE COURT: You're gonna go to your office?

8 MR. ROSE: I'm gonna --

9 THE COURT: Step outside.

10 MR. ROSE: -- first run down to actually Judge Eric Johnson's courtroom but
11 I'll be within the courthouse. So --

12 THE COURT: Okay.

13 MR. ROSE: -- I can be back soon.

14 THE COURT: All right.

15 MR. ROSE: Thank you, Your Honor.

16 THE COURT: Thank you. Okay. Let the record reflect that Mr. Rose had left
17 the courtroom.

18 All right. Let's talk about your letter, sir.

19 THE DEFENDANT: Okay. One quick thing. Number 10 on the PSI right after
20 number 9 --

21 THE COURT: Yes.

22 THE DEFENDANT: That -- that needs to be stricken also with the
23 recommendations.

24 MR. PARRIS: Yeah. Under Roman numeral 10 it does have
25 recommendations that are predicated on the charges to which he had pled

1 previously. I think all parties would agree those aren't inaccurate. I can't -- since
2 Mr. Rose -- since the State had offered to strike on the first page, I think it was under
3 Roman numeral 2, the charges that are -- to which he had pled last time as being
4 inaccurate I would assume he would not have any problems striking Roman numeral
5 10 which contains recommendations that are predicated upon the negotiations that
6 we all agree are inaccurate with respect to the case as it stands right now.

7 THE COURT: Okay. I don't know that I have a problem with the first two
8 counts. Let's see. I'm just trying to get back to -- I just want to see what -- we did
9 find him guilty as to mayhem though. He was found -- he was arraigned and found
10 guilty of Count 1, Second Degree Kidnapping; Count 2, Robbery, Count 3, Mayhem
11 and Count 4, Pandering and that's it.

12 MR. PARRIS: Correct.

13 THE COURT: Okay. So, I would think the mayhem should stay shouldn't it?

14 MR. PARRIS: Technically it can. The recommendation was predicated on
15 information that it's somewhat inaccurate as this point in time. I -- we all realize that
16 the recommendations are not binding in any way, shape or form on the Court. In all
17 candor to the Court I think Your Honor did given him a 36 to 120 concurrent on the
18 mayhem ultimately. I could be mistaken.

19 THE COURT: I'm looking at it right now.

20 MR. PARRIS: And, Your Honor --

21 THE COURT: 24 to 60 months and that was to run concurrent with Count 2.

22 MR. PARRIS: And I believe it was to run -- oh okay.

23 THE COURT: It's concurrent.

24 MR. PARRIS: Okay.

25 THE COURT: Okay. So, I don't have a problem striking the first part on the

1 First Degree Kidnapping. Let me get back there. And I'll let Mr. Rose know that --
2 by the way, that is subject to Mr. Rose -- he may have a different take on it but --
3 yeah, I'm inclined to go ahead and -- but I'll listen to Mr. Rose first but -- with respect
4 to Count 1, First Degree Kidnapping, okay?

5 MR. PARRIS: Thank you, Your Honor.

6 THE COURT: All right. Anything else on *Stockmeier*?

7 MR. PARRIS: Mr. Rodgers, anything else on the PSI?

8 THE DEFENDANT: I believe -- I think that was probably it. So, you're
9 absolutely sure that the alleged charge with child abuse can't be taken off?

10 Because I don't want to worry about -- have to be worried about -- have problems
11 with somebody out there thinking I'm a child abuser and I'm --

12 THE COURT: It's a charge, sir, It's not --

13 THE DEFENDANT: Okay.

14 THE COURT: -- you weren't convicted.

15 THE DEFENDANT: I just want [indecipherable] because they're gonna ask
16 me about that when I get to prison.

17 THE COURT: I understand.

18 THE DEFENDANT: So --

19 THE COURT: Okay. Let's talk about your letter.

20 THE DEFENDANT: As far as what Mr. Parris said when we were back there,
21 I told him I did not want to take the deal if I was gonna be sentenced today. Also, he
22 told me whether she would get mad if didn't take the deal right then. So, I was
23 feeling like I was kind of [indecipherable] I didn't want to piss you off. Excuse my
24 language. I didn't want to get you mad or anything like that. Also, he told me that I
25 don't know which -- you all had a conference in chambers or whether it was out

1 here. I don't know when it happened but he said that she or -- were going to get
2 mad that if I only had to do a year up here or something like that so -- so my thing
3 was I ain't really want to get you mad [indecipherable]. Also, he's not supposed
4 withheld information like that. From the Rules of Professional Conduct 1.4 he's
5 supposed to [indecipherable] give me all information that I can use -- that can be
6 used [indecipherable] for a conviction or acquittal. And if I would have known that
7 information, ma'am, I wouldn't have wasted your time, I would have continued the
8 trial [indecipherable] the second day. I went through it though. It makes no sense
9 for me to take a deal when the witness doesn't want to be here for whatever reasons
10 and they have a material witness warrant out for her. He's said he knew about the
11 warrant. I should have been -- knew about it at the time. He said she was
12 supposed to come on August 5th -- excuse me, August 1st and meet with him and
13 Mr. Rose. Ms. Martinez was supposed to meet with them though. She for whatever
14 reason didn't make that meeting. So, then Friday, August 2nd he said that he wasn't
15 there but she met up with Mr. Rose. Why would there be a material witness warrant
16 out for her if she's coming willingly though? That makes no sense whatsoever. I
17 told him two weeks before where maybe they don't have her and they don't but he
18 checked on the system they have her. They would not put a material witness
19 warrant for her if they had the witness. In other words, she would know she had --
20 where to come. The same thing that she testified at the preliminary hearing, all the
21 lies she told before she would have to come where they would tell her -- to trial. So,
22 I think that has something to do with her not -- not wanting to come as a witness
23 because of perjury or whatever reasons. I don't know. But I've been here this
24 whole time fighting it so -- and the only reason [indecipherable] I wanted to take this
25 deal he's back there telling me where they dropped certain charges, you know,

1 pleads and something else. You know, I was a little tired, I wanted to get this over
2 with so that's why I wanted to do it but at the same time if Ms. Martinez wasn't
3 allowed to be here why would I take a deal? That makes no sense when I could just
4 got the case dismissed or he should have asked where this [indecipherable] when
5 the alleged victim wasn't trying to come.

6 THE COURT: Okay. Well --

7 THE DEFENDANT: Maybe I could be wrong on the last part --

8 THE COURT: I think --

9 THE DEFENDANT: -- but --

10 THE COURT: -- I think you are incorrect on some things. Mr. Parris do you
11 have any comments so far?

12 MR. PARRIS: So far, yes. One of the first things Mr. Rodgers said was I
13 made a comment to the effect of -- and this is not a quote but the gist of it was if he
14 did not take the deal the Court would get mad ostensibly at him. And I never said
15 that. I don't know where else the Court wants me to go with that but that --

16 THE COURT: Okay.

17 MR. PARRIS: -- was not said. I did not -- and I'm thinking back towards the
18 things that did say to try and figure out what may have been interpreted to be the
19 Court will get mad if you don't do this. The Court doesn't care if he takes a deal or
20 not but whoever is sitting in Your Honor's position it doesn't make -- the court cases
21 deal, cases don't deal, we go to trial, we don't. The Court doesn't have a dog in that
22 race. So, I don't -- can't think of what I did say that Mr. Rodgers interpreted as the
23 Court's gonna be mad unless you do this. So --

24 THE COURT: Because I was ready to go to trial. I wouldn't have been mad if
25 he didn't take the deal. I'll be honest with you, I wouldn't have.

1 THE DEFENDANT: Me too. I mean, that's understandable. But he came
2 back there telling me that because he kept walking back and forth, he said the
3 Judge keeps on looking at me. I wouldn't want here to get mad --

4 THE COURT: Oh --

5 THE DEFENDANT: -- or --

6 THE COURT: -- I --

7 THE DEFENDANT: -- be pissed off.

8 THE COURT: Somehow I don't see Mr. Parris saying that. But --

9 THE DEFENDANT: I have no reason to make it up.

10 THE COURT: Well, anyway I could tell you that that's not what happened.

11 MR. PARRIS: The Court -- I mean, I appreciated the Court giving us, I don't
12 know, the two or three hours it took to jump through all the hoops to get this done
13 while the jury was out in the hallway and I thanked the Court on, you know, multiple
14 occasions because it's -- because not every Judge would necessarily give us that
15 opportunity to potentially negotiate the case because its tortured history. So, I was
16 appreciative of the Court but, hey, as an officer of the court I'll just tell you I don't
17 care -- I don't care if the Court was -- I don't care if you were completely hacked off
18 that it was taking us as long as it was, I have a job to do. My job isn't to make Your
19 Honor happy, my job isn't necessarily to make my client happy quite candidly but it
20 never entered into my mind is the Judge getting frustrated that I'm doing my job. It
21 doesn't enter into my calculus. So, I'm sorry that you now know my [indecipherable]
22 I don't care if you're mad at me but I genuinely didn't and it never entered my mind.
23 I -- and I -- I can't think of what I said that was contorted into the Court's gonna get
24 mad unless you take a deal.

25 THE COURT: And I might note that his job is to do the best for his client and,

1 yes, sometimes clients are not happy, sometimes judges are not happy. But, Mr.
2 Rodgers, I was prepared to go to trial. I had scheduled out a week and a half to
3 hear the case so -- but if the parties could resolve it obviously that's to at least
4 somewhat of a mutual satisfaction I'm good with that.

5 THE DEFENDANT: You're right, Your Honor. I was ready to go to court also.
6 I didn't ask him to ask the D.A. for a deal, he came to me on Monday you asked me
7 about a deal, I didn't ask him about. He came at me on Tuesday to ask me about a
8 deal where I didn't ask about.

9 THE COURT: Okay.

10 THE DEFENDANT: I wasn't the one seeking for a deal, I was ready to go to
11 trial also.

12 THE COURT: Okay.

13 THE DEFENDANT: I had every intention to go.

14 THE COURT: Okay.

15 MR. PARRIS: And as --

16 THE DEFENDANT: I wanted to be heard. I wanted to get on the stand and
17 tell my story. I wanted to be heard so it won't just look like whatever she said at the
18 preliminary hearing they're just gonna go off with her. I wanted to be heard also.

19 THE COURT: Okay. And I will tell you that the witness was available.

20 THE DEFENDANT: Then why would they have a material witness warrant
21 out and why did he withheld that information? That's --

22 THE COURT: Okay. Well, go ahead.

23 MR. PARRIS: And I can explain that --

24 THE COURT: Sure.

25 MR. PARRIS: -- when we get there. The next thing he had referenced -- and

1 I will get the material witness warrant, I'm just trying to deal with it in the order that
2 Mr. Rodgers had presented them.

3 THE COURT: Right.

4 MR. PARRIS: We dealt with the Court will get mad if you don't deal -- deal
5 with this or --

6 THE COURT: Right.

7 MR. PARRIS: -- deal this case. And we've addressed that. Regarding the
8 Court will be mad if Mr. Rodgers only did a year. We had addressed that in open
9 court. There was a conversation with myself and the District Attorney who was
10 second chairing, this Tina -- and forgive me, I don't know Tina's last name so I'm
11 referring to her as Tina.

12 THE COURT: Okay.

13 MR. PARRIS: So, I'm sorry for that. But this is the first case that I had
14 against Tina -- I'm not being disrespectful but this is -- I just know her as Tina.

15 That having been said, Tina and I were in the back hall with Your Honor
16 and Your Honor and I had addressed this early on. I'll just go through it again. Your
17 Honor had some concerns regarding the truth and sentencing guidelines because
18 the statutes have changed repeatedly over the last several legislative sessions. And
19 Your -- it was my interpretation that Your Honor did not want it to be a -- this to be a
20 situation where even though the sentence is an aggregate six to twenty that Mr.
21 Rodgers would not do at least those six years. Now, pursuant to the statutes as
22 they currently stand today -- and I know they keep changing and -- every other year
23 they change. At least some -- the Second Degree Kidnapping is going to be a hard
24 number on the front then as is the Robbery. I believe Mayhem would as well but we
25 don't need to get to that analysis simply because if one of the cases is going to have

1 -- mandate an aggregate x number of years he -- or the Defendant is going to do
2 that x number of years on the front end. That is a true actual number. The back
3 end number might be completely fictitious with good time credits and things of that
4 nature but that front number is a hard literal number. The Court had some concerns
5 -- it was my interpretation that the Court had some concerns that -- that it wasn't a
6 hard number and the Court may not be inclined to follow those negotiations if it were
7 not a hard number, an actual number.

8 Once myself and the State informed the Court that based upon the
9 current statutory language six years literally means six years. The Court at that
10 point in time -- I don't know if the Court had said -- had mentioned some other minor
11 concern but that was the Court's main concern and the Court at that point in time
12 said it would be inclined to follow the negotiations and again that was after Your
13 Honor had retreated to your chambers and had a chance to review the PSI from --
14 well from this case but from August -- dated August 23rd. So, that's when the Court
15 made its decision and said I -- I'm okay with the stipulated recommendation by the
16 parties. We simply wanted to get ahead of that problem because if the Court was
17 not inclined to follow those negotiations we would not have bothered taking the deal
18 just for the Court to go sideways be it of a -- a different sentence be it less or more,
19 but the Court indicated it was inclined to follow those negotiations and obviously it
20 did do so ultimately even after we made the corrections to the PSI involving the 35 --
21 the 453.3363 treatment and everything we've already gone over. So, the Court did
22 follow those negotiations.

23 So, again the phrase the Court would be mad if I only did a year, I don't
24 think I used that same verbiage, I believe I did inform Mr. Rodgers that the Court
25 had some concerns as to whether the six year number was an actual six years just

1 as I explained and when I told him I explained to Your Honor and the State
2 explained it as well, we're good, the Court's following it. So, I don't know where the
3 Court is mad -- or where that language came in. The Court had some concerns
4 which is legitimate and once we clarified what those -- the state of the law is, the
5 Court said I'm good and followed the negotiations. So again, me saying the Court
6 would be mad if you only did a year -- or he only did a year, that didn't happen. I
7 can understand at least with respect to this comment where he's getting that idea
8 but I just needed to clarify my conversation with him, my conversation with Your
9 Honor, my conversation with Tina so that the Court knew what -- knows what we're
10 dealing with with respect to that allegation.

11 Regarding the material witness warrants. The State had made a
12 comment today that honestly was inaccurate and I could not correct him at that point
13 in time and I'm gonna correct him now. The State had said that the material witness
14 warrant because it was done in an ex parte fashion I never would have known about
15 it so I could not have communicated that to Mr. Rodgers. I did know about it. I don't
16 believe Mr. Rose told me though. So, let me back up to -- Mr. Rodgers said it was
17 the first of August, it was the Thursday prior to the starting of trial, the start of trial.

18 THE COURT: In fact, did my JEA tell you?

19 MR. PARRIS: Yes. And I will get there.

20 THE COURT: Okay.

21 MR. PARRIS: And that's exactly where I'm going with this.

22 THE COURT: Okay.

23 MR. PARRIS: On that Thursday the State was supposed to meet with the
24 victim in this particular case, Ms. Martinez, and Steve -- Mr. Rose had offered for me
25 to join in on that pre-trial. I unfortunately was at another court hearing in North Las

1 Vegas and couldn't be there. I follow up with Steve later that afternoon -- I followed
2 with the Court later that afternoon because I called your JEA because I had a
3 scheduling conflict that I had just discovered the preceding night and I needed to
4 leave the proceedings on Monday -- the first Monday of trial I think that would be the
5 5th, I needed to leave court on the -- on Monday, August 5th at 4:00 o'clock because
6 I had another issue that I had to attend to at 4:30.

7 THE COURT: Right.

8 MR. PARRIS: I had called the Court -- I didn't even talk to Mr. Rose first, I
9 called the Court and just put it on the Court's radar. When I was speaking to, I
10 believe it was your -- I assume it was your -- I assume it was your JEA. I don't know
11 if it was the JEA or -- or a different clerk. But when I was speaking to court
12 personnel that individual informed me that a material witness warrant had just either
13 hit Your Honor's desk or come to the chambers or what have you for Ms. Martinez
14 and I didn't -- and on that -- that phone call -- again, I didn't -- I never talked to Your
15 Honor, I was just talking to your staff member and it was mentioned in passing and I
16 didn't touch it, I didn't comment on it, I pretended like I did not know that information.
17 I simply informed that staff person as to my reason for requesting the continuance. I
18 then -- after that phone call I then talk to Mr. Rose and told him, hey, on Monday I --
19 I requested this and I told him why and he said he didn't care and the Court was
20 good enough to grant that request to end our jury selection at 4:00 o'clock Monday
21 evening.

22 On that Friday, August 2nd, I met with Steve again at lunch time for a
23 scheduled meeting just to go over some other new issues that had arisen, at that
24 point in time he had told me that maybe an hour or so prior to that that he had met
25 with Ms. Martinez, that she came down and did the pretrial. I don't think he told me

1 why she couldn't meet with him on Thursday or why she flaked but she did meet
2 with him and she brought a friend of hers for moral support that Friday morning/early
3 afternoon. I think I met with Steve about 1:00 o'clock, 1:00, maybe 1:30. And they
4 had just met and I had missed that meeting. I didn't know about it and -- yeah. But
5 they did have that meeting. The material witness warrant I assume would still be
6 outstanding. So, I knew about that but I don't know if Steve knew that I knew
7 because strategically I didn't feel like telling him that because I -- my -- you know, I
8 was going to use that to my client's advantage and try to leverage a better deal if
9 there were issues with respect to their victim. Those issues with respect to the
10 victim were resolved when she came in on Friday, August 2nd, and did the pretrial
11 and was on board with everything. So, when Mr. Rose made that statement he
12 didn't know any better but again I couldn't really correct him at that point in time
13 without -- without getting into all of that story.

14 Now, Mr. Rodgers indicates in his letter that I spoke with his cousin who
15 I believe they're actually present in court right. I spoke with his cousin and told him
16 that the witness did not want to testify. I don't believe I said exactly that, I believe I
17 did tell him that there was a material witness warrant issues for Ms. Martinez but I
18 also told him that she had been in good contact with the State. I believe in the -- the
19 hours leading up to this since -- and that conversation would have occurred on
20 August 6th because it was late in the evening on August 5th that Ms. Martinez
21 contacted the State about her medical situation. Sent him documentation, that
22 documentation was forwarded to the Court. I won't get into that rigmarole with
23 respect to Ms. Martinez' medical situation, but all parties were aware that Ms.
24 Martinez was in good contact with the State and I believe -- I'm positive I told Mr.
25 Rodgers, hey, Ms. Martiniez contacted the State last night and I went into her

1 medical situation as well. I don't know how he could have thought or contorted that
2 into she's in custody or she's locked up or she isn't locked or she doesn't -- isn't in
3 contact, but I was very clear she had some -- passed a kidney stone, she's on some
4 meds, I don't recognize all the meds. You know, there may be a continuance, I
5 don't know what's all gonna happen and I think it was shortly thereafter that Steve
6 extended the offer. And with respect to the offer, anytime I get an offer, I'm ethically
7 and duty bound to convey that offer even if I know my client's answer. You know, if
8 he's offered ten years and he says no and then if the State says how about twelve
9 years I still gotta go to my client and say you didn't want ten do you want twelve
10 because that's -- that's what I'm required to do. So, when Steve did extend that
11 offer obviously I think I passed it along to Mr. Rodgers because (a) it was a better
12 offer than we had ever received (b) it was close to what I thought based upon my
13 discussions with Mr. Rodgers he's be willing to take and (c) I had no choice, I had to
14 communicate it so I did. So -- and then we went into the -- the discussions to how to
15 go about resolving the case if we could.

16 So, at no point in time did I ever say Ms. Martinez was in custody to Mr.
17 Rodgers, at no point did I say she refuses to testify. I mean, obviously I did tell him
18 about the material witness warrant but then I told him that issue got solved in the
19 interim. So, the idea that he would not have taken a deal -- or he only took a deal
20 predicated on his belief that Ms. Martinez was in custody, I don't know how we get
21 there based upon all of the facts that I've listed with her medical situation and her
22 contact with the courts -- excuse me, contact with the State on both Friday and both
23 Monday evening. I don't know how we get there. But that's not -- that's not an
24 accurate representation of anything I told Mr. Rodgers. And I don't know he would
25 have again contorted what I told him into -- what is contained in -- around the first

1 page of the letter that he sent to Your Honor a week or so ago. So, I didn't withhold
2 any information from him with respect to Ms. Martinez. I mean, did she want to
3 testify? No. Did I tell him or his family members that she didn't want to testify? I
4 may have simply because nobody wants to testify in a case like this. She didn't
5 want to deal with this, she doesn't want to -- did not want to re-live this incident from
6 three-ish years ago but despite that reluctance all signs indicated she was
7 completely on board and willing to testify. Even if the Court ordered her to do it she
8 would show up and do so pursuant to the subpoena and pursuant to her
9 conversations with the State. So, yes, if the State issued a material witness warrant
10 when she flaked on Thursday those concerns were assuaged on Friday and
11 throughout the conversations they had with Ms. Martinez. I don't know if they spoke
12 over the weekend but on Monday night and on Tuesday they were all in good
13 contact with her. So, at no point in time did I tell Mr. -- anyone involved in this case
14 (a) Ms. Martinez is locked up or (b) she refuses to testify. Obviously that would
15 have made a big difference to Mr. Rodgers and if that were the case I certainly
16 would have leveraged it just like I was planning on leveraging my knowledge that
17 there was a material witness warrant to the benefit of Mr. Rodgers and ostensibly to
18 the detriment of the State. If I needed to at some point in time it never arose. The
19 opportunity never arose to use that to his benefit so I didn't but any good defense
20 attorney -- any good attorney is going to use whatever information they have to get
21 the best result possible for their client and that's what I was doing.

22 Mr. Rodgers wants to comment on something I may have said and I
23 don't know if the Court -- I realize I've just been doing ten minutes [indecipherable].
24 I don't know if the Court has any specific questions about anything I've gone over
25 with respect to the third point involving the material witness warrant.

1 THE COURT: Okay.

2 THE DEFENDANT: First of all I want to apologize to Mr. Parris and the Court
3 if I said -- made it seem like she was in custody. I may -- it seemed like I don't know
4 why they have a material witness warrant if she was willing to testify like he said. I
5 didn't mean to say it like she was in custody. Second of all, when he was talking
6 about ethical it's also unethical to withhold information from your client
7 [indecipherable] whether -- either it was a conviction or whether it's with -- that's
8 unethical.

9 As far as what he said back there to my cousin, that's -- I mean, we're
10 not making this stuff up, Your Honor. I mean, never wanted him to come up with a
11 deal and I didn't ask for him to come up with a deal. Like I said that day I was ready
12 to go to trial and get it over with. I'm not trying to [indecipherable]. I've been here
13 for these years trying to get this over with to tell my story [indecipherable] you know,
14 things that did happen, things that didn't happen. So far there's only been one offer
15 that Ms. Martinez said at the preliminary hearing. Like the alleged weapon that was
16 never there. I never had a weapon. That's one thing I was [indecipherable] on
17 February 6th, the first day of trial that I never had a warrant that's why I guess Mr.
18 Rose came with deal without the no weapon because he knew I was very adamant
19 that didn't have no weapon. I'm definitely not taking nothing with a weapon
20 enhancement.

21 As far as what he said on the first page, the material witness warrant.
22 Once again, that's the main thing where -- whether if he was gonna use it or not
23 once he's known about it he should have let me know so I can make my decision on
24 it, right? Don't you figure like --

25 THE COURT: I'm listening.

1 THE DEFENDANT: Yeah. That I'm the one that should have made that
2 decision on it. I'm like -- he also told me that Ms. Martinez was gonna be on meds
3 and we don't want the jury to see her like she's sick and have sympathy for her and
4 then he started to tell me where we don't have our doctor the one I've been asking
5 him to get Dr. Nicholas Han. He said that our private investigator doesn't know
6 where he's at. And this is why I've been -- said before that we should subpoena him
7 and make sure like our -- my last lawyer did. He subpoenaed Dr. Han to make sure
8 he was gonna be available for trial which Mr. Parris didn't. That's another reason
9 why I'm like, okay wow; maybe I need to take this deal. Now he's saying our expert
10 doctor is not gonna be around.

11 THE COURT: Okay. Now first of all with respect to the medications, I read
12 her medical records. She was on an antibiotic because she passed a kidney stone.

13 THE DEFENDANT: That's understandable.

14 THE COURT: Okay.

15 THE DEFENDANT: But he's saying --

16 THE COURT: Listen to me a minute.

17 THE DEFENDANT: All right. I apologize.

18 THE COURT: Okay. She was not on any pain killers except -- unless you
19 consider Tylenol and Ibuprofen, you know, heavy duty pain killers, okay? And most
20 of it was doses of over the counter.

21 THE DEFENDANT: Right.

22 THE COURT: Okay. The -- and then she was on a nausea medication
23 because she was taking a antibiotic. That was it.

24 THE DEFENDANT: I --

25 THE COURT: So, she was not gonna be under the influence of any

1 medications unless you consider an antibiotic a big deal.

2 THE DEFENDANT: Mr. Parris made it seem like she was gonna be on the
3 stand like, oh, I don't feel well, something like that.

4 THE COURT: Okay. Well, when you pass a kidney stone, sir, generally
5 speaking you're fine, okay?

6 THE DEFENDANT: He made I seem real different, Your Honor.

7 THE COURT: Okay.

8 THE DEFENDANT: This is the interpretation where it all came from him.

9 THE COURT: Okay. I understand.

10 MR. PARRIS: Well, before we go off of that point just to clarify. I said words
11 to that effect. Knowing how trials go and knowing the fact that we're going to catch
12 Ms. Martinez in some factual inconsistencies based upon all the evidence we had in
13 this case, since she had just passed a kidney stone I had every reason to believe
14 based on what I've read about this individual and me generalizing about individuals
15 who -- based on my experience, making general assumptions about what I
16 anticipated her behavior to be, yeah, I anticipated her going on the stand and
17 holding herself and being in pain and using that, the ostensible pain that she's in, as
18 an excuse to justify why she's saying something different on the stand than she may
19 have said at other points in time. It's built in and she could say, ah, and I'm taking
20 medication and of course we'd have to get into what that medication was. Now at
21 the time that I had this conversation with Mr. Rodgers I didn't know all of those
22 medications and whether or not they had any significant side effects to them. Late
23 on we've made that -- we figured that out by running it on the internet. But at the
24 time I was discussing it with him I said, listen, she's gonna be up there and she is
25 going -- I think I used the exact phrase, she's just gona milk it and she's gonna look

1 like an even more sympathetic victim and I don't want that, that doesn't help us. So,
2 I don't know -- and I believe actually at that point in time Your Honor hadn't even
3 made a ruling yet as to whether the trial was going to be continued. Now that I'm
4 thinking about this in a stream of consciousness when I had that conversation --
5 because that was one of the first things I said to Mr. Rodgers I said to Mr. Rodgers
6 that morning even before the offer came up. I said, hey, this is a problem. You
7 need to factor this in but there's no offer so it doesn't matter and I think I was saying
8 to him just to hear -- just because I was still formulating how are we going to
9 address this should a motion to continue be denied and I wanted his input but again
10 that cuts against the idea that I told him that. You know, Parris previously that the
11 D.A. had the alleged witness in custody. I mean, that's a quote from his letter.
12 Clearly if I'm telling him that she's been in the hospital and she's gonna come in and
13 be holding her stomach and be milking it those two statements kind of don't jive with
14 one another.

15 That having been said, I did have that kind of conversation with Mr.
16 Rodgers. I did think it was important for him to know my impressions of what I
17 assumed things were going to look like should this trial continue. As we all seem
18 agree, that's part of my job. I wanted him to have all the information at his disposal
19 to make a well-reasoned decision because it's kind of important because it kind of
20 dealt with the rest of his life. So, Mr. Rodgers I'm sorry I cut you off because I didn't
21 -- I wanted to address the concerns about the victim on meds. I didn't know if you
22 have other points to make.

23 THE DEFENDANT: Yes. Also where he told me that she -- Mr. Rose asked
24 for a continuance because of the witness condition and you said, no, we're going to
25 trial. I don't know if that's true or not but I didn't hear it. Also I don't know why I was

1 kept in the hole while these conversations were going on. I should have -- I feel like
2 I should have been out here and hearing what's going on. And I don't know how the
3 record got -- that you all were having a discussion in the chambers when there was
4 just two in the courtroom and I should have been out here for the discussions so I
5 can hear what's going on.

6 MR. PARRIS: Well, let me address that because I was bouncing back and
7 forth. I think some of the time -- when I was going in the holding cell I needed
8 privacy to talk to Mr. Rodgers so I preferred that he stay in the cell so I can have
9 free and open communication with him without anybody else knowing. I had no idea
10 if Your Honor was on the bench the whole time I was in the room talking to Mr.
11 Rodgers or not. I know there were times when I came out and you were on the
12 bench. I don't remember if you were always on the bench. I didn't -- again I didn't
13 care. It didn't matter to me where you were located while I was doing my stuff with
14 my client and talking to Steve. So, it was a complete non-sequitur opportunity.

15 As for him being in the --

16 THE COURT: There --

17 MR. PARRIS: -- courtroom --

18 THE COURT: -- weren't any formal hearings going on.

19 MR. PARRIS: No. There were no formal hearings, we were not on the
20 record, we did have a discussion in chambers -- and we put this on record. We
21 meaning myself, Mr. Rose and Your Honor had a discussion in chambers at maybe
22 11:00 in the morning-ish. When we informed Your Honor of the situation involving
23 Ms. Martinez and you were -- Mr. Rodgers wasn't transported up and wouldn't have
24 been present for that hearing -- not -- again, it wasn't a hearing, for that meeting
25 either because Your Honor had no idea that -- excuse of the developments. I think

1 Your Honor got an email from Steve. We had some additional updates to give Your
2 Honor and again that was approximately at 11:00 o'clock in the morning. I don't
3 know exactly when. But, yeah, Mr. Rodgers wasn't present for that nor would he --
4 nor a client ever be present for that. And no decisions were made, we were just
5 giving Your Honor heads up, this is the situation, we're looking into it and I think
6 shortly thereafter that Steve went and looked up some of the meds --

7 THE COURT: Well, I asked him --

8 MR. PARRIS: -- she was on.

9 THE COURT: -- for copies of the medical records.

10 MR. PARRIS: And he sent them to Your Honor -- or Your Honor's JEA or
11 clerk and you guys did whatever you did on your end. So, yeah, there was no --
12 there were no substantive hearings going at any point in time that Mr. Rodgers was
13 not present. I believe the only other time we spoke was the aforementioned meeting
14 with myself and Tina right outside those doors when we were discussing -- well, we
15 already talked about it and I don't want to go over that.

16 I don't think there were any -- and I'm thinking back, I don't think there
17 were any other times when myself and either -- either Steve or Tina, the prosecutors
18 on this case, were in chambers or were in the back off the record talking with Your
19 Honor other than those two to the best of my recollection.

20 THE COURT: That's my recollection too.

21 THE DEFENDANT: Also, Your Honor, I don't know -- he almost -- had my
22 case for almost a year, why didn't I get a copy of the PSI previously to that date and
23 whose idea was it to try to get me sentenced that day? That's real disturbing to me
24 also.

25 THE COURT: Do you want to address that?

1 MR. PARRIS: Sure. I don't know why he didn't get his PSI from a year ago. I
2 didn't represent him back then. I was under perhaps a mistaken impression that
3 considering this matter was prepped for trial at least once, I was told it was actually
4 twice because of a medical issue ironically involving kidney stones for his prior
5 attorney, but I assumed that my client had everything in his file. I believe I had still
6 requested my private investigator supplementing, give him more copies of stuff, and
7 over time he's asked for copies of this or that and the majority of that stuff I've given
8 him. Admittedly not everything but the things that he was requesting from the
9 discovery by and large we gave him copies of the things that he was looking for. He
10 never asked for the PSI and I'll be honest I never specifically gave it to him because
11 it was never relevant; it wasn't yet ripe to discuss a PSI.

12 So, now should -- did Mr. Gill ever go over the PSI with him? I have no
13 clue. Mr. Rodgers claims he's never seen that document. I'd be somewhat
14 surprised because I know Mr. Gill and I know him and any other attorneys in his
15 firm, I know Mr. Hayes and his partner. I know how they generally get ahead of
16 these things. And by these things I mean PSI's and sentencings and they generally
17 -- my impression of cases I've inherited from Mr. Gill in the past, there's been two,
18 the clients had all there documentation. Not every attorney gives clients copies of
19 everything, I'm one of those attorneys, my understanding is Mr. Gill is one of those
20 attorneys as well so I'm surprised that he never got that PSI. I can't say otherwise.
21 I didn't -- I've never spoken to Mr. Gill about it so I don't know.

22 Regarding sentencing him to -- on the 6th, that was something that quite
23 candidly I didn't know if the Court was gonna go along with the negotiations when
24 we first came up with that. I had no idea. I hadn't been in front of Your Honor. I
25 know how tortured this case history is but Your Honor has only been on it for the last

1 now half or third, however we want to divvy that up. I didn't know if you wre gonna
2 go with it. Quite candidly I was surprised when the State offered it. I didn't think
3 they were going to give up the weapon enhancement for example and give up
4 reducing it from a First Degree Kidnapping to minimize his exposure to a Second
5 Degree Kidnapping. So, all of that happened in -- in the blink of an eye essentially,
6 within a few moments that Steve was willing -- the State was willing to capitulate two
7 of the requests that made of it on behalf of my client.

8 So, when the Court indicated it was ready to go forward and it was
9 willing to do so in all honesty if the State is on board with the negotiation, Mr.
10 Rodgers is on board with the negotiation and the Court with the negotiation and I
11 don't know if somebody is gonna change their mind -- quite candidly I was most
12 concerned about Your Honor. When the Court indicated I'm on board, you've
13 clarified when his release is gonna be, yes, I will follow those negotiations, yeah, I
14 wanted to go forward with sentencing at that point in time because I thought it was a
15 fantastic deal for my client concerning all the facts and circumstances surrounding
16 this case and if everyone is on board strike while the iron is hot. Now, at what point
17 in time was the decision to sentence him made? I honestly don't recall within that --
18 within the flow because it was a rather chaotic couple of hours in here.

19 Now, Mr. Rodgers had indicated he did not want to be sentenced
20 immediately because he didn't want to go up to High Desert. I'm assuming you're
21 willing to -- you know, I vitiated attorney/client privilege; you're going to allow me to
22 continue to do so.

23 THE DEFENDANT: Yes.

24 MR. PARRIS: He had said, well, he wants to talk to his family to try and get
25 some money put together so he had more of a -- a bank roll, for lack of a better

1 term, when he goes up to the prison so he can acclimate himself more nicely, get a
2 t.v. do whatever and be in a better situation and he needed time to do that and I
3 indicated to him I didn't think the Court is going to continue a sentencing just so you
4 can hang our down here and talk to your people and get more money so you can
5 get a t.v. and better commissary. That's not a legal basis to kick things down the
6 road.

7 Now, the Court -- and we were able to craft the situation where he still
8 stayed down here for a couple of weeks because we had the question about the
9 restitution issue which Mr. Rose put on the record earlier today is no longer an
10 issue. So, there is no restitution in this case. But we were able to extend that.
11 Now, after -- after all of this happened, after he took the deal, after we sentenced
12 him two weeks ago when I met with him -- I believe it was on the 7th, the day after all
13 of this happened before Your Honor, that's when he had referenced that there was
14 some medical issues and I don't believe you said that at all on the 6th. I don't recall.
15 I don't remember you saying that --

16 THE DEFENDANT: You're right

17 MR. PARRIS: -- in all candor, Mr. Rodgers.

18 THE DEFENDANT: Mr. Parris, you're right.

19 MR. PARRIS: Okay. So, I didn't know about it so I didn't bring it up and say
20 we need a continuance so we can deal with this medical stuff. Subsequently it
21 arose. I know the -- medical care and health care in the jail versus the prison
22 system is not what I think anyone would really want it to be for the protection and
23 well -- health and well-being of the inmates that the state is ordered to supervise and
24 protect. Not just lock up but they have the duty of protecting them and giving them
25 medical care that they need and keeping them safe to the best of the state's

1 abilities. So, would you get better -- better medical care here versus up at High
2 Desert? I'll be honest, I don't know. I have no clue. Whatever medications he's
3 getting here he would get at the prison. In fact, I'm told that the prison is actually
4 more liberal with its medications. In many instances the state -- excuse me, the
5 Clark County Detention Center has rather strict policies regarding nar -- meds of a
6 narcotic nature and things of that sort. I know that up in the prison my clients who
7 I'm still in contact with are receiving different meds than they were down in county
8 and I can't think of a time when anyone who has told me that, who is up at High
9 Desert or Southern Desert, who is in the Department of Corrections, hasn't said
10 that's a positive, that they have more access to medications than they did at county.
11 So, I'm not arguing that the medical care or health care is better up at -- in the
12 Department of Corrections than at county. I don't know. But anecdotally, people
13 seem to like being in the DOC much more than they like being in county. Even then
14 -- even had I known that at sentencing -- which it seems all parties agree, I didn't
15 know about his medical issues and necess -- why that might necessitate a
16 continuance or a postponement of sentencing, event then I probably wouldn't have -
17 - I may have given it lip service but I don't think that's a sufficient legal basis to
18 withdraw the plea -- or excuse me, to delay the sentencing.

19 Regarding the PSI, in going over the PSI with Mr. Rodgers in the time
20 that we had prior to the actual sentencing itself, he indicated many things he had
21 talked about today. The conviction -- the drug conviction that I had resolved and the
22 Court took care of that. And we actually -- I had to talk to Mr. Rose personally to
23 figure out how to go about solving that problem -- excuse me, and we may have
24 had a conversation with Your Honor at the bench or talking about how to go about
25 amending -- having the JOC take care of that.

1 THE COURT: Well, and we already -- yeah, we did --

2 MR. PARRIS: We knew that.

3 THE COURT: -- have that discussion about that, but we've also now got it in
4 the minutes as well and we did that on August 6th and then we have this hearing
5 today to see if there is any other issues so that we could put it all in one JOC.

6 MR. PARRIS: Correct. And I think Mr. Rogers did bring up several issues
7 that were important and the State did as well such as striking the plea to which he
8 entered -- I think it's Roman numeral two on the bottom of page one, you know,
9 correcting the fact that there were some -- there's a social security number and an
10 aka and -- and/or a date of birth that Mr. Rodgers claims he never used. Again,
11 those types of errors clearly didn't affect that the Court was going to do at
12 sentencing. Four aka's versus five doesn't make a difference to the Court -- to most
13 Courts. It didn't make a difference in this -- to Your Honor.

14 So -- and there didn't seem to be anything substantive. Yes, he had
15 concerns about the child abuse count and as I told him you were charged with that
16 at some point in time, well before I came in the picture, and Mr. Rodgers said it was
17 dismissed and I said, sure but you were still charged with it. There are a lot of
18 counts here that are dismissed. Other than the Second Degree Kidnapping, the
19 Mayhem, the Robbery and the Pandering, everything else is being dismissed. I
20 understand why he doesn't want a child abuse -- the words child abuse listed on his
21 PSI. It has nothing to do with the prison itself, it has to do with prison politics and
22 the people he's going to encounter, i.e., the prisoners. Because they need --
23 defendants always want their PSI because they need to show it to other prisoners to
24 make sure that those other prisoners know who they are, who they're affiliated with,
25 what their history is and if it turns out that a person has a child abuse count or some

1 sort of sexual count or what have you they treat them accordingly. Just like if they
2 find out if a person is a gang member and potentially a rival gang or whatever they
3 treat them accordingly. The prison knows this. The PSI [indecipherable] it gets sent
4 up to the prison, nobody disputes that but being -- the individuals themselves, the
5 prisoners need that information, not for the prison, but for the other prisoners, for the
6 inherent politics associated with it. So, I understand where he's coming from but we
7 all agree at some point in time he was charged with child abuse, he was never
8 convicted of it, ultimately it was dismissed at the Justice Court level evidently, but
9 that was one of his concerns. The Court indicated that is not sufficient basis to
10 order a new PSI nor were the other things that Mr. Rodgers had brought up either
11 the morning -- the afternoon sentencing for today.

12 THE DEFENDANT: When Ms. Davis -- when I did the -- the PSI interview
13 where she said that was gonna be stricken from there, it was not going to be on
14 there. I also didn't think nothing of it --

15 THE COURT: Who told you that?

16 THE DEFENDANT: Ms. Davis, the probation officer that's on the PSI she --
17 she did that -- she told me -- because I brought that up to her attention --

18 THE COURT: Okay. Well, it's gonna be there so --

19 THE DEFENDANT: Okay. I brought that to her attention though. Also, when
20 Mr. Par -- I mean, Mr. Gill was -- withdraw from the case I didn't nothing of it about
21 the PSI, I just thought just because I was withdrawing my plea that he never gave it
22 to me whatsoever but as soon as he had it I don't see why he wouldn't bring it to my
23 attention about that. Also, about my medical issue where I had surgery and the
24 next time I'm supposed to be going back, I don't know when, it should be soon, but
25 they don't tell you when for security reasons and I didn't think I was going to have to

1 bring that up to the Court when I took the deal. You know, it's embarrassing and it's
2 medical where I didn't think I was going to have to bring that up. It's not just I want
3 to kick it there at CCDC. No, that's not it at all. I want to have this procedure done.
4 I'm in pain, I'm having problems, I want to get this taken care of while it's already in
5 motion instead of getting up here and having to wait. It's going to take a while
6 though. They're not just gonna see you and take you there just because you have
7 pain. This has been going on for over a year and I've been having these problems
8 though. I wrote to them where they said they can't tell you because the procedure
9 wasn't going to happen. I brought to the attention the day after -- when he came to
10 see me on video visit that's why I was just like, well, it's supposed to be happening
11 soon, I just don't know when. That's why I was thinking maybe I should get a new
12 PSI, that'll take time, and by then I'll have it done and I'll be in NDOC after that.
13 That was maybe one of my concerns. By the way, you know, where it even says
14 about the -- whatever hospital they took me to saying I had the surgery. I brought
15 everything, whatever documentation where it's showing where there's not no stall
16 tactic. I want to get this done though. I'm having problems where I need medical
17 attention from now, not later but now. I brought that to Mr. Parris' attention though
18 about that.

19 Also, I told him before I got sentenced where we're -- we're supposed to
20 -- we're to go over the PSI with the -- with the defendant and [indecipherable] was
21 supposed to have the opportunity to read -- discuss the PSI pursuant to U.S. --
22 *United States versus Petty* [indecipherable] when a defendant -- where he had not
23 gotten an opportunity to review the PSI. And I was trying to bring this to Mr. Parris'
24 attention though about certain stuff. I just wanted everything to be correct on the
25 PSI. It's not just for the politics, it's for my safety. I'm not going up there to have no

1 problems with everybody. And when I go up there I want a program to get a degree,
2 I want to do stuff to better myself. I don't want to go up there and mess with the
3 people and having stuff on my PSI to look like it was something else than it was. I
4 want to go up there and do the right thing and use my time in the right way. I don't
5 want to have problems when I get there.

6 THE COURT: I understand.

7 THE DEFENDANT: And if I can correct this now -- I'd rather correct it now
8 than later.

9 THE COURT: Okay. Well, we've corrected your PSI.

10 THE DEFENDANT: Do I get a new copy of it?

11 THE COURT: What do you mean?

12 THE DEFENDANT: Like a copy I have now, do I get a new copy with it
13 corrected? That's what I'm asking.

14 THE COURT: Well, once the -- one the things are stricken, sure.

15 MR. PARRIS: Well, I think what he's asking for is essentially an amended or
16 supplemental PSI that will literally strike Roman numeral two and this and that. And
17 we're not -- and please correct if I'm wrong. The Court's not ordering a
18 supplemental PSI to be prepared.

19 THE COURT: That's correct.

20 MR. PARRIS: What we can certainly give Mr. Rodgers -- and I will tell the
21 Court I'll do it myself, give him a copy of the JOC in this case which has yet to be
22 filed, which we intentionally held off on filing so we could put in not only the things
23 we discussed on the 6th of August but also whatever we discussed today after we
24 had two weeks to review the PSI and make any other necessary changes. That's
25 why we held this out, that's why we passed this two weeks in addition to the

1 restitution issue to clarify this. So, I will certainly give Mr. Rodgers a copy of that
2 PSI that's going to outline we're striking this, we're deleting that, we're doing this.
3 Whatever the changes we've put in there he'll have a copy of that. Whether that
4 satisfies the guys on the yard I don't know.

5 THE COURT: And he'll have the JOC. Okay.

6 THE DEFENDANT: Also, pursuant to *United States versus Petty* it says
7 within the 14 days of receiving the PSI the parties must make any objections to the
8 PSI in writing and after which the probation officer may meet with the parties
9 [indecipherable] to revise or [indecipherable] as necessary.

10 MR. PARRIS: And if I can -- I can clarify that. There's a reason he is flipping
11 between the words -- the letters PSI and PSR. It's a PSR on the federal system.
12 He's citing a federal statutes regarding you need to meet with a probation officer
13 who drafts the -- who drafts the PSR and within 14 days to make the changes.
14 Yeah, that's a thing in the federal court that doesn't apply here. So, I understand
15 where he's coming from. I get that completely but he cited to rules that are not
16 enforced in this jurisdiction. They are other jurisdictions.

17 THE DEFEDANT: Your Honor, it's in the -- I didn't mean to cut him off, but it's
18 in the 9th Circuit.

19 THE COURT: That's federal court. This is the state court, it's different.
20 Okay. Anything else?

21 THE DEFENDANT: Well, I have to ask him because I haven't had time to --
22 was it referred to in the state court, where are the recommendations, how to go
23 about that.

24 THE COURT: What are you talking about?

25 THE DEFENDANT: About the PSI or PSR, what he just said.

1 MR. PARRIS: I don't believe that there are any specific statutes that
2 mandates a time frame in which a -- that an attorney must go over a PSI or a
3 sentencing document with their client prior to sentencing. I don't believe there's any
4 sort of statutory requirements at all with --

5 THE COURT: [indecipherable]

6 MR. PARRIS: -- respect to that. Now, having gone forward with sentencing
7 and had we not had an opportunity to make the necessary changes to the PSI,
8 honestly I have problem with that. However, when the State and the Court agreed
9 to continue this matter two weeks to allow us the opportunity to make any necessary
10 changes and give us a mechanism by which we can affect those changes I was
11 satisfied so that's what we did.

12 THE COURT: Anything else?

13 THE DEFENDANT: Also, when I told Mr. Parris I wasn't gonna sign it while I
14 was getting sentenced that day he still hasn't addressed that issue. When he told
15 me don't worry about, it's not a big deal. When we came out here from the holding
16 cell he was supposed to address that to you though. He did not do that. I told him I
17 would not sign that deal where if was trying to get sentenced today because I will
18 not be forced. I told Mr. Parris this.

19 MR. PARRIS: Again, I'm thinking back to that conversation -- or that -- that
20 part of the conversation. I don't -- I don't remember exactly what I said or when I
21 said it in relation to everything we've already gone over. I'm pretty confident -- well,
22 again, I'll -- while I can't remember chapter and verse of what our discussion was
23 with respect to this one discrete point, I'm pretty confident that when the Court
24 offered us -- again, as I said, a couple of weeks to look into it and a mechanism by
25 which we could effectuate the necessary changes again I was satisfied. I don't

1 recall when Mr. Rodgers said definitively if we go forward with sentencing I'm not
2 taking this deal. Excuse me; if we go forward with sentencing today I'm not taking
3 this deal. I'm trying to visualize in my head when that occurred and I simply -- I
4 can't. I don't know when he -- I believe he did -- he did say that to me at some point
5 in time and I believe my -- and I think we were standing right here because I
6 remember standing right here was when we had the, I don't want to use -- some
7 revelation, but we had the understanding here's how we can address that concern
8 and I was satisfied by that concern -- by the mechanism that we've already outlined.

9 So -- and with all due respect to Mr. Rodgers, once we started the
10 sentencing -- I mean, he's not shy, he doesn't mind talking -- speaking his mind to
11 the Court and talking to Your Honor. He was standing right -- literally right here. He
12 could have said, hey, if we're going forward with sentencing I don't want to sign my
13 plea. No, no, I'm not doing this. He easily could have done that but that didn't
14 happen. So, castigating me for not making that motion or not fighting more to
15 continue the sentencing, okay, that's an argument but he had the power by his own
16 admission to say, no, we're not doing this and he didn't do so. Two weeks later now
17 he is but at the time that didn't happen.

18 THE DEFENDANT: Your Honor, as soon as we came out here from the
19 holding cell and you started talking about sentencing that day I whispered in Mr.
20 Parris' ear that day when it happened though. I didn't speak up to you but I spoke
21 up to him and I asked him about it because we had the conversation in there and he
22 told me "don't worry about that, it's not a problem. You don't want piss off the Judge
23 by not accepting the deal today."

24 MR. PARRIS: Well, I mean, just -- I'll say it a third time. I mean, just whether
25 or not I care if I piss you off. I don't know what else to say.

1 THE COURT: Okay. Anything else?

2 THE DEFENDANT: Also, when he come to see me on August 7th I told him I
3 do want to [indecipherable] where every appeal that we do have available. And Mr.
4 Parris replied to that though, he said we had to wait for the JOC to come through.

5 THE COURT: Right.

6 THE DEFENDANT: Is that right?

7 THE COURT: Right.

8 THE DEFENDANT: Okay. Perfect. So, I just want to have that on record, I
9 do want all the appeals, about the missing [indecipherable] the [indecipherable] that
10 I do have available. I want [indecipherable] appeals.

11 THE COURT: Okay. You can do whatever you need to do, sir. I mean -- and
12 you will get a judgment of conviction.

13 THE DEFENDANT: Okay.

14 THE COURT: Okay.

15 THE DEFENDANT: And Mr. Parris helps me with those appeals, correct?

16 MR. PARRIS: Yes. Your Honor, may not be -- may not be certain how the
17 things work from an appointed standpoint. When I'm appointed by the office of
18 appointed counsel on any cases once it goes to resolution it's still my baby for
19 however long it goes. In a situation like this, even though we've taken a deal I'm still
20 attorney of record. Mr. Rodgers had indicated -- had indicated to me on the 7th I
21 want to appeal certain things and I said, cool, can't do that until we have a JOC and
22 that's not gonna happen for at least another two weeks and then when it does
23 happen we have thirty days to appeal -- to file a notice of appeal.

24 THE COURT: Okay. Well, we should get the JOC pretty soon now.

25 MR. PARRIS: Correct. Yeah. But again, this was on the 7th that I had this

1 conversation.

2 THE COURT: Right.

3 MR. PARRIS: That's why I said it's gonna be at least another two weeks and
4 then a week or so after. So, I told him I will be filing on his behalf a notice of intent
5 to appeal the case. I honestly don't know -- now there have been times when the
6 Office of Appointed Counsel has let -- generally speaking it does leave people in my
7 position on board to handle the appeal. There have been other times when the
8 OAC has appointed specific attorneys who focus more on appellate work to handle
9 these cases. I have no idea what the OAC is gonna do in this case.

10 THE COURT: What's OAC?

11 MR. PARRIS: Office of Appointed Counsel.

12 THE COURT: Okay.

13 MR. PARRIS: That's Mr. Christensen's -- I think that's his official title.

14 THE COURT: Well, the reason I ask is because we've got AOC which is
15 Administrative Office of the Courts so -- okay. I just wanted to make sure that I
16 understood. Okay. Fine.

17 MR. PARRIS: So --

18 THE COURT: Okay.

19 MR. PARRIS: -- Drew Christensen's office. I didn't want to throw his name
20 around but --

21 THE COURT: Okay.

22 MR. PARRIS: -- we all do. It's Drew Christensen that would appoint -- had
23 appointed me on this case or the Office of Appointed Counsel did. The Office of
24 Appointed Counsel may or may not keep me on for purposes of the appeal. I don't
25 care, irrespective, I'm gonna file the notice of intent to appeal to preserve his -- Mr.

1 Rodgers' right to appeal by me, by someone else, by his own hand. I will certainly
2 file that within thirty days of the JOC being filed.

3 THE COURT: Do you understand that, sir?

4 THE DEFENDANT: Yes.

5 THE COURT: Okay. What else?

6 THE DEFENDANT: As I remember that's what -- pretty much covers
7 everything.

8 THE COURT: Could we bring Mr. Rose in or is there anything else that we
9 need to discuss?

10 THE DEFENDANT: About the medical condition. I think within the next two
11 weeks I should be done. I don't know if that matters.

12 THE COURT: Do -- sir, you will just have to deal with the prison system on
13 that, okay? All right. Anything else?

14 MR. PARRIS: I am texting Steve --

15 THE COURT: We'll --

16 MR. PARRIS: -- right --

17 THE COURT: -- see if --

18 MR. PARRIS: -- now.

19 THE COURT: -- Mr. Rose is outside. Let's see if he is.

20 MR. PARRIS: Also while we're still outside the presence. I appreciate the
21 Court allowing us to handle -- he's not out there?

22 THE MARSHAL: No. I thought he had said he was going down to
23 Department 20.

24 THE COURT: Okay.

25 MR. PARRIS: He was going to another courtroom. I just texted him and

1 asking him to come back.

2 THE COURT: Okay.

3 MR. PARRIS: But before he comes back. I appreciate the Court allowing me
4 to -- to essentially -- granted I wasn't sworn in but as an officer of the court, I mean --

5 THE COURT: You are an officer of the court.

6 MR. PARRIS: -- I know my duties and my full responsibilities. Essentially this
7 -- the reason I wanted to offer this is I wanted to give the Court an opportunity to
8 address the concerns in Mr. Rodgers letter requesting a motion to withdraw his plea
9 based upon the information it contained. I wanted to offer this -- and I appreciate
10 the Court indulging me because there were factual inaccuracies that I wanted to
11 correct. Because whether the Court decides -- when the Court makes its decision
12 on granting or denying his motion to have -- essentially to withdraw his plea or to
13 have outside counsel appointed to -- looking to withdrawing his plea, just like I
14 wanted him to know -- Mr. Rodgers to know everything he needed to know before
15 he made his important decision on the -- whether to take a deal or not. I wanted the
16 Court to know this information because there are things in here that were not
17 correct, that were -- again, that were inaccurate and some of them like at the bottom
18 of page two, that involved Your Honor and Your Honor, ostensibly, you know,
19 participating in these discu -- negotiations or -- negotiations or discussions I needed
20 to correct that. I did not want it to linger because ultimately had Your Honor granted
21 the motion and not heard from me today the Court have certainly granted the
22 motion, appointed another attorney to come in, they would have filed a motion. At
23 some point in time I would have been called back, I would have been sitting right on
24 the witness stand, sworn in and said the same stuff I said today. It probably
25 wouldn't have been as good because this was two weeks ago and by then it would

1 have been three or four months down the road, but it's still relatively fresh. So, I
2 wanted to essentially give the Court my testimony that would have occurred, add a
3 motion to withdraw hearing based upon the information in this letter as soon as
4 possible so the Court could make its determination and the Court has indicated it
5 still doesn't know -- it hasn't made decision as to what it's going to do, but now Your
6 Honor has the facts ahead of time and gave Mr. Rodgers an opportunity to flush that
7 out even further outside the confines of this letter so the Court can make -- the
8 Court's gonna decide whatever it's gonna decide but at least now Your Honor has
9 the information regarding what I did or didn't say to Mr. Rodgers --

10 THE COURT: Okay. And Mr. Rose is coming in.

11 MR. PARRIS: -- and your involvement [indecipherable].

12 THE COURT: Come on in, Mr. Rose.

13 MR. ROSE: Just making sure.

14 THE COURT: Okay. Mr. Rose, I've had an opportunity to talk to Mr. Parris
15 and Mr. Rodgers. Is there -- oh, there was one other change we need to make to
16 the PSI, on page 10.

17 MR. ROSE: Okay.

18 THE COURT: And it is -- where is it?

19 MR. ROSE: Is it the recommendations, Your Honor?

20 THE COURT: It was section 10. It was -- it was on section 10, the
21 recommendations of deleting Count 1.

22 MR. ROSE: I have no objection to that.

23 THE COURT: Okay. So, that will reflect -- I said I was inclined to do that but I
24 wanted to talk to you about that first.

25 MR. ROSE: No, I think it would appropriate to do.

1 THE COURT: Okay. So, the PSI will also be amended or -- there will be a
2 deletion of that -- Count 1 under recommendations which is Roman numeral ten in
3 the PSI. Okay. All right. Anything further in terms of the -- his request to withdraw
4 his plea?

5 MR. ROSE: No, Your Honor. I think we've -- I think I've made my position
6 clear earlier. Your Honor has now had the opportunity to hear directly from Mr.
7 Parris outside my presence. So, unless Your Honor feels that there is some kind of
8 need to have an additional, you know, record made about the -- the claims made in
9 the letter the State's request would be to deny the motion at this point in time. I'll
10 submit it --

11 THE COURT: Okay.

12 MR. ROSE: -- with that.

13 THE COURT: All right. Anything further, Mr. Rodgers?

14 THE DEFENDANT: No, that's all. Thank you, Your Honor.

15 THE COURT: Okay. I'm gonna go with my first inclination, sir, and I'm gonna
16 deny your request to withdraw your guilty plea. I'm satisfied that you got the best
17 deal possible and that you did it knowingly and so forth. And there's nothing in this
18 letter that convinces me differently and nothing with what we've discussed --

19 THE DEFENDANT: You felt it was --

20 THE COURT: -- changes my mind.

21 THE DEFENDANT: -- you felt it was knowingly without the information that
22 was withheld?

23 THE COURT: Okay. Sir, I've made my ruling

24 THE DEFENDANT: That's understandable but --

25 THE COURT: Okay. You're not going to challenge me.

1 THE DEFENDANT: I'm now challenging you, ma'am.

2 THE COURT: You are.

3 THE DEFENDANT: I'm not. I'm just asking a question.

4 THE COURT: Sir, I've made my decision. The motion -- or your request to
5 withdraw your guilty plea which is the second one made is denied.

6 THE DEFENDANT: I feel like you're biased against me, Your Honor.

7 THE COURT: Okay. All right. Anything else?

8 THE DEFENDANT: I feel like you're biased against me.

9 MR. PARRIS: I -- again, I appreciate the Court's time today. As soon as that
10 JOC is filed I will get Mr. Rodgers a copy and I will -- as we've discussed I will go
11 from there.

12 THE COURT: Okay.

13 [Proceedings concluded at 12:21 p.m.]

14 * * * * *

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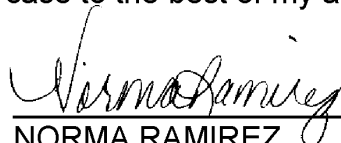
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18

19 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.

20

21



22

NORMA RAMIREZ
Court Recorder
District Court Dept. XXII
702 671-0572

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 09, 2021

C-16-314359-1 State of Nevada
 vs
 Craig Rodgers

September 09, 2021 10:30 AM Motion

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 14B

COURT CLERK: Yolanda Orpineda

RECORDER: Kimberly Estala

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Deft. not present.

COURT ORDERED, Motion DENIED.

NDC

CLERK'S NOTE: This minute order was created utilizing the JAVS recording. A copy of this minute order was mailed to Deft. (Craig Rodgers 122186, PO BOX 208, Indian Springs, NV 89070) . /sb
10.11.21

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 12, 2021

C-16-314359-1 State of Nevada
 vs
 Craig Rodgers

October 12, 2021 8:30 AM All Pending Motions

HEARD BY: Johnson, Susan

COURTROOM: RJC Courtroom 15D

COURT CLERK: Sandra Matute

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT:	Rodgers, Craig	Defendant
	Rose, Steven	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant present via BlueJeans.

PETITION FOR REHEARING/RECONSIDERATION OF MOTION TO MODIFY AND OR CORRECT ILLEGAL SENTENCE...MOTION AND ORDER FOR TRANSPORTATION OF INMATE FOR COURT APPEARANCE OR IN THE ALTERNATIVE , FOR APPEARANCE BY TELEPHONE OR VIDEO CONFERENCE

Court stated it's concerns in regards to whether Court has jurisdiction over the case with pending appeal with Supreme Court. Defendant stated the Pre-Sentence Investigation (PSI) report is being used against him, and requested to update the PSI. Argument by Defendant. Mr. Rose stated the prior error in the PSI was stricken and does not believe a new PSI is required. Court stated appeal with Supreme Court will need to take place and ORDERED, Motion to Modify DENIED WITHOUT PREJUDICE.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 04, 2022

C-16-314359-1 State of Nevada
 vs
 Craig Rodgers

January 04, 2022 8:30 AM All Pending Motions

HEARD BY: Johnson, Susan

COURTROOM: RJC Courtroom 15D

COURT CLERK: Brittany Ates

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT:	Rodgers, Craig	Defendant
	Rose, Steven	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Court noted it is allowing Mr. Rodgers to appear by video and he is present. Mr. Rose stated he has no objection to Mr. Rodgers' motion but noted he didn't want Mr. Rodgers' prior attorney, Mr. Parris, to get into any trouble if he is not being contacted by Mr. Rodgers. Mr. Rose further noted it is his understanding that Mr. Parris is no longer practicing law and he may no longer be in the state of Nevada. Mr. Rodgers indicated he has tried to contact Mr. Parris on numerous occasions and has done everything he could to try and receive his file. COURT ORDERED, motion GRANTED. COURT FURTHER ORDERED, a copy of this order is to go to the State Bar as well as the last known address for Mr. Parris with the State Bar. COURT ADDITIONALLY ORDERED, Mr. Parris is required to send file to Mr. Rodgers within FORTY-FIVE (45) DAYS with a deadline of February 15, 2022. COURT ADVISED, it would prepare the proposed order for Mr. Rodgers with the understanding that it won't be done until next week.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 15, 2022

C-16-314359-1 State of Nevada
 vs
 Craig Rodgers

February 15, 2022 8:30 AM Motion

HEARD BY: Johnson, Susan

COURTROOM: RJC Courtroom 15D

COURT CLERK: Nicole Cejas

RECORDER: Norma Ramirez

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- No appearance was made.

Court stated Defendant has requested a copy of the Pre-Sentencing Investigation (PSI) Report and records showed the PSI Report was sent twice to Defendant. Court stated it is their understanding the Defendant is now requesting a copy of the Supplement PSI Report.

Court further stated on November 16, 2021, the Department of Parole and Probation Supervisor P. Houlihan advised Defendant in a letter that he was preparing a Supplement PSI Report and that it will be filed with the Court, however is unable to mail the report to him. COURT ORDERED, Motion to Obtain a Copy of a Sealed Record GRANTED. Court stated it will mail a copy of the Supplement PSI Report to Defendant.

CLERK'S NOTE: The above minute order has been mailed by the Court Clerk via to Craig Rogers at PO Box 208 Indian Springs, Nevada 89070. nc// 2/17/2022

CLERK'S NOTE: Minute Order AMENDED to correct date "2/17/2022" to "2/18/2022" when minute order was mailed by the Court Clerk via to Craig Rogers at PO Box 208 Indian Springs, Nevada 89070. nc// 2/18/2022

PRINT DATE: 04/12/2022

Page 4 of 7

Minutes Date: September 09, 2021

C-16-314359-1

PRINT DATE: 04/12/2022

Page 5 of 7

Minutes Date: September 09, 2021

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 18, 2022

C-16-314359-1 State of Nevada
 vs
 Craig Rodgers

March 18, 2022 3:00 AM Minute Order

HEARD BY: Johnson, Susan

COURTROOM: Chambers

COURT CLERK: Nicole Cejas

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Having examined Defendant Rodgers Motion for Transport of Inmate for Court Appearance, or in the Alternative, for Appearance by Telephone or Video Conference filed March 17, 2022, noted Defendant did not identify the matter in which he desired to appear, and as of this writing, there is no motion or other hearing scheduled in this case, and there is good cause therefore, COURT ORDERS Defendant Rodgers Motion for Transport of Inmate for Court Appearance, or in the Alternative, for Appearance by Telephone or Video Conference filed March 17, 2022 is DENIED. The matter scheduled to be heard Tuesday, April 12, 2022 at 8:30 a.m. is VACATED.

CLERK'S NOTE: The above minute order has been distributed to all parties by the Court Clerk via electronic service and mailed to Craig Rogers at PO Box 208 Indian Springs, NV 89070. nc//
3/18/2022

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 07, 2022

C-16-314359-1 State of Nevada
 vs
 Craig Rodgers

April 07, 2022 3:00 AM Minute Order

HEARD BY: Johnson, Susan

COURTROOM: Chambers

COURT CLERK: Nicole Cejas

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Having examined Mr. Rodgers Motion and Proposed Order for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Videoconference filed April 6, 2022, and noted there is no underlying matter scheduled for decision on May 10, 2022, at 8:30 a.m., and there is good cause therefore, COURT ORDERS, the Motion for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Videoconference filed April 6, 2022 is DENIED. The matter scheduled to be heard Tuesday, May 10, 2022 at 8:30 a.m. is VACATED.

CLERK'S NOTE: The above minute order has been distributed to all parties by the Court Clerk via electronic service and mailed to Craig Rodgers at PO Box 208 Indian Springs, NV 89070. nc//
4/7/2022

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Court of Appeals order dated March 9, 2022, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the supplemental trial court record for the case referenced below. The record comprises volume six with pages numbered 1035 through 1128.

STATE OF NEVADA,

Plaintiff(s),

vs.

CRAIG RODGERS
aka CRAIG ALLEN RODGERS,

Defendant(s),

Case No: C-16-314359-1

Dept. No: XXII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 12 day of April 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk