

IN THE SUPREME COURT OF THE STATE OF NEVADA

No. 84612

Electronically Filed
Oct 31 2022 02:29 PM
~~Elizabeth A. Brown~~
Clerk of Supreme Court

APRIL PARKS

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

Appeal from Amended Judgment of Conviction
Eighth Judicial District Court, Clark County
The Honorable Tierra Jones, District Court Judge
District Court Case No. C-17-321808-1

**APPELLANT'S APPENDIX
VOLUME III**

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INDEX

<u>Volume</u>	<u>Document</u>	<u>Page No.</u>
II	Amended Indictment (Exhibit 1), filed November 5, 2018	AA 0368
III	Amended Judgment of Conviction (Plea of Guilty-Alford) filed February 4, 2019 (Case No. C-17-321808-1)	AA 0576
III	Amended Judgment of Conviction (Plea of Guilty-Alford) filed February 4, 2019 (Case No. C-18-329886-2)	AA 0579
III	Answer to Post-Conviction Petition for Writ of Habeas Corpus, filed December 31, 2020	AA 0635
IV	Appellant's Opening Brief for Case No. 82876, filed with the Supreme Court on September 7, 2021	AA 0870
V	Appellant's Reply Brief for Case No. 82876, filed with the Supreme Court on November 23, 2021	AA 1001
V	Case Appeal Statement for Case No. C-17-321808-1, filed April 22, 2022	AA 1039
IV	Case Appeal Statement, filed May 4, 2021	AA 0858
IV	Certification of Copy by Steven D. Grierson, Clerk of the Eighth Judicial District Court, dated May 6, 2021	AA 0862
IV	Court Minutes for February 22, 2021 in Case No. A-19-807564-W	AA 0783
III	Court Minutes for January 30, 2019 in Case No. C-17-321808-1	AA 0571

<u>Volume</u>	<u>Document</u>	<u>Page No.</u>
III	Court Minutes for January 4, 2019 in Case No. C-17-321808-1	AA 0566
IV	Court Minutes for March 18, 2021 in Case No. A-19-807564-W	AA 0849
IV	Court Minutes for March 29, 2021 in Case No. A-19-807564-W	AA 0850
II	Court Minutes for November 5, 2018 in Case No. C-17-321808-1	AA 0390
II	Defendant April Park's Sentencing Memorandum, filed January 2, 2019	AA 0416
IV	District Court Civil Cover Sheet for Case No. A-19-808564-W, <i>April Parks v. Dwight Neven</i> as of May 6, 2021	AA 0863
IV	Eighth Judicial District Court Case Summary for Case No. A-19-807564-W, <i>April Parks v. Dwight Neven</i> as of May 6, 2021	AA 0864
V	Eighth Judicial District Court Case Summary for Case No. C-17-321808-1 as of April 22, 2022	AA 1041
V	Findings of Fact, Conclusions of Law, and Order Granting Petition For Writ of Habeas Corpus (Post-Conviction) on April 20, 2022 (filed April 21, 2022)	AA 1032
II	Grand Jury Indictments Returned in Open Court March 8, 2017 (from Grand Jury sessions held on March 7, 2017) for Case No. C-17-321808-1 , -2, -3, -4	AA 0350
II	Guilty Plea Agreement, filed November 5, 2018	AA 0375

<u>Volume</u>	<u>Document</u>	<u>Page No.</u>
II	Indictment for April Parks, Mark Simmons, Gary Neal Taylor and Noel Palmer Simpson, filed March 8, 2017	AA 0227
III	Judgement of Conviction (Plea of Guilty- Alford), filed January 10, 2019 for Case No. C-17-321808-1	AA 0568
V	Letter from Eighth Judicial District Court to Elizabeth Brown, Clerk of Supreme Court, filed June 13, 2022, re: Case No. 84612	AA 1080
V	Notice of Appeal for Case No. C-17-321808-1, filed April 22, 2022 (filed April 26, 2022 in the Supreme Court)	AA 1072
IV	Notice of Appeal, filed with the Supreme Court on May 4, 2021	AA 0868
V	Notice of Appearance For Respondent for Supreme Court Case No. 84612, filed May 11, 2022	AA 1077
V	Notice of Appearance of Counsel, filed June 13, 2022 by James A. Oronoz, Esq.	AA 1081
V	Notice of Entry of Findings of Fact, Conclusions of Law and Order for Case No. A-19-807564-W, filed April 22, 2022	AA 1074
IV	Notice of Entry of Order Denying Petition for Writ of Habeas Corpus, filed April 15, 2021	AA 0857
V	Notice of Entry of Order for Case No. A-19-807564-W, filed April 15, 2022	AA 1031
V	Order Affirming in Part, Reversing in Part and Remanding in Case No. 82876-COA, filed March 4, 2022	AA 1018

<u>Volume</u>	<u>Document</u>	<u>Page No.</u>
IV	Order Denying Petition for Writ of Habeas Corpus, filed April 12, 2021	AA 0851
V	Order for Limited Remand for Designation of Counsel In Supreme Court Case No. 84612, filed May 6, 2022	AA 1075
III	Petition for Writ of Habeas Corpus (Post-Conviction), filed December 27, 2019	AA 0585
IV	Recorder's Transcript of Hearing Re: Petition for Writ of Habeas Corpus, dated February 22, 2021 (filed April 22, 2021)	AA 0784
IV	Recorder's Transcript of Proceedings: Evidentiary Hearing, dated March 18, 2021 (filed April 13, 2021)	AA 0797
III	Recorder's Transcript of Sentencing from January 4, 2018 (filed December 26, 2019)	AA 0443
III	Recorder's Transcript Re: Clarification of Sentence from August 26, 2019 (filed August 1, 2022)	AA 0582
II	Recorder's Transcript Re: Sentencing, dated October 5, 2018 (filed August 10, 2020)	AA 0353
III	Recorder's Transcript re: Request: Clarification of Restitution from January 30, 2019 (filed August 2, 2022)	AA 0572
V	Remittitur in Supreme Court Case No. 82876, filed April 11, 2022	AA 1030
IV	Reply to State's Response to Supplement to Petition, filed January 25, 2021	AA 0776

<u>Volume</u>	<u>Document</u>	<u>Page No.</u>
I	Reporter's Transcript of Proceedings, Grand Jury Proceedings, Vol. 1, from December 6, 2016 (filed March 13, 2017)	AA 0001
I	Reporter's Transcript of Proceedings, Grand Jury Proceedings, Vol. 7-A, from February 21, 2017 (filed March 13, 2017)	AA 0181
V	Respondent's Answering Brief for Case No. 82876, filed with the Supreme Court on November 8, 2021	AA 0942
II	State's Sentencing Memorandum, filed December 28, 2018	AA 0392
III	Supplemental Petition for Writ of Habeas Corpus (Post-Conviction), filed September 30, 2019	AA 0598
V	Transcript of Proceedings – Status Check: Appellate Counsel, filed July 12, 2022	AA 1083

To Whom It May Concern,

My name is Deborah Fenimore- Herdman and I am proud to offer my recommendation of April Parks whom I have personally known for 20 years as my friend.

During my relationship with April Parks over the past 20 years I have observed her with family, friends, and coworkers. Based on how she has conducted herself I have know her to be kind, supportive,hard working, and dedicated to her children . April would volunteer many times over the years to provide care for my step-daughter when we would need to be out of town or running late from work. April has been active in her church and community for many years and has taught young woman in church callings.

Given the opportunity to be released from custody I believe April will be able to continue contribute to society by serving in her church, family, and community.

Respectfully,

Deborah Fenimore -Herdman

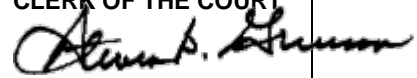
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I transmitted a true and correct copy of a,

in the above captioned matter, via Odyssey E-file NV,
to the following recipient(s):

-and-

By: /s/ Anthony M. Goldstein
Anthony M. Goldstein, Esq.



1 RTRAN

2
3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 STATE OF NEVADA,
9 Plaintiff,

10 vs.

11 APRIL PARKS,

12 Defendant.

) CASE#: C-17-321808-1

) DEPT. X

13 BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE
14 FRIDAY, JANUARY 4, 2019

15 **RECORDER'S TRANSCRIPT OF SENTENCING**

16 APPEARANCES:

17 For the Plaintiff:

DANIEL WESTMEYER, ESQ.
JAY RAMAN, ESQ.

18 For Defendant April Parks:

ANTHONY M. GOLDSTEIN, ESQ.

19 For Defendant Mark
20 Simmons:

MARISSA BORDER, ESQ.
ROCHELLE T. NGUYEN, ESQ.

21 For Defendant Gary Neal
22 Taylor:

JENNIFER M. WALDO, ESQ.

23
24
25 RECORDED BY: VICTORIA BOYD, COURT RECORDER

1 Las Vegas, Nevada, Friday, January 4, 2019

2
3 [Case called at 9:23 a.m.]

4 THE COURT: Okay. We are going to go on the record in
5 C-321808-1, State of Nevada v. April Parks, State of Nevada v. Mark
6 Simmons, and State of Nevada v. Gary Neal.

7 This is the date and time set for sentencing. Are all parties
8 prepared to go forward?

9 MR. WESTMEYER: Yes, Judge.

10 THE COURT: Okay. Ms. Parks is present in custody being
11 assisted by Mr. Goldstein. We have Mr. Simmons, who's being
12 represented by Ms. Border and Ms. Wynn. We have Mr. Gary Neal being
13 represented by Ms. Waldo. We have the State represented by Mr.
14 Raman, as well as Mr. Westmeyer from the Attorney General's Office.

15 MR. WESTMEYER: Judge, two things. Number one, could
16 we approach with Ms. Waldo; and, number two, I think we can handle
17 Mr. Terry's for that much time.

18 THE COURT: Correct. Okay. Can you approach with Ms.
19 Waldo?

20 MR. WESTMEYER: Yes.

21 THE COURT: Yes.

22 [Sidebar begins at 9:14 a.m.]

23 MR. WESTMEYER: I failed to mention this earlier, but the
24 conversation we had previous about her concerns, we don't need to
25 argue Taylor out of order at this point.

1 THE COURT: Okay.

2 UNIDENTIFIED FEMALE SPEAKER: Right.

3 THE COURT: Okay.

4 MS. WALDO: And I thought I made that clear.

5 THE COURT: Okay. So we'll just --

6 MS. WALDO: But based on your --

7 THE COURT: And you guys can -- I'll give you your right to
8 argue. You guys will go first. You can argue in whatever order you
9 choose. You guys can argue in whatever order you choose. If you want
10 to go Defendant 1, 2, 3, that's totally call. And then, like I said, I will
11 sentence them. I can do your client first, but [indiscernible] is going to
12 be the last person to be sentenced.

13 UNIDENTIFIED MALE SPEAKER: And then we're looking for
14 a date on Bill's case, a status check early March.

15 THE COURT: Okay.

16 UNIDENTIFIED MALE SPEAKER: That will be after the other
17 trial.

18 THE COURT: Okay. So I'll call it right now, and we'll get it
19 taken --

20 [Sidebar ends at 9:15 a.m.]

21 [Unrelated case heard at 9:15 a.m.]

22 [Recommencing at 9:15 a.m.]

23 THE COURT: We're going to go forward with the remainder
24 of this case. And I want to caution everybody who is here in the
25 audience today, I understand that this is a public courtroom, but this is a

1 very important proceeding that we have taking place today, as well as
2 this is a court of law. And this court of law is going to be conducted as
3 such.

4 I will not tolerate any outbursts from anyone in the audience.
5 I understand that this is a very emotionally charged situation and there's
6 a lot of things that are going on in this case, but this is a court and we're
7 going to conduct it as such, and everyone needs to be respectful to
8 everyone else.

9 If you have an emotional outburst, you are going to be
10 removed from this court and you are not going to be allowed to return
11 for the remainder of these proceedings. So I caution everyone that that
12 is not going to be allowed.

13 As well as for those of you who are victim speakers in this
14 case, the statute allows you to give a victim impact statement. The
15 statute does not allow you to directly address any of the defendants.
16 The statute allows you to direct your comments to me and tell me how
17 this case has directly affected you and what it is you would like me to do
18 for sentencing in this case.

19 So I would ask that you confine your comment to what is
20 allowed underneath the statute because if there is an objection, those
21 objections will have to be heard by this Court during your speaking and
22 we do not want you to be interrupted, so if you could just stay within the
23 statute.

24 Are all parties ready to proceed?

25 COUNSEL: Yes, Your Honor.

1 THE COURT: Okay. State, you had retained the right to
2 argue in regards to Ms. Parks and Mr. Simmons.

3 MR. RAMAN: Judge, we just need one minute to set this up.

4 THE COURT: Okay.

5 UNIDENTIFIED FEMALE SPEAKER: Your Honor, do you mind
6 if we pull up chairs?

7 THE COURT: No, please do.

8 MR. GOLDSTEIN: Your Honor, is it okay if Ms. Parks remains
9 seated? I understand the State's presentation to be quite long. She's not
10 meaning any disrespect. I did tell her it's okay for her to sit. If you want
11 her to stand, she will, but I just want to make sure that's okay with the
12 Court that she remain seated. This may go on for [indiscernible] Your
13 Honor.

14 THE COURT: That's totally fine, Mr. Goldstein.

15 MR. GOLDSTEIN: I appreciate that. Thank you.

16 THE COURT: So, Ms. Parks, you can remain seated during
17 the State's presentation.

18 MR. WESTMEYER: Is back here behind the witness stand
19 fine, Judge?

20 THE COURT: Well, do you want me to see it?

21 MR. MR. WESTMEYER: Yes.

22 THE COURT: Okay. Yeah, that's fine.

23 MR. WESTMEYER: Just like right here?

24 THE COURT: Yes.

25 Now, Mr. Westmeyer, those pictures are so small. Can you

1 put the easel in the witness box?

2 MR. WESTMEYER: Yes, ma'am.

3 [Pause]

4 MR. WESTMEYER: Judge, if I may?

5 THE COURT: Yes, please, Mr. Westmeyer.

6 MR. WESTMEYER: As to Ms. Parks, I think one of the main
7 things I want this Court to remember is that these are not simply
8 financial crimes, but crimes against the person.

9 The elder exploitation is an NRS 200 crime. That is the same
10 chapter of the statutes that defines such crimes as murder, battery, and
11 robbery. These are crimes against the person. Surely, as those crimes
12 are crimes against the person, so too is the other exploitation that we
13 see in this case.

14 The Defense sentencing memorandum alleges that there was
15 no actual abuse in this case, but I just -- I don't think that that's true. It
16 may be harder to see how other exploitation fits with more traditional
17 crimes against the person and that's why in our sentencing
18 memorandum we go into specifics about the Defendants' crimes and
19 how they've affected specific people.

20 We find we study elder abuse is that it's like other forms of
21 abuse; sexual abuse, domestic violence, neglect, that sort of thing. It's
22 all about power and control. And I think a few of the examples are
23 instructive on that issue.

24 So to start with, the example of Marlene Homer and Marie
25 Long. This was a mother daughter team that was held in the same

1 group home. As explained in the memo, Ms. Homer was concerned that
2 she might not be able to stay there due to her financial situation. And
3 rightly so as it turns out, as ultimately she and her mother were moved
4 due to a lack of funds. And, as a matter of fact, both Homer and Long
5 were moved several times due to Ms. Parks' mismanagements of their
6 funds. However, not before Ms. Parks paid herself for the privilege.

7 Another significant case is that of Baxter Burns. Mr. Burns
8 had a \$32,000 estate. He did his estate planning correctly. He had a
9 trustee in place to manage his affairs in the event that he was unable to
10 do so himself. Nevertheless, Ms. Parks ignored that, obtained
11 guardianship over Mr. Burns, and out of his \$32,000 estate, she paid
12 herself over \$8,000 in guardianship services and she also paid her
13 attorney over \$9,000 in legal fees. The total time that he was under
14 guardianship was 26 days.

15 Your Honor, I've crunched the numbers on that and Mr.
16 Burns, for every day that he was under guardianship, paid over \$650 per
17 day for each day that he was under Ms. Parks' guardianship. That would
18 be bad enough, except that he did not need guardianship. It would be
19 one thing if he was charged all that and they actually performed
20 necessary services for him, but he had those -- he had a trustee in place
21 to control his assets. And, nevertheless, Ms. Parks took that money,
22 billed him \$17,000, and he died 26 days later.

23 A third illustrative example is the Mary Woods case. Ms.
24 Woods left everything to her friends, the Dentons, including the
25 proceeds from her life insurance policy, \$25,000. Rather than let the

1 Dentons get the money that they were entitled to, Ms. Parks obtained
2 guardianship over Ms. Woods and changed the beneficiary of that
3 \$25,000 policy from John and Sally Denton to the Estate of Mary Woods.
4 Now, why did she do that? Well, she has no power or control over the
5 Dentons, but what she does have is power and control over the Estate of
6 Mary Woods. And she was able to bill against that to the detriment,
7 obviously, of both the Dentons and the wishes of Ms. Woods.

8 There are numerous other examples I could give Your Honor.
9 They're laid out in the memo. We'd be here all day.

10 THE COURT: I have read your sentencing memorandum.

11 MR. WESTMEYER: Good. Thank you. And, again, there are
12 many here and we'd ask that they be allowed to speak last.

13 Regarding the financial aspect of this case, the Defense
14 memorandum indicates that well, there can't have been all that much
15 financial malfeasance going on because there were no Ferrari's, no
16 offshore bank accounts, and that sort of thing. And I think that argument
17 is a classic example of the fallacy of the excluded middle. One doesn't
18 need to be Bernie Madoff to rip off hundreds of people. The Defendant
19 did that in this case. It's true there are no offshore bank accounts, but
20 that doesn't matter. That doesn't mean that what she did wasn't
21 financial fraud.

22 Another point I'd like to make, again as laid out in the memo,
23 is that this case is unique in the sense that the harm done in this case
24 extends far beyond the four corners of the case file. And, again, there
25 are some examples that are illustrative.

1 The first is the guardianship system itself. There is a
2 guardianship commission that was set up by the Supreme Court to study
3 this problem. And while the Defendant was not the only abuser in the
4 guardianship system, she certainly was one of the biggest offenders.

5 After a commission spent time studying the problem, they
6 recommended changes to the legislature, which again had to make
7 legislative changes and we're still trying to figure out how those are
8 working out. But they had to enact a series of reforms partly in response
9 to the abuses that were going on in this case.

10 This case has also shed a light on southern Nevada as
11 ground zero for elder exploitation. And we've seen that in the media.
12 There was The Last Week Tonight, a John Oliver piece that aired last
13 summer. There was a New Yorker piece that aired October of 2017
14 featuring this specific case. There were articles in the AARP publication,
15 as well as local media. And, again, I've laid that out in the memo and
16 how that harm extends to our community here, not just to the people
17 involved in this case.

18 It's also worth noting that when Ms. Parks fled the State of
19 Nevada after these accusations came to light, there were a number of
20 wards that were left without a guardian at that point. And so the Public
21 Guardian's Office had to step in and take on that additional strain. I'll let
22 Ms. Kelly speak to that, she's here today, but obviously that's not what
23 they were billed for. They're not here to take over when a guardian, a
24 private guardian, decides they don't want to do that anymore.

25 It's also worth pointing out the law enforcement costs in this

1 case. By one estimate the cost to investigate and prosecute this case is
2 over \$500,000. That does not include overtime hours for the State's
3 investigator.

4 MR. GOLDSTEIN: Your Honor, I'm going to have to object to
5 that. I can't see what possible relevance the amount of money the State
6 spent to investigate this case has to do with the impact this had on the
7 victims for Your Honor's sentence today. How much they spent is
8 irrelevant, Your Honor, and I'd object to Your Honor's consideration of
9 that.

10 THE COURT: Mr. Westmeyer, how is that relevant?

11 MR. WESTMEYER: Your Honor, I'm talking about the harm
12 that this case caused beyond simply the harm to the victims.

13 MR. GOLDSTEIN: And, again, the cost that the State
14 incurred, I understand it might be significant, but to glorify the amount
15 or for the Court to consider that in terms of your sentence today, that's
16 beyond Nevada law, Your Honor, and I'd object to the Court's
17 consideration of that.

18 THE COURT: And, Mr. Westmeyer, you put this in your
19 sentencing memorandum --

20 MR. WESTMEYER: Yes.

21 THE COURT: -- so I've already seen it, but this Court is not
22 considering -- nothing in the sentence that's going to be handed down to
23 anyone today is based on the amount of money that the State of Nevada
24 has spent investigating and having to litigate this case.

25 MR. GOLDSTEIN: Thank you, Your Honor.

1 MR. WESTMEYER: Fair enough, Your Honor.

2 The next point I wanted to get to is the actions that Ms. Parks
3 took subsequent to these cases coming to light. And there's two main
4 points here. The first is, when she fled to Pennsylvania, she filed a
5 bankruptcy petition in eastern districts of Pennsylvania in the Federal
6 Court.

7 And, again, as laid out in the memo, that petition contains a
8 number of falsehoods. Ms. Parks lied about how long she lived in that
9 district, about her assets, about her income, as well as pending litigation
10 against her. All of these are things that are required to be submitted for
11 the bankruptcy court there to make an appropriate determination. They
12 were provided none of that information. And she lied on that form.

13 The Defense memorandum says well, there were no charges
14 brought. So obviously she didn't commit perjury in Pennsylvania,
15 because otherwise there'd be a perjury charge, which is ridiculous. Your
16 Honor, I can tell you I've never sped -- I've never driven my car over 55
17 miles an hour because I never got a speeding ticket, right? That's not the
18 standard. That doesn't matter. We might as well say D.B. Cooper never
19 got that money, right, because what controls is not whether there was a
20 charge filed or a conviction obtained, but what the person actually did.
21 And that's what Ms. Parks actually did in this case.

22 And the second point I'd like to raise in terms of the
23 Defendant's subsequent actions has to do with the cremated remains
24 that were found in storage in May of last -- excuse me, May of 2017.
25 There were over 25 remains left in a storage shed when Ms. Parks left

1 the State of Nevada. Some of them had been there for literally a decade
2 or more. Most of them had been there for at least several years. Now,
3 technically speaking, that's not a crime, but I point it out because I think
4 it is the most ghoulish example of the Defendant's need for power and
5 control even after death.

6 Your Honor, the Defendant deserves no further mercy from
7 this Court. There were literally hundreds of felony counts that were
8 dismissed as part of the plea in this case. The Defendant based her
9 business model on not just deceiving her wards, but deceiving the court,
10 as well. She knew that if on Tuesday she files an accounting charging
11 two hours to this ward, that she can file that same two hours on Friday
12 for a different ward for doing the exact same work. And she knew that
13 there was no way for the court to check that. She knew that. And so she
14 was lying to the Court with every one of these accountings that she filed.

15 Ms. Parks has still shown no remorse for her actions. Her
16 plea in this case was pursuant to the Alford decision. And she has
17 refused still to admit criminal culpability. Even in the face of the
18 mountain of evidence and all the countless lives that she has ruined, she
19 still believes that she is the victim here.

20 And one thing I wanted to just point out on the Defense
21 memo, Ms. Parks says she truly helped countless destitute wards endure
22 their struggle and/or end their lives with dignity and comfort. Your
23 Honor, it doesn't matter how many times I don't rob a bank, if I do it one
24 time, that's enough. And so it doesn't matter how many wards Ms.
25 Parks may have helped, she ruined the lives of countless others.

1 So what am I asking for? As this Court knows, for any felony
2 there must be a range of a sentence in which the low end cannot exceed
3 40% of the high. So here's what the State is asking for: On the main
4 case as to each of the two exploitation counts, we're requesting a 96 to
5 240 month sentence, which again is the maximum. On each of the theft
6 counts we're requesting 48 to 120 months, which again is the maximum
7 for each of those counts. And on the perjury charge a 19 to 48 month
8 sentence, again the maximum. All of those to run consecutively to each
9 other with full restitution.

10 On the companion case, on the Flaherty [phonetic] case,
11 we're also asking for a 96 to 240 month sentence on the exploitation of
12 that case. Pursuant to the terms of the GPA we've agreed to let that run
13 concurrently with the main case, so I'm going to ask that Your Honor
14 follow that recommendation, but again with full restitution.

15 THE COURT: Is the restitution owed in both cases or is it just
16 owed one time; because you guys agreed to it in both cases, but the 500
17 and something thousand dollars, is it owed? I know it's owed jointly and
18 severally, but is it owed in both cases or is it just to be ordered once?

19 MR. GOLDSTEIN: Your Honor, that's the aggregated amount
20 I think between both cases.

21 THE COURT: Okay. So if it's ordered once, that satisfies the
22 whole --

23 MR. WESTMEYER: That should do it.

24 THE COURT: Okay.

25 MR. WESTMEYER: Right. And, Your Honor, I just -- I want to

1 close with this thought. The legislature gave us these high numbers.
2 Exploitation is 2 to 20. Theft is 1 to 10. And I don't have to tell you,
3 Judge, that usually when a petty thief is sentenced, it's run at lower end,
4 run at 12 to 30 or 12 to 36 or 19 to 48, something like that, run the low
5 end. And I think that's because both the parties and the court on those
6 smaller cases recognize that even though what the person did was
7 wrong, but nevertheless, they don't deserve the maximum; they weren't
8 the worst offender that deserve the maximum sentence.

9 But I think this case is different because I think given the vast
10 amount of exploitation that happened here, given the huge number of
11 victims whose lives Ms. Parks has ruined, I think if ever there was a case
12 for the maximum penalty that the legislature authorized to be imposed, it
13 is this case. And I just -- I would close with this thought: If not April
14 Parks, then who? How much more would a criminal defendant have to
15 do to merit the maximum? How many more lives would a person have
16 to ruin to deserve the 96 to 240 that the legislature has authorized us to
17 do for this crime? If my math is correct, and I believe it is, the total
18 aggregate if the Court follows my recommendation is 307 months to 768
19 months. And with that the State will submit as to Ms. Parks.

20 THE COURT: Okay.

21 MR. RAMAN: Judge, I'll be arguing on Mr. Simmons and
22 some comments on Mr. Taylor.

23 THE COURT: Okay.

24 MR. RAMAN: May I hit the podium?

25 THE COURT: Yes.

1 MR. RAMAN: Thank you. Your Honor, Mark Simmons is
2 highly culpable in this extensive series of crimes, basically criminal
3 enterprise. To give context to this all, I know we've made reference to it,
4 but in front of Your Honor the top chart is the cremains chart. These are
5 the dead wards' ashes that were found in the storage unit. The chart
6 below, which is too large to be accommodated by easel, is our victims.
7 These are the ones that we were able to find pictures of either through
8 DMV or through the people who ended up taking up for them after they
9 were abandoned by Ms. Parks, Mr. Simmons, and her company.

10 Mr. Simmons is highly culpable in this, but he's not quite as
11 culpable as April Parks because he was not technically the owner; he
12 was not the guy who was in charge of this business and it was not
13 normally him as the official guardian in court. That's why there's a cap
14 on his punishment. But the cap on the punishment is the only leniency
15 he deserves in this case because he was all over this business. Day-by-
16 day he was there running the operations and the organization. He was
17 paid exorbitantly for it. When it came to who was actually making
18 money off of this enterprise, he was front and center as one of the big
19 money earners, right below April Parks.

20 Some of his colleagues who worked in this company, who
21 became our cooperating witnesses, describe him as the air traffic
22 controller. This was his fellow employees. He directed them. He was
23 the business manager. He wasn't -- this wasn't a circumstance where he
24 was a mere conduit between April Parks and them. He was the one
25 calling the shots when it came to specifically billing and direction on

1 visitation of wards.

2 To say he was just doing as Parks told him is completely
3 inaccurate and inadequate to describe his conduct. He instructed
4 everyone to bill in a certain way, which was many times over, simply
5 calling it duplicate billings. When you bill five times, ten times, for one
6 time's worth of work, calling it double billing is simply inadequate. This
7 was done for visiting wards. So, for example, sending somebody out to
8 Boulder City to go to Lakeview Terrace, which is an assisted living
9 facility, one caseworker visits 12 wards in one day. It takes them all of an
10 hour and a half. Each and every ward gets billed the hour and a half to
11 be visited, even though in actuality maybe five minutes was spent with
12 them at a very high rate of potentially \$150 an hour.

13 In addition to that, the travel that it took to come from April
14 Parks' office to the facility was not piecemeal broken out between each
15 and every person as it should be, it should be broken down and fairly
16 apportioned to each and every one of these people who have no say
17 over how their finances are being spent, he directed them no, you bill
18 this way. Everybody gets billed the same, everybody pays for
19 everything. Those billings became this company's bottom line Those
20 billings went in every single court filing under the accountings, which is
21 required under guardianship cases.

22 They were put in charge of taking care of these people and
23 they exploited. They exploited by largely a billing scam. Nobody got
24 paid in this business without Mark Simmons knowing it. He cut every
25 single check from this company for the business, for the employees,

1 even for Gary Neal Taylor and Parks' kids when they were doing
2 piecemeal errands for this company.

3 Regarding his specific conduct, for example, in his billings to
4 read an email because it said four people were in a stable condition or a
5 social security death notice where four people would be on one fax and
6 they would say these people have died, he would bill all of them instead
7 of dividing it. He alone made that decision.

8 He was also aware of the monthly billing targets. They had
9 employees in this company which they were full well known. A person
10 who lived in Reno, who could only physically be here for two weeks.
11 Well, just bill like you would if you were here the whole month. That
12 created phantom billings. That created monthly billing targets which
13 were unattainable in order to maintain the lofty notion of profitability
14 Parks and Simmons had paying themselves, getting this all done,
15 potentially landing lucrative hospital contracts. They set unrealistic
16 billing targets.

17 The system that they used was a case management system
18 by SEM [phonetic]. Mark Simmons was in charge of that. He did a large
19 amount of the data input regarding billing; directing employees how
20 they should be inputting their billables and getting on people when they
21 did that wrongly. And for his troubles he gained a raise in his hourly
22 rate, which by the end of this was close to \$150 an hour, mostly for
23 clerical tasks. Mostly in his position something that didn't require any
24 secondary education beyond high school.

25 On certain cases, such as Ms. Trumpet's case, he was aware

1 of everything. He was the one making all of the arrangements with the
2 bankers via email to unlawfully obtain authority over the trust that she
3 owned, even though they knew the court didn't have authority to seize a
4 trust. That was a non-guardianship asset.

5 In the case of Mary Woods he and he alone tried to get the
6 insurance company to change the beneficiary through letters he wrote to
7 the insurance company. It is incorrect to say that he had no standing in
8 getting the money because that became part of his salary. He benefitted
9 from this erroneous billing. And erroneous is being light with it; he was
10 fraudulent.

11 Regarding Beverly Flaherty's case, it was his admonishment.
12 He stepped into the role of medical provider in saying this person needs
13 a guardianship and they can't be here in court to really contest it; it
14 wouldn't be of any benefit to them. That's a huge role in the
15 guardianship proceedings. Guardianships don't get created unless
16 somebody can't manage their affairs, either their personal affairs,
17 meaning financial, or medical.

18 And in those circumstances, be it a friend, family member, or
19 a private professional guardian who's stepping in to be the guardian,
20 there needs to be some kind of medical documentation that this person
21 needs a guardianship. It's not a consent guardianship. However you put
22 it, they're being stripped of their civil rights and being put in this
23 guardianship vehicle.

24 And then the other question is, would it be of any use for
25 them to attend the court proceedings? Knowing full well that he worked

1 with and for Ms. Parks in a private professional guardian, he
2 disassociated himself. He said I am Mark Simmons, I am a certified
3 dementia care specialist. He didn't even put the business' address on his
4 declaration, he put his home address.

5 So essentially through this deceit he then lied to the court,
6 which allowed for guardianship of Beverly Flaherty, which is the newer
7 case. And that's a huge piece of that. That wouldn't happen unless he
8 did that. He was also the one who sent notice of the petitions on those
9 cases and particularly in Flaherty. He knew she was in a group home at
10 the time. When you put somebody under guardianship you're to provide
11 them notice, at least the person you are providing guardianship services
12 to should be served with notice that you're going to be under a
13 guardianship.

14 Knowing full well that she was in a group home, he sent
15 those notices to her residence. She would have never even gotten these
16 notices that hey, we're going to strip you of everything you have. And,
17 by the way, this was merely a month or within days of her husband
18 dying. So she probably wasn't in a good place anyway. So that was
19 intentionally diverting notice to Beverly.

20 Regarding the court documents, if there was no attorney on a
21 case, and they did a fair amount of pro se litigation in the guardianship
22 court, it was usually Simmons that prepared those. He knew info was
23 false when he put those documents together because he was the one
24 doing the billings.

25 He was also in a better position to know than the rest of the

1 employees of this company because he had been trained and was a
2 nationally certified guardian. He had done speaking and workshops and
3 all of the rigmarole that goes with that. He knew the rules. There are
4 national standards as to what you're supposed to do, how you're
5 supposed to take care of people, how often they should get visits, how
6 you should be providing services at the least costly means available so
7 you can maintain their standard of living and make sure that -- we don't
8 know when someone's going to die, but we need to make sure the
9 money they have coming to them monthly or that they saved up over
10 their lifetime is there to provide for them. He knew these things. He
11 signed a note. And even though he wasn't the official guardian, he was
12 in just a greater position as April Parks to know all of this given that he
13 was a guardian.

14 So if it were a circumstance where April Parks is telling him,
15 you need to do it this way, you know, we really should be doing it that
16 way, and these are things that are legal, he is in the best position to say
17 April, I'm not doing it that way. I took an oath to honor these people to
18 do it the right way. And that didn't occur. He was completely
19 complacent in all of these activities.

20 And the fact that this case is largely a billing fraud, just
21 shows that the person who is largely in charge of billing is right there
22 with her. Blaming the Family Court for not auditing the accountings or
23 calling them out for their alleged mistakes is faulty logic. That's like
24 trying to blame somebody who's committed a series of home invasions
25 and commending them later, saying oh, you showed us all how our laws

1 were terrible to begin with. It doesn't work.

2 Some of the more blatant examples of Mark Simmons handy
3 work were on the Audrey Webber case where he falsified billing, like
4 many other cases. In the search warrant service, so when this all came
5 about, the police went in and found all these records, they found bank
6 statements regarding her financials. And in his own handwriting there
7 was a math problem on that bank statement. It had the balance of the
8 bank statement divided by his hourly rate and how many hours he would
9 need to bill to drain that account. That is uncontroverted. He did that.
10 And that produced \$3619 in false billings.

11 He did virtually the same thing on Mary Woods, making up
12 phantom visits which never occurred just to bill the estate.

13 On the Trumpet case emails were found from him harassing
14 the attorney in this case, who is the D, Noel Palmer Simpson. Now,
15 hurry up and file this petition and get her trust because she was quickly
16 dying in Hospice.

17 He billed his professional rate of \$150 an hour to perform
18 these clerical activities, such as reading emails, faxing, giving verbal
19 consent to allow wards to get flu shots and vaccines.

20 The funny thing about all of this random billing, aside it
21 being largely unnecessary, is it should have been included in the flat fee
22 they were charging the wards to begin with. On one particular ward,
23 Gerald Spekscore [phonetic], he was involved in billing \$150 to visit a
24 deceased ward. So the billing shows up. He dies on let's say Monday.
25 On Tuesday there's a billing from their company which he authorized

1 and imputed, saying there was a visit to this man, he didn't look well.
2 Well, no crap, he's dead. And then they charged \$40 to donate the
3 clothing.

4 So he was fully aware and involved in all the billing scams;
5 everything that Mr. Westmeyer said relating to Ms. Parks, everything we
6 put in our sentencing memoranda, he was right there. The fact is, he
7 wasn't the figurehead of this organization, he could take some cover in
8 the shade that she was throwing, but that's all he deserves. He took an
9 Alford plea just like her because he's so -- I don't know what to say about
10 that, but he can't admit that he did these terrible things to all these
11 people who just are our most vulnerable citizens. He stripped them of
12 their finances. And he was supposed to be the one who could take up
13 from them when they couldn't take up for themselves any more.

14 So based upon his heinous conduct, it is just and fair that he
15 receive a 96 to 240 month aggregate in C2-321808, as well as a 96 to 240
16 month aggregate in C-329886, concurrent to C-321808, restitution as
17 stipulated. His credit, pursuant to my calculations, is 668 days in the
18 lower case and 324 days in the higher case.

19 THE COURT: Okay.

20 MR. RAMAN: And then regarding Mr. Taylor, we do have a
21 stipulated sentence for Mr. Taylor of two to five years. We would like
22 Your Honor to follow that. We believe it's fair and just given the
23 circumstances. He was a much smaller part of this organization, but he
24 was a big part of certain scams; namely, the following: He would go
25 unnecessarily to the Family Court and wait for hours to file documents

1 that would be with the Clerk's Office. These were unnecessary and
2 expensive hours billed to wards, often duplicatively. It was unnecessary
3 because it could have been accomplished at a fraction of the cost. They
4 had Wiz Net in the office. They could have used it. It would require no
5 time.

6 Additionally, they could have used a legal runner service,
7 such as Junes or Legal Wings that would cost them very little.

8 His billing rate for this service, even though just like Parks
9 and Simmons, required very little secondary education, exceeded \$100
10 per hour. Many times he billed in this way supposedly at the Clerk's
11 Office when he was hanging out there for a couple hours, then diverting
12 to go pick up Parks' daughter from school. And then maybe or maybe
13 not coming back to the Family Court.

14 That scheme alone netted the Defendant \$74,229.90 in legal
15 proceeds and he victimized 109 elderly and vulnerable people.

16 Additionally, he was really involved in two other things. On
17 a single day in October of 2013 --

18 MS. WALDO: Your Honor, I apologize for interrupting, but I
19 am going to object for the record. I believe that this is contradictory to
20 our plea negotiation. The State did not retain a right to argue as to Mr.
21 Taylor. And what it appears they're doing is they're asking the Court to
22 follow the plea negotiations, but then arguing facts that they believe are
23 contradictory to Mr. Taylor as almost kind of a wink, wink, nod, nod,
24 don't go ahead and follow those negotiations. And I think that's a breach
25 of the plea agreement and I'm asking the Court not to take that into

1 consideration. And I don't believe the State should be allowed to argue
2 any further as to Mr. Taylor.

3 THE COURT: State?

4 MR. RAMAN: I could represent I'm absolutely not doing that,
5 and Ms. Waldo knows that. So I'm --

6 THE COURT: Well, I think, State, any contradictory facts go
7 contradictory to the plea agreement that you entered, but any facts that
8 go in agreement with what was in the plea that was actually negotiated
9 by Mr. Taylor, I will allow you to argue, but not the contradictory facts, as
10 this is a stipulated sentence and you have to stand by that.

11 MR. RAMAN: Absolutely.

12 MS. WALDO: Thank you, Your Honor.

13 MR. RAMAN: Regarding the two other things that he was
14 involved in, he was involved in the toilet paper scam where they billed
15 more than \$1600 to drop off provisions, very basic things that should
16 have been coordinated with the facilities. That netted them, essentially,
17 \$1600 and victimized 12 elderly people.

18 The other thing that he did was house checks. He would
19 basically drive by a house, even though it provided very little to no
20 benefit to the ward because these are largely assets that were under
21 water or being let go, and then bill for that, as well.

22 So based upon his conduct and his conduct alone, he is
23 definitely worthy of a two to five year sentence which we stipulated to.
24 Likewise, the other Defendant has 668 days of credit and the restitution
25 as stipulated.

1 THE COURT: He has 668 days' worth of credit?
2 MR. RAMAN: That's what I have, Your Honor.
3 MS. WALDO: That is correct.
4 THE COURT: Okay. The PSI says 637.
5 MS. WALDO: The PSI did not include the time he was
6 actually incarcerated in Pennsylvania.
7 THE COURT: Okay.
8 MR. RAMAN: There was extradition time.
9 THE COURT: Okay. And, Mr. Raman, in regards to Ms.
10 Parks, does she have 300 days' worth of credit or does she have the 600
11 something days' worth --
12 MR. RAMAN: She has the 600. It's the same number as the
13 other two; however, on the lower case number, that's where the 300
14 number comes in.
15 MR. WESTMEYER: Correct.
16 THE COURT: So on 808 she has 315 days?
17 MR. RAMAN: No. 808's the low case.
18 THE COURT: Okay. You said the 300 number comes in on
19 the lower case number.
20 MR. RAMAN: No, no. I misspoke. The newer case is the one
21 with the lower number.
22 THE COURT: So she has 325 days on 886, but she has 668
23 days on 808?
24 MR. RAMAN: Right, Your Honor.
25 THE COURT: Okay. I was going to ask you about that later,

1 but we can just do it now.

2 Okay. Before I hear from the Defendants, Brian can you
3 approach for a minute?

4 THE MARSHAL: Yes, Your Honor.

5 THE COURT: And then I'm going to hear from the
6 Defendants. And you guys can choose which order you would like your
7 clients to go in.

8 Okay. So we'll just take one moment. And do you guys have
9 a preference as to who you would like to go first?

10 MS. BORDER: If we can just go A, B, and C, that would be
11 great.

12 THE COURT: Okay. As soon as the officers are done.

13 Okay. So we'll start with you, Ms. Parks. Is there anything
14 you would like to say before I pronounce sentence against you. I want to
15 note that I have read the sentencing memorandum that was filed by Mr.
16 Goldstein, as well as the sentencing memorandum that was filed by the
17 State.

18 And I have to say, Mr. Goldstein, I do appreciate you and the
19 State filing your sentencing memorandums because the PSI did not
20 really give a good indication as to everything that was going on in this
21 case, and I know the discovery was voluminous, so I do appreciate both
22 of you guys taking the time to do that to enlighten this Court the things
23 that I didn't know from the motions that were litigated in this case to give
24 the Court more insight into those things.

25 MR. GOLDSTEIN: Of course, Your Honor.

1 THE COURT: As well as I have read the several letters that
2 were submitted on behalf of Ms. Parks, as well as the several letters that
3 were submitted on behalf of the State.

4 But Ms. Parks, this is opportunity, if there's anything you
5 would like to add.

6 DEFENDANT PARKS: Yes, Your Honor. Thank you, Your
7 Honor. I -- I've hesitated to speak on this matter, because so much of
8 what was done was mischaracterized of our actions. If I can speak just
9 briefly as to the ghoulish nature of keeping the cremains --

10 THE COURT: And hold on just one second. What is that
11 noise?

12 MS. BORDER: The camera.

13 THE COURT: Okay. That has to quiet down. I can barely
14 hear what she's saying.

15 DEFENDANT PARKS: I -- that was never done to harm or
16 hurt anyone. That was done because those people were deceased in this
17 state. My feeling was they wanted to remain in this state, and if I
18 couldn't find somebody to keep -- to -- to take their things, I didn't want
19 to simply --

20 THE COURT: You're talking about the ones that on this
21 chart?

22 DEFENDANT PARKS: Yes.

23 THE COURT: Okay.

24 DEFENDANT PARKS: Yes. I didn't want to simply just let
25 them go.

1 I'm sorry. Give me just a moment. It's not my intention to
2 create further anguish or upset for anyone in this case: the victims or the
3 family, or my co-defendants.

4 I believe that the pre-sentencing memo that my attorney Mr.
5 Goldstein filed speaks well to what did happen, and I -- I think that he
6 really presented that well. Myself and my -- excuse me -- I'm very
7 nervous -- myself and my staff we had a great passion for what we did.
8 We had a lot of care and concern for our clients, regardless of the
9 characterizations that have been made of us. Many of those people were
10 without anybody and were in bad situations, and I mean horrendous
11 situations, and unfortunately, you will never hear about those things,
12 because of the nature of this hearing.

13 In hindsight, which does not serve anybody well, I recognize
14 that. Things could have been done better, or differently, but at no time
15 was anything done with any intent to harm. I truly had a passion for
16 guardianship. I truly cared about these people, as did my staff.

17 I -- I can't express to you enough the time that it took -- the
18 time that they spent, they took from their personal lives, the phone calls
19 that -- no matter what time of the day, people were willing to help. They
20 were willing to do the work.

21 We -- we were a -- a growing practice. And honestly, I think
22 that somethings got ahead of us, and that was a part of -- that was part
23 of this problem, but it was never intended in any way, shape, or form to
24 be -- to -- to bring harm to anybody.

25 I think there are things looking back that I could have

1 differently, and given the opportunity, and -- and like I said, hindsight,
2 I -- I would have done have them differently, but this is not an excuse.
3 I'm not -- I'm not trying to make excuses for what happened. I'm simply
4 here to say that there was care and concern. That these clients were well
5 taken care of. There was no allegations of neglect. No one's health was
6 jeopardized.

7 In many cases, our clients didn't have anything, and we were
8 able to get benefits for them from whatever resources they had prior to
9 their life, whether it was Veterans, or work, that they had simply not
10 done.

11 I accept responsibility, absolutely, for the things that have
12 happened here. I recognize that it could have been done better, but at no
13 time was it intended to harm anybody. That's not who I am. I -- I wish
14 that this Court could see who I truly am, but you're never going to get
15 that opportunity, and so at the end of the day, I accept responsibility. I
16 was the guardian, and it was on me, and I accept that. And I thank you
17 for your time.

18 THE COURT: Thank you, Ms. Parks.

19 Mr. Goldstein.

20 MR. GOLDSTEIN: Thank you, Your Honor. As, Your Honor,
21 pointed out, I submitted a lengthy --

22 THE COURT: Yeah.

23 MR. GOLDSTEIN: -- sentencing memorandum, which I know
24 you read every word of it.

25 THE COURT: I did.

1 MR. GOLDSTEIN: So I'm not going to -- not going to stand
2 up and reiterate every point.

3 I would like to reply to a couple of matters that the State
4 brought up during their presentation regarding Ms. Parks, Your Honor.
5 One theme throughout my memo, which again, I won't go into great detail,
6 or regurgitate every fact, Your Honor, is we hear a fact, and in this case,
7 there's a lot of shocking facts. There's a lot of macabre matters that we
8 deal with when we're talking about guardianships and in places that
9 people -- that wardens are in when they -- when a guardian becomes
10 necessary to care for them.

11 Somebody has to deal with, for example, their remains.
12 Somebody has to deal with these incredibly tough life decisions about
13 healthcare, about money, about which family member can be let in to
14 see the parent, because sometimes the parent doesn't want to see a
15 certain family member in their last few days. It's a family dynamic that
16 April had to deal with on a day-to-day basis doing her job in the field.
17 And that upsets family members.

18 And family members don't understand why they can't see
19 somebody; why somebody else is handling their parent's, their sister's,
20 their family member's affairs, but we also have to understand that
21 guardianships don't happen in a vacuum. A judge has to approve: first,
22 the appointment of a guardian, and then every dollar that's billed is also
23 approved by a judge. A judge has to literally sign a document approving
24 all these payments. And if there's any issues that a family member
25 brings up at the time, a judge can call April out on it, or Mr. Simmons, or

1 anybody else involved in the case, and say hey, why would you bill this
2 much for this amount.

3 But not only is the process overseen from the get-go by a
4 judge, every bill is also subsequently approved. She can't take a dollar
5 until it's approved essentially in two different levels by a judge.

6 When we look at these facts, as I alluded to earlier, they're
7 macabre in nature, but it's also how you interpret these facts, Your
8 Honor. The one matter I will bring up in my sentencing memorandum
9 was situation where April heard of one of her wards Ms. McCann
10 [phonetic], who was being abused at a treatment facility. Okay. So she
11 gets word that a staff member at one of the treatment facilities that's -- at
12 which her ward is being housed is abusing her ward.

13 What does April do? As soon she finds out, she storms in
14 there on a Saturday morning and says, what the hell are you doing with
15 my ward, why are you doing this. I want answers. If I don't get good
16 answers, I'm going to call the police. That's what she did to protect her
17 ward. Okay.

18 How does the State spin it in its police report? That April is
19 some angry bully who walked in there starting -- intimidating -- trying to
20 intimidate staff members and trying to demand to speak to executives
21 about why this happened. So again, this is a set of facts that if you're
22 trying to paint April in a certain way, you can interpret those facts how
23 you want. You can make it seem as if she's some bully storming in there
24 trying to start a ruckus, or you could see she heard her ward was being
25 mistreated. Damn right she stormed down there on a Saturday morning

1 to try and protect her.

2 And in fact, it worked. That staff member was fired -- was
3 terminated because these actions, in part at least, because of what April
4 did. She brought it to light.

5 Other matters, Your Honor: The State in its memo and this
6 morning, they talked about these scams. Well, one of them was the
7 Christmas gift scam, as the State called it. It's a catch 22 if you're the
8 guardian, Your Honor.

9 Again, a lot of these wards have nobody -- literally nobody,
10 or at least nobody here in Nevada. Maybe their family is across the
11 country. Maybe their family doesn't see them anymore. Maybe they
12 don't have any more family.

13 It's Christmas day, Christmas Eve, if April and her staff
14 doesn't visit these wards, their monsters, right. They left these wards
15 that they're in charge for, for their health and safety, and wellbeing,
16 they're left alone on Christmas. Okay.

17 If they do go to their treatment facility, and they bring a
18 present, flowers, chocolate, stocking, whatever it is, they're also
19 monsters, because they did that and they billed for it, which they're
20 allowed to do. So there's a lot where the facts in this case where if you
21 upon initial review, Your Honor, you see oh, these monsters billed \$100
22 for going somewhere on Christmas and delivering flowers to somebody.
23 They're abusing the system. Either that -- that's one perspective -- it's
24 either that, or they're caring for their clients -- for their wards, because
25 no one else is going to go bring them flowers on Christmas.

1 And should she have billed for that? Well, the statute allows
2 her to bill for that. She's providing comfort and support for her clients
3 with both chapter 159 of the Nevada Revised Statutes, as well as the
4 National Association of Guardians. They all agree that's what you're
5 supposed to do. You're supposed to care for the care and wellbeing of
6 your clients.

7 Now, again, if you want to spin it, another example used is
8 Mr. Westmeyer used the phrased "She fled Nevada." He used the word
9 "fled" twice and moved to Pennsylvania. That's where her husband is
10 from. She lived here. There's vast media attention that's surrounding
11 herself and her family. She left town. She didn't flee. She was here for
12 a while. She got sick of the day-to-day situation she was dealing with, so
13 she took her family, and her husband, and she moved to where her
14 husband is from.

15 Were they hiding? No. They were hiding in plain sight.
16 They filed for bankruptcy and listed their home address on a publicly
17 printed and filed document. So they didn't hide. They're not in some
18 off-the-chart cabin somewhere. They're hiding in plain sight.

19 So you see here fleeing. The State sees it as fleeing, other
20 interpretation, again, is well, she got sick of this attention that she's
21 getting. She's being abused everywhere she goes, so she lives the
22 situation. She couldn't be a guardian anymore, so of course, by its
23 nature, she had to leave some wards behind, but everybody knew she
24 was leaving. So yes, the public guardian had to take over many of her
25 cases, but again, she couldn't be the guardian anymore. So by

1 definition, when she leaves, she left her clients behind, but again,
2 everybody knew this. It wasn't a secret that she was leaving town.

3 The toilet paper scam, as the State mentioned. I know it
4 sounds great when you hear it, oh, the toilet paper scam. They're
5 charging \$100. Wards would say, I don't like the toilet paper here at this
6 facility, please go to Target and get me some toilet paper that I can use.
7 These are sick, older people. They just want some good products.

8 And yeah, does April need to -- does her staff need to bill
9 \$100 an hour to go to Target? No, but again, their ward is saying,
10 please, just go get me some basic things that I like, some better
11 toothpaste, and some toiletries that I like better than that which they
12 provided me at the facility.

13 And again, April is a monster if she doesn't do what her
14 client says. Yeah, this person has to live out the last few months, or
15 days, or weeks of their life uncomfortable, but if she does go to Target,
16 and bill for an hourly fee of hundred whatever it is an hour sometimes,
17 she's also a monster. So she's placed in an untenable position where
18 she -- if she serves her wards, she runs the risk of appearing to be
19 abusing the system and overbilling, and all this. And the fact is, the
20 standard billing rate for a guardian is \$175 an hour.

21 Investigator O'Malley [phonetic] from the AG's Office, that's
22 what she testified to. That's the going rate for a licensed guardian. So
23 when the State mentions things like well, it was \$650 a day for 20 days,
24 yeah, that's about three hours of April's time per day, and that's standard
25 billing. She doesn't bill above and beyond what the going rate is in Clark

1 County for licensed guardians. So three hours a day -- yeah, 650 a day
2 that's a lot of money. Okay.

3 There's also lawyers who sit here in this courtroom, not me
4 unfortunately, that charge \$100 an hour to sit and wait until there cases
5 are called. And could they charge -- could they have a paralegal sit for
6 less expense and bill their client less than the hundreds of dollar an hour
7 hourly rate.

8 Yeah, they probably could, but that's just not how the way
9 things worked. And the situation is, if April is doing a visit, and
10 somebody says -- or Mr. Simmons, or anyone else, and they say, please,
11 just go get me some toothpaste or whatever, they're just going to go
12 grab it and come back, and that's billable time. They're taking care of
13 their wards, but I understand from the outside looking in it looks absurd.
14 It looks ridiculous. It looks abusive to the system, but if you dig deeper
15 than a superficial inspection of these facts, you'll see, in most
16 cases -- and in my memo, I was very straightforward, and the memo is
17 publicly available -- that mistakes were made -- April made mistakes.

18 In a lot of ways April failed her wards. She failed to
19 supervise properly. She didn't hire qualified people. She was
20 overwhelmed by the burgeoning business that she had, and she made
21 bad decisions, and she told you about some of those decisions earlier
22 out of her own mouth.

23 But when we're talking about, for example, the remains that
24 were found in the storage unit, that ended up in a media article about
25 two years ago. What April didn't tell you earlier -- I think she's a little bit

1 nervous -- is she called each of the mortuaries listed on those
2 remains -- Palm Mortuary, and others -- she called the Coroner's Officer
3 to try and find out what she can do -- what she should do with these
4 remains. They all said they're all yours. They're your property. You
5 make the decision.

6 So in theory, she could have deposed of them with all those
7 remains as she saw fit, but she didn't, she put them in a storage unit. Is
8 that the best place to put them? Was it air conditioned? Did it properly
9 protect the urns? Are people going to hear about this situation and
10 blame April?

11 And again, if you're looking at it from that perspective, think
12 of her as a monstrous activity that she would do this out of disrespect for
13 her dead wards like this, yes, that's what people are going to think, but
14 again, when you see if you asked April, she called -- she did all she could
15 to see how she should properly dispose of these. And again, there's no
16 way to get a hold of the -- to track down the friends or family members
17 of the people listed on there. So she did what she could, and she chose
18 to protect them in the best way she could, which is to put them in a
19 locked storage unit somebody someday called and says hey, do you
20 have the remains for Mr. or Mrs. Such-and-Such, and she can point to
21 them where to go.

22 The State also brings up the "clerk scam", where staff
23 members would go and charge -- where they could have used e-filing,
24 they go -- and they go charge for an hourly rate for waiting in line at the
25 clerk's office. True, but every single petition required certified copies.

1 We all know from working in this court, you can't get a
2 certified copy online. You have to go to get from the clerk's office. So
3 certainly when, either Ms. Parks or staff members would go to the clerk's
4 office, and to pick up a certified copy for one case, yeah, they would file
5 things in other cases, and again those are documents that she could
6 have e-filed from her office.

7 It's the same situation where if you look at the set of facts,
8 person A bills \$100 an hour, or \$50 an hour, or whatever, and go to the
9 clerk's office to do something they could have done from their office for
10 a lot less, that's 100 percent true, but again, if you expand your
11 investigation, and look into the real facts, there were there anyway. In a
12 lot of these cases -- I wasn't there for all of them, of course, but if you're
13 there to get certified copies, you might as well file everything while
14 you're there.

15 There's also deadlines where you have to hit, where it needs
16 to be filed on a certain day so you bring it to the clerk's office to make
17 sure that it gets filed and that all the paperwork was prepared properly,
18 and will be accepted by the clerk for filing, and if it gets rejected on the
19 day of the deadline, then you find out the next day, you missed your
20 deadline. So again, on paper, when you superficially look at this, yeah,
21 that's horrible. You don't bill \$100 an hour to stand in line, but as a
22 practical matter, when you're April Parks, and you have 100 plus wards
23 at one point, with hundreds of deadlines to deal with, you have to make
24 these spontaneous decisions and entrust people to do your groundwork
25 for you -- your grunt work for you. She can't possibly supervise

1 everybody's billing.

2 But as the State -- and I pointed out in my memo, and as the
3 State pointed out, Mr. Simmons was the billing guru of this office. As
4 Mr. Raman pointed out, he trained people how to bill. To quote the
5 State, "He's in charge of billing. He alone made that decision as to
6 billing training." So the vast majority of the, almost 300 charges that
7 were brought, involved fraudulent false billing. Okay.

8 April wasn't in charge of billing, and that's clear. I quoted
9 Angelica Sanchez's testimony to the grand jury. And I quoted Heidi
10 Kramer's sworn testimony to the grand jury. Both of whom separately
11 testified that it was Gary Simmons who was in charge of the billing
12 process from start to finish.

13 So again, the vast -- did it happen on April's watch? Was she
14 at the wheel? Yes. She is in charge. She's the head guardian. She
15 founded the company. So it's on her; it happened on her watch. Just
16 like the named partner at a law firm is technically on the hook for all of
17 her or his underlings, whether it's a paralegal, or a new attorney, or a
18 secretary, or a clerk who does something wrong. That's exactly right.

19 And she said earlier, she takes responsibility, because she
20 didn't do everything that she was supposed to do, but the vast majority
21 of the malfeasance wasn't perpetrated by April in this case. Did she turn
22 a blind eye? And I addressed that my part in my memo. I won't go over
23 that whole paragraph again.

24 Did she succumb to some of the pressure, perhaps greed
25 even, of the amount of flexibility that the guardianship assistant gave

1 her? Yeah, I think she did, in all honesty. I know that she pled the offer,
2 but as I conceded in the memo, yeah, she made -- she absolutely made
3 mistakes that you heard from her she regrets.

4 But you have to understand, this is -- these facts are
5 shocking. They're terrible. They're macabre. They're things
6 we -- guardianship itself is a macabre business that only a few people
7 can handle.

8 April did a great job for a long time. She helped countless
9 people and obviously she also hurt a lot of people as well, and that's an
10 awful thing. Nobody wishes that would have happened.

11 All I want to say in closing, Your Honor, is that I hope Your
12 Honor sees fit to punish Ms. Parks for her personal wrong doings, not
13 essentially for failing to supervise, wrongfully hiring certain people,
14 wrongfully entrusting certain people with crucial aspects of her business,
15 but I think there's a reason the Nevada State Division of Parole and
16 Probation recommended 64 months sentence on the bottom, that's
17 basically five years and four months. I think they -- though their PSI was
18 less than ideal, I think they get -- I think they get the roles -- the
19 respective roles of Ms. Parks and Mr. Simmons in this, as well as Mr.
20 Taylor, and anybody else who was involved, but it's a case where
21 initially, as soon as you review it, it's very easy, and very convenient to
22 just immediately vilify April Parks.

23 She became the face of this case both in the media, in this
24 courtroom, everything is -- it's on her. She is the face of the case. I don't
25 think that accurately depicts who is at fault for the actual wrongdoings of

1 this case. She absolutely did wrong to her clients, and I couldn't have
2 been more clear in my memo. She did wrong. She failed the interests of
3 her clients. She failed in her duties as a guardian, but again, I implore
4 the Court, sentence her for her personal wrongdoings, not for
5 those -- not for the actions of any others, even if the statute says the
6 chief guardian is responsible for her underlings.

7 I'm asking the Court just to sentence her as to what you
8 believe is appropriate for her, based on her wrongdoing. She's been in
9 custody approximately 20 months now, Your Honor. All I can say at this
10 point is, I appreciate your time and I submit on that.

11 THE COURT: Okay. Thank you, Mr. Goldstein.

12 Mr. Simmons.

13 MS. BORDER: Your Honor, may I just have one quick
14 moment?

15 THE COURT: Yes.

16 MS. BORDER: Thank you. Thank you, Your Honor.

17 THE COURT: Okay. In regards to Mr. Simmons, Mr.
18 Simmons, I have read the sentencing memorandum that was submitted
19 by Ms. Border.

20 And, Ms. Border, thank you very much for submitting your
21 sentencing memorandum.

22 I've read the letters that were submitted on your behalf,
23 including the letter that was written by you, as well I read the letters that
24 were submitted on behalf of the State.

25 Mr. Simmons, is there anything that you would like to add

1 before I pronounce sentence against you?

2 DEFENDANT SIMMONS: Not at this time, Your Honor.

3 THE COURT: Okay. Ms. Border.

4 MS. BORDER: Thank you, Your Honor. And because I did
5 submit that sentencing --

6 THE COURT: You did.

7 MS. BORDER: -- memorandum, I will keep it brief.

8 I just wanted to point out a couple of things, and it's how the
9 State started in their presentation to you, pointing out that Mr. Simmons
10 was not the named guardian, nor the business owner of the entity. He
11 was the office manager; however, when he came to work with Ms. Parks
12 she had been a guardian for approximately five years. She had worked
13 with and through an attorney's office.

14 When Mark came to work with her he had no experience in
15 that particular field. He took his direction from April. He understood that
16 April took his direction from attorney's that advised her. So when it came
17 time for billing, he thought that this was something to be relied upon,
18 something that somebody had been in the business doing, taking the
19 direction from attorneys, so he felt that he could rely on that information.

20 Obviously, very wrongly, and again, in my sentencing
21 memorandum, I did point that out in a few different areas that common
22 sense at a certain point should have kicked in, and he should have
23 realized that this is not the way to do it, and he should have questioned
24 that.

25 The only other issue I wanted to point out was one in Mr.

1 Goldstein's presentation with the Court. Actually, the grand jury
2 transcripts and I reviewed those, Ms. Sanchez did say, and testify that it
3 was Ms. Parks and Mark Simmons that both explained how to bill to her;
4 however, Heidi Kramer specifically said it was April Parks that showed
5 her how to bill. It was not Mark. Mark reviewed her billing, but when it
6 came time to learn how to bill, it was April that instructed her.

7 So as to that end, Your Honor, we understand that this is
8 probably a difficult case, given the amount of victims, the amount of
9 people that were impacted, trying to determine a correct sentence. What
10 I would say for this particular case, as particular to Mr. Simmons, is that,
11 he has spent close to two years, like the rest of them, in jail. This is
12 somebody with zero prior criminal history. He's never had any contact
13 with law enforcement at all. So two years in jail has been a very, very
14 eye opening situation for him.

15 There is a significant amount of restitution that needs to be
16 paid. If Your Honor is to follow the stipulated sentence, as to Mr. Taylor,
17 that would, you know, be a set period of time, not probation.

18 If Parks is to receive prison time again, that would not be
19 probation, or an opportunity to pay that restitution.

20 I think that Mr. Simmons is in a good position in the fact that
21 he would have served two years in prison -- I'm sorry -- in jail, be given a
22 grant of probation with a very real possibility of paying back his
23 significant portion of this restitution. He has family that are present.
24 They've traveled from Indiana to be here today. I have spoken with
25 them. They are willing and able to help him make restitution payments

1 from the get-go if that's something Your Honor is inclined to giving him
2 opportunity to do.

3 He's employable. He has people that are willing to hire him
4 as soon as he's released. If what we're trying to do is to give back to
5 these victims, and pay back some part of restitution, although, that
6 amount is very significant, and I'm not claiming that he can do it all on
7 his own, but he can try. He can make a good-faith payment each, and
8 every month with the help of his family, and working on his own.

9 So again, this is not a situation where we're asking for
10 probation for somebody who has never spent a day in jail. We're asking
11 for probation for somebody that's already spent close to two years in jail.
12 They have been punished in that regard. We're asking for an
13 opportunity with somebody with zero criminal history to get a grant of
14 supervision on probation and pay back this restitution. That's a first and
15 foremost thing on his mind and he's more than happy to do that.

16 Your Honor, again, I know that this is a case that is
17 overwhelming, and there's a lot to it, but I was hoping that Your Honor,
18 based on our sentencing memorandum, would kind of see the crux of
19 how different individuals are responsible, and should be punished, and
20 we're hoping that you do give Mr. Simmons an opportunity for
21 probation.

22 So with that, I would submit it to the Court.

23 THE COURT: Okay. Thank you, Ms. Border.

24 And, Mr. Taylor, I have read the letters that were submitted
25 on your behalf, as well as the letters that were submitted on behalf of the

1 State. Is there anything you would like to say before I pronounce
2 sentence against you?

3 DEFENDANT TAYLOR: Yes, Your Honor. Thank you.

4 These -- these past two years have been some of the most
5 difficult years of my life. I've never been in trouble with the police. I
6 always associated myself with honest, loving, and giving individuals.

7 While incarcerated I've found myself surrounded with angry,
8 hateful, deceitful, and violent men. Not a situation I would ever want to
9 be in again.

10 The hardest part about being in jail since the beginning of
11 2017 has been the separation from my wife, children, and extended
12 family. During the time my father's health has deteriorated, and I have
13 not been there to help with his care. I've not been there to take him to
14 the doctors or support my mother while she cares for him. I hope and I
15 pray that I'm able to -- I hope, and I pray I'm able to see him again while I
16 still have a chance.

17 I have not been there for my children either, especially for
18 my young daughter. My sons are older, and they can care for
19 themselves, which doesn't mean that they still don't need and deserve
20 my love and support. By not being there for my daughter has been very
21 hard on me. The thought of her being without her mother and myself
22 breaks my heart. She's done nothing to warrant this punishment.

23 She's not been alone, thankfully. She has the love and
24 support of my wife's parents, who have been amazing during this
25 difficult time in our lives. That being said, my daughter needs and wants

1 to be raised by both her mother and myself. We've been separated long
2 enough.

3 My goal when I'm released from jail is to find suitable
4 employment to support my wife and my children to remove that burden
5 from my extended family. One thing I've learned during my
6 incarceration is that I would never want to go through this again. I will
7 do anything and everything to keep my family together and never put
8 myself in a situation where I would find -- where I would return to jail.

9 I believe that I have paid for my mistakes and been punished
10 enough. I desperately want and need to be reunited with my wife and
11 children. We have all suffered greatly during these past few years; my
12 daughter most of all.

13 I ask that you grant me the opportunity to prove to you the
14 type of man that I am, to show you that I'm a loving and caring
15 individual that wants nothing more than to be with my wife, and
16 children, and extended family, to be the father, son, brother, and friend
17 that God intended me to be.

18 I understand you have a difficult decision to make regarding
19 me and my co-defendants' sentence. I ask for leniency for all of us. I
20 guarantee you you'll never see any of us again.

21 Thank you, Your Honor.

22 THE COURT: Thank you. Ms. Waldo.

23 MS. WALDO: Thank you, Your Honor.

24 And Your Honor, I know Your Honor has read the letters that
25 I provided on behalf of Mr. Taylor and one of the reasons I do want to

1 provide those to the Court is because I believe the family members and
2 the individuals that have been a part of Mr. Taylor's life since he was a
3 young man, are much better equipped to give you an idea, and paint a
4 picture of Mr. Taylor than I am, because although I've known him for the
5 past two years, and I've certainly seen a different side of Mr. Taylor than
6 the individual that's being portrayed in the media, his family and his
7 loved ones certainly know him best.

8 Throughout my representation of Mr. Taylor, I have spoken
9 at length with both of his parents. And what I can tell you -- to this Court
10 is that they are heavily involved in this case, and they love, and support
11 Mr. Taylor, and are absolutely going to continue to love and support Mr.
12 Taylor regardless of the outcome here today.

13 This case has weighed heavily on them. One of the things
14 that his mother expressed in her letter, as well as to me on numerous
15 occasions, is that she never saw Mr. Taylor being in the position that he
16 is in right now.

17 Throughout his childhood he was the one that didn't cause
18 her any trouble. He was kind. He was caring. He was loving. He was
19 compassionate, but he did what he was supposed to do. And for 44
20 years of Mr. Taylor's life that's exactly what he's done. That is what he's
21 exemplified as a man. He's been a father to his children. He's been a
22 loving husband to his wife. He's been a loving and devoted son to his
23 family.

24 One of the letters that I attached was from his brother, who
25 actually works in the justice system, and I think that speaks highly of Mr.

1 Taylor. And not only I think illustrates to this Court the man that he is,
2 but the man that he actually is -- that the man that he is going to
3 continue to be, but also illustrates to this Court that this is not a criminal
4 mastermind. This is not an individual that's ever gotten into trouble
5 before. The Court can see from his PSI he has zeros across the board,
6 and in my experience, in doing this type of line of work, that's very rare
7 to come across an individual that's never been in contact with law
8 enforcement.

9 So for 44 years of his life, Mr. Taylor has stayed out of
10 trouble. He's been a contributing member of society. And as I indicated
11 earlier, he's been a loving and devoted father, son, and husband. And all
12 Mr. Taylor is asking for this Court today is to give him a chance to fulfill
13 those roles once again.

14 So oftentimes we talk about these types of cases and we look
15 at punishment and talk about incarceration, because that sometimes is
16 the only punishment that seems to justify, or seems to satisfy
17 individual's needs, especially the named victims in this case, but Mr.
18 Taylor has been punished beyond just the incarceration that he's spent.

19 He spent 668 days in custody. That is not a small number.
20 That is almost two years of his life. And as he just indicated to this Court
21 in that letter that he read to you, that time away from his child -- from his
22 daughter -- she was 13 when he was taken into custody. She's 15 years
23 old now. So for two years during, perhaps one of the most difficult
24 transitions in a young girl's life -- those teenage years -- that I can think
25 of no woman that wants to ever repeat again, she's been without her

1 mother and she's been without her father; two individuals that she was
2 extremely close to. And having phone contact with them, talking to
3 them on the phone, seeing them on a video contact visit is in no way can
4 replace having your father in your life day after day.

5 And while he knows that his daughter is in a good situation,
6 because she's with her grandparents, again, he wants the opportunity to
7 be there for her. He wants to raise her. He wants to exemplify to her
8 what it is to be a contributing caring member of society. That's what
9 he's done for 44 years, and that's what he's going to continue to do once
10 he's released from custody.

11 An individual is so much more than the sum of one mistake,
12 or one wrongdoing, or one criminal conviction that they've committed in
13 their life. Mr. Taylor for 46 years has been an exemplary individual. He
14 got involved in a situation that obviously was much beyond him, and as
15 the State illustrated in their argument, he was played a very minor role
16 in this case.

17 That being said, Mr. Taylor is the only individual in this case
18 that when he accepted this negotiation he knew he was going to prison.
19 There was no exception. There was no guessing. He knew the minute
20 he signed that deal he signed himself up for a minimum of two to five
21 years in prison, and that's not an easy situation for anyone to find
22 themselves in, but certainly someone like Mr. Taylor, who at 44 years old
23 found himself sitting in jail awaiting his fate.

24 That being said, Mr. Taylor, did accept responsibility. He did
25 sign that plea deal. And he is ready, and willing, and able to accept the

1 punishment Your Honor deems necessary for him, but I'm asking this
2 Court to look beyond just the -- what the media has portrayed of Mr.
3 Taylor. I'm asking this Court to look beyond what the State has
4 portrayed of Mr. Taylor. And I'm asking the Court to look at Mr. Taylor
5 as a whole, and as a man at 46 years of age, who has never, prior to this
6 case, been in trouble in his life. And I'm asking this Court to sentence
7 him based on the totality of that individual and not this one isolated
8 mistake in his life.

9 I'm asking this Court to follow this plea negotiation. I
10 understand that a two to five year sentence may not be sufficient for
11 some of the individuals sitting in this courtroom, but for Mr. Taylor, and
12 for the role that he played in this case, I believe that is a fair and just
13 outcome for this case, and I'm urging this Court to follow that. And with
14 that, I'll submit.

15 THE COURT: Thank you, Ms. Waldo.

16 State, your victim speakers.

17 MR. RAMAN: Your Honor, we'll start with Larry Braslow.

18 MR. GOLDSTEIN: Could we approach, please?

19 THE COURT: Yes.

20 [Sidebar at 10:25 a.m., ending at 10:27 a.m., not transcribed]

21 THE COURT: Okay. We're going to go back on the record.

22 And sir, if you could just go ahead and have a seat for us
23 briefly, because what we're going to do is we're going to make a brief
24 record, and then we're going to take a short recess, so that everybody
25 has the opportunity to use the restroom or anything they need to do

1 before we get started with the rest of these proceedings, as it may take a
2 while.

3 Mr. Goldstein.

4 MR. GOLDSTEIN: Thank you, Your Honor. I'd like to address
5 a matter that we discussed in chambers part of this hearing. When I say
6 in chambers, both Mr. Westmeyer and Mr. Raman, Ms. Waldo, Ms.
7 Border, and I were in the presence of Your Honor back your chambers.

8 THE COURT: Correct.

9 MR. GOLDSTEIN: The issue was a technical that I won't
10 belabor at this time, but for the record, I'm going to object to the victim
11 speakers based on lack of notice. I understand they have a -- they have --

12 THE COURT: Okay. Remember -- sorry, Mr.
13 Goldstein -- there will be no outbursts in this courtroom. That will cause
14 you to be removed from these proceedings. Mr. Goldstein, and
15 everyone in this courtroom will be entitled to the same respect.

16 Mr. Goldstein.

17 MR. GOLDSTEIN: Your Honor, the situation is, by statute, the
18 Defense is entitled to written notice of the names of the witness who are
19 going to be testifying and offering the victim impact statement at
20 sentencing for what was apparently a clerical mistake at the District
21 Attorney's Office. I didn't receive any notice of any speaker.

22 Okay. So we discussed this in chambers. I'm not going to
23 belabor it, but for the record, I'm going to object. I understand these
24 people have a voice and they want to be heard. I'm not going to belabor
25 the matter, but again, just for the purposes of the record, I will object to

1 the Court's consideration of these victim impact statements, only due to
2 the State's not complying with the statute, so far as notifying the Defense
3 of their speakers.

4 Thank you.

5 MS. WALDO: And Your Honor, we would join in that
6 objection, just through the same basis that we did not receive notice --

7 THE COURT: Okay. Ms. Waldo.

8 MS. WALDO: -- the same as did Mr. Taylor.

9 THE COURT: Okay.

10 State.

11 MR. RAMAN: Your Honor, the State did encumber to provide
12 notice. I have with me copies of fax notices. I think they met their -- the
13 wrong intended recipient, another attorney by the name of Goldstein in
14 some cases received this. I just received notice this morning that it was
15 the wrong Goldstein and then I forwarded it.

16 He did receive one notice.

17 MR. GOLDSTEIN: This morning at 7:32 I received one notice.
18 And again, we've already this, so I won't go in circles, Your Honor --

19 MR. RAMAN: Right.

20 MR. GOLDSTEIN: -- but just wanted to make that record.
21 That's all.

22 MR. RAMAN: Right. There was a clerical mishap. I don't
23 know that it effects anything. I don't think the Defense is asking for a
24 continuance. And under the circumstances, I don't know if one would be
25 feasible. Certainly, the names of them are available.

1 We're going to take a little break. They can peruse those
2 now, and if they have any objections further on, we can discuss that and
3 maybe make further record, but it's simply a clerical mishap.

4 THE COURT: Okay. And that objection has been noted for
5 the record; however, as we previously discussed in chambers, the victim
6 speakers will be allowed to speak, with the understanding that because
7 there was no notice, as each person is individually called to speak, the
8 Defense reserves the right to make the appropriate objections and I will
9 rule on them at that time.

10 As I have seen groups of notices, but I have not -- I mean, I
11 don't remember them all verbatim, as I sit here today, but the Defense
12 does reserve the right to make individual objections as those people are
13 called, but the people that are under victim speakers under the statute
14 will be allowed to speak here today.

15 So --

16 MR. GOLDSTEIN: Understood. Thank you.

17 THE COURT: -- in light of that, we are going to take a 15-
18 minute recess. We will be back at 10:45. We will start promptly at 10:45,
19 so if everyone could be in their seats, and we'll proceed with the victim
20 speaker portion.

21 MR. GOLDSTEIN: Thank you, Your Honor.

22 MR. RAMAN: Thank you, Judge.

23 MS. WALDO: Thank you, Your Honor.

24 [Recess taken from 10:30 a.m. to 10:43 a.m.]

25 THE MARSHAL: Remain seated. Come to order.

1 Department 10 is now back in session.

2 THE COURT: Okay. We're going to go back on the record in
3 C-321808.

4 We have all of the same parties present as before. We are
5 ready for your victim speakers, State.

6 MR. RAMAN: First is Larry Braslow.

7 THE COURT: Okay. And sir, if you can raise your right hand
8 for me. Thank you.

9 LARRY BRASLOW, SWORN

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

12 MR. BRASLOW: Larry Stephen Braslow. Last name is
13 spelled is B-R-A-S-L-O-W.

14 THE COURT: Thank you very much, sir. And, sir, what
15 would you like to tell me today.

16 MR. BRASLOW: Well, Your Honor, I'm the son Ruth Ann
17 Braslow. She was one of the wards under April Parks. First of all, I want
18 to express that the extent of the emotional pain and suffering inflicted on
19 my family and me, due to the systematic destruction of my mother's
20 mind, body, spirit, and every -- very life is beyond imagination. My
21 family, our friends, and I will live with this horrible and devastating
22 nightmare for the rest of our lives.

23 Five years ago, on or about the first week of January 2013,
24 my mother Ruth Mary Ann Braslow had her drastically changed by the
25 Defendant April Parks and her associates. Ruth was living in her home

1 totally independent, driving herself to the hair salon once a week,
2 shopping, cooking, cleaning her home without any assistance, visiting
3 with neighbors, contacting family and friends via the internet and
4 telephone.

5 My mother was taken from her home forcibly kicking and
6 screaming, medicated into oblivion because she objected to being
7 removed from her home. Sequestered so none of her friends or
8 neighbors could see her, and then placed under a court-appointed aide
9 guardianship of April Parks.

10 April Parks made sure that she was isolated from her friends
11 and family members, who my mother was in contact and were kept in
12 the dark as to what was happening. Parks, in concert with her attorney
13 Lee Drizin filed fraudulent documents in Clark County Courts stating that
14 neither my mother's sister, Lottie Malnon [phonetic], by the way, who is
15 still alive, nor I even existed so she could take control of my mother and
16 her estate.

17 When I found a posting on the door of my mother's home
18 with April Parks' name and number, I called Ms. Parks, left a message
19 with her answering service. When Parks returned the call I was outside
20 the home of my mother with a Las Vegas Police Officer, because we
21 were doing a welfare check.

22 The call was heard on the speaker, so both the officer and I
23 heard Parks tell me to contact her attorney Lee Drizin. Refused to tell me
24 my mother's condition or location. Yet Parks acknowledged that she
25 knew who I was, the son of Ruth Braslow.

1 Parks and her attorney Lee Drizin, both claimed that my
2 mother did not want to talk with or see me. This was later found out to
3 be a blatant lie. Only after I obtained an attorney, I was informed where
4 my mother was confined.

5 Upon going to see my mother, I discovered that she was
6 being medicated to such a degree that she was confined to a bed, and
7 her mental abilities were impaired. Parks had lied to the group home
8 manager where she placed my mother. Brought her there by ambulance
9 on a stretcher. The group home personnel never knew that Ruth had
10 been a fully functional human being.

11 Parks used my mother's money to fight me in court while she
12 depleted her assets and kept her overmedicated. When I finally was able
13 to obtain records of the sale of what was in my mother's home, family
14 heirlooms, antiques, documents were conveniently missing.

15 Something as simple as an address book with all the family
16 history since the 1960s was unaccounted for. My father's footlocker
17 from his service in the Army Air Corps during WWII containing all his
18 documents, medals, uniform, and more, just disappeared.

19 My father had created a formal list and a videotape of the
20 contents of their home. Yet this has never surfaced.

21 When I finally obtained guardianship of my mother, she had
22 deteriorated to such a degree that there was no way to bring her back to
23 her prior functional condition. Upon inspecting the six to eight boxes of
24 documents taken from my mom's house, and stored by Parks, I found
25 that several different records were missing.

1 Apparently, my mom kept all her financial transactions,
2 including, but not limited to utility bills going back when she moved to
3 Las Vegas back in 1987. Yet her telephone records were missing. The
4 telephone bill records would have contained all telephone calls, long
5 distance, which reveal whom in the family she had been speaking with
6 and would divulge who should be notified if she was in distress.

7 As I stated earlier, her address book with all the contact
8 numbers was not in any of the boxes.

9 Mom had printed hundreds of emails, yet the ones in the
10 past year were missing.

11 Mom was the matriarch of our family, but the records of our
12 family have disappeared, along with my father's ashes. That's another
13 good question. Where are my father's ashes? I have no idea.

14 April Parks took my mother from her friends, and family, in
15 particular her sister, her niece, and me by her self-serving acts. Parks
16 cost my mother her freedom so Parks could steal tens of thousands of
17 dollars. By my calculations in excess of \$100,000 by false billings,
18 privately depositing of property, overcharging for services that were
19 probably not delivered. These are just a minor part of the deception that
20 has been imposed on all of us.

21 The records of my family history have been erased by April
22 Parks. Parks obviously did this in an effort to eliminate any records that
23 might show that there were family, friends, and her attorney to contact
24 should anything happen.

25 Ruth, my mother, had had her attorney prepare documents

1 placing a neighbor as her medical representative, yet in these
2 documents I obtained from Parks, any and all records from the attorney
3 were missing. You can only steal a person's life if you hide the
4 documents stating who her family, friends, and legal contacts are should
5 they need to be contacted in case of an emergency.

6 April Parks used every means at her disposal to take away my
7 mother's life. April Parks took my mother from me.

8 Parks' actions left my mother financially bankrupt, crushed
9 physically, and devastated mentally. Through her position as the court-
10 appointed legal guardian Parks willfully, knowingly, and intentionally
11 destroyed my mother's remaining years, and our family's legacy.

12 April Parks needs to spend the rest of her life -- and her
13 associates -- in prison. If penal colonies still existed, this is where April
14 Parks and her associates should be placed.

15 In conclusion, I ask the Court to be the champions they claim
16 to be for all our beloved elderly. Send a clear message to anyone who
17 wants to steal from and destroy our precious one's lives.

18 Please give some measure of peace to my family and my
19 beloved mother. Give her the maximum -- and her
20 associates -- sentence by law.

21 Your Honor, thank you for listening. I hope you will bring
22 justice for my mother.

23 THE COURT: I thank you, sir. Thank you very much.

24 MR. GOLDSTEIN: No questions, Your Honor.

25 THE COURT: Any questions?

1 MS. BORDER: No questions.

2 MS. WALDO: No questions.

3 THE COURT: Sir, thank you very much for being here --

4 MR. BRASLOW: You're very welcome.

5 THE COURT: -- today.

6 State, your next speaker.

7 MR. RAMAN: Karen Kelly.

8 THE COURT: Okay. Ms. Kelly. Ms. Kelly, if you could raise
9 your right hand for me to be sworn. Thank you.

10 KAREN KELLY, SWORN

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

13 MS. KELLY: My name is Karen Kelly, K-A-R-E-N K-E-L-L-Y.

14 THE COURT: Thank you very much, ma'am. And, ma'am,
15 what would you like to tell me today?

16 MS. KELLY: Hi. Thank you, Your Honor.

17 My name is Karen Kelly, and I am currently the Clark County
18 Public Guardian. In late 2015 the public guardian's office was notified
19 that Ms. Parks, a private professional guardian was resigning from all of
20 her guardianship cases, and the court needed us to step in on a majority
21 of these cases.

22 At the time, I was a supervisor in the office, and myself and
23 another case manager worked on these cases almost exclusively. In
24 total the public guardians office was appointed to serve as guardian on
25 45 cases, which is a large amount of cases to take on at one time.

1 I'm here today to speak on some -- on behalf of some of
2 those individuals, and to inform the Court on how Ms. Parks' criminal
3 actions affected their lives. She was appointed to protect these people,
4 and the criminal acts she committed created intense anxiety, and
5 anguish for what many of these individuals was the final years of their
6 lives.

7 I would as the Court to note, this is not a -- just a financial
8 crime. It was abuse of trust, and authority in her position. Individuals
9 under guardianship are often unable to care for themselves. They must
10 rely on the people appointed by the Court to protect them.

11 Ms. Parks was a trained guardian, and she even served on
12 the board of the Nevada Guardianship Association. The choices she
13 made were out of greed, not because she didn't understand the ethical
14 responsibilities of being a guardian.

15 I'll now talk about a few of the cases that we have. Ms. Maria
16 Cooper: I first met Ms. Cooper in December 2015, and she has
17 unfortunately she passed away. At that time, she was 88 years old and
18 so full of energy. She was fully aware of what was going on with Ms.
19 Parks, and was so very angry. She had been unable for so long to get
20 anyone to listen to her about her concerns regarding the guardianship
21 and her missing funds.

22 Ms. Cooper was so concerned that her funds were depleted
23 that she stopped spending money on the things that she used to
24 regularly liked to do. She used to like going weekly to Walmart and
25 getting her hair done regularly. She stopped all of that.

1 She even requested to be moved to a smaller room at the
2 facility so she could save money to ensure she had enough funds for the
3 rest of her life. . Her sense of security was completely taken from her.
4 An estate that Ms. Cooper built up over her entire lifetime was
5 significantly depleted.

6 At the beginning of the guardianship it was evaluated at
7 about \$400,000. When we took over there was about 100,000 left. These
8 funds were depleted through overbilling and mismanagement within just
9 the space of three and half years.

10 While speaking with Ms. Cooper, and spending time with
11 her, it became apparent that she was really fully able to handle her own
12 medical decisions, and she only really requested that we help her with
13 her finances because she was in a position where she felt she was losing
14 everything. Interestingly, I reviewed the original certificate of incapacity
15 that was filed by Ms. Parks, and it didn't even list a cognitive impairment,
16 rather the biggest problem was that she couldn't hear properly.

17 The public guardian's office arranged to have her re-
18 evaluated for guardianship and the guardianship of the person was
19 ultimately terminated. This is important, not only for Ms. Cooper's sense
20 of independence, and ability to now make her own decisions, but it's
21 also a significant reduction in the amount of time spent by a case
22 manager on the case, which in turn is a huge reduction in the billable
23 time.

24 What was so apparent to myself and another case manager
25 in the office about Ms. Cooper's ability to make her own decisions, was

1 disregarded by Ms. Parks and her team, due to their greed, as they
2 continued to bill by assisting her and taking her to doctor's
3 appointments, and everything that being a guardian to the person
4 entails, which was not even necessary in Ms. Cooper's situation.

5 I'd like to talk about Mr. Joseph Massa. He's currently 100
6 years old, and he's a WWII Veteran. Due to his physical limitations, he's
7 not able to be here today.

8 Originally, in Ms. Parks' petition back in 2011, she did advise
9 the court that Mr. Massa was in agreement with the guardianship, and
10 he continues to be today. He recognized he need help and needed
11 assistance in applying for VA benefits that he was most entitled to.

12 During Ms. Parks' time as guardian, almost five years, Mr.
13 Massa never received any VA benefits. His estate was depleted to the
14 point he almost had to move to a different facility, as he could no longer
15 afford the monthly room and board costs. He was so concerned and
16 worried about what was happening, he actually sent his own referral to
17 our office.

18 He didn't know if he had enough funds to stay at the facility
19 and he indicated in his referral that his guardian had cut out on him and
20 sold all of his stocks. While we don't have a true figure of Mr. Massa's
21 estate, because an inventory actually wasn't even filed in this case, we
22 believe about \$130,000 is where it started. By the time we took over,
23 there was less than \$20,000 left, and all of that needed to be paid to the
24 facility, as they had not been paid in quite a long time.

25 I do want to let the Court know, he's now receiving over

1 1,800 a month in VA benefits. Of course, we can't go back to the five
2 years that he missed out on, and his estate can never recoup that, but
3 he's now able to stay in the facility that he's lived for many years.

4 Ms. Parks' billed Mr. Massa to have an employee of her office
5 take him on outings at a cost of over \$100 an hour, something which can
6 be accomplished by a caregiver for a quarter of the cost, usually about
7 \$25 an hour. These outings typically lasted three to four hours. So
8 you're looking at 3 to \$400 to take a gentleman to the casino. Yet she's
9 never been able to establish any VA benefits for him.

10 I'm not even sure she applied for the benefits, as her records
11 do not reflect any billing references for the VA; however, she did ensure
12 that her fees were paid of about 6 to \$7,000 per year.

13 Her actions left a vulnerable -- at the time, 97-year-old WWII
14 Veteran in a panic, and possibility of losing his place of residence. To
15 this day, when we discuss April Parks or staff talk to him, he becomes
16 very emotional and says, I don't know why this happened to me, I'm a
17 good person.

18 Ms. Ann Holmquist: Ms. Ann Holmquist and her husband
19 Charles were both under guardianship with Ms. Parks. Mr. Holmquist
20 unfortunately passed away before Ms. Parks began to resign from her
21 cases, and since we were guardian of Ms. Holmquist, she has also
22 passed away.

23 When our office was appointed, we visited Ms. Holmquist
24 and found she had very, very few items of clothing at the nursing home.
25 And when we reviewed the accountings we could see why.

1 Generally, a nursing home client, who is receiving Medicaid
2 only gets about \$35 a month in income, and that's to go towards their
3 personal needs. All the rest of their income goes to the facility for their
4 care, and Medicaid covers the difference.

5 So for a guardian, if the protected person receives a lump
6 sum of money, you want to be sure they now have adequate clothing
7 and we want to put aside -- aside funds for burial, and in some cases,
8 we've even been able to use lump sum funds to ensure the burial of a
9 spouse. In her accountings to the court Ms. Parks reported that Ms.
10 Holmquist did receive funds from her husband's insurance policy, and it
11 was in the amount of \$9,493. She also reported, during this same
12 accounting period, that she used all the funds to pay her fees.

13 For this same time period, just -- just over -- oh, almost two
14 years -- March of '14 to the December of 2015, Ms. Holmquist only
15 actually received \$70 in cash, and \$57 for her personal needs that whole
16 time. Ms. Parks made no attempt to purchase a burial policy, which was
17 allowable by Medicaid. And also made no attempt to use the funds to
18 make sure Mr. Holmquist to interred appropriately.

19 Mr. Holmquist is one of the cremated remains that you see
20 on that chart. They were abandoned, as was said before, and left in a
21 storage unit, that was subsequently auctioned off due to nonpayment of
22 storage fees. Luckily, we were able to secure these remains. And after
23 Mr. Holmquist's passing -- Ms. Holmquist's passing they have both been
24 interred together at the VA cemetery.

25 Ms. Inessa Sanborn: She has also unfortunately passed

1 away; however, on -- upon appointment as guardian for Ms. Sanborn,
2 we received a call from caregivers at the facility she was residing at that
3 she's in desperate need of funds and she needs new shoes. We need to
4 get out there immediately. We make arrangements. We access the
5 funds. And we took a check the next day.

6 Upon arrival at the facility, the case manager was shocked to
7 find Ms. Sanborn with swollen legs and feet, and the shoes she was
8 wearing appeared to be too small. In addition the shoes had holes in the
9 them. She had stuffed paper in the holes and had applied Scotch tape to
10 the back of the shoes where they had frayed. I actually even have a
11 picture for you to see the shoes that this lady was actually wearing.

12 The case manager checked her room. No other shoes
13 available. Not even a pair of slippers that Ms. Sanborn could wear.

14 Ms. Sanborn told the case manager I request funds. The
15 facility says we request funds and we're always told she's got 40 pairs of
16 shoes. Ms. Sanborn reported she asks for monthly statements about her
17 money each money, to which Ms. Parks would tell her she said, I'm in
18 the process of consolidating the accounts and I'll provide a statement
19 next month. She never received a statement, Your Honor.

20 Ms. Parks did provide a final accounting to the Court in this
21 case in February of 2016, which encompassed a time period of May 2015
22 through January of 2016, about a seven or eight-month period. During
23 this time she prepaid herself over \$7,900 in fees. For this exact same
24 time period, only \$126.10 was paid out for the personal needs of Ms.
25 Sanborn, and no cash was ever provided to her. I'm not even sure what

1 services was being billed for Ms. Sanborn, as she was obviously not
2 providing for her needs.

3 Even more egregious, was what we found when we received
4 the documents from the police that had seized. These documents were
5 in Ms. Parks' possession before they were seized by the police. And
6 among these documents was a power of attorney that named five
7 different people that Ms. Sanborn would have preferred to serve as her
8 power of attorney, which we always look to before we look to a
9 guardianship. None of these people received notice of the guardianship.

10 The power of attorney also noted Ms. Sanborn did not want
11 to reside in a facility. Ms. Parks filed a petition to authorize the sale of
12 Ms. Sanborn's home in August of 2015 and the information she had
13 regarding Ms. Sanborn's wishes should have been provided to the court,
14 so there could have at least been a discussion, and an evaluation of the
15 expenses involved in the care of Ms. Sanborn, and whether or not
16 residing back at the home was even feasible.

17 As we've seen time and time again, the most important part
18 of the guardianship for Ms. Parks, the payment of her fees was
19 completed, and paid timely. Yet a 90-year-old woman could not even
20 gain access to more than \$130 in a seven-month period.

21 Ms. Sanborn had over \$449,000 in her estate when Ms. Parks
22 filed her inventory. An estate, of course, she had worked her whole life
23 to accrue. This estate depleted down to 359,000 when the public
24 guardian was able to marshal all of the assets. We objected to her final
25 accounting filed -- that was filed by Ms. Parks and it didn't -- as it didn't

1 adequately account for what happened to this money.

2 At the final hearing on this matter, Ms. Parks failed to
3 showed. Could not be reached telephonically. So her accounting has
4 been denied in that court. To date Ms. Parks has not provided an
5 adequate accounting of her handling of Ms. Sanborn's estate.

6 Mr. Norman Weinstock: Upon first meeting with Mr.
7 Weinstock, it was apparent that he was very depressed. I do have to say
8 unfortunately, Mr. Weinstock has since passed away; however, he was
9 very alert, and understood what was going on with Ms. Parks, and was
10 incredibly happy that a new guardian had been appointed.

11 He stated, I've -- he would often request items and money
12 from Ms. Parks, and she advised him if he wanted special items, such as
13 soda, ice cream -- things that maybe the group home wouldn't provide
14 on a regular basis -- even cans of tuna fish, and avocados that he wanted
15 to eat regularly, that she would provide them, but there'd be a service
16 charge for it. The group homeowner verified that Ms. Parks would not
17 provide funds to them to buy special food requests, and she wanted to
18 drop them off herself.

19 Once we were appointed as guardian, we'd tell the group
20 home, get whatever this gentleman would like, and just us a receipt.
21 That's what we do with clients that want special food items. We don't go
22 out and buy them ourselves. We just have the group home buy them
23 and we reimburse them from a receipt, maybe could take about five
24 minutes.

25 A review of Ms. Parks' billing showed multiple entries for

1 dropping off food items not provided by the group home, another way to
2 inflate her billing, and obtain more fees.

3 In her final accounting to the court she reported she had
4 prepaid herself over 21,600, just for the last two years of this
5 guardianship. At that time Mr. Weinstock's case was stable, and I'm not
6 sure how the billing could have been so high.

7 When we were involved it was apparent -- immediately
8 apparent when you met with Mr. Weinstock that he needed dental care;
9 something that had not been arranged by his prior guardian. Maybe if
10 there was less time billing for grocery shopping for the protected person,
11 she may have actually provided the appropriate guardianship services,
12 such as arranging for dental care.

13 During our time spent with Mr. Weinstock, it again became
14 apparent he didn't need a guardian, and he was perfectly capable of
15 making his own decisions. Mr. Weinstock reported he'd only been out of
16 the group home twice in the last three years, and once was to the
17 hospital. He reported while he was at the hospital the physician stated he
18 needed a full transfusion of blood and he was adamant he didn't want it,
19 but he advised that April consented for this against his wishes and he
20 had the transfusion against his will.

21 He asked, if the guardianship is terminated, are these the
22 type of decisions that I'd have control over again. We said absolutely.
23 So as not to overwhelm Mr. Weinstock, we terminated the guardianship
24 with the person first, and then we assisted with his finances for a few
25 months, and we actually found him his own apartment that he was able

1 to move into. And then the term -- and then the guardianship was
2 terminated completely.

3 What is most upsetting about Mr. Weinstock's case is that he
4 had these very specific needlepoint pictures that his mother had created,
5 and he cherished them as a family heirloom. One of the things he asked
6 us to do was can you get those from the storage unit where Ms. Parks
7 has them, because every time he asked for them she would just say
8 they're in storage.

9 We ultimately learned though that the nursing facility that his
10 wife had resided at before her death, was where the needlepoints had
11 been. When Ms. Weinstock -- when Mrs. Weinstock passed away in
12 February of 2013, April was also her guardian. She was contacted to
13 come and pick up the property. The facility says we contacted her twice,
14 said if she doesn't get in contact with us, we're disposing of this
15 property, and these heirlooms were ultimately disposed of.

16 Ms. Parks failed to protect assets, as well as personal
17 property of the estate, and had no concern for the impact this would
18 have on Mr. Weinstock. His case is just another example of an
19 unnecessary guardianship with inflated billing.

20 The original certificate of incapacity filed for Mr. Weinstock
21 back in 2008 indicated that his condition was just temporary. What is so
22 unfortunate is that Ms. Parks' greed in establishing a fraudulent
23 guardianship, not only took Mr. Weinstock's freedom for eight years, it
24 robbed him of precious family heirlooms that he could never recover.

25 Ms. Kathy Godfrey is currently residing in a group home.

1 She asked that I be here on her behalf today, as she really didn't want to
2 come to court. She is another of Ms. Parks' victims who was removed
3 from guardianship once the public guardian's office was appointed.

4 Upon the initial visit with Ms. Godfrey she reported that she
5 has a toothache. It's also noted she needed extensive dental work and
6 had a cracked lens in her glasses. Unfortunately, as her account had
7 been depleted to just \$128, there was no funds to immediately assist her.

8 At the beginning of the guardianship, Ms. Godfrey had
9 approximately 7,600 in her bank account. She received a very small
10 amount of Social Security each month, but was able to save up to the
11 7,600. Just over one year later Ms. Parks had paid herself over \$9,000 in
12 fees and Ms. Godfrey had nothing left.

13 Ms. Parks paid herself all of these fees without providing for
14 the basic needs of the protected person. Another example of Ms. Parks'
15 greed taking precedence over any of the needs of the people she was
16 appointed to protect.

17 In Ms. Godfrey's case, we were able to work with her family
18 and even her ex-husband to accumulate funds to pay for her dental care
19 and new glasses. Ultimately, she was re-evaluated regarding the need
20 for guardianship and found to no longer need the services of a guardian.

21 She did request that our office stay on as her representative
22 payee, and she's now our client on our voluntary representative payee
23 program. Guardianship was not necessary for Ms. Godfrey. And if Ms.
24 Parks had taken a moment to properly evaluate the situation to see if an
25 alternative to guardianship could be established, and not just see

1 another opportunity to obtain financial gain, Ms. Godfrey would not have
2 lost all of the funds she had been able to save.

3 Mr. William Brady: Mr. Brady is currently residing in a group
4 home and he's 90 years old. Due to his physical limitations, he is unable
5 to be here today. He has been under guardianship since 2010.

6 At that time Mr. Brady had a trust, which Ms. Parks also
7 served as trustee, as well as serving as guardian, which in my opinion, is
8 an inherent conflict. His estate was worth approximately \$148,000
9 between was in the guardianship and in the trust; however by the time
10 the public guardian took over in 2015, his assets were below \$20,000.

11 Ms. Parks failed to file an accounting annually and
12 subsequently just filed one report for a five-year period. During that time
13 period for the five years, she billed \$33,000 for her services; however, in
14 five years she only provided \$487 in personal items, which would be the
15 clothes that this gentleman needed for that time, a total of \$487.

16 Additionally, Ms. Parks was overspending on the room and
17 board costs significantly each month, which completely depleted his
18 estate. Once we were in, we just renegotiated his monthly costs within
19 his income, and he was able to remain in the same facility.

20 Ms. Parks collected over \$33,000 in fees while ignoring her
21 duty to file annual accountings and her fiduciary duty to conserve the
22 estate, something which would have been easily done by ensuring his
23 monthly costs were within his income, but of course, Ms. Parks' number
24 one concern is the payment of fees, often to the detriment of the person
25 she is supposed to protect.

1 The last people I'd like to speak about today are Marlene
2 Homer and Marie Long. This was someone that was brought up earlier.
3 It was a mother and daughter.

4 Ms. Long and Ms. Homer are mother and daughter and were
5 both under guardianship with Ms. Parks. Ms. Long has since passed
6 away, but her daughter Ms. Homer continues to reside in a group home;
7 however, she really did not want to court -- come to court today.

8 She did relay some information to our case manager of what
9 she would like -- information to be given to the Court, and I will relay that
10 to you. According to Ms. Homer, April ruined her life and her mother's.
11 She barreled in their condo at 9:30 a.m. on June 12th or 13th, 2012, and
12 told her she's going to a mental ward.

13 Marlene told us there's nothing wrong with her. She
14 advised -- Marlene said now, she can't think straight anymore, but at the
15 time her mind was fine. She stated her mother died miserable and felt
16 deserted. Marlene began to cry and said her mother's last words before
17 she took her final breath were I have nothing.

18 She stated April apparently knew her from the time as a
19 volunteer at Valley Hospital when April worked in admissions and had
20 told Marlene that she was rude to her once. April told Marlene that she
21 knew all about her when she came to the condo to remove her. She
22 stated April is a terrible person, but it's her word against April's and she
23 felt like no one would listen.

24 She stated before April came into their lives, she and her
25 mother were living in a paid-off condo. Her mother was driving, and

1 they were doing fine. She was able to walk with a walker and they
2 needed no assistance.

3 In review of Ms. Homer's certificate of incapacity, the
4 physician does note she had some memory loss; however, indicated he
5 believe it to be a temporary condition. However, no further evaluations
6 were ever filed, and Ms. Homer was admitted to the geriatrics psychiatric
7 unit at Southern Hills Hospital after being removed from her home.

8 Both cases started with the same amount of inventory, about
9 72,000. Both cases had accountings filed and over 28,000 in fees was
10 paid from each case. It appears Ms. Parks may have used the same
11 accounting for both cases, as they're identical in their billing and
12 remaining balance. So according to her records, each case should have
13 had over about 14,000 when we took over, but only Ms. Long's case had
14 funds. Ms. Homer had \$1,379 in her entire estate.

15 Ms. Parks has never accounted for the missing funds in Ms.
16 Homer's estate. Ms. Homer suffers from depression and becomes very
17 emotional when she discusses what happened to her and her mother
18 under the guardianship. She blames herself for having them both put in
19 guardianship and their estates being squandered. This guilt makes her
20 depressed and vice versa, the depressions feeds her guilt. It affects her
21 so much, she continues to relieve -- to refuse to leave the group home,
22 and many times will even refuse to get out of bed.

23 Ms. Parks' criminal behavior as a trusted court-appointed
24 guardian is, in my opinion, extremely egregious. She was entrusted with
25 people's lives and had an ethical duty to protect them. Instead she

1 abused her power for her own personal gain, overbilling and in some
2 cases placing people in unnecessary guardianships in order to exploit
3 them. She did not see vulnerable adults. She didn't see them as people.
4 They were a paycheck.

5 Her actions show a pattern of using state funds to pay fees
6 which are often over inflated and providing very little money to the
7 protected person. As a result of her actions, it's apparent Ms. Parks has
8 a flagrant disregard for the judicial system, and the people she was
9 appointed to protect. And I do hope the Court will impose the maximum
10 penalty allowable by law.

11 Thank you for your time.

12 THE COURT: Thank you.

13 MR. GOLDSTEIN: No questions, Your Honor.

14 MS. BORDER: No questions.

15 MS. WALDO: No questions.

16 THE COURT: Okay. And, ma'am, thank you very much for
17 being here.

18 State, your next speaker.

19 MR. RAMAN: Herman Mesloh.

20 THE COURT: Okay. And sir, if you could raise your right
21 hand for me. You can remain seated.

22 MR. MESLOH: Thank you.

23 THE COURT: If you could just raise your right hand to be
24 sworn.

25 HERMAN MESLOH, SWORN

1 THE CLERK: Please state your full name, spelling your first
2 and last name for the record.

3 MR. MESLOH: My last name is Mesloh, M-E-S-L-O-H. My
4 wife is Kathy. And I'm Herman William, but I go, but I go by Bill.

5 I'm here today to speak from my heart about the
6 circumstances of which April Parks left my wife and I in, and it is -- it is
7 just a horror story. So I'll begin with saying that on September of 2013
8 April Parks came to see me at Southern Nevada Rehabilitation Center
9 where I was recovering from multiple surgeries. I had open-heart
10 surgery, hip replacement, multiple eye surgeries. I'm -- I'm blind. My
11 hip is still -- I've got severe arthritis, so I can't walk at this point.

12 My wife has Alzheimer's that was diagnosed as of around
13 2011.

14 And I'm in the hospital recovering. She comes by and tells,
15 me, you know, who she is and -- and whatever, and not a whole lot more
16 than that. The next thing I know is that she had gotten a note signed by
17 a physician's assistant there saying that I needed help and that was all it
18 took for her to become guardian over my wife and myself.

19 The very next day she took my wife out of the house. I gave
20 her no power of attorney, no verbal authorization. I -- I said all I was
21 looking for was to have a Medicare person send a nurse to our house
22 while I was in the hospital recovering to be sure -- or assure my wife was
23 taking her medication. That was it. Other than that, I mean, there was
24 no problem, other than -- and -- and my wife was -- was having difficulty,
25 and the Alzheimer's was progressing on her, but even today, after

1 almost ten years now, she -- she's fine. Her short-term memory is really
2 the only thing that's affected. Her long-term memory is fine.

3 With the exception of when she was first taken out of the
4 house and put into a group home called Sunshine House that was
5 owned -- one of the facilities that was owned by a fellow named Jerry
6 [phonetic]. After four months -- from September to December -- he told
7 me that he couldn't carry her anymore because he never got paid and
8 that was supposed to be the responsibility of the guardian.

9 So the guardian then takes -- has my wife put in for a psych
10 evaluation at some hospital. And she had with her, her service dog,
11 which is a four-pound long-haired mini-Dachshund, who notified her
12 when she was going to have a seizure -- a miraculous thing. And it was
13 just, you know -- this was the love of her life. She even had a tattoo of
14 Trudy [phonetic] on her shoulder. And she's not one that wants to go
15 through pain, but anyway, now, she is taken out of the house, put into
16 this group home. She was allowed to be there with the dog, but there
17 was no provision, or any money for her.

18 The very next day when she was taken out of the house, I
19 found that my checking account with the Nevada State Bank, and
20 my -- my savings account with the Southern Nevada Credit Union were
21 both canceled -- were both closed out by order of the state. Now, she
22 was not appointed a guardian to us for at least nine weeks after that at
23 court by Judge Steele. So for nine weeks she had total access of our
24 property.

25 We had a cat in the house that was left there. They

1 didn't -- they didn't take the cat. They did let her take the two dogs, but
2 she was promised that the dog -- the cat would be taken care of. For six
3 weeks that cat was left in the house with no heat, no water, no food.
4 And she tells me after -- finally, of getting in touch with her, because she
5 is very evasive, she -- she tells me that the cat was fine, and that it was
6 taken to a vet, and somebody adopted it.

7 Now, how can an animal leave for six weeks without food or
8 water? How could she live for six days without food or water?

9 Anyway, she's then put in another facility called Feng Shui 2
10 [phonetic]. Now, this facility, she isolated my wife from her family and
11 from me, and supposedly at my best interest. I don't know.

12 For six months I didn't know whether my wife was dead or
13 alive. Finally, because of a woman that I talked to at the facility that I
14 was at -- now, after I spent almost a year in rehabilitation at -- between
15 Sunrise Hospital and Southern Nevada Rehabilitation Center, I -- I was
16 transferred to Boulder City Mountain View Care Center, which is a long-
17 term care facility. We were there until this past November 2017. So we
18 there -- we're now at Delmar Gardens for the last year -- a little over a
19 year now, and that's where we -- we are at this point.

20 But now, when she was put in Feng Shui 2, she was heavily
21 medicated for six months. When I was finally able to get a phone
22 number to be able to contact her, she was delirious. She was not
23 able -- was asleep, and I -- I managed to get approval because of a little
24 bit of persuasion from the administrator at Mountain View Care
25 Center -- a woman named Jenny and the -- and the admissions director,

1 a fellow named Ambrose, who knew about her history, and that she had
2 been a guardian for us since 2003, and they were sympathetic toward
3 me, because well, they could see I was very emotionally distressed over
4 not knowing what was going on with my wife.

5 And the next thing I know, she's making arrangements to
6 have her come visit me, and when I see her, and she finally does get
7 there -- now, there was -- there was some delay in that process too, but
8 when she finally gets there, she's in a wheelchair, which she
9 wasn't -- didn't need to have before. Her arm was in a sling. She had
10 bruises all over her body. And she had a pacemaker, which I still to this
11 day do not know why she was -- she needed to have a pacemaker, but
12 this all took place while she was under April Parks' care at that facility,
13 and in all probability, the rational thinking is that, the doctors were
14 instructed to be able to give her medication.

15 And as far as doctors go, in this case, I had a situation where
16 with the approval of the guardian -- without April Parks' approval, my
17 doctor -- my primary care doctor at Mountain View Care Center was not
18 able to tell me what the diagnosis was of what I had experienced. I
19 had -- I thought I had a hernia. It turned out to be a -- something a little
20 bit less than that, but for three -- for three months -- oh, no, for three
21 weeks, I'm sorry -- for three weeks, the doctor wasn't able to reach
22 her -- wasn't able to contact her to be able to get the approval to
23 diagnosis my case, and, you know, I'm worried about it, you know. She
24 was barely ever available.

25 That six-month period that she was missing, my sister-in-

1 law -- my wife's sister, who lives in Eerie, Pennsylvania, called her office
2 and talked to a fellow named Mark. And Mark assured her that, oh, she's
3 fine. She's over there. Gave her the phone number so she could call
4 him too, and that's how came about that I got the phone number. And
5 my sister-in-law said that she really need to come down to see how she
6 was being cared for.

7 So it was from that point then in November of 2015 she was
8 transferred to Mountain View Care Center where I was. And while she
9 was there for a year with me before we transferred, again, to Delmar
10 Gardens -- anyway, that's -- that's the torment of that whole thing. The
11 dog when she was -- was supposed to have been cared for by April
12 Parks -- Trudy -- when she was put in Feng Shui 2 -- and the dog was put
13 in the pound. And when my wife came back and found out that the dog
14 was gone, I think she -- she probably just went ballistic and that's
15 probably accounts for why she had to be so over medicated.

16 But when she did finally get to Mountain View Care Center,
17 the nurses said she should never have been on these kind of
18 medications -- these narcotics. It took three weeks before she was even
19 cognizant of knowing where, or who, or that there was anything else.
20 She had no recollection of the past nine months -- none at all. So she
21 must have been medicated for that whole period of time. And as of
22 today, she still refuses to take mediation because I think that was -- as a
23 result of the -- the situation that she had there that she has some
24 memory of that doesn't know why she won't take the medicine. She just
25 is afraid. And I don't know.

1 There are some evil people in this world, and April Parks is a
2 predator of the worst kind, preying on the people that are elderly and
3 disabled, and may God -- this is -- this is not something that an attorney,
4 or someone can sugarcoat and say well, oh, she tried to do the best she
5 could. Well, she got away with that for a long, long time.

6 And as far as the money goes, when she took possession of
7 finances and our electric bills, and she had access to all our personal
8 documentation, and I had a living will, all of that stuff is all gone. We
9 have no documentation of who we are. And when I finally got in front of
10 Judge Steele in family court I asked the judge, if she has this -- this
11 information, I demand to have it back. And if she doesn't, she needs to
12 replace it. Judge Steele's response to me was simply, if she doesn't
13 have it, I can't make her give it to you. So I mean, I was not happy to
14 hear that, but she intentionally, I believe, destroys information, and
15 material, anything that would lead to having any requirements, or
16 requests of anything for us.

17 I got from being under her guardianship because I had a -- a
18 psychiatrist determine that I was competent. And then I requested to be
19 my wife's guardian, and that was approved, and I was sworn in, in
20 November of 2015. And I'm still her guardian. And we're out from
21 under this dilemma, that -- the suffering and torment, but not just myself.
22 I mean, we had property that we wanted to be able to pass on to our
23 children, that's gone. Everything is gone.

24 I had some paintings, some artwork. We had an appraisal by
25 the state that was done some -- end of November after -- some nine

1 weeks or so after she had access to our property, and
2 our -- everything -- and it -- I don't know. The -- the appraisal said that
3 we had -- my wife had \$200 worth of costume jewelry. She was a
4 favorite customer of Malachi [phonetic] The Jewelers on Industrial Road,
5 who is the jeweler to the stars, and has stores in all of the casinos. She
6 got at least \$2,000 a year worth of jewelry from him, which he can
7 document and verify, but that was gone. That was missing.

8 And there was much more than that. I would value her
9 jewelry alone, rings, necklaces, bracelets, you know, she had a diamond
10 stick pin that was from her grandfather that alone was valued at
11 \$500 -- at \$5,000, and that was -- that appraisal was done before I met
12 her, and that was -- we were married in 1975.

13 So, you know, but the artwork -- two things I would almost
14 consider to be priceless. We had paintings made. We -- I brought back
15 from around the world as a consultant and I traveled a great deal. We
16 had personal property that was quite valuable. We had ceramics. We
17 had dolls. We had wedge wood from -- from England, Hummels from
18 Germany and Gerba. There was a small fortune there in the house, and
19 none of this was on our list of assets that when our appraisal was done
20 by the state. And I -- I didn't get that until very near the end.

21 We're also, we had invoices three of them before we went to
22 court in November of '15 -- three invoices \$8,000 for her and \$5,000 for
23 her attorney that I got sometime a couple of months before November
24 that there had been three invoices. And then the fourth one we got the
25 day that I was award -- that I was sworn in as Kathy's guardian for

1 another 8,000 and 5,000 altogether coming to \$52,000. That's all of my
2 Social Security money essentially. None of it went anywhere else, other
3 than to April Parks, as far as I understand it.

4 And, you know, really, people like this don't deserve to have
5 any freedom. These are the people that we should be putting in jail and
6 should never see the light of day again as a free person.

7 Thank you for your attention.

8 THE COURT: And thank you very much for being here, sir.
9 Any questions?

10 MR. GOLDSTEIN: No questions, Your Honor.

11 MS. BORDER: No questions.

12 MS. WALDO: No questions.

13 THE COURT: Okay. Sir, thank you very much.

14 State, your next speaker.

15 MR. RAMAN: Amy Wilkening.

16 THE COURT: And, ma'am, if you could raise your right hand
17 for me to be sworn. Thank you.

18 AMY WILKENING, SWORN

19 THE CLERK: Please state your full name, spelling your first
20 and last name for the record.

21 MS. WILKENING: Amy Wilkening, A-M-Y W-I-L-K-E-N-I-N-G.

22 THE COURT: And, ma'am, what would you like to tell me
23 today?

24 MS. WILKENING: Your Honor, I address the Court on behalf
25 of my dad, Norbert Wilkening, who is deceased. He was conscripted into

1 guardianship by April Parks and her company, a private professional
2 guardian, despite the fact that my parents had advanced directives that I
3 was to be their power of attorney and attorney for financial and
4 healthcare decisions.

5 My dad was involuntarily removed from his home and was
6 placed in an assisted living facility under the guardianship of April Parks.
7 The alleged need for guardianship, a nurse practitioner, and Parks
8 unqualified office manager Mark Simmons assessed him and
9 determined he had Alzheimer's.

10 In July of 2014 I was notified by a staff member at the facility
11 where Parks had placed my dad that he had fallen and been in Boulder
12 City Hospital for several days. The staff at Lake View Terrace was told by
13 Parks that they would notify me. I was not contacted by anyone at a
14 private professional guardian.

15 At this point, I finally found an attorney to represent me
16 against Parks. When I filed a petition for guardianship, my attorney
17 found out that Parks had never filed an annual accounting or an itemized
18 inventory of assets. We were not given receipts for -- for services she
19 claimed to provide and failed to -- by -- any consistent documentation.

20 When Parks finally provided her accounting, the beginning
21 balance was not accurate. It was full of dubious recordkeeping,
22 overbillings, double billings, questionable hourly rate fees, and services
23 and supplies that she didn't provide.

24 In December of 2014, my husband and I were appointed
25 guardians of the person. Staff at Lake View Terrace began requesting

1 items from that they claimed they had requested multiple times from
2 Parks and her staff, but the requests were ignored. This is when I began
3 to suspect that the contents of my parent's home had not been detailed
4 in an itemized inventory and in storage, as Parks had told me.

5 In January 2015 guardianship of the person and the estate
6 was granted to my husband and myself. After getting full guardianship,
7 a very small box of items was dropped off at my attorney's office that
8 contained a few pieces of jewelry. Per Parks that was all the "valuables"
9 that were saved from my parent's home. Everything else, including the
10 rest of the jewelry, personal belongings, furniture, electronics, and family
11 heirlooms had disappeared.

12 Parks sold my parent's home for under value. She failed to
13 take an inventory of items in the house and then lied saying the items
14 were in storage, but when I took over guardianship I found out that it
15 was all gone.

16 She then lied about that several times, saying that everything
17 was donated. Then everything was discarded. Then everything was
18 abandoned in the home. Then everything was a biohazard, and so on.

19 She never filed taxes on my parent's behalf. My dad was
20 owed thousands in IRS returns, which we had to hire a tax professional
21 to file and retrieve for him.

22 I contested Parks' fees and in October of 2015 Parks agreed
23 to waive her excessive fees that had been in dispute because she had
24 double billed, billed at her hourly rate --- rate -- and at the same date and
25 time billed at the hour rate of another of her employees, billed

1 excessively for travel, billed for visits with my dad that never took place,
2 and billed for items that were not received by my dad like food and
3 clothes. She even billed him to drop off his Christmas gift that and I
4 never saw any gifts from her.

5 In addition, my family was robbed of all their belongings,
6 both necessary and sentimental. Had I been notified I'd have retrieved
7 all their personal belongings.

8 During her deposition with my attorney, when asked about
9 who secured the home, and who had access to the property, she stated it
10 was an employee who no longer worked for her. After being questioned
11 by my attorney, it was revealed that this employee is her husband Gary
12 Neal Taylor.

13 Also, during her deposition, she said that she didn't consider
14 me when she allegedly discarded the belongings of my parent's home. I
15 was deceived by April Parks and her employees, Mark Simmons, and
16 Gary Neal Taylor.

17 Park repeatedly bragged about being an expert guardian, her
18 staff and what a wonderful job she does. She deferred all my inquiries
19 with smooth talk and excuses, yet all the while failed to provide basic
20 necessities.

21 She attempted to hide from me the fact that my dad was
22 hospitalized after a fall, overcharged on her billing, and repeatedly lied to
23 me about the whereabouts of the contents of my parent's home. Parks
24 misrepresented herself by stating she was an officer of the court and by
25 telling me that the paperwork my parents already had in place giving me

1 general power of attorney and power of attorney for healthcare decisions
2 would not hold up in court against a guardianship declaration from a
3 professional guardian.

4 She took advantage of me in a vulnerable situation by using
5 scare tactics like telling me that my parents would not be reunited
6 without the help of a professional guardian. She provided false
7 financials and accountings to the court and perjured herself hearing after
8 hearing. She lied when she said that I never asked for their personal
9 property. She lied when she said there was nothing salvageable in my
10 parent's home. She lied when she said that I was an absentee daughter,
11 who didn't care about my parents.

12 My family was scammed, degraded, and robbed. My dad
13 was never the same after he was yanked from his home, and no
14 consideration was given to him for loss of rights and dignity. The only
15 constant in his life were myself and my husband. The only thing Parks
16 and her employees did was try to exploit him for their personal gains.

17 She defrauded the guardianship system, my parents, and
18 myself for her own benefit. Her and her company's goal was to
19 maximize profits while providing a minimal amount of effort. Destroying
20 ward's lives and stealing everything that they worked for without any
21 empathy or respect for anyone.

22 Although I have received professional counseling, I still
23 suffer from the guilt that I cannot stop initially what happened when
24 parents -- when Parks was appointed guardian. Although I was able to
25 make it right for my dad by hiring my own attorney, and contending

1 Parks in the family court, I still have anger and resentment that my
2 husband and I had to go through a drawn out court battle, during which
3 Parks repeatedly lied about her company's practices and tried to slander
4 me personally. I had to go through all of this just so that I could take
5 care of my own father, which was his wishes all along, and I had the
6 legal documentation to prove it.

7 My husband and I work regular jobs. Each day at court, or at
8 an attorney's office is time away from work, and once we were granted
9 guardianship, we still worked our regular job. We would never would
10 have considered compensating ourselves to visit my dad, or charge
11 travel expenses, or bill him to bring him a gift.

12 I have serious trust issues, and I still suffer from so much
13 anxiety that I've sheltered myself from humanity because this whole
14 situation was an eye opener to how ugly people can be. I can't forget
15 feeling powerless and intimidated. I can't forget realizing the depth of
16 Parks and her employee's manipulation and lies, of realizing they
17 financially stole from my family, and that my parent's assets were gone.
18 I still have nightmares about what happened. I endure more than grief at
19 losing my parents, because I carry the anguish of knowing they were
20 exploited prior to their passing.

21 The fact that is that Parks and her employees are racist
22 predators, who have done anything to keep their lucrative, criminal
23 enterprise operating. And it didn't matter to any of them who they
24 ruined or harmed along the way.

25 I ask for the maximum sentence that can be imposed for all

1 Defendants: April Parks, Mark Simmons, and Gary Neal Taylor. I can
2 come here and speak on behalf of my dad today, but there are many
3 other victims, who have passed away, or who -- who don't have family to
4 come to court and speak for them, please consider them as well.

5 THE COURT: Thank you.

6 Any questions?

7 MR. GOLDSTEIN: No, Your Honor.

8 MS. BORDER: No thank you.

9 MS. WALDO: No, Your Honor.

10 THE COURT: And, ma'am, thank you very much for being
11 here today.

12 MS. WILKENING: Thank you.

13 THE COURT: State, your next speaker.

14 MR. RAMAN: Elizabeth Indig.

15 THE COURT: Okay. And, ma'am, if you could raise your
16 right hand for me so you could be sworn. Okay.

17 ELIZABETH INDIG, SWORN

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

20 MS. INDIG: Elizabeth -- oh, Elizabeth Indig, I-N-D-I-G.

21 THE COURT: Okay. And, ma'am, what would you like to tell
22 me today?

23 MS. INDIG: Hi, Your Honor. First, of all, thank you for giving
24 me the opportunity to speak to the Court today.

25 My name is Elizabeth Dianna Indig, and my mother Elizabeth

1 Indig and I were some of the many victims of the Defendants: April
2 Parks, Mark Simmons, and Gary Taylor.

3 The Defendants April Parks and Mark Simmons came to my
4 home on June 20th of 2012. Defendant April Parks was dressed like a
5 police officer, complete with boots, and a big wide belt, and keys, and a
6 baton, and she showed me a badge very quickly at first. I -- my friend
7 and I asked to see it again, and it clearly said, "Las Vegas Metro" on it.

8 She demanded the keys to my mom's house and mailbox. I
9 told her it was a trust asset and I was not handing over the keys. She
10 was very threatening. She kept saying I will see to it that you rot in
11 prison forever, and I still wouldn't give her the keys. And then she said I
12 will never let you see your mother again, so I handed over the keys and
13 she proceeded to steal everything in the house.

14 One of the first things she did like kind of I thought to show
15 me her power, was she band me from seeing my mom in the hospital.
16 And the excuse given for not letting me see my mom was that I was a
17 danger to my mom because I brought my mom macaroni and cheese
18 from El Pollo Loco because my mom was losing a ton of weight. She
19 was begging me in Hungarian to bring her macaroni and cheese from El
20 Pollo Loco, but that made me a danger to my mom, and I wasn't allowed
21 to see my mom for weeks except for the times I wore disguises.

22 But anyway, my mom -- well, when my mom was a little
23 better, she dumped my mom into a nursing facility. My mom was very
24 angry and upset and maybe a little bit too much to handle, but certainly
25 not enough to warrant what happened to her. She kept wanting her

1 things and -- which unbeknownst to her were already gone and stolen by
2 the Defendants.

3 Well, anyway, to silence my mom, Parks put my 89-year-old
4 mom into Desert Springs Psych Ward for almost one month, retrained
5 and drugged, Your Honor. When my mom came out of there she didn't
6 even know her own name, so it was no longer a problem for the
7 Defendant, April Parks, that she's asking for her home and her things.

8 It was heartbreaking. My mom's social security check for
9 that month was stolen by Defendant Parks as well. Since there was no
10 nursing home charge for that month, she pocketed the social security
11 check and this is why I think so many of her wards are being put into the
12 Desert Springs Psych Ward, because the State is paying for that and she
13 gets to keep the social security checks and the pensions and everything.

14 My mom died all alone in the nursing home in the middle of
15 the night without my holding her hand as I had promised her. The
16 Defendants, April Parks, Mark Simmons and Gary Taylor took a
17 sledgehammer to their moral compasses. These Defendants had evil
18 intent to steal from vulnerable persons using any and all heinous acts
19 necessary to achieve their goals of fattening their wallets. I believe that
20 the crimes committed by these Defendants can be classified as crimes of
21 moral turpitude.

22 I am haunted every single day by the look of terror on my
23 mom's face as she lay dead. She was my only family member left and I
24 am devastated by how she was made to suffer at the hands of these
25 ruthless and cruel Defendants for six years. Even after Judge Steel was

1 kind enough to give them back guardianship, the damage was done. It
2 was too late. She was already stuck in there and her mind was gone
3 from the psych ward at Desert Springs.

4 The only thing that keeps me going is the hope that justice
5 will be served, and these Defendants are given the maximum sentence
6 possible on the few crimes of the hundreds they were not -- of the few
7 crimes of the hundreds they were charged with, not to mention the
8 hundreds that they were not charged with, maybe thousands. The
9 Defendants sentenced my mom to a life sentence in a nursing facility
10 and deserve to be incarcerated for the longest time possible and robbed
11 of their lives as my mom was robbed of hers.

12 Your Honor, I beg of you not to only consider the deceased
13 victims but also the family members of all of the victims, like myself who
14 were victimized as well and who are counting on you to bring us a bit of
15 peace and closure by doling out a punishment that fits these crimes.
16 And also, I really don't want to live in fear of the day Defendant, April
17 Parks, and the rest of the Defendants get out and decide to take revenge
18 on my exposing them and the other people who exposed them.
19 Anything less than the maximum is a slap in the face to all of us
20 victimized by the Defendants.

21 The Defendant April Parks, was such a master of
22 manipulation, that she was able to manipulate doctors, social workers,
23 nurses, judges, employees at Wells Fargo. She was able to manipulate
24 Lloyd's of London either by her manipulation tactics or by paying
25 kickbacks to hospital workers to refer families like mine to her. She is

1 not sorry for her actions. She is only sorry that she got caught. If
2 released, she will most likely victimize many others. Please do not let
3 this happen. Any sentence less than the -- oh, I already said that, I'm
4 sorry. Okay, that's fine. Thank you for your time and consideration,
5 Your Honor.

6 THE COURT: Thank you very much. Any questions for this
7 witness?

8 MR. GOLDSTEIN: No, Your Honor.

9 UNIDENTIFIED SPEAKER: No, thank you, Your Honor.

10 THE COURT: Ma'am, thank you very much for being here
11 today. State, your next speaker?

12 MR. RAMAN: John Denton. I'm sorry, he was here earlier.
13 Barbara Neely.

14 THE COURT: And ma'am, if you can raise your right hand for
15 me so we can be sworn? Thank you very much.

16 BARBARA NEELY, STATE'S WITNESS, SWORN

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

19 MS. NEELY: Barbara Ann Neely, B-A-R-B-A-R-A A-N-N N-E-E-
20 L-Y.

21 THE COURT: Thank you. And ma'am, what would you like
22 to tell me today?

23 MS. NEELY: Human has tried to embrace the moral principle
24 known as the Golden Rule, otherwise known as the ethic of reciprocity,
25 which means they believe people should have the ability to treat each

1 other as they would like to be treated themselves with tolerance,
2 consideration and passion.

3 It's obvious that the individual that forced their way into my
4 life from September of 2014 through now, do not know the Golden Rule.
5 They do not know biblical sense. Do on to others as you would have
6 them do on to you. Today I've been given the opportunity to speak.
7 Therefore, I'm speaking not only as a voice for myself, but for all. We
8 each have our own story. I was made to think I was dysfunctional. I was
9 forced into solitude, drugged so my thoughts were skewed. No family,
10 no friends, no pet, no live possession. And most importantly, no voice
11 and no rights.

12 Everything had been taken away. I was stripped of
13 everything. As a ward of the State and court-appointed April Parks,
14 why? I did not need her. She was not a guardian to me. She did not
15 protect me. She did not help me. Every time I asked questions I can
16 remember going weeks and occasionally getting a telephone return call
17 returned. I can remember after going weeks for not being able to see
18 without my contacts, I mean visually see without contacts and glasses. I
19 requested them. I was told they were in storage. When I asked for my
20 computer, I was told it was in storage. As each day passed, I felt like I
21 was in a grave buried alive.

22 As a ward of the State and court-appointed to April Parks as
23 why? Why was she allowed to become me? Make all my decisions both
24 in health and finances. Why would the Court's allow someone to run
25 my life? Why was I not allowed to attend court hearings? Why did she

1 have my new car voluntarily repossessed? Why was my home sold and
2 the purchase of my new home not followed through with? Was the
3 expectation was I was never to get out from underneath the
4 guardianship? Why was my dog abandoned and not cared for? Why
5 was I given donated clothes to wear? Why was I put in elder care as a
6 woman in her mid-50s? Why was I not heard? Why was my loved ones
7 portrayed as negligent? Why were my contents inventoried sold off?
8 Why was I paying to be where I did not want to be nor needed to be?
9 Why all this enforced solitude? Why was I released from the
10 guardianship with literally nothing?

11 It does not end with the guardianship when it terminated.
12 Try to explain to a stranger over the telephone that you were interested
13 in renting, however, you were in a different city, you needed to be picked
14 up because you have no transportation, you live in an assisted living
15 home, and furthermore, you have no job, no car, no, clothes, nothing
16 except one small bank account and if given a ride to the bank you could
17 rent from him as you tried to recreate a life that was taken away from
18 you.

19 Judge Jones, now in 2019, as I continue to try to reestablish
20 myself, I'm required to have two jobs to do this. I teach full-time and I
21 have a 30 hour part-time job working 11:00 p.m. to 7:00 a.m. And it's
22 another job to just try to reestablish myself when I should be thinking of
23 retirement but there is no way I can. That's a small glimpse of my
24 experience. And I would like to share my sons' impact letter.

25 "Dear Judge Tierra Jones, I write you today to share the

1 impact April Parks, et al., had and continues to have on Barbara A. Neely,
2 my mother and victim of their crimes. In September 2014, I was made
3 aware that my mother was hospitalized in need of care. I volunteered
4 myself but was denied as an appointed guardian as I was not a Nevada
5 resident. I was 25-years-old living in New York City. Whether Nevada
6 state law misunderstandings at the hospital or coercion and submissive
7 tactics by Parks, et al., I was denied the ability to care for my mother
8 because -- and told that I had no other options. Immediately upon enter
9 care with Parks, et al., the mission to sell my mother's home and deplete
10 her bank accounts were under way.

11 "It was communicated to me -- with me to get me to submit
12 to coercion techniques to move the sale forward of her home. I was
13 made to feel powerless and any intent I made to do something other
14 than the guardian's will would hurt my mother and her changes at a
15 normal life. My mom would get no new clothes, toiletries, or necessities.
16 The trauma and pain that Parks, et al., created on top of all the already
17 difficult situations is hard to relive. For me, the experience has forever
18 reshaped my relationship with my mother. I felt powerless to help and
19 protect her. Parks created the conditions of isolation and no contact
20 between us. I knew they would charge exuberate sums that would come
21 from my moms' accounts with everything from a phone call with a ride
22 to church for her. I truly didn't want that to happen to her.

23 "I ask the Court to uphold the maximum sentence for all the
24 individuals in this case. My mother joins the Court today as a brave and
25 strong woman. While healing is an ongoing process, justice is an

1 integral part of the closure along that journey. Please consider our story
2 when you make your recommendations for punishments. Park and all
3 deserve to spend every day permissible behind bars. They deserve to
4 know the pain of isolation and powerlessness just as they have created
5 for others. I ask this in the name of justice and fairness. Ross
6 Thomason, son of Barbara Ann Neely. "

7 I'd like to read a friend's letter, Pam. "Dear Judge Tierra
8 Jones, my name is Pam Schilling and I live in Arkansas, but I had been a
9 friend of Barbara Ann Neely since 1996. She was my professor in
10 college and then became my work colleague at Southwest Airlines."

11 THE COURT: I'm sorry, Ms. Neely, I'm going to cut you off.
12 But did she also write this letter and send this letter?

13 MS. NEELY: Yes.

14 THE COURT: And it's included in your packet, because I've
15 read this letter?

16 MS. NEELY: Yes.

17 THE COURT: Okay.

18 MS. NEELY: Should I continue or not?

19 THE COURT: Yes, you can go ahead and continue. I just
20 want to make sure that it's the same letter we're referring to?

21 MS. NEELY: Yes, ma'am.

22 THE COURT: Okay.

23 MS. NEELY: "Ann shared her story with me two years ago
24 when we reconnected. She was ashamed about all the things that had
25 happened to her and was afraid to share with me. She went two years

1 not calling nor wanting to get in touch with me thinking I might not
2 believe her. After much crying and praying, I let her know that no matter
3 what I would be here for her. She began to open up more and more as
4 she could talk about it. Needless to say, I was totally deflated at her
5 story of what she had been through. I couldn't wrap my mind around it.
6 She is still weary that information be known in the small towns that she
7 lives in now and her reputation ruined.

8 "She has only shared with a handful of people who she
9 considers close to her. I'm appalled at the things that April Parks and her
10 comrades have done to my friend. Ann has always been a hard worker
11 and has worked for everything she has ever gotten. She has always
12 been the one to help others as best she can. She's now having to work
13 two jobs to make ends meet because she was left with nothing
14 compared to the things that she had accumulated over her lifetime. All
15 the people responsible for the lies of her health, bleeding ulcers, the lies
16 of property and overbilling the doctor's bills should be severely
17 punished.

18 "If they're allowed to not pay their penalty in jail, they should
19 be made to work and give back the monies that they took from the
20 people the defiled. They should be made to pay for the pain and
21 suffering that my friend, Ann, and others have suffered at their hand.

22 "This is really scary that people like them got away with so
23 much before they were caught. I am so proud of Ann that she has come
24 a long ways from the time they had taken from her. She's a full-time
25 schoolteacher by day and works at least 30 hours a week as a condo

1 manager at night. She should be able to enjoy some of her time as she
2 will be soon close to retirement for school, but probably not as she will
3 continue to build her life back that they took from her.

4 "I pray April Parks and all the other individuals involved
5 should get their just punishment from the law and I pray the Court's in
6 Nevada punish them to the fullest extent. Thank you, Pam Schilling."

7 And I have one last I would like to read, but I do have others,
8 but I'd ask to just read one more.

9 THE COURT: Okay.

10 MS. NEELY: Another friend's letter, Nick. "Dear Honorable
11 Judge Tierra Jones, I've had the pleasure of knowing Barbara Ann Neely
12 Ann for 24 years. Ann has been there for me through my life's ups and
13 downs. To say that I felt powerless throughout the time the Defendant's
14 controlled Ann's life is an understatement. I was not able to be there for
15 her as she has always been there for me.

16 "My calls to April parks requesting information were
17 repeatedly ignored. The Defendants' unconscionable acts that have Ann
18 scared are beyond repair in the worst and most fertile times in her life
19 instead of being cared for. She was abused by the Defendants. April
20 Parks intentionally disregarded her duty to protect Ann by ignoring a
21 case worker report that Ann had requested information as to how she
22 could be released from the guardianship. April ignored this request for
23 30 days. April was awarded the State for 150 -- Ann was a ward of the
24 State for 115 days at such dis-request for 30 days ignored. Ann was a
25 ward for the State, a total of 115. As such, more than 1/4th of the time

1 Ann was forced into having her rights taken away. It could have been
2 eliminated had April acted on her duty to protect Ann.

3 "In addition to the emotional impact, the financial impacts of
4 the Defendant's actions have devastated Ann. Her life savings had been
5 depleted. Ann's jewelry and other items that she collected throughout
6 her life have not been found to this day. These are the same valuables
7 that the Defendants were hired to protect. In addition, the fees charged
8 by the attorney April hired to sell Ann's home was beyond unreasonable.
9 The sale of Ann's home was not in her best interest, but the Defendant
10 saw it's another scheme profit from. These are just a few examples.

11 "The Defendants' crimes have affected Ann ways too
12 numerous to count. I'm asking Your Honorable Judge Tierra Jones that
13 the Court sentence the Defendants to the maximum sentence allowed by
14 law. I pray the Defendants never have an opportunity to destroy another
15 person's life. Respectfully, Dick Engle."

16 So lastly, Judge Jones, I thank God on a daily basis I had the
17 mental capacity to fight my way out. I'm here today while others are not.
18 I ask today that the maximum allow both punishment by law be imposed
19 on each of these individuals known to their chosen actions. Not to
20 mention the known actions. I too, ask that the Court continue to
21 investigate guardianship regulations. Overall, I feel the system failed
22 each of us. We were not protected. We were the victims. Thank you.

23 THE COURT: Thank you, very much. Does anybody -- do
24 you have any questions?

25 MR. GOLDSTEIN: No questions.

1 UNIDENTIFIED SPEAKER: No thank you.

2 THE COURT: And ma'am, thank you very much for being
3 here today. State, your next victim?

4 MR. RAMAN: Scott Belshe.

5 THE COURT: Okay. Okay, sir, if you'd come forward.

6 SCOTT BELSHE, SWORN

7 THE CLERK: Please state your full name spelling your first
8 and last name for the record.

9 MR. BELSHE: William Scott Belshe, W-I-L-L-I-A-M B-E-L-S-H-
10 E.

11 THE COURT: Thank you, sir. And sir, what would you like to
12 tell me today?

13 MR. BELSHE: Well, Judge, I'm here as a witness. My father
14 and mother-in-law was kidnapped by these Defendants, taken out of
15 their home and not even put a note on their door until taken over a
16 holiday weekend. Which subsequently on the fourth day there was a
17 court hearing, which nobody is notified about. Well, the deliberate
18 intentions that these Defendants did and the stifling that I've watched
19 them do to Adolfo Gonzalez, people that were -- I don't even see them on
20 this board, but there were at least eight other at Lakeview when we
21 finally did recover my in-laws that were just grabbing my wife and I by
22 the arms pleadings us for help.

23 And as days gone on, and we seen their actions, because we
24 couldn't believe what we had stumbled into, this woman would stand
25 over these people and just look at them. It was terrible. They're fighting

1 for their lives. They're telling us not to take the medication, not to have
2 our in-laws take the medications. Everything we could do to stay with
3 our in-laws 8 to 10 hours a day for the first week or so just so they could
4 recoup because they were in the fetus position when we found them.
5 They don't have any of the things that they had. If it wasn't for us, they
6 wouldn't even let them show up in court. We demanded that. And when
7 the cahoots -- I don't know why there's a lot of other Defendants over
8 here. It's unfortunate. We're very pleased to see that we do have
9 somebody over here.

10 And the deliberate intention, the intentional harm that she
11 would put on people, not to mention people -- their pets. Adolfo had five
12 pets and the new Yorker they had mentioned that he was returned and
13 reunited with his dogs, no. He got a couple other dogs when he finally
14 got home. But to the day that he died, Blacky, we got really close with
15 him. He was really tight with this dog. And I got pets. Come on, nobody
16 does anything like that.

17 And there's no remorse that I see or have in the five years
18 that we worked with these people. It was walking on eggshells just to
19 get around. It took my wife over two years to fight this to get her
20 appearance. Why? We should up in court. Why would it take any time
21 at all? It's a no brainer. Family first.

22 So, the maximum sentence is not enough as far as I'm
23 concerned. I would appreciate that you would at least consider that and
24 please allow that -- us to have a little bit of peace of mind that this
25 women and her crew and rows and rows of every other, because I've

1 mentioned her and a few other names of people that have testified and
2 were in cahoots with the guys, which should be in jail with them. So,
3 other than that, these guys get out. They already have a crew already
4 assembled. Let's please stop this. This has got to stop. And even with
5 this sentencing, it's just not enough.

6 Nothing can bring back what the damage that this woman
7 has done and her family. And her and Mark Simmons, the way they
8 would stand over the people and tell them you're not going to see your
9 family today or you're going to be trespassing or we're going to sue you
10 for being a vexatious litigant and being supported by the courts. It's just
11 unheard of.

12 So, at least we can count on -- we're very grateful for our
13 attorney general or the district attorney and the work that they have
14 done, and we trust that the Court is going to help us. Thank you very
15 much.

16 THE COURT: Thank you, sir. Thank you for being here.

17 MR. GOLDSTEIN: No questions.

18 UNIDENTIFIED SPEAKER: Nothing.

19 THE COURT: State, your next speaker?

20 UNIDENTIFIED SPEAKER: Julie Belshe.

21 THE COURT: Okay, Ms. Belshe. And ma'am, if you could
22 raise your right hand to be sworn. Thank you.

23 JULIE BELSHE, SWORN

24 THE CLERK: Please state your full name spelling your first
25 and last name for the record.

1 MS. BELSHE: My first name is Julie, J-U-L-I-E, Lynne, L-Y-N-
2 N-E, Belshe, B-E-L-S-H-E.

3 THE COURT: Thank you very much, ma'am. And ma'am,
4 what would you like to tell me today?

5 MS. BELSHE: Well first, thank you, Your Honor, for allowing
6 me to speak. I first would like to read something that my mom would
7 like to say. She was one of April Park's wards. She's an elderly woman
8 and she now has terminal cancer, so she's not able to be here today.

9 THE COURT: Okay.

10 MS. BELSHE: "Dear Judge Jones, I speak for not only myself
11 and family, but for the hundreds of wards that this Defendant and
12 Defendants caused a great deal of harm to their wards, even death. This
13 isn't caring or compassionate human being. All she cared about is me,
14 myself, and I. The Defendant took great pleasure in controlling my life
15 and my husband's making us feel like prisoners with no rights. The
16 Defendant's only goal was greed. Nothing would stop this Defendant
17 from bullying the elderly and their families around with a smirk on her
18 face like she actually got off on it.

19 "This Defendant truly is a devil in disguise. I pray that this
20 Defendant and Defendants are never set free and live just how they
21 treated their elderly, like second class citizens, prisoners, Nazi
22 concentration camp victims. It is my pleasure to see the Defendant who
23 stole my life and my husband's and my daughter's and our family's life
24 rot and hurt in front of everyone. This is a selfish and inhumane person.
25 This Defendant stole my life, my husband's life and my beautiful

1 daughter and family's life for years. Nobody should have the right to
2 treat another human being so inhumanely, including their animals that
3 were euthanized.

4 "This Defendant took not only my memories from my home,
5 my money, but almost succeeded in killing me. I was a 180 pounds and
6 wheelchair bound, blood clots, in and out of the hospital, over medicated
7 to the point of not being able to move all due to the Defendant, April
8 Parks, and doctors that were making my mom sicker. I spent quite a bit
9 of time in the hospital and I was close to dying several times. I had
10 many friends that were the Defendants' wards at Lakeview Assisted
11 Living Facility that have lost their lives. And they are here to tell you,
12 Your Honor, how horrendous all of her treatment was.

13 "Under the Defendant's supposed fraudulent guardianship, I
14 can never get back these years. But thanks for my daughter Julie
15 fighting for me and my husband's rights being restored we are now
16 living, and we are able to create new memories with our family. People
17 that hurt other people for their own monetary gain should be in prison
18 for the rest of their lives. Please, Your Honor, I pray for the maximum
19 sentence for all of the Defendants, but especially for the main Defendant,
20 April Parks. Let her die behind bars with no rights like she let hundreds
21 of people die without their life, liberties, or their ability to pursue
22 happiness. Shame on this Defendant, April Parks, and Defendants for
23 taking a life, robbing so many innocent elderly people and families from
24 living a good life.

25 "There are really so many experiences that have lead me to

1 this point of knowing if this Defendant is let out she will harm innocent
2 people again. Thank you, Your Honor, for allowing me a most horrifying
3 experience of my life." And this is from my mom, Rennie North.

4 The second one is from my son. My youngest son who was
5 15 at the time that this happened and disrupted our entire family. "Ever
6 since I've been a kid, my mom and dad made it clear that family is first.
7 This all started with some very bad people that do not care if they kill
8 others. My grandparents used to come to my football games when I was
9 a kid. I used to love visiting my grandparent's house all the time then
10 out of nowhere they were gone. One thing that really bothers me is how
11 smart these Defendants think they are. They're very sick people.

12 "I don't want to get into everything, but this is crazy. They
13 completed destroyed my family for a couple years. They stole life from
14 my family. It's just so great my family is so strong. They can do
15 whatever they want but at the end of the day there's a God and there's
16 angels and they're watching over us. I have overcome this tragic course
17 of events because of my parents. Now it's time for redemption. It's not
18 okay for the Defendant to ruin people's lives and get away with it. How
19 many storage units did this Defendant really have? After the police
20 found 27 urns in one storage unit of people's loved ones.

21 "I met a man named Harold Lockwood who is one of the
22 Defendants' wards. He used to live Carmel, California and he was the
23 board with Clint Eastwood. Harold Lockwood moved out to Las Vegas,
24 Nevada as a chiropractor. He moved out here to retire and he was taken
25 by April Parks, the Defendant. He was telling me how all he wanted was

1 to golf. This is an act of torture. My grandparents were put forcibly into
2 an assisted living facility and came out transformed like they had been in
3 a Nazi Hitler camp. My grandparents looked like they had been stripped
4 of life. The worst part is they involved my mom and dad. No one has
5 the right to destroy someone's family, their loved ones. This doesn't
6 make sense.

7 "The Defendant, April Parks, and anyone involved
8 intentionally were destroying my families' lives and many other families'
9 lives. This again, doesn't make any sense. To take someone's family
10 member is an act of torture.

11 I went to my grandparent's home with my parents and the
12 Defendant locked up their home without giving my mom notice of
13 removing them from their home. Why would they throw all of my
14 grandparent's personal belongings away? For example, their 60-year-
15 old wedding album. My deceased Uncle Randy's art portfolio and
16 personal drawings. All of our family memorabilia was left in Hefty trash
17 bags on the sidewalk.

18 "Thank God my parents got there in time before it was gone
19 forever. Anything worth value is gone from my grandparents. My
20 family's lives were stolen in a way. All of our relative's belongings were
21 taken that were supposed to be enjoyed with our family. The only way
22 for this Defendant any anyone involved to give our family any sort of
23 justice would be for them to all serve the maximum amount of time
24 behind bars. Thank you, Your Honor, and please know that your
25 decision means a tremendous amount to my family and to many families

1 and to all the other victims that have been impacted by this tragedy.

2 "An act of crime, hate, human cruelty, there is nothing worse
3 than taking one's family member and isolating them. They're all family
4 members. My mom and dad went to see my grandparents at the
5 assisted living facility and the Defendant then called the police and the
6 police wouldn't let my parents see my grandparents. The Defendant
7 went on to tell my mom that she has the police and the fire department
8 by her side. My mom still fought every way she could, which meant my
9 mom dedicated her life to get her parent's life -- to get her parent's out of
10 the Defendant's reach.

11 "My grandmother gained over 70 pounds over 22 months
12 under the care of the Defendant. My grandmother told me they would
13 force her to take these medications and she couldn't move at all. I'm 20-
14 years-old and this has hurt and impacted my families' lives
15 tremendously. The only justice is for these Defendants to get the
16 maximum sentence and everyone involved needs to put behind bars for
17 a very long time before they hurt more innocent people. Let's define
18 cruelty as acts that cause intentional suffering, destruction or damage to
19 be for the benefit of aid." And that was by my son, Aaron Belshe.

20 The last five years have been a true test from God. In 2013
21 on Labor Day weekend my parents were illegally kidnapped from their
22 home in all false pretenses. I was never notified by the Defendant, April
23 Parks, and this was declared an emergency temporary guardianship, but
24 she waited two weeks until appearing at my parent's front door stating
25 that she was an officer of the court. She gave them three options to

1 forcibly remove my parents from their home.

2 I spoke with my mom the day before she had to leave her
3 home for the rest of her life, and we had plans to visit just like every
4 other day or every year before the kids would go to school we'd go out
5 to dinner with our family and my parents would give them a check for
6 clothes and we would wish them well for school. I phoned their home
7 and the cell phone there were signs on August 30, 2013, and nobody
8 answered. I immediately drove out to their home and nobody was there.
9 The newspaper was lying on the doormat. That was my dad's thing, the
10 first thing he did in the morning was he went to the bathroom and he got
11 his newspaper. So, that was a sign -- the first sign I had that entered me
12 into this horrifying existence.

13 My dad -- my parents were at their own home minding their
14 own business when they were taken from their life and never to be
15 returned to what they once called their home. How in the world can this
16 Defendant, April Parks, have ever thought she possessed such a power
17 to kidnap my parents or anybody else?

18 THE COURT: Ma'am, I'm sorry. I just have to ask that you
19 direct your comments towards me.

20 MS. BELSHE: I will. I'm sorry, Your Honor. A guardian is
21 supposed to protect and preserve a human being that is incapacitated.
22 This Defendant did the exact opposite for her own personal gain. I met
23 plenty of the Defendants' ward who pleaded with me to help them. Each
24 and every time I went to visit my parents at the assisted living facility,
25 the Defendants' wards were so scared to talk. And one could tell they

1 were being controlled and it was like they were like slaves, like they were
2 so fearful. Maria Long, Marlene Homer, they were creeping around in
3 the assisted living facility. They were so fearful of this Defendant.

4 Adolfo Gonzalez, who is no longer here, he was so fearful.
5 When he finally got out of guardianship I went to have lunch with him
6 over at his home. We came out on the driveway and he said, you know,
7 I'm so glad I could see you on the other side. You know, we survived
8 this. He since has passed, and his caretaker has since passed.

9 It was so overwhelming to experience and watch this
10 Defendant bark orders to her wards and treat them so inhumanely. I
11 couldn't wrap my mind around the evilness of her soul. I've never
12 experienced such a cold hearted person in my life. I've always believed
13 that every human being deserves a chance and that we all have good in
14 us. After meeting the Defendant, April Parks, Marks Simmons, Gary Neal
15 Taylor, I truly started questioning all my beliefs and I realized some
16 people are just evil to the core and they don't have compassion, love in
17 their hearts, or any warmth in their soul.

18 The Defendant attempted to terminate my parent's lives and
19 destroy my family. The Defendant walked around as if she was a mini
20 God toying with people and their families as she laughed while I cried. I
21 will never forget the ugliness of this soul. Standing next to her makes
22 me shake. There is truly something wrong with a human being when
23 they lack empathy or compassion. There's a term. It's called sociopathic
24 behavior. I dedicated my life to free my parents from the Defendants'
25 clutches and to make sure that she and her partners can't hurt another

1 innocent soul. I now am dedicated to working around the world to help
2 people in similar situations that have lost all of their human rights to
3 another person.

4 This has been the hardest experience that any family could
5 ever go through in their life. It's like waking up and knowing that your
6 family members are slowly being tortured. There is nothing you can do
7 to help them. I surely wasn't about to give up that easy. During that
8 time so that you can understand the emotional toll it takes on all of our
9 families, and the families that suffer, they get sick with serious illnesses
10 and they're seeing psychiatrist. They are getting no justice. So, this
11 consumes not only the ward but their family down to the children, down
12 to the grandchildren, grandchildren that are 3 or 4-years-old know this
13 Defendant's name and what is going on.

14 After all to see people day in and day out begging to be
15 released from this Defendant and only wanting their basic human rights,
16 it was very distressing. I would sit and bring cookies and each lunch
17 with the wards while giving them hope to get through the day. The
18 Defendant made the wards feel like prisoners that had no rights while
19 she made an extravagant life for her family. How in the world can
20 anybody look at their self in the mirror every day and be okay with
21 harming another human being for their own financial gain is beyond me.
22 I've truly come to realize that some people just don't care, and I believe
23 the Defendant, April Parks, is definitely not capable of caring for another
24 human being.

25 For 22 months it took me to free my parents who were left

1 with basically nothing but their souls, which is more than most of the
2 Defendants' wards were left with. I could go on and on but it's not
3 necessary. I carried out in defending my parents pro per se but not one
4 attorney would take this case or wanted anything to do with it or the
5 family court. This amazed me that nobody wanted to help me get my
6 parents out of this Defendant, April Park's clutches. So I continued on
7 for 22 months and they were finally set free with their rights restored.

8 I continually wondered how nobody would want to get
9 involved and now I know why, it's a form of human trafficking. For the
10 nation and the monies to break for one attorney to want to get involved
11 in stopping the cruel and inhuman way of treating our elderly, disabled,
12 and children, I do believe that helped to shine a light on the corruption.
13 But I also know that the elderly, disabled, and children continue to be
14 trafficked and used for monetary purposes.

15 Even with that being said, for the Defendant to knowingly
16 participate in hurting human beings without any remorse proves that she
17 is a sociopath and has manipulated all of the people around her. This
18 proves how dangerous she is to our society and how nobody can stand
19 in her way if she is ever freed into our society again.

20 It could easily be one of your family members or friends if
21 these Defendants are freed ever. The years that the Defendant has taken
22 from not only my family but from so many families and the scarring of
23 the souls is forever. How well we heal on a daily basis, some people will
24 never be that fortunate to have that opportunity to go public because of
25 the bullying and defamation and the simple fact that they're not here

1 because of what has taken place from these Defendants.

2 This Defendant was taught illegal criminal game to make
3 money off hurting people and taking over their person and estate. I'm
4 deeply hurt to this date when writing this and sharing this to the public.
5 My one and only hope is that the public is made aware of what has been
6 a tragic and out of control business called legal guardianship. I really
7 have nothing to say to these Defendants as they have no souls and no
8 capacity to allow this in. These Defendants aren't smart at all, but are
9 very sick. And I pray are put behind bars for life, so they don't ever have
10 a chance to manipulate and hurt a single soul for as long as they live.

11 The choice is up to Your Honor, and I could go on and on
12 about how precious families are and family lives. Today, I trust you,
13 Your Honor, that you will give the Defendant and Defendants the
14 maximum sentence. I thank you in advance for allowing me to speak my
15 mind and God bless all of the wards in the world that have no voice,
16 have died under guardianships and families are deeply suffering. I will
17 go on for the rest of my life and educate people in how to prevent being
18 put under guardianships and have their life, liberty, and pursuit of
19 happiness stripped away from them. Thank you, Your Honor.

20 THE COURT: Thank you. Any questions?

21 MR. GOLDSTEIN: No, questions, Your Honor.

22 UNIDENTIFIED SPEAKER: Nothing.

23 THE COURT: Okay. And ma'am, thank you very much for
24 being here today. State, your next speaker?

25 MR. RAMAN: Your Honor, before we call Mr. North, can I

1 just scan the courtroom one more time for Mr. Denton, John Denton. I
2 thought he had checked in. In that case, we're going to call Rudy North.

3 THE COURT: Okay, Mr. North. And, sir, if you could raise
4 your right hand for me so you can be sworn?

5 MR. NORTH: I can stand.

6 THE COURT: Okay. Can you raise your right hand so we can
7 swear you in?

8 MR. NORTH: I'm sorry.

9 THE COURT: It's okay.

10 MR. NORTH: I don't hear very well either.

11 THE COURT: It's okay.

12 RUDY NORTH, SWORN

13 THE CLERK: Please state your full name spelling your first
14 and last name for the record.

15 MR. NORTH: Rudy North, R-U-D-Y N-O-R-T-H.

16 THE COURT: Okay. And sir, what would you like to tell me
17 today?

18 MR. NORTH: I'm happy to see you again. I saw you before.
19 May I call you, Judge?

20 THE COURT: Yes, please.

21 MR. NORTH: I listened as best I could to what went on with
22 this lady. The Defendant has been at this craft for over 12 years. That
23 means that a lot of people have passed. That means that millions and
24 millions of dollars of assets have been taken. That means that the only
25 thing I can think of when I get into things of this latitude is I feel that

1 somehow this is biblical. And when I say biblical, I'm talking about
2 you're looking at Lilith [phonetic], Adam's first wife. Not Adam and Eve,
3 but Adam and Lilith. And she's of the old Bible and she's the one that
4 was stealing babies. She stole the elderly babies is who she stole.

5 I listened to a gentlemen talk about, how he trusted. Adam
6 trusted also. But God fixed it and that's why we're here today. I would
7 rather not be here today. I would rather be home watching my favorite
8 programs or reading a good book. But thank you for inviting me. I really
9 appreciate that.

10 God banished Lilith. He didn't say here's 10 years in prison
11 or here's 5 years over here. He banished her forever. This lady should
12 be banished. That's how serious her crimes are. The crimes are
13 heinous. There's no need for me to amplify what she's done. She stole
14 millions of dollars. She accelerated the death of people. Is that a blue
15 collar, a white collar crime? What is that? What collar is that? I have no
16 idea. When Gandhi said that if you have a strong heart you can forgive.
17 My heart is not that strong. I can't forgive her. This is again, this is
18 Lilith.

19 I once questioned her, the Defendant, about how she felt
20 about these deaths that she's accelerated. And you know what her
21 answer was? You're born with an expiration date. How dare she say
22 such a thing. I go to the market and if there's an expiration date on the
23 food at all -- but humans are not born with an expiration date, but that
24 makes everything okay for her.

25 Further to that point, she talks about siding with different

1 ways of living at all. No doubt about it in my way of looking at her, she
2 says one thing to me, she really believes in the dark parallel sides that
3 some of us believe in, narcissism, psycho and Machiavellianism. I
4 remember talking to one of the people who lost his wife and he said to
5 me in my dreams, and by the way, I met him and two weeks later he was
6 dead. This was in an assisted living home. He says, in my dreams, you
7 know what bothers me, Rudy, he says I lost my wife of 50 years, but I see
8 her nude in the naked. He says that's the way she was buried. That's
9 beyond me. And he said that he was a man of some means and all.
10 Obviously he had enough money to buy clothes.

11 So, I say the same thing to the people here today. If you
12 dream tonight, see if you can live with that, where your mother or your
13 father or your brother or your sister or your child is buried in the nude or
14 in the naked. See if you can live with that. I can't live with it. I won't live
15 with it. And by the way, my wife has lymphoma. She has number four,
16 so she's having a problem.

17 I say this to you, to wrap it up. This is completely Hitlerian
18 [sic]. This is Hitler. That is Hitler. That is Hitler. And there is Hitler who
19 talks about --

20 THE COURT: And sir, can you just direct your comments
21 towards me? You're not allowed to address them. You can only address
22 me.

23 MR. NORTH: Sorry, forgive me for that.

24 THE COURT: That's okay.

25 MR. NORTH: The decorum of the Court is important to me.

1 Please understand that. That is Hitler. He is Hitler. He talks -- her
2 husband talks about two years he hasn't seen his children and this and
3 that. I remember him telling people not to worry about life and all that
4 type of stuff just like she did. She's completely brain washed him so he
5 can say exactly the same. And Mark is the same way, they're all the
6 same. This is a racket. She was the head of the racket. She goes and
7 she asks you for leniency. Don't give her leniency. Banish her from
8 what we live in every day that we live. She does not have the right to be
9 here.

10 And I'll close with this, it was very simple during the World
11 War II when the Jews were in their terrible death beds. They asked,
12 where is God? Where is God? Where is God? And that wasn't the
13 problem. It was where is man? Where is man? I ask you to be that man
14 if I may. Thank you.

15 THE COURT: Thank you, sir. Any questions?

16 MR. GOLDSTEIN: No, Your Honor.

17 THE COURT: Okay, sir. Thank you very much for being here
18 today. State?

19 MR. RAMAN: I believe that's our final victim speakers.

20 THE COURT: Okay. Okay, so we've heard from all the victim
21 speakers. Well, first and foremost, one of the first things I wants to say is
22 after hearing everything that I've heard here today, I mean I really wish
23 that there was something that the Court could absolutely do 100 percent
24 right the wrongs that have happened here as well as eliminate the
25 suffering that has been incurred by so many people. And it's a very

1 unfortunate situation because no matter what happens here today, we
2 are not going to eliminate the suffering that has happened or the wrongs
3 that have been done to so many people. I mean, there are just so many
4 lives that have been affected by what has happened here today. And not
5 -- I'm saying what happened here today, but what I've heard about
6 today, these are acts that have occurred over several years and families
7 that have been involved in this for several years.

8 The first thing is, State, in regards to the restitution. I know
9 that there are some of these victims who might have estates who have
10 been deceased, so would you prefer that the restitution be ordered by
11 the victim number in the PSI or by the names that are listed in the
12 indictment?

13 MR. RAMAN: Traditionally, I would ask for the names.

14 THE COURT: Okay.

15 MR. RAMAN: However, the PSI has not aided the Court in
16 that endeavor.

17 THE COURT: Well, the PSI goes exactly in order as you do
18 on your documents, but I just didn't know because some people may
19 have estates, or some people may have had things that have occurred.
20 Even since the filing of this indictment or prior to that, so whichever you
21 would prefer to make sure that any money that is paid will be returned to
22 the proper entity.

23 MR. RAMAN: We would prefer the names, Judge.

24 THE COURT: Okay. All right. So, we're going to take the
25 sentencings in the order of who is the least culpable in all these acts. So,

1 Mr. Neal, we are going to start with you. If you could please stand.

2 SENTENCING

3 THE COURT: Mr. Neal, in accordance with the law of the
4 State of Nevada, you're going to be adjudicated guilty of exploitation of
5 an older or -- exploitation of an older vulnerable person. In accordance
6 with the laws of State of Nevada, you're going to be sentenced to a \$25
7 administrative assessment fee, \$150 DNA testing fee, a \$3 DNA
8 assessment fee, \$2,281.90 in extradition. And you are going to be
9 ordered to pay restitution as follows. And madam clerk, the restitution
10 will be the same for all Defendants.

11 You will be ordered to pay \$3,820.14 to Clyde Bownan. You
12 will be ordered to pay \$5,134.40 to Delmond Foster. You will be ordered
13 to pay \$6,346.30 to Delores Smith. You will be ordered to pay \$4,528 to
14 Harold Lockwood. You will be ordered to pay \$6,032.50 to James Poya.
15 You will be ordered to pay \$4,766.37 to Janice Mitchell. You will be
16 ordered to pay a \$5,766.75 to Juanita Graham. You will be ordered to
17 pay \$11,582. 40 to Marlene Homer. \$2,705.39 to Mary Vitek. \$4,533.20
18 to Norbert Wilkening.

19 You'll be ordered to pay \$167,204.49 to Dorothy Trumbich.
20 \$1,413.60 to Adolfo Gonzalez. \$3,804.49 Carolyn Rickenbaugh. \$2,830.50
21 to Gloria Schneringer. \$2,622.62 to Kenneth Edwards. \$5,806.97 to Roy
22 Franklin. \$6,262.48 to Marilyn Scholl. \$10,708.45 to Mare Long.
23 \$2,074.80 to Rennie North. \$5,563.60 to Patricia Smoak. \$2,016.30 to
24 Rudy North. \$13,180.67 to Ruth Braslow. \$4,183.08 to Walter Wright.
25 \$9,470.80 to William Brady. \$4,870.61 to William Flewellen. \$3,699.28 to

1 Yoshiko Kindaichi.

2 \$15,068.18 to Normal Weinstock. \$6,920 to Maria Cooper.
3 \$4,290 to Kenneth Cristopherson. \$5,396.40 to Joseph Massa. \$2,497.20
4 to Blanca Ginorio. \$1,049.70 to Daniel Currie. \$4,301.20 to Rita Lamppa.
5 \$895 to Barbara Neely. \$3,819.60 to Audrey Webber. \$32,006.72 to
6 Baxter Burns. \$3,445.26 to Linda Phillips. \$4,807.61 to William
7 Flewellen. And \$25,278.57 to Mary Wood and/or John and Sally Den.
8 That is a grand total of \$559,205.32. And that will be paid jointly and
9 severely with your co-defendants, April Parks and Mark Simmons.

10 And I mean I have to say the things that I've heard here today
11 are just absolutely horrendous, the things that have happened to these
12 people. The things that were taken from these people in regards to their
13 personal information and things that can never be returned. If each and
14 every one of you paid them this half a million dollars that's owed to
15 them, they still can't get their family heirlooms back. They still can't get
16 the art projects that were done by family members who are now
17 deceased. They still will never be able to overcome opening up a
18 storage unit and seeing that in a storage unit. It is just absolutely
19 horrendous. And to hear from the people who actually are able to be
20 here today who actually went through this is just absolutely devastating
21 to hear what these people have actually had to survive.

22 And taking everything into account, Mr. Taylor, I'm going to
23 follow the negotiation you made with the State and you will be
24 sentenced to 24 to 60 months in the Nevada Department of Corrections,
25 and you have 668 days credit for time served.

1 MR. RAMAN: Thank you, Your Honor.

2 THE COURT: Thank you. Mr. Simmons, in case C321808,
3 Mr. Simmons, everything I've previously said also applies to you. I
4 mean, it is just shocking to me that these things occurred and that they
5 occurred over such an extensive period of time. And earlier today when
6 your attorney was speaking, she said, common sense should have kicked
7 in. And I think she's absolutely correct about that and that did not
8 happen in this case.

9 So, regardless of what you're claiming to have known or
10 what you're claiming to have not have known, at no point did your
11 common sense kick in and let you know that this just was not okay. It
12 was not okay for these people to be taken away from their families and
13 not allowed to see their families. It's not okay. Somebody actually
14 referenced seeing you present at some of these assisted living facilities
15 where these people are being threatened and where these people are
16 not allowed to interact with their families and do any of the normal
17 things that are just considered being part of a normal life and that's just
18 not normal. And it doesn't take any sort of caregiver or any sort of
19 certification for any of us to know that's not normal and that's not
20 acceptable.

21 In accordance with the laws of the State of Nevada, you're
22 going to be adjudicated of guilty of Count I, exploitation of an older
23 vulnerable person; Count II, theft; and Count III, perjury. In addition to
24 the \$25 administrative assessment fee, the \$150 DNA testing fee, and the
25 \$3 DNA assessment fee, you are ordered to pay restitution as I

1 previously stated to be ordered jointly and severely with your co-
2 defendants, April Parks and Gary Neal Taylor.

3 On Count I, you're going to be sentenced to 48 to 120 months
4 in the Nevada Department of Corrections. On Count II, you'll be
5 sentenced to 36 to 96 months in the Nevada Department of Corrections.
6 Count II will run consecutive to Count I. On Count III, you will sentenced
7 to 12 to 48 months in the Nevada Department of Corrections, and that
8 will run concurrent to Count II for an aggregate sentence of 84 to 216
9 months in the Nevada Department of Corrections and you have 668 days
10 credit for time served.

11 In regards to your other case on C329886, you're going to be
12 adjudicated guilty on Count I, exploitation of an older vulnerable person.
13 In addition to the \$25 administrative assessment fee, I just ordered your
14 DNA in the other case, so it's waived in this case. The \$3 DNA testing
15 fee, you're going to be ordered to pay \$1,719.50 in extradition costs. The
16 restitution will be as previously stated in the other case, but the
17 restitution will be concurrent between the cases. You'll be sentenced to
18 48 to 120 months in the Nevada Department of Corrections. And you
19 have 325 days credit for time served. With this case and that case will
20 run concurrent to C321808.

21 MS. BORDER: And I apologize if I missed it. Towards that
22 first case he has that 668 days?

23 THE COURT: Yes. You guys told me his credit was 668.

24 MS. BORDER: Thank you.

25 THE COURT: But on the second case his credit is 325; is that

1 correct?

2 MR. RAMAN: Yes, Your Honor.

3 MS. BORDER: That is, Judge.

4 MR. WESTMEYER: Yes.

5 THE COURT: Okay. Thank you. Okay, Ms. Parks.

6 Ms. Parks, I have to say there is no one in this room who is
7 more culpable than you. And the things that I have heard today that you
8 did to these people is just absolutely shocking that one can continue to
9 go about their life and engage in these activities and watch these people
10 suffer. And you said when you spoke, that you never intended to bring
11 any harm to anyone. I cannot fathom how you think that the actions that
12 occurred at the hands of you did not intend to bring any harm to anyone.

13 These people that have Scotch tapped their shoes together,
14 these people that are being charged for getting Christmas gifts, these
15 people that don't have food to eat, how is that not bringing harm to
16 them. And to hear from the people who actually are able to be present
17 today is just absolutely shocking to me that you continued in this
18 behavior. And you went to court and these documents were filed and at
19 no point did anything occur to you until this investigation happened that
20 this is absolutely not appropriate. The actions that you took in this case
21 are just downright offensive. I have no idea how parole and probation
22 only thinks that you deserve 64 months on the bottom, because that is
23 absolutely not accurate and that is absolutely what is not about to
24 happen today.

25 In accordance with the laws of the State of Nevada, you're

1 going to be adjudicated guilty on Count I, exploitation of an older
2 vulnerable person. And I'm sorry, this is case C321808. Count II,
3 exploitation of an older vulnerable person; Count III, theft; Count IV,
4 theft; and Count V, perjury. In addition to the \$25 administrative
5 assessment fee, the \$150 DNA testing fee, and the \$3 DNA assessment
6 fee, you are ordered to pay restitution in the amount that I previously
7 ordered. That will be jointly and severely with your co-defendants, Mark
8 Simmons and Gary Neal Taylor.

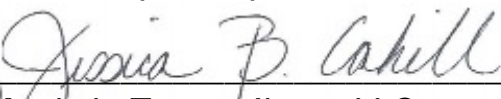
9 On Count I, you're going to be sentenced to 72 to 180 months
10 in the Nevada Department of Corrections. On Count II, you will be
11 sentenced to 72 to 180 months in the Nevada Department of Corrections.
12 Count II will run consecutive to Count I. On Count III, you'll be sentenced
13 to 24 to 60 months in the Nevada Department of Corrections. That will
14 run consecutive to Count II. On Count IV, you will be sentenced to 24 to
15 60 months in the Nevada Department of Corrections. That will run
16 consecutive to Count III. Count V, you will be sentenced to 19 to 48
17 months in the Nevada Department of Corrections and that will run
18 concurrent to Count III for an aggregate sentence of 192 to 480 months in
19 the Nevada Department of Corrections. You have 668 days credit for
20 time served towards that sentence.

21 In regards to case C329886, you will be adjudicated guilty of
22 exploitation of an older vulnerable person. In addition to the \$25
23 administrative assessment fee, I ordered your DNA in the other case, so
24 it'll be waived in this case. The \$3 DNA assessment fee, you will be
25 ordered to pay \$2,281.90 in extradition costs with the Attorney General's

1 Office. I ordered the restitution in the other case, so it will be concurrent
2 in this case, and you will be sentenced to 72 to 180 months in the
3 Nevada Department of Corrections. That will run concurrent to C321808
4 and you have 325 days credit for time served toward that sentence.
5 Thank you.

6 [Proceedings adjourned at 12:47 p.m.]
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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio-visual recording of the proceeding in the above entitled case to the
23 best of my ability.

24 

25 Maukele Transcribers, LLC
Jessica B. Cahill, Transcriber, CER/CET-708

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 04, 2019**

C-17-321808-1 State of Nevada
 vs
 April Parks

January 04, 2019 9:00 AM Sentencing

HEARD BY: Jones, Tierra **COURTROOM:** RJC Courtroom 14B

COURT CLERK: Teri Berkshire

RECORDER: Victoria Boyd

REPORTER:

PARTIES

PRESENT:	Goldstein, Anthony M.	Attorney
	Parks, April	Defendant
	Raman, Jay	Attorney
	State of Nevada	Plaintiff
	Westmeyer, Daniel	Attorney

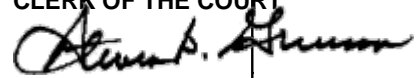
JOURNAL ENTRIES

- DEFT. PARKS ADJUDGED GUILTY of COUNT - 1 EXPLOITATION OF AN OLDER/VULNERABLE PERSON (F), COUNT - 2, EXPLOITATION OF AN OLDER/VULNERABLE PERSON (F), COUNT - 3 THEFT (F), COUNT - 4 THEFT (F), and COUNT - 5 PERJURY (F).

Arguments by counsel. Statements by deft. Victim Speakers SWORN Statements Given. Matter submitted. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, \$559.205.32 Restitution, to named victims, as follows: \$3,820.14 to Clyde Bowman, \$5,134.40 to Delmond Foster, \$6,346.30 to Delores Smith, \$4,528.00 to Harold Lockwood, \$6,032.50 to James Poya, \$4,766.37, to Janice Mitchell, 5,766.75 to Juanita Graham, \$11,582.40 to Marlene Homer, \$2,705.39 to Mary Vitek, \$4,533.20 to Norbert Wilkening, \$167,204.49 to Dorothy Trumbich, \$1,413.60 to Adolfo Gonzalez, \$3,804.49 to Carolyn Rickenbaugh, \$2,830.50 to Gloria Schneringer, \$2,622.62 to Kenneth Edwards, \$5,806.97 to Roy Franklin, \$6,262.48 to Marilyn Scholl, \$10,708.45 to Marie Long, \$2,074.80 to Rennie North, \$5,563.60 to Patricia Smoak, \$2,016.30 to Rudy North, \$13,180.67 to Ruth Braslow, \$4,183.08 to Walter Wright, \$9,470.80 to William Brady, \$4,807.61 to William Flewellen, \$3,699.28 to Yoshiko Kindaichi, \$15,068.18 to Norman Weinstock, \$6,920.00 to Maria Cooper, \$4,290.00, to Kenneth

Cristopherson, \$5,396.40 to Joseph Massa, \$2,497.20 to Blanca Ginorio, \$8,149.70 to Daniel Currie, \$4,311.20 to Rita Lamppa, \$895.00 to Barbara Neely, \$3,819.60 to Audrey Weber, \$32,006.72 to Baxter Burns, \$3,445.26 to Linda Phillips, \$4,807.61 to William Flewellen, \$25,278.57 to Mary Woods and/or John and Sally Den, Jointly and Severally with co-defts Simmons and Taylor, a \$150.00 DNA Analysis fee including testing to determine genetic markers, and \$3.00 DNA Collection fee, Deft. SENTENCED As to COUNT -1 to a MINIMUM of SEVENTY-TWO (72) MONTHS and a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS in the Nevada Department of Corrections (NDC); As to COUNT - 2 to a MINIMUM of SEVENTY-TWO (72) MONTHS and a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS in the Nevada Department of Corrections (NDC); CONSECUTIVE to COUNT - 1; As to COUNT - 3 to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC); CONSECUTIVE to COUNT - 2; As to COUNT - 4 to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC); CONSECUTIVE to COUNT - 3; As to COUNT - 5 to a MINIMUM of NINETEEN (19) MONTHS and a MAXIMUM of FORTY-EIGHT (48) MONTHS in the Nevada Department of Corrections (NDC); CONCURRENT with COUNT - 3; with 668 DAYS credit for time served. FURTHER COURT ORDERED, AGGREGATE total of a MINIMUM of ONE HUNDRED NINETY TWO (192) MONTHS and a MAXIMUM of FOUR HUNDRED EIGHTY (480) MONTHS in the Nevada Department of Corrections (NDC).

BOND if any, EXONERATED.



JOCP

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO. C-17-321808-1

-vs-

DEPT. NO. X

APRIL PARKS
#1571645

Defendant.

JUDGMENT OF CONVICTION

(PLEA OF GUILTY- ALFORD)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty pursuant to Alford Decision to the crimes of COUNT 1 – EXPLOITATION OF AN OLDER / VULNERABLE PERSON (Category B Felony) in violation of NRS 200.5092, 200.5099, COUNT 2 - EXPLOITATION OF AN OLDER / VULNERABLE PERSON (Category B Felony) in violation of NRS 200.5092, 200.5099, COUNT 3 - THEFT (Category B Felony) in violation of NRS 205.0832, 205.0835.4, COUNT 4 - THEFT (Category B Felony) in violation of NRS 205.0832, 205.0835.4, and COUNT 5 - PERJURY (Category D Felony) in violation of NRS 199.120; thereafter, on the 4th day of January, 2019, the Defendant was present in court for sentencing with counsel ANTHONY GOLDSTEIN, ESQ., and good cause appearing,

<input type="checkbox"/> Nolle Prosequi (before trial)	<input type="checkbox"/> Bench (Non-Jury) Trial
<input type="checkbox"/> Dismissed (after diversion)	<input type="checkbox"/> Dismissed (during trial)
<input type="checkbox"/> Dismissed (before trial)	<input type="checkbox"/> Acquittal
<input checked="" type="checkbox"/> Guilty Plea with Sent (before trial)	<input type="checkbox"/> Guilty Plea with Sent. (during trial)
<input type="checkbox"/> Transferred (before/during trial)	<input type="checkbox"/> Conviction
<input type="checkbox"/> Other Manner of Disposition	

AA 0568

1 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in
2 addition to the \$25.00 Administrative Assessment Fee, \$559,205.32 Total Restitution
3 to be paid JOINTLY and SEVERALLY with Co-Defendants Mark Simmons and Gary
4 Taylor payable to victims listed on page 3, \$150.00 DNA Analysis Fee including
5 testing to determine genetic markers plus \$3.00 DNA Collection Fee, the Defendant is
6 sentenced to the Nevada Department of Corrections (NDC) as follows: **COUNT 1** – a
7 **MAXIMUM** of ONE HUNDRED EIGHTY (180) MONTHS with a **MINIMUM** parole
8 eligibility of SEVENTY-TWO (72) MONTHS; **COUNT 2** - a **MAXIMUM** of ONE
9 HUNDRED EIGHTY (180) MONTHS with a **MINIMUM** parole eligibility of SEVENTY-
10 TWO (72) MONTHS, CONSECUTIVE to COUNT 1; **COUNT 3** - a **MAXIMUM** of
11 SIXTY (60) MONTHS with a **MINIMUM** parole eligibility of TWENTY-FOUR (24)
12 MONTHS, CONSECUTIVE to COUNT 2; and **COUNT 4** - a **MAXIMUM** of SIXTY (60)
13 MONTHS with a **MINIMUM** parole eligibility of TWENTY-FOUR (24) MONTHS,
14 CONSECUTIVE to COUNT 3; and **COUNT 5** - a **MAXIMUM** of FORTY-EIGHT (48)
15 MONTHS with a **MINIMUM** parole eligibility of NINETEEN (19) MONTHS,
16 CONCURRENT with COUNT 3; with SIX HUNDRED SIXTY-EIGHT (668) DAYS credit
17 for time served. The AGGREGATE TOTAL sentence is FOUR HUNDRED EIGHTY
18 (480) MONTHS MAXIMUM with a MINIMUM of ONE HUNDRED NINETY-TWO (192)
19 MONTHS.
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24 DATED this 10th day of January, 2019

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TIERRA JONES
DISTRICT COURT JUDGE 

1 **\$559,205.32 TOTAL RESTITUTION payable to the named victims as follows:**
2 **\$3,820.14 to Clyde Bowman, \$5,134.40 to Delmond Foster, \$6,346.30 to Delores**
3 **Smith, \$4,528.00 to Harold Lockwood, \$6,032.50 to James Poya, \$4,766.37, to**
4 **Janice Mitchell, 5,766.75 to Juanita Graham, \$11,582.40 to Marlene Homer,**
5 **\$2,705.39 to Mary Vitek, \$4,533.20 to Norbert Wilkening, \$167,204.49 to Dorothy**
6 **Trumbich, \$1,413.60 to Adolfo Gonzalez, \$3,804.49 to Carolyn Rickenbaugh,**
7 **\$2,830.50 to Gloria Schneringer, \$2,622.62 to Kenneth Edwards, \$5,806.97 to Roy**
8 **Franklin, \$6,262.48 to Marilyn Scholl, \$10,708.45 to Marie Long, \$2,074.80 to**
9 **Rennie North, \$5,563.60 to Patricia Smoak, \$2,016.30 to Rudy North, \$13,180.67 to**
10 **Ruth Braslow, \$4,183.08 to Walter Wright, \$9,470.80 to William Brady, \$4,807.61 to**
11 **William Flewellen, \$3,699.28 to Yoshiko Kindaichi, \$15,068.18 to Norman**
12 **Weinstock, \$6,920.00 to Maria Cooper, \$4,290.00, to Kenneth Cristopherson,**
13 **\$5,396.40 to Joseph Massa, \$2,497.20 to Blanca Ginorio, \$8,149.70 to Daniel**
14 **Currie, \$4,311.20 to Rita Lamppa, \$895.00 to Barbara Neely, \$3,819.60 to Audrey**
15 **Weber, \$32,006.72 to Baxter Burns, \$3,445.26 to Linda Phillips, \$4,807.61 to**
16 **William Flewellen, \$25,278.57 to Mary Woods and/or John and Sally Den,**
17 **to be paid JOINTLY and SEVERALLY with Co-Defendants Mark Simmons and**
18 **Gary Taylor.**
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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 30, 2019

C-17-321808-1 State of Nevada
 vs
 April Parks

January 30, 2019 8:30 AM Request of Court

HEARD BY: Jones, Tierra **COURTROOM:** RJC Courtroom 14B

COURT CLERK: Teri Berkshire

RECORDER: Victoria Boyd

REPORTER:

PARTIES

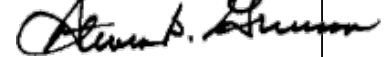
PRESENT: Goldstein, Anthony M. Attorney
 State of Nevada Plaintiff
 Westmeyer, Daniel Attorney

JOURNAL ENTRIES

- APPEARANCES CONTINUED: Marisa Border Esq., present for co-deft. Simmons, and standing in for Ms. Waldo Esq., on behalf of co-deft. Taylor. Mr. Goldstein Esq., present on behalf of co-deft. Parks.

Deft. not present and in the Nevada Department of Corrections. Court noted this matter is on because the Court was notified by P&P that there's an issue with the restitution. Further, one of the victims was names twice. There being no opposition, COURT ORDERED, second order of restitution as to William Flewellen, STRICKEN. Conference at the bench. COURT ORDERED, the new total of restitution is \$554,397.71 Jointly and Severally with co-defts in all cases.

NDC



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DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

APRIL PARKS,

Defendant.

CASE NO. C-17-321808-1
DEPT. 10

BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE

**WEDNESDAY, JANUARY 30, 2019
RECORDER'S TRANSCRIPT RE:
REQUEST: CLARIFICATION OF RESTITUTION**

APPEARANCES:

For the State:

DANIEL WESTMEYER, Esq.
Senior Deputy Attorney General

For Defendant Parks:

ANTHONY GOLDSTEIN, Esq.

For Defendant Neal:

MELISSA BORDER, Esq.

For Defendant Simmons:

MELISSA BORDER, Esq.

RECORDED BY: VICTORIA BOYD, COURT RECORDER

1 Las Vegas, Nevada, Wednesday, January 30, 2019 at 9:16 a.m.

2
3
4 THE COURT: C321808, State of Nevada v. April Parks. C329886-2, State of
5 Nevada v. April Parks. Ms. Parks is not present. She's in custody at the Nevada
6 Department of Corrections being represented by Mr. Goldstein.

7
8 MR. GOLDSTEIN: Yes, Your Honor.

9 THE COURT: C329886-3, State of Nevada v. Mark Simmons. C321808-2,
10 State of Nevada v. Mark Simmons. Mr. Simmons is not present. He's also in
11 custody at the Nevada Department of Corrections being represented by Ms. Border.

12 Where is Ms. Waldo?

13 MS. BORDER: I am standing in for Ms. Waldo, Your Honor.

14 THE COURT: Okay. C321808-3, State of Nevada v. Gary Taylor Neal who is
15 also not present. He's in custody at the Nevada Department of Corrections. He's
16 being represented by Ms. Waldo. Ms. Border is standing in for her today. We have
17 Mr. Westmeyer here on behalf of the State.

18 MR. WESTMEYER: Good morning.

19 THE COURT: Okay. Good morning. So this is on because we were notified
20 from P&P that there is an issue with the restitution because one of the victims was
21 actually named twice for - - Mr. William Fluwellen(phonetic). His \$4807.61 was
22 actually ordered twice. So we were notified by that so does the State have any
23 opposition to striking the second order of restitution for him?

24 MR. WESTMEYER: No, Your Honor.

25 THE COURT: Okay. So we will strike the second order of restitution for Mr.
William Flewellen so that would make the total of restitution that is owed by each

1 defendant \$412,943.02 and that will be jointly and severally between all the
2 defendants and it's ordered in all the cases.

3 MR. GOLDSTEIN: Your Honor, could we approach.

4 THE COURT: Yes.

5 (Bench conference.)

6 THE COURT: Okay. So the Court was wrong in their calculation. So the
7 new restitution figure that is owed by the defendants is \$554,397.71 to be paid
8 jointly and severally by all the defendants in all of the cases.

9 MR. GOLDSTEIN: Thank you.

10 MS. BORDER: Thank you.

11 MR. WESTMEYER: I'm sorry. One more time the number please.

12 THE COURT: What did I say?

13 THE CLERK: You said \$554,397.71.

14 MR. WESTMEYER: Okay. Thank you.

15 THE COURT: And I assume the defendants are not opposed to that since it
16 actually decreases the amount of money that they are having to pay.

17 MR. GOLDSTEIN: No objection, Your Honor.

18 THE COURT: Thank you.

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20 (Proceedings concluded at 9:20 a.m.)
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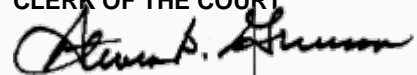
ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video
proceedings in the above-entitled case to the best of my ability.

Victoria W. Boyd

8-1-2022

Victoria W. Boyd
Court Recorder/Transcriber

Date



AJOCP

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO. C-17-321808-1

-vs-

DEPT. NO. X

APRIL PARKS
#1571645

Defendant.

AMENDED JUDGMENT OF CONVICTION
(PLEA OF GUILTY- ALFORD)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty pursuant to Alford Decision to the crimes of COUNT 1 – EXPLOITATION OF AN OLDER / VULNERABLE PERSON (Category B Felony) in violation of NRS 200.5092, 200.5099, COUNT 2 - EXPLOITATION OF AN OLDER / VULNERABLE PERSON (Category B Felony) in violation of NRS 200.5092, 200.5099, COUNT 3 - THEFT (Category B Felony) in violation of NRS 205.0832, 205.0835.4, COUNT 4 - THEFT (Category B Felony) in violation of NRS 205.0832, 205.0835.4, and COUNT 5 - PERJURY (Category D Felony) in violation of NRS 199.120; thereafter, on the 4th day of January, 2019, the Defendant was present in court for sentencing with counsel ANTHONY GOLDSTEIN, ESQ., and good cause appearing,

<input type="checkbox"/> Nolle Prosequi (before trial)	<input type="checkbox"/> Bench (Non-Jury) Trial
<input type="checkbox"/> Dismissed (after diversion)	<input type="checkbox"/> Dismissed (during trial)
<input type="checkbox"/> Dismissed (before trial)	<input type="checkbox"/> Acquittal
<input checked="" type="checkbox"/> Guilty Plea with Sent. (before trial)	<input type="checkbox"/> Guilty Plea with Sent. (during trial)
<input type="checkbox"/> Transferred (before/during trial)	<input type="checkbox"/> Conviction
<input type="checkbox"/> Other Manner of Disposition	

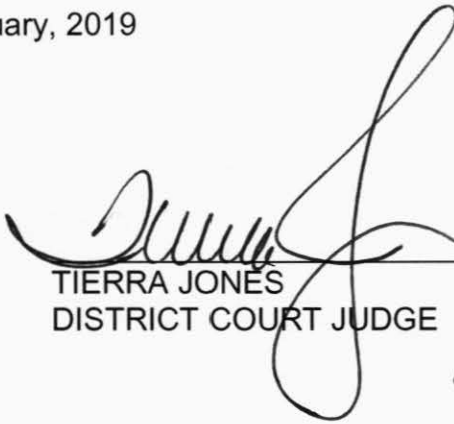

AA 0576

1 THE DEFENDANT WAS ADJUDGED guilty of said offenses and, in addition to
2 the \$25.00 Administrative Assessment Fee, **\$554,397.71 Total Restitution** to be paid
3 jointly and severally with Co-Defendants Mark Simmons and Gary Taylor, and
4 \$150.00 DNA Analysis Fee including testing to determine genetic markers plus \$3.00
5 DNA Collection Fee, the Defendant sentenced to the Nevada Department of
6 Corrections (NDC) as follows: COUNT 1 – a MAXIMUM of ONE HUNDRED EIGHTY
7 (180) MONTHS with a MINIMUM parole eligibility of SEVENTY-TWO (72) MONTHS;
8 COUNT 2 - a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS with a
9 MINIMUM parole eligibility of SEVENTY-TWO (72) MONTHS, CONSECUTIVE to
10 COUNT 1; COUNT 3 - a MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole
11 eligibility of TWENTY-FOUR (24) MONTHS, CONSECUTIVE to COUNT 2; and
12 COUNT 4 - a MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility of
13 TWENTY-FOUR (24) MONTHS, CONSECUTIVE to COUNT 3; and **COUNT 5** - a
14 MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM parole eligibility of
15 NINETEEN (19) MONTHS, CONCURRENT with COUNT 3; with SIX HUNDRED
16 SIXTY-EIGHT (668) DAYS credit for time served. The AGGREGATE TOTAL sentence
17 is FOUR HUNDRED EIGHTY (480) MONTHS MAXIMUM with a MINIMUM of ONE
18 HUNDRED NINETY-TWO (192) MONTHS.
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23 THEREAFTER, on the 30th day of January, 2019, the Defendant not present in
24 court with counsel, ANTHONY GOLDSTEIN, ESQ., and pursuant to a Request of
25 Court - Clarification of Restitution, the amended Judgment of Conviction reflects
26 Restitution Corrections as follows: TOTAL RESTITUTION in the amount of
27 \$554,397.71 payable jointly and severally with Co-Defendants in all cases as follows:
28

1 \$3,820.14 to Clyde Bowman, \$5,134.40 to Delmond Foster, \$6,346.30 to Delores
2 Smith, \$4,528.00 to Harold Lockwood, \$6,032.50 to James Poya, \$4,766.37, to Janice
3 Mitchell, 5,766.75 to Juanita Graham, \$11,582.40 to Marlene Homer, \$2,705.39 to
4 Mary Vitek, \$4,533.20 to Norbert Wilkening, \$167,204.49 to Dorothy Trumbich,
5 \$1,413.60 to Adolfo Gonzalez, \$3,804.49 to Carolyn Rickenbaugh, \$2,830.50 to Gloria
6 Schneringer, \$2,622.62 to Kenneth Edwards, \$5,806.97 to Roy Franklin, \$6,262.48 to
7 Marilyn Scholl, \$10,708.45 to Marie Long, \$2,074.80 to Rennie North, \$5,563.60 to
8 Patricia Smoak, \$2,016.30 to Rudy North, \$13,180.67 to Ruth Braslow, \$4,183.08 to
9 Walter Wright, \$9,470.80 to William Brady, \$4,807.61 to William Flewellen, \$3,699.28
10 to Yoshiko Kindaichi, \$15,068.18 to Norman Weinstock, \$6,920.00 to Maria Cooper,
11 \$4,290.00, to Kenneth Cristopherson, \$5,396.40 to Joseph Massa, \$2,497.20 to
12 Blanca Ginorio, \$8,149.70 to Daniel Currie, \$4,311.20 to Rita Lamppa, \$895.00 to
13 Barbara Neely, \$3,819.60 to Audrey Weber, \$32,006.72 to Baxter Burns, \$3,445.26 to
14 Linda Phillips, \$25,278.57 to Mary Woods and/or John and Sally Den.

15 DATED this 31 day of January, 2019

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TIERRA JONES
DISTRICT COURT JUDGE 

Steven D. Grierson

AJOC

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

APRIL PARKS
#1571645

Defendant.

CASE NO. C-18-329886-2

DEPT. NO. X

AMENDED JUDGMENT OF CONVICTION

(PLEA OF GUILTY - ALFORD)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty pursuant to Alford Decision to the crime of EXPLOITATION OF AN OLDER / VULNERABLE PERSON (Category B Felony) in violation of NRS 200.5092, 200.5099; thereafter, on the 4th day of January, 2019, the Defendant was present in court for sentencing with counsel ANTHONY GOLDSTEIN, ESQ., and good cause appearing,


<input type="checkbox"/> Nolle Prosequi (before trial)	<input type="checkbox"/> Bench (Non-Jury) Trial
<input type="checkbox"/> Dismissed (after diversion)	<input type="checkbox"/> Dismissed (during trial)
<input type="checkbox"/> Dismissed (before trial)	<input type="checkbox"/> Acquittal
<input checked="" type="checkbox"/> Guilty Plea with Sent (before trial)	<input type="checkbox"/> Guilty Plea with Sent. (during trial)
<input type="checkbox"/> Transferred (before/during trial)	<input type="checkbox"/> Conviction
<input type="checkbox"/> Other Manner of Disposition	

1 THE DEFENDANT WAS ADJUDGED guilty of said offense and, in addition to the
2 \$25.00 Administrative Assessment Fee, **\$554,397.71 Total Restitution** to be paid
3 jointly and severally with Co-Defendants Mark Simmons and Gary Taylor, and
4 \$2,281.90 Extradition Costs payable to the Attorney General's Office plus \$3.00 DNA
5 Collection Fee, the Defendant sentenced as follows: a MAXIMUM of ONE HUNDRED
6 EIGHTY (180) MONTHS with a MINIMUM parole eligibility of SEVENTY-TWO (72)
7 MONTHS in the Nevada Department of Corrections (NDC), CONCURRENT with
8 C321808-1; with THREE HUNDRED TWENTY-FIVE (325) DAYS credit for time served.
9 As the \$150.00 DNA Analysis Fee and Genetic Testing have been previously imposed,
10 the Fee and Testing in the current case are WAIVED.
11

12
13 THEREAFTER, on the 30th day of January, 2019, the Defendant not present in
14 court with counsel, ANTHONY GOLDSTEIN, ESQ., and pursuant to a Request of
15 Court - Clarification of Restitution, the amended Judgment of Conviction reflects
16 Restitution Corrections as follows: TOTAL RESTITUTION in the amount of
17 \$554,397.71 payable jointly and severally with Co-Defendants in all cases as follows:
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22 \$1,413.60 to Adolfo Gonzalez, \$3,804.49 to Carolyn Rickenbaugh, \$2,830.50 to Gloria
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25 Patricia Smoak, \$2,016.30 to Rudy North, \$13,180.67 to Ruth Braslow, \$4,183.08 to
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1 Walter Wright, \$9,470.80 to William Brady, \$4,807.61 to William Flewellen, \$3,699.28
2 to Yoshiko Kindaichi, \$15,068.18 to Norman Weinstock, \$6,920.00 to Maria Cooper,
3 \$4,290.00, to Kenneth Cristopherson, \$5,396.40 to Joseph Massa, \$2,497.20 to
4 Blanca Ginorio, \$8,149.70 to Daniel Currie, \$4,311.20 to Rita Lamppa, \$895.00 to
5 Barbara Neely, \$3,819.60 to Audrey Weber, \$32,006.72 to Baxter Burns, \$3,445.26 to
6 Linda Phillips, \$25,278.57 to Mary Woods and/or John and Sally Den.
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8 DATED this 31 day of January, 2019
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13 TIERRA JONES
14 DISTRICT COURT JUDGE 
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DISTRICT COURT
CLARK COUNTY, NEVADA

Defendant.

CASE NO. C-17-321808-1
DEPT. 10

BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE

**MONDAY, AUGUST 26, 2019
RECORDER'S TRANSCRIPT RE:
CLARIFICATION OF SENTENCE**

APPEARANCES:

DANIEL WESTMEYER, Esq.
Senior Deputy Attorney General

JAY RAMAN, Esq.
Chief Deputy District Attorney

For Defendant:

RECORDED BY: VICTORIA BOYD, COURT RECORDER

1
2 Las Vegas, Nevada, Monday, August 26, 2019 at 8:38 a.m.
3

4
5 THE COURT: C321808, State of Nevada v. April Parks. Ms. Parks is not
6 present. She's in custody at the Nevada Department of Corrections. Mr. Goldstein
7 has withdrawn as her attorney so she is now pro se. And we have Mr. Raman and
8 Mr. Westmeyer here on behalf of the State.

9 This is on for a clarification of her sentence. The issue is I reread the statute
10 this morning because the statute is very clear about crimes that were committed
11 after 2014. You guys have a range on her. The range begins in 2011 but the range
12 ends in 2016 and there is no distinction as to the crimes that she actually pled guilty
13 to, whether those are 2011, 2012. I have no idea so I'm going to leave the
14 aggregate as it is because since that range ends in 2016, when we're required to
15 aggregate, I'm going to leave it as it is because the sentencing - - the offense range
16 on her is December 21st of 2011 through July 6th of 2016 and the 2016 back to 2014
17 requires aggregation so her sentence will stand.

18 MR. RAMAN: Great. We agree. Thank you.

19 THE COURT: Thank you.

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21 (Proceedings concluded at 8:39 a.m.)
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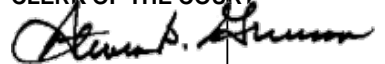
ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video
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Victoria W. Boyd

8-1-2022

Victoria W. Boyd
Court Recorder/Transcriber

Date



CASE NO: A-19-807564-W
Department 6

PET

RESCH LAW, PLLC d/b/a Conviction Solutions

By: Jamie J. Resch

Nevada Bar Number 7154

2620 Regatta Dr., Suite 102

Las Vegas, Nevada, 89128

Telephone (702) 483-7360

Facsimile (800) 481-7113

Jresch@convictionsolutions.com

Attorney for Petitioner

DISTRICT COURT

CLARK COUNTY, NEVADA

APRIL PARKS,

Petitioner,

vs.

DWIGHT NEVEN, WARDEN, AND, THE STATE OF
NEVADA,

Respondents.

Case No.:

Dept. No:

(Criminal case no. C321808-1)

**PETITION FOR WRIT OF HABEAS CORPUS
(POST-CONVICTION)**

1. Name of institution and county in which you are presently imprisoned or where
and how you are presently restrained of your liberty: **Florence McClure Women's Correctional
Center, Clark County, Nevada.**

2. Name and location of court which entered the judgment of conviction under
attack: **Eighth Judicial District Court, Dept. XIV, 200 Lewis Avenue, Las Vegas, NV 89101.**

3. Date of judgment of conviction: **July 10, 2019.**

4. Case number: **C-17-321808-1**

5(a). Length of sentence: **Count 1: 72 to 180 months NDOC, Count 2: 72 to 180
months NDOC, c/s to Count 1, Count 3: 24 to 60 months NDOC, c/s to Count 2, Count 4:**

1 **24 to 60 months NDOC, c/s to Count 3, Count 5: 19 to 48 months NDOC, c/c to Count 3.**

2 **Aggregate – 192 to 480 months NDOC.**

3 5(b). If sentence is death, state any date upon which execution is
4
5 scheduled: **N/A.**

6 6. Are you presently serving a sentence for a conviction other than the
7
8 conviction under attack in this motion? **Yes. Currently serving 72 to 180 months NDOC in**
9 **C329886 which is concurrent to the conviction under review here.**

10 If "yes," list crime, case number and sentence being served at this time:

11 7. Nature of offense involved in conviction being challenged: **Count 1, Exploitation**
12 **of an Older/Vulnerable Person, Count 2, Exploitation of an Older/Vulnerable Person,**
13 **Count 3, Theft, Count 4, Theft, Count 5, Perjury.**

14 8. What was your plea? (check one)

15 (a) Not guilty X

16 (b) Guilty

17 (c) Guilty but mentally ill

18 **(d) Nolo contendere X (Alford)**

19 9. If you entered a plea of guilty or guilty but mentally ill to one count of an
20
21 indictment or information, and a plea of not guilty to another count of an indictment or
22
23 information, or if a plea of guilty or guilty but mentally ill was negotiated, give details: **N/A.**

24 10. If you were found guilty or guilty but mentally ill after a plea of not
25
26 guilty, was the finding made by: (check one)

27 (a) Jury .

1 (b) Judge without a jury ____.

2 11. Did you testify at the trial? Yes ____ No ____

3 12. Did you appeal from the judgment of conviction? Yes ____ **No _X_**

4 13. If you did appeal, answer the following:

5 (a) Name of court:

6 (b) Case number or citation:

7 (c) Result:

8 (d) Date of result:

9 (Attach copy of order or decision, if available.)

10 14. If you did not appeal, explain briefly why you did not: **Trial counsel was**
11 **ineffective by failing to file a notice of appeal on my behalf, I expressed extreme**
12 **dissatisfaction with my sentence, which was substantially higher than an offer counsel**
13 **advised to me reject and also substantially higher than what the presentence report**
14 **recommended. I did tell my attorney that I wanted to appeal and I expressed a desire to**
15 **counsel to fight the sentence in any way possible.**

16 15. Other than a direct appeal from the judgment of conviction and sentence, have
17 you previously filed any petitions, applications or motions with respect to this judgment in any
18 court, state or federal? Yes ____ **No _X_**

19 16. If your answer to No. 15 was "yes," give the following information:

20 (a) Name of court:

21 (b) Case number or citation:

22 (c) Result:

1 (d) Date of result:

2 17. Has any ground being raised in this petition been previously presented to this or
3
4 any other court by way of petition for habeas corpus, motion, application or any other post-
5 conviction proceeding? **No** If so, identify:

6 (a) Which of the grounds is the same:

7 (b) The proceedings in which these grounds were raised:

8
9 (c) Briefly explain why you are again raising these grounds. (You must relate specific facts in
10 response to this question. Your response may be included on paper which is 8 1/2 by 11 inches
11 attached to the petition. Your response may not exceed five handwritten or typewritten pages in
12 length).

13
14 18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d), or listed on any
15 additional pages you have attached, were not previously presented in any other court, state or
16 federal, list briefly what grounds were not so presented, and give your reasons for not
17 presenting them. (You must relate specific facts in response to this question. Your response may
18 be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may
19 not exceed five handwritten or typewritten pages in length).

20
21
22 19. Are you filing this petition more than 1 year following the filing of the judgment
23 of conviction or the filing of a decision on direct appeal? **No.**

24 20. Do you have any petition or appeal now pending in any court, either state or
25 federal, as to the judgment under attack? Yes___ **No** **X**___ If yes, state what court and the case
26 number:
27
28

1 21. Give the name of each attorney who represented you in the proceeding resulting
2 in your conviction and on direct appeal: **Trial: Anthony Goldstein, Esq.**

3
4 22. Do you have any future sentences to serve after you complete the
5 sentence imposed by the judgment under attack? Yes___ **No _X_**

6 If yes, specify where and when it is to be served, if you know: **N/A.**

7
8 23. State concisely every ground on which you claim that you are being held
9 unlawfully. Summarize briefly the facts supporting each ground. If necessary you may attach
10 pages stating additional grounds and facts supporting same.

11 (a) Ground One: **Petitioner's right to Due Process, a fair trial, and right to**
12 **effective counsel as guaranteed by the Fifth, Sixth and Fourteenth Amendments to the**
13 **United States Constitution and/or under state law or the Nevada Constitution were**
14 **violated when trial counsel advised Petitioner to reject a more favorable plea deal and**
15 **Petitioner was subsequently sentenced to a much longer period of incarceration.**

16 Supporting Facts (Tell your story briefly without citing cases or law):

17
18 The claim presented here relies on the longstanding right of criminal defendants to make
19 an informed decision whether or not to plead guilty, as explained in the Supreme Court's 2012
20 decisions in Missouri v. Frye, 132 S.Ct. 1399 (2012) and Lafler v. Cooper, 132 S.Ct. 1376 (2012).
21 As stated in Frye, the challenge "is not to the advice pertaining to the plea that was accepted
22 but rather to the course of legal representation that preceded it with respect to other potential
23 pleas and plea offers." Id. at 1406. The Supreme Court concluded that plea bargaining is a
24 critical stage of proceedings during which a defendant is entitled to effective assistance of
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1 counsel because plea bargaining "is not some adjunct to the criminal justice system; it *is* the
2 criminal justice system." Id. at 1407.

3
4 The ultimate holding of Frye is directly relevant to the case at hand:

5 This Court now holds that, as a general rule, defense counsel has the duty to
6 communicate formal offers from the prosecution to accept a plea on terms and
7 conditions that may be favorable to the accused. Any exceptions to that rule
8 need not be explored here, for the offer was a formal one with a fixed expiration
9 date. When defense counsel allowed the offer to expire without advising the
defendant or allowing him to consider it, defense counsel did not render the
effective assistance the Constitution requires.

10 Id. at 1408.

11 To help guard against "late, frivolous, or fabricated claims" the Supreme Court noted that
12 "formal offers can be made part of the record at any subsequent plea proceeding or before trial
13 on the merits, to ensure that a defendant has been fully advised before those further
14 proceedings commence." Id. at 1408-09. To show prejudice on such a claim, the petitioner
15 must "demonstrate a reasonable probability they would have accepted the earlier plea offer had
16 they been afforded effective assistance of counsel." Id. at 1409. Also required is a showing that
17 under state law, the prosecution would not have canceled the offer or the trial court have
18 refused to accept the offer. The specific prejudice inquiry is whether the petitioner "would have
19 accepted the offer to plea pursuant to the terms earlier proposed." Id. at 1410.

20
21 Neither Frye nor Lafler purport to break new ground. That is, the Sixth Amendment has
22 always encompassed that criminal defendants "are entitled to the effective assistance of
23 competent counsel" during plea negotiations. Lafler, 132 S.Ct. at 1384, citing McMann v.
24 Richardson, 397 U.S. 759, 771 (1970). Nearly every court which has considered the issue has
25 held that Frye and Lafler did not create a new constitutional right which would be retroactively
26
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1 applicable on collateral review, but rather merely restated longstanding constitutional
2 requirements concerning effective assistance of counsel. Ortiz v. United States, 2012 U.S. Dist.
3 LEXIS 159847 (E.D.N.Y. Nov. 7, 2012) (collecting cases).
4

5 In the instant case, there was a more favorable plea offer extended, and it is outlined in
6 the guilty plea agreement that was ultimately filed. See GPA, 11-5-18, p. 2. Specifically, the
7 agreement that was accepted saw Petitioner plead guilty per Alford to five serious felonies to
8 which the State retained the full right to argue. The agreement states that Petitioner rejected
9 "an aggregate sentence of eight to twenty years concurrent to each other on this case and Case
10 No. C329886." GPA, 11-5-18, p. 2. In essence, Petitioner rejected a deal that would have
11 ensured an eight to twenty year sentence and instead ended up with a deal that featured
12 exposure ranging up to and including what would be an effective life sentence (Petitioner
13 having been approximately 53 years old at the time of sentencing).
14

15 The decision to reject the stipulated eight to twenty year sentence was the product of
16 ineffective assistance of counsel. Petitioner received inaccurate and unprofessional advice
17 concerning that offer and only rejected it on that basis. Had the risks and benefits of that offer
18 been fully and correctly explained to Petitioner, she would have accepted the original offer and
19 remains willing to do so now. Further, said offer is wholly consistent with societal norms – i.e.
20 what the Clark County District Attorney might have offered (and in fact did offer) to resolve the
21 matter. For the same reasons, there is no basis to conclude the court would have exercised any
22 supervisory power in rejecting that offer. Relief should be granted in the form of compelling the
23 State to re-offer the 8-20 plea offer to Petitioner for acceptance as part of these post-conviction
24 proceedings.
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1 (b) Ground Two: **Petitioner received ineffective assistance of trial counsel in**
2 **violation of her rights as guaranteed by the Fifth, Sixth or Fourteenth Amendments to the**
3 **United States Constitution and/or under state law or the Nevada Constitution when trial**
4 **counsel failed to challenge errors during sentencing and/or was otherwise ineffective in**
5 **conjunction with the sentencing proceeding.**
6

7 Trial counsel failed to adequately develop and present important mitigating evidence at
8 the time of sentencing, and ineffectively responded to the State's sentencing arguments.
9

10 First, defense counsel failed to respond to the State's argument at sentencing that
11 Petitioner "expresses no remorse" because she "only" pled guilty by way of the Alford decision.
12 See Sentencing Transcript, p. 12, 22. The State's argument was patently improper under state
13 law, yet defense counsel completely failed to object or respond to the same.
14

15 Second, the sentencing transcript reveals that no proper notice of victim speakers was
16 ever provided to defense counsel. Sentencing Transcript, p. 50. Trial counsel did lodge an
17 objection to any speakers being allowed to testify, which the court overruled. Further, the State
18 explained they sent the notices to "the wrong Goldstein." Sentencing Transcript, p. 51. The
19 Court overruled the objection but allowed defense counsel to lodge individual objections to
20 specific speakers. Sentencing Transcript, p. 52. However, no individual objections were lodged.
21 Further, based on the lack of proper notice, trial counsel's sentencing memorandum was
22 completely devoid of facts or investigation that would have placed Petitioner's actions in a more
23 favorable light.
24
25

26 As a result, the Court heard substantial testimony from multiple victim speakers which
27 went far beyond what would have been authorized under the statute, with no meaningful
28

1 rebuttal by trial counsel. The facts of individual cases require additional investigation and
2 presentation, and the appropriate requests for investigative assistance are being made
3 alongside the filing of this petition. However, highlights include at least one speaker screaming
4 repeatedly that Petitioner was "Hitler," (p. 114), that Petitioner impersonated a police officer
5 including by use of a LVMPD badge (p. 88), or that Petitioner was "Lilith," (p. 113), a reference to
6 a notorious biblical demon. Petitioner believes there were substantial additional facts and
7 argument at sentencing which went not just far beyond what the speaker statutes allow but also
8 would have been known to the State to be false, highly suspect, or impalpable.
9

10
11 Third, there was a wholesale rejection of P&P's presentence report sentencing
12 recommendation by the Court. ("I have no idea how parole and probation only thinks that you
13 deserve 64 months on the bottom, because that is absolutely not accurate and that is absolutely
14 what is not about to happen today"). Sentencing Transcript, p. 121. In fact, after a thorough
15 presentence investigation, P&P found that Petitioner actually qualified for a recommendation of
16 probation with a probation success probability score of 66. To be sure, P&P ultimately did
17 recommend a minimum sentence of incarceration of 64 months, but the overall finding of the
18 presentence report was favorable to Petitioner. Effective counsel would have either presented
19 information to the sentencing court to support P&P's recommendation, or requested someone
20 from P&P come to the sentencing to explain it themselves.
21

22
23 As a result of these errors, the trial court sentenced Petitioner to a minimum term of
24 incarceration of 192 months. This is **more than three times what P&P recommended and**
25 **double what the original offer would have called for.** The Supreme Court has held that any
26 increased amount of incarceration has constitutional significance and therefore the increased
27
28

1 sentence imposed on Petitioner as a result of counsel's errors was prejudicial. Petitioner should
2 receive a new sentencing hearing before a judge who is unfamiliar with the record in this matter.

3
4 (c) Ground Three: **Petitioner received ineffective assistance of trial counsel in**
5 **violation of her rights as guaranteed by the Fifth, Sixth or Fourteenth Amendments to the**
6 **United States Constitution and/or under state law or the Nevada Constitution due to the**
7 **fact Petitioner was wrongfully deprived of her right to a direct appeal; Petitioner hereby**
8 **requests relief pursuant to Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994) and NRAP**
9 **4(c).**
10

11 Petitioner specifically informed trial counsel that she was dissatisfied with the sentence
12 and wanted to challenge it any way possible, including specifically an appeal. Further, effective
13 counsel would have understood, based on the errors outlined above, that Petitioner would have
14 wanted to appeal and that appealable issues existed concerning the events at sentencing and
15 the sentence itself. However, trial counsel did not file a notice of appeal within the thirty days
16 required, and the time for filing a notice of appeal has now expired.
17
18

19 Because Petitioner was unconstitutionally deprived of her right to a direct appeal with
20 the assistance of counsel, she requests this Court grant relief in the form of an untimely direct
21 appeal. If a criminal defendant is deprived of a direct appeal, prejudice is presumed and there is
22 no requirement that the issues to be raised on appeal be identified. Toston v. State, 127
23 Nev.Adv.Op. 87, 267 P.3d 795 (2011). Petitioner would simply state, in general and as explored
24 above, there are significant questions about the actual sentence imposed and the means by
25 which it was arrived at which would have been appropriate for direct review.
26
27
28

1 Pursuant to NRAP 4(c), there is a procedure by which the trial court can direct the Clerk
2 of Court to prepare and file a notice of appeal on Petitioner's behalf, and Petitioner requests the
3 court grant this relief as the remedy to this appeal deprivation claim.
4

5 WHEREFORE, Petitioner prays that the court grant petitioner relief to which petitioner
6 may be entitled in this proceeding to include (1) withdrawal from the plea agreement with a
7 finding that the State is directed to re-offer the previous 8 to 20 year offer, (2) a new sentencing
8 hearing before a judge who is unfamiliar with the record of these proceedings, (3) an untimely
9 direct appeal with the assistance of appointed counsel, (4) an evidentiary hearing, or (5) any
10 other such relief as may be required.
11

12 DATED this 27th day of December, 2019.
13

14 Submitted By:
15

16 RESCH LAW, PLLC d/b/a Conviction Solutions
17

18 By: 
19

20 JAMIE J. RESCH
21 Attorney for Petitioner
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VERIFICATION

I, APRIL PARKS, declare under penalty of perjury as follows:

Under penalty of perjury, the undersigned is the petitioner named in the foregoing petition and knows the contents thereof; that the pleading is true of the undersigned's own knowledge, except as to those matters states on information and belief, and as to such matters the undersigned believes them to be true.

12-21-19
Executed on


Signature

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Resch Law, PLLC d/b/a Conviction Solutions and that, pursuant to N.R.C.P. 5(b), on December 27, 2019, I served a true and correct copy of the foregoing Petition for Writ of Habeas Corpus (Post-Conviction) via first class mail in envelopes addressed to:

Clark County District Attorney
200 Lewis Ave.
Las Vegas, NV 89155

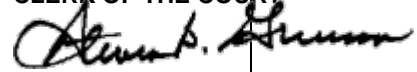
Nevada Attorney General
555 E. Washington, #3900
Las Vegas, NV 89101

April Parks #1210454
Florence McClure Wm. Corr. Ctr.
4370 Smiley Rd.
Las Vegas, NV 89115

and via Wiznet's electronic filing system, as permitted by local practice to the following person(s):

Steven B. Wolfson
Clark County District Attorney
PDMotions@ClarkCountyDA.com


An Employee of Conviction Solutions



SUPP

RESCH LAW, PLLC d/b/a Conviction Solutions

By: Jamie J. Resch

Nevada Bar Number 7154

2620 Regatta Dr., Suite 102

Las Vegas, Nevada, 89128

Telephone (702) 483-7360

Facsimile (800) 481-7113

Jresch@convictionsolutions.com

Attorney for Petitioner

DISTRICT COURT

CLARK COUNTY, NEVADA

APRIL PARKS,

Petitioner,

vs.

DWIGHT NEVEN, WARDEN, AND, THE STATE OF
NEVADA,

Respondents.

Case No.: A-19-807564-W

Dept. No: X

(Criminal case no. C321808-1)

**SUPPLEMENTAL PETITION FOR WRIT OF
HABEAS CORPUS (POST-CONVICTION)**

1. Name of institution and county in which you are presently imprisoned or where
and how you are presently restrained of your liberty: **Florence McClure Women's Correctional
Center, Clark County, Nevada.**

2. Name and location of court which entered the judgment of conviction under
attack: **Eighth Judicial District Court, Dept. XIV, 200 Lewis Avenue, Las Vegas, NV 89101.**

3. Date of judgment of conviction: **February 4, 2019.**

4. Case number: **C-17-321808-1**

5(a). Length of sentence: **Count 1: 72 to 180 months NDOC, Count 2: 72 to 180
months NDOC, c/s to Count 1, Count 3: 24 to 60 months NDOC, c/s to Count 2, Count 4:**

1 **24 to 60 months NDOC, c/s to Count 3, Count 5: 19 to 48 months NDOC, c/c to Count 3.**

2 **Aggregate – 192 to 480 months NDOC.**

3 5(b). If sentence is death, state any date upon which execution is
4
5 scheduled: **N/A.**

6 6. Are you presently serving a sentence for a conviction other than the
7
8 conviction under attack in this motion? **Yes. Currently serving 72 to 180 months NDOC in**
9 **C329886 which is concurrent to the conviction under review here.**

10 If "yes," list crime, case number and sentence being served at this time:

11 7. Nature of offense involved in conviction being challenged: **Count 1, Exploitation**
12 **of an Older/Vulnerable Person, Count 2, Exploitation of an Older/Vulnerable Person,**
13 **Count 3, Theft, Count 4, Theft, Count 5, Perjury.**

14 8. What was your plea? (check one)

15 (a) Not guilty ☒_

16 (b) Guilty ☐_

17 (c) Guilty but mentally ill ☐_

18 **(d) Nolo contendere ☒_ (Alford)**

19 9. If you entered a plea of guilty or guilty but mentally ill to one count of an
20
21 indictment or information, and a plea of not guilty to another count of an indictment or
22
23 information, or if a plea of guilty or guilty but mentally ill was negotiated, give details: **N/A.**

24 10. If you were found guilty or guilty but mentally ill after a plea of not
25
26 guilty, was the finding made by: (check one)

27 (a) Jury ☐_.

1 (b) Judge without a jury __.

2 11. Did you testify at the trial? Yes___No __

3 12. Did you appeal from the judgment of conviction? Yes __ **No _X_**

4 13. If you did appeal, answer the following:

5 (a) Name of court:

6 (b) Case number or citation:

7 (c) Result:

8 (d) Date of result:

9 (Attach copy of order or decision, if available.)

10 14. If you did not appeal, explain briefly why you did not: **Trial counsel was**
11 **ineffective by failing to file a notice of appeal on my behalf, I expressed extreme**
12 **dissatisfaction with my sentence, which was substantially higher than an offer counsel**
13 **advised to me reject and also substantially higher than what the presentence report**
14 **recommended. I did tell my attorney that I wanted to appeal and I expressed a desire to**
15 **counsel to fight the sentence in any way possible.**

16 15. Other than a direct appeal from the judgment of conviction and sentence, have
17 you previously filed any petitions, applications or motions with respect to this judgment in any
18 court, state or federal? Yes___ **No _X_**

19 16. If your answer to No. 15 was "yes," give the following information:

20 (a) Name of court:

21 (b) Case number or citation:

22 (c) Result:

1 (d) Date of result:

2 17. Has any ground being raised in this petition been previously presented to this or
3 any other court by way of petition for habeas corpus, motion, application or any other post-
4 conviction proceeding? **No** If so, identify:

5 (a) Which of the grounds is the same:

6 (b) The proceedings in which these grounds were raised:

7 (c) Briefly explain why you are again raising these grounds. (You must relate specific facts in
8 response to this question. Your response may be included on paper which is 8 1/2 by 11 inches
9 attached to the petition. Your response may not exceed five handwritten or typewritten pages in
10 length).

11 18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d), or listed on any
12 additional pages you have attached, were not previously presented in any other court, state or
13 federal, list briefly what grounds were not so presented, and give your reasons for not
14 presenting them. (You must relate specific facts in response to this question. Your response may
15 be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may
16 not exceed five handwritten or typewritten pages in length).

17 19. Are you filing this petition more than 1 year following the filing of the judgment
18 of conviction or the filing of a decision on direct appeal? **No.**

19 20. Do you have any petition or appeal now pending in any court, either state or
20 federal, as to the judgment under attack? Yes____ **No** **X** If yes, state what court and the case
21 number:

1 21. Give the name of each attorney who represented you in the proceeding resulting
2 in your conviction and on direct appeal: **Trial: Anthony Goldstein, Esq.**

3
4 22. Do you have any future sentences to serve after you complete the
5 sentence imposed by the judgment under attack? Yes___ **No _X_**

6 If yes, specify where and when it is to be served, if you know: **N/A.**

7
8 23. State concisely every ground on which you claim that you are being held
9 unlawfully. Summarize briefly the facts supporting each ground. If necessary you may attach
10 pages stating additional grounds and facts supporting same.

11 (a) Ground One: **Petitioner's right to Due Process, a fair trial, and right to**
12 **effective counsel as guaranteed by the Fifth, Sixth and Fourteenth Amendments to the**
13 **United States Constitution and/or under state law or the Nevada Constitution were**
14 **violated when trial counsel advised Petitioner to reject a more favorable plea deal and**
15 **Petitioner was subsequently sentenced to a much longer period of incarceration.**

16
17 Supporting Facts (Tell your story briefly without citing cases or law):

18
19 The claim presented here relies on the longstanding right of criminal defendants to make
20 an informed decision whether or not to plead guilty, as explained in the Supreme Court's 2012
21 decisions in Missouri v. Frye, 132 S.Ct. 1399 (2012) and Lafler v. Cooper, 132 S.Ct. 1376 (2012).
22 As stated in Frye, the challenge "is not to the advice pertaining to the plea that was accepted
23 but rather to the course of legal representation that preceded it with respect to other potential
24 pleas and plea offers." Id. at 1406. The Supreme Court concluded that plea bargaining is a
25 critical stage of proceedings during which a defendant is entitled to effective assistance of
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1 counsel because plea bargaining "is not some adjunct to the criminal justice system; it *is* the
2 criminal justice system." Id. at 1407.

3
4 The ultimate holding of Frye is directly relevant to the case at hand:

5 This Court now holds that, as a general rule, defense counsel has the duty to
6 communicate formal offers from the prosecution to accept a plea on terms and
7 conditions that may be favorable to the accused. Any exceptions to that rule
8 need not be explored here, for the offer was a formal one with a fixed expiration
9 date. When defense counsel allowed the offer to expire without advising the
defendant or allowing him to consider it, defense counsel did not render the
effective assistance the Constitution requires.

10 Id. at 1408.

11 To help guard against "late, frivolous, or fabricated claims" the Supreme Court noted that
12 "formal offers can be made part of the record at any subsequent plea proceeding or before trial
13 on the merits, to ensure that a defendant has been fully advised before those further
14 proceedings commence." Id. at 1408-09. To show prejudice on such a claim, the petitioner
15 must "demonstrate a reasonable probability they would have accepted the earlier plea offer had
16 they been afforded effective assistance of counsel." Id. at 1409. Also required is a showing that
17 under state law, the prosecution would not have canceled the offer or the trial court have
18 refused to accept the offer. The specific prejudice inquiry is whether the petitioner "would have
19 accepted the offer to plea pursuant to the terms earlier proposed." Id. at 1410.

20
21 Neither Frye nor Lafler purport to break new ground. That is, the Sixth Amendment has
22 always encompassed that criminal defendants "are entitled to the effective assistance of
23 competent counsel" during plea negotiations. Lafler, 132 S.Ct. at 1384, citing McMann v.
24 Richardson, 397 U.S. 759, 771 (1970). Nearly every court which has considered the issue has
25 held that Frye and Lafler did not create a new constitutional right which would be retroactively
26
27
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1 applicable on collateral review, but rather merely restated longstanding constitutional
2 requirements concerning effective assistance of counsel. Ortiz v. United States, 2012 U.S. Dist.
3 LEXIS 159847 (E.D.N.Y. Nov. 7, 2012) (collecting cases).
4

5 In the instant case, there was a more favorable plea offer extended, and it is outlined in
6 the guilty plea agreement that was ultimately filed. See GPA, 11-5-18, p. 2, SUPP 2. Specifically,
7 the agreement that was accepted saw Petitioner plead guilty per Alford to five serious felonies
8 to which the State retained the full right to argue. The agreement states that Petitioner rejected
9 “an aggregate sentence of eight to twenty years concurrent to each other on this case and Case
10 No. C329886.” GPA, 11-5-18, p. 2, SUPP 2. In essence, Petitioner rejected a deal that would
11 have ensured an eight to twenty year sentence and instead ended up with a deal that featured
12 exposure ranging up to and including what would be an effective life sentence (Petitioner
13 having been approximately 53 years old at the time of sentencing).
14

15 The decision to reject the stipulated eight to twenty year sentence was the product of
16 ineffective assistance of counsel. Petitioner received inaccurate and unprofessional advice
17 concerning that offer and only rejected it on that basis. Had the risks and benefits of that offer
18 been fully and correctly explained to Petitioner, she would have accepted the original offer and
19 remains willing to do so now. Further, said offer is wholly consistent with societal norms – i.e.
20 what the Clark County District Attorney might have offered (and in fact did offer) to resolve the
21 matter. For the same reasons, there is no basis to conclude the court would have exercised any
22 supervisory power in rejecting that offer. Relief should be granted in the form of compelling the
23 State to re-offer the 8-20 plea offer to Petitioner for acceptance as part of these post-conviction
24 proceedings.
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1 More specifically, Parks was only ever advised that the State "may argue for more than
2 that [8-20 year] stipulated sentence. SUPP 3, see also plea canvass at SUPP 18. The written plea
3 agreement and plea canvas left the impression that it was at least possible the State would not
4 ask for more time than the 8-20 year sentence, or at least would not greatly exceed it. In reality,
5 the State ultimately requested the court to maximize every sentence and run every sentence
6 consecutive, for a sentencing recommendation of 307 months to 768 months of incarceration.
7
8 The incredible recommendation by the State belies any notion that the State gave any good
9 faith consideration to arguing for equal or less time than the proposed stipulated sentence.
10

11 Effective counsel would have explained to the client that the State was not being
12 straightforward when it suggested the mere possibility of a larger sentencing recommendation.
13 That is, effective counsel would have recognized the State's strong desire to make an example of
14 Ms. Parks, and would have warned Ms. Parks that there was a high likelihood of not just a higher
15 recommendation than 8-20 years by the State, but a high likelihood the actual sentence
16 imposed would also exceed that amount. Had Ms. Parks been given an accurate assessment of
17 the risks and benefits of proceeding with the "right to argue" sentence, she would have
18 stipulated to the 8-20 year sentence instead.
19
20
21

22 An additional problem is that although trial counsel received authorization to retain the
23 services of a forensic accountant, counsel advised Parks to accept a plea deal without receiving
24 any opinion from that accountant. SUPP 509-513. It is beyond reasonable dispute that counsel
25 engaged the services of a forensic accountant. However, Parks was never provided any
26 assessment of their findings, and believes in fact the accountant was not requested to provide,
27 and did not provide, any findings. Counsel therefore advised Parks to accept a guilty plea
28

1 without first completing an adequate investigation. Had the investigation been completed,
2 many of the additional errors including arithmetical errors detailed in this petition would have
3 been discovered and Parks would not have accepted the right to argue plea offer.
4

5 (b) Ground Two: **Petitioner received ineffective assistance of trial counsel in**
6 **violation of her rights as guaranteed by the Fifth, Sixth or Fourteenth Amendments to the**
7 **United States Constitution and/or under state law or the Nevada Constitution when trial**
8 **counsel failed to challenge errors during sentencing and/or was otherwise ineffective in**
9 **conjunction with the sentencing proceeding.**
10

11 Trial counsel failed to adequately develop and present important mitigating evidence at
12 the time of sentencing, and ineffectively responded to the State's sentencing arguments.
13 Sentencing courts are required to give proper consideration to non-frivolous arguments for
14 mitigation. Rita v. United States, 551 U.S. 338 (2007). Failure to properly prepare for sentencing
15 and to present mitigating evidence can constitute ineffective assistance of counsel, even in
16 noncapital cases. Gonzalez v. Knowles, 515 F.3d 1006, 1015 (9th Cir. 2008); Lafler v. Cooper, 132
17 S.Ct. 1376, 1386 (2012) ("Even though sentencing does not concern the defendant's guilt or
18 innocence, ineffective assistance of counsel during a sentencing hearing can result in Strickland
19 prejudice because 'any amount of [additional] jail time has Sixth Amendment significance;'"
20 citing Glover v. United States, 531 U.S. 192, 203 (2001).
21
22
23

24 The State was required to provide notice that victim speakers would make a statement as
25 a matter of state law and Due Process. NRS 176.015(4), Buschauer v. State, 106 Nev. 890, 804
26 P.2d 1046 (1990). No such notice was provided in this case. Petitioner had no advance warning
27 of the arguments and facts presented at sentencing by the State or the victims, and the trial
28

1 court's reliance on highly suspect or impalpable information at sentencing is a violation of Due
2 Process. Townsend v. Burke, 334 U.S. 736 (1948), Silks v. State, 92 Nev. 91, 545 P.2d 1159 (1976).

3
4 With these basics in mind, Petitioner contends that trial counsel acted ineffectively at the
5 time of sentencing in several different ways:

6 Failure to object to improper arguments by State

7
8 First, defense counsel failed to respond to the State's argument at sentencing that
9 Petitioner "expresses no remorse" because she "only" pled guilty by way of the Alford decision.
10 The State advanced this improper theme several times. First, in its sentencing memorandum,
11 the State argued:

12
13 It is worth noting that Parks still has shown no remorse for any of her actions, and
14 continues to portray herself as the victim in this case. Even after reviewing the
15 mountain of evidence as noted above, Defendant's plea was only made pursuant
16 to the *North Carolina v. Alford* 400 U.S. 25 (1970) decision. While Parks has
17 acknowledged that the State could prove charges against her, she has refused
18 thus far to admit her criminal culpability. Again, the fact that Parks has shown no
19 remorse for her actions, after ruining the lives of countless victims and causing
20 immeasurable strife in society, cries out for a severe punishment.

21 SUPP 53.

22 During sentencing, the State repeated these arguments: "Ms. Parks still has shown no
23 remorse for her actions. Her plea in this case was pursuant to the Alford decisions. And she has
24 refused still to admit criminal culpability." SUPP 102, see also SUPP 112 (linking co-defendant's
25 Alford plea to failure to admit guilt).

26 The State's argument was patently improper under state law, yet defense counsel
27 completely failed to object or respond to the same. It is well established in Nevada that the
28 exercise of a criminal defendant's Constitutional rights cannot be held against them at the time

1 of sentencing. Brown v. State, 113 Nev. 275, 291, 934 P.2d 235 (1997) (New sentencing hearing
2 ordered where trial court considered exercise of Constitutional right to jury trial commensurate
3 with "lack of remorse").
4

5 Here, Petitioner exercised her right to accept a plea bargain put forth by the State under
6 the Supreme Court's decision in Alford. The exercise of that right was not equivalent to a lack of
7 remorse and the State's argument to that effect was improper. The same went uncorrected and
8 unchallenged by defense counsel, and there is a reasonable probability of a more favorable
9 sentence had counsel so objected. Bordenkircher v. Hayes, 434 U.S. 357, 363 (1978) (Punishing
10 defendant for exercising a right under the law is "a due process violation of the most basic
11 sort"). There is a reasonable probability a lesser sentence would have been imposed had trial
12 counsel objected to this improper argument.
13

14
15 Second, the State argued in its sentencing memorandum that several specific individuals
16 never "actually needed guardianship services." SUPP 45. To be sure, later medical review may
17 well have determined that these individuals no longer needed guardianship services. But
18 Petitioner is not aware of any medical evidence to support the State's contention that
19 guardianship services were never needed for those individuals, and the available medical
20 evidence shows that they were. A brief review of some of the named individuals is as follows:
21

22
23 North: A petition for appointment of temporary guardian was filed by Parks on August
24 21, 2013. SUPP 214. The petition was supported by a statement from Sanghamitra Basu, a
25 medical doctor licensed by the State of Nevada. SUPP 223. Dr. Basu personally examined Mr.
26 North and concluded a guardianship was necessary based on symptoms of confusion that could
27 lead to a possible accidental overdose. In addition, in an attached report, Dr. Basu explained
28

1 that Mr. North was a long-term patient, and that the doctor noticed a “significant” decline in
2 behavior prior to the guardianship. SUPP 225. Specifically, Mr. North could not care for his wife,
3 refused to go to the hospital after a 911 call, and needed daily assistance with medication. SUPP
4 225.

5
6 Neely: A petition for appointment of temporary guardian was filed on September 12,
7 2014. SUPP 226. The petition was supported by a statement from Akindele Kolade, a medical
8 doctor licensed by the State of Nevada. SUPP 235. Dr. Kolade concluded that Ms. Neely needed
9 a guardianship due to a diagnosis of schizophrenia, which prevented her from living
10 independently. It was Dr. Kolade’s opinion that Ms. Neely’s condition was so substantial that
11 she would not comprehend the reason for any court proceeding concerning the guardianship.
12 SUPP 235.

13
14 Mesloh: A petition for appointment of guardian was filed on October 8, 2013. SUPP
15 237. The petition was supported by a statement from John Reyes, a physician assistant licensed
16 to practice in the State of Nevada. Based on a personal examination, Mr. Reyes concluded a
17 guardianship was necessary due to Mr. Mesloh’s numerous health conditions that required 24
18 hour case. SUPP 243. In an attached letter, Mr. Reyes further explained that Mr. Mesloh agreed
19 the guardianship was in his best interest based on his medical problems and that he was “totally
20 dependent on others for all his care.” SUPP 245.

21
22 These are representative examples. A briefer review with reference to every individual
23 identified by the State shows that every single request for guardianship was supported by the
24 diagnosis of a medical provider: Shanna Maclin, G-15-042610-A, certified by Habim Gemil, M.D.;
25 Georgann Cravedi, G-14-040665-A, certified by Chad Hall, physician; Norman Weinstock, G-08-

1 032656-A, certified by Sofronio Soriano, M.D.; Barbara Lasco, G-14-039735-A, certified by John
2 Reyes, PA-C; Joseph McCue, G-14-039900-A, certified by Suresh Bhushan, physician; Jack King,
3 G-14-039730-A, certified by Alex Del Rosario, M.D.; Adolfo Gonzalez, G-13-038316-A, certified
4 by Wenwel Wu, M.D.

5
6 The only individual listed by the State that called for a more complicated analysis is Milly
7 Kaplove. However, an examination of the record in that matter reveals that, after an evidentiary
8 hearing attended by Ms. Kaplove, the court found that the initial request for a guardianship by
9 Ms. Parks was "justified," but that the ward had since recovered and no longer needed a
10 guardian. SUPP 247.

11
12 Therefore, the State's argument that Ms. Parks initiated guardianships on individuals who
13 did not require a guardianship is belied by the extensive family court records, which would have
14 been publicly available to trial counsel at the time of sentencing. The State's theory that Ms.
15 Parks initiated unwarranted guardianships is certainly one of the scarier allegations the State
16 raised, but it is an allegation unsupported by the underlying record. Every guardianship
17 identified by the State as unwarranted was in fact supported by a certificate from a medical
18 provider: most often an actual M.D., and with a single exception, a different medical doctor
19 every time. The independent medical judgment of these many providers supported the initial
20 requests for guardianship, and there is no evidence this series of doctors would risk their
21 licenses to support Ms. Parks by making false claims in support of guardianship requests.

22
23 Trial counsel was ineffective in failing to present accurate information at the time of
24 sentencing, and the State correspondingly erred by giving the court inaccurate information
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1 which was material to the sentence imposed. There is a reasonable probability of a lesser
2 sentence had trial counsel corrected the State's incorrect assertions.

3
4 Third, trial counsel should have objected to the State's arguments about the amount of
5 charges or the legislative history behind the elder exploitation statutes. There are two
6 subcomponents to this issue. The first problem is that the State placed heavy emphasis on the
7 original number of charges Ms. Parks faced, "over 200 felony charges in the original indictment."
8 SUPP 53. The State then argued that the reduction in charges in the plea agreement to six
9 counts was all the benefit Ms. Parks was due. SUPP 53.

10
11 This cheap-shot style argument fails to consider that State exclusively enjoyed the
12 privilege of deciding how to charge the case, and the State should not be allowed to reward
13 itself for overcharging the case. As Justice Brennan once explained:

14
15 Given the tendency of modern criminal legislation to divide the phases of a
16 criminal transaction into numerous separate crimes, the opportunities for
17 multiple prosecutions for an essentially unitary criminal episode are frightening.
18 And given our tradition of virtually unreviewable prosecutorial discretion
19 concerning the initiation and scope of a criminal prosecution, the potentialities
20 for abuse . . . are simply intolerable. (Footnotes omitted.)

21 Ashe v. Swenson, 397 U.S. 436, 451-52 (1970) (Brennan, J., concurring).

22 Other courts have dealt with the issue much more bluntly. State v. Korum, 157 Wn.2d
23 614, 666 at n. 19, 141 P.3d 13 (Wash. 2006) ("The prosecutor should not overcharge to obtain a
24 guilty plea."); State v. MacLeod, 141 N.H. 427, 434, 685 A.2d 473 (1996) ("Finally, our trial courts
25 have both the authority and the obligation to curb the prosecution's broad discretion if
26 'overcharging' poses dangers of confusion, harassment, or other unfair prejudice").
27
28

1 Here, trial counsel could have objected to the State's reliance on the number of charges
2 in the original indictment as some measure of the wrongness of Ms. Park's actions. The State
3 alone decided what and how many charges to bring. Notably, the State referred to Ms. Park's
4 business as a "criminal enterprise." SUPP 105. If that were in fact true, there was only one
5 business and therefore perhaps only one criminal enterprise. Yet the State saw fit to file 270
6 separate felonies in the original indictment for self-created shock value. Trial counsel should
7 have objected to the use of this measure at the time of sentencing and there would have been a
8 reasonable probability of a more favorable outcome if consideration of that factor was excluded
9 from sentencing.
10

11
12
13 The other subcomponent is as follows. With no evidentiary support whatsoever, the
14 State proclaimed that "The fact that the Felony Theft statute allowed for punishment of up to
15 four (4) to ten (10) years in prison, and that Exploitation allows for punishment of up to eight (8)
16 to twenty (20) years in prison, per offense, is proof that the legislature intended for there to be a
17 harsher punishment for serious thefts and exploitation. SUPP 51.
18

19 Parks never challenged the meaning of the exploitation statute, so the legislative history
20 behind it was irrelevant and should have been objected to. That said, the legislative history for
21 the exploitation statute was and is publicly available, and what little insight it provides does not
22 support the State's argument that Parks deserved a "harsher punishment" simply because the
23 State charged her with violating NRS 200.5099.
24

25
26 The operative statute was passed in 1995 as part of Assembly Bill 585 and related Senate
27 Bill 416. What little discussion there is suggests revisions were necessary in particular to "keep
28 violent criminals in prison longer and release nonviolent criminals into probation sooner." SUPP

1 267. Testimony focused on the need for a “range of penalties for crimes against elders.” SUPP
2 272. The Division of Aging Services, which proposed the statutory changes, simply concluded
3 that a “range” of penalties was necessary including “up to 20 years imprisonment or fines of up
4 to \$25,000 for more serious cases.” SUPP 275.

5
6 Nothing about this legislative history supports the State’s argument that the exploitation
7 statute somehow requires Ms. Parks receive the maximum possible sentence. Read in totality, it
8 would appear what the legislature meant by “serious” cases was those involving violence. But
9 more specifically, there is nothing in the legislative history to really guide courts in determining
10 who does or doesn’t deserve the maximum sentence. Trial counsel should have objected to the
11 State’s invocation of legislative history as a basis for a maximum sentence, and there’s a
12 reasonable probability of a more favorable outcome had counsel done so.

13
14 Additionally, the prosecutor argued that Parks moved ward Marlene Homer several times
15 due to mismanagement of funds. SUPP 97. Reasonably effective counsel would have presented
16 information known to Ms. Parks, which was that there were allegations the ward was being
17 abused and that is why the ward was moved a second time. Additionally, the ward has been
18 exploited by her tax preparer, before Ms. Parks ever became involved in the matter. This
19 information would have completely undercut the State’s argument that Parks mismanaged the
20 ward’s funds.

21
22 The prosecutor also argued that Parks left the State of Nevada and many wards were left
23 without a guardian. SUPP 9. Reasonably effective counsel would have presented information
24 known to Ms. Parks that Parks had spent ten or more hours going over all of her active cases
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1 with the public guardian, and informed the public guardian she intended to cease all services by
2 the end of 2015.

3
4 The prosecutor also argued that Parks acted in a "ghoulish" manner by allegedly keeping
5 cremated remains in storage sheds. Reasonably effective counsel would have presented
6 information known to Ms. Parks which was that, in an earlier press conference, the District
7 Attorney and representatives stated publicly that Parks acted appropriately by retaining those
8 remains. Certainly the flipside remains obvious: If she had discarded human remains, the State
9 would almost certainly have argued that conduct was ghoulish. Information about the remains
10 should never have been presented to or considered by the Court.
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13

14 Failure to object to lack of notice above victim speakers

15 The sentencing transcript reveals that no proper notice of victim speakers was ever
16 provided to defense counsel. SUPP 140. Trial counsel did lodge an objection to any speakers
17 being allowed to testify, which the court overruled. Further, the State explained they sent the
18 notices to "the wrong Goldstein." SUPP 141. The Court overruled the objection but allowed
19 defense counsel to lodge individual objections to specific speakers. SUPP 142. However, no
20 individual objections were lodged. Further, based on the lack of proper notice, trial counsel's
21 sentencing memorandum was completely devoid of facts or investigation that would have
22 placed Petitioner's actions in a more favorable light.
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26 There's no question counsel was entitled to notice of who the victim speakers would be
27 and what they would say. NRS 176.015(4), Buschauer v. State, 106 Nev. 890, 804 P.2d 1046
28 (1990). By failing to insist upon advance notice, trial counsel was ineffective. Alternatively,

1 counsel could have at least asked the trial court for a chance to respond to the victim speakers
2 once the substance of their testimony was disclosed by way of presentation to the court. In
3 total, allowing the victims to testify by surprise, with no response whatsoever from counsel, was
4 objectively unreasonable.
5

6 As a result, the Court heard substantial testimony from multiple victim speakers which
7 went far beyond what would have been authorized under the statute, with no meaningful
8 rebuttal by trial counsel. Highlights include at least one speaker screaming repeatedly that
9 Petitioner was "Hitler" or a "Nazi" (SUPP 192, 195, 204, 205), that Petitioner impersonated a
10 police officer including by use of a LVMPD badge (SUPP 178), or that Petitioner was "Lilith,"
11 (SUPP 203), a reference to a notorious biblical demon.
12
13

14 In addition to the above examples of inappropriate, irrelevant and inflammatory
15 testimony, there are many specific examples were counsel, had he been provided proper notice,
16 could have given the court additional information regarding the victim testimony. In several of
17 these cases, the information would have shown that the statements by the victims were
18 incorrect and that uncorrected, consideration of the victim statements would mean Parks was
19 sentenced using unreliable or incorrect information.
20
21

22 Example No. 1: Larry Braslow testified at sentencing on behalf of his mother. Larry
23 specifically requested the court "to be the champions they claim to be for all our beloved
24 elderly. Send a clear message to **anyone** (emphasis added) who wants to steal from and
25 destroy our precious one's lives." SUPP 147. Effective trial counsel could easily have accessed
26 the publicly available guardianship case and learned that there was evidence contained in it that
27 Larry had in fact stolen from his mother and that was why a non-family member was appointed
28

1 guardian in the first place. SUPP 347. Larry was specifically accused by his mother of having
2 stolen her identity and incurred debt in her name. SUPP 360. Moreover, in a subsequent filing
3 under the pains and penalties of perjury, Larry's brother Alan asserted that Larry was attempting
4 to "gain control over my mother's finances and I am strongly opposed to that occurring." SUPP
5 375. This backstory provides important context that would have diminished the credibility of
6 Larry's assertions at the time of sentencing. Further, Ms. Parks could have explained even more
7 relevant information, such as that Elder Protective Services removed Mrs. Braslow from the
8 home, that she did not want to see her son Larry, or that prior to being removed, Mrs. Braslow
9 had allowed a stranger to spend the night in her home and that individual ended up stealing her
10 car and firearms.

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15 Example No. 2: The public guardian testified about several individual cases. One
16 involved a Maria Cooper, and as to her, the public guardian asserted there were no cognitive
17 issues and the only impairment was hearing loss – apparently an argument that no guardianship
18 was ever necessary. SUPP 150. The public guardian's statements to the court were materially
19 untrue. First, the publicly available petition for guardianship which trial counsel could easily
20 have accessed reveals that the ward suffered from severe panic attacks that led her to call 911 in
21 the middle of the night. SUPP 402. An examination by Dr. David Wikler revealed a diagnosis of
22 dementia. SUPP 403. The clock-drawing test, a simple and commonly used tool to screen for
23 dementia, speaks for itself. SUPP 405. Further, the public guardian declined to inform the court
24 that not only did Ms. Cooper consent to the guardianship and want April Parks as her guardian,
25 she expressly stated she did not want previously nominated individuals to have control of her
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1 estate. SUPP 407. Ms. Parks could also have provided information that Cooper had been
2 exploited by a neighbor, which was an additional reason the guardianship was necessary.

3
4 Example No. 3: The public guardian argued on behalf of Kathy Godfrey, and
5 contended that no guardianship was necessary in the first instance. SUPP 159. However, trial
6 counsel could have accessed publicly available information to determine that Dr. Richard Paguia
7 determined that Ms. Godfrey suffered from chronic alcoholism manifested by increasing falls.
8 SUPP 416. Additionally, court minutes from the proceeding indicate Ms. Godfrey consented to
9 the guardianship. SUPP 418. Effective counsel would have ensured the sentencing court had
10 this important contextual information which again directly contradicts information provided by
11 the public guardian.
12
13

14 Example No. 4: The public guardian testified about William Brady, and stated his
15 estate was worth "approximately \$148,000" when the guardianship began, but was worth less
16 than \$20,000 when the public guardian took over. SUPP 160. The public guardian explained the
17 guardianship began in 2010 and the public guardian took over in 2015, and that Ms. Parks
18 collected some \$33,000 in fees. Effective counsel could have provided some context to these
19 numbers and explained that Ms. Park's fees were collected over a five year period, leading to a
20 per-year average of \$6,600. These fees amount to less than \$600 per month. For context, the
21 accounting from the guardianship shows the vast majority of assets were spent on room and
22 board - \$122,000 over a five-year period. SUPP 423. This context puts in perspective that
23 largest expense, by far, was room and board during the guardianship and that expense has
24 never been alleged by the State to have benefited Ms. Parks in any way.
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1 Example No. 5: Herman Mesloh (discussed previously herein) testified chiefly
2 about his wife's guardianship. Herman explained that his wife "was fine" and did not need a
3 guardianship. SUPP 164. However, effective trial counsel could have obtained the petition from
4 Kathy Mesloh's guardianship and learned that Dr. Robert Chiascione determined a guardianship
5 was necessary because the ward could not bathe, cook, groom, or take her medication without
6 assistance. SUPP 432. This would have yet again provided important context to the allegation
7 that Ms. Parks instituted unnecessary guardianships. Ms. Parks could have also provided
8 information, such as that Mrs. Mesloh would continuously open the door to her home to let her
9 dogs out while yelling to "be free." The dogs were eventually placed for adoption. Further, Ms.
10 Parks could have explained that the Meslohs collectively did not possess expensive belongings.

11 Example No. 6: Amy Wilkening testified on behalf of her deceased father, Norbert
12 Wilkening. SUPP 171. She testified Norbert was "conscripted" into guardianship by Ms. Parks.
13 She also referenced in a negative way that the guardianship was based on the analysis of a
14 nurse practitioner. SUPP 172. While the part about a nurse practitioner is true, there is no
15 allegation this was improper under the law. Moreover, the publicly available petition reveals the
16 nurse practitioner provided substantially more information than did some of the medical
17 doctors to support his conclusion, which ultimately was that the guardianship was necessary due
18 to dementia. SUPP 446. The witness also accused Ms. Parks of lying about the need to dispose
19 of the ward's personal property. SUPP 173. However, a publicly available property report stated
20 that the value of the ward's personal property was "less than \$100 for everything" due to the
21 fact most items were broken, garbage, stained with human waste and other biohazards, and in
22 overall poor condition. SUPP 449. This evidence directly rebutted the material statements of

1 the speaker that the guardianship was unnecessary or that Ms. Parks vindictively disposed of the
2 ward's property. The speaker also testified, without evidence or explanation, that Ms. Parks was
3 a "racist." SUPP 176. Effective counsel would have rebutted all of these points.
4

5 Example No. 7: Elizabeth Indig testified about her mother, who has the same
6 name. SUPP 178. Ms. Indig testified that Ms. Parks represented herself as a police officer
7 including by use of a "fake" Metro badge. SUPP 178. There is not believed to be any evidence
8 to support this allegation despite the State's production of well over 10,000 pages of discovery.
9 The speaker also testified that she was not allowed to visit her mother during the guardianship
10 because she was a "danger" to her mom because she wanted to bring her macaroni and cheese
11 to eat. SUPP 178. However, publicly available documents show Ms. Indig was a danger to her
12 mother because there were prior allegations of serious physical abuse. SUPP 453-454. In fact a
13 specific, likely mandatory, report of abuse was made by a social worker regarding "abuse by this
14 patients daughter Elizabeth Indig." SUPP 470. In addition, a neighbor reported that Ms. Indig
15 has stolen her mother's jewelry and taken money for her own use out of the mother's bank
16 account. SUPP 470. Again, these allegations come from a social worker completely unaffiliated
17 with Ms. Parks. Additionally, court minutes from the guardianship show that Ms. Indig was
18 involved in the guardianship from the beginning, repeatedly declined to follow advice given to
19 her by the guardianship court to include steps she could take to assume the mantle of guardian,
20 and ultimately the request was made to declare her a vexatious litigant. SUPP 474-475.
21 Effective counsel could have presented this information to the court which would have shown
22 several points made by the speaker were materially untrue.
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1 Example No. 8: Barbara Neely testified on her own behalf that she never needed a
2 guardianship. SUPP 181-182. However, her situation has already been discussed herein,
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4 including that a medical doctor determined that at the time Ms. Parks was appointed guardian,
5 a guardianship was necessary. SUPP 235. Also, Ms. Parks could have provided information that
6 LVMPD removed Ms. Neely from her home, and that Ms. Parks was not involved in that process.

7
8 Example No. 9: Julie Belshe testified on behalf of her mother Rennie North. Julie
9 purported to read a letter that her mother wrote. SUPP 193. Interestingly, the letter switches
10 from first to third person mid-way through. SUPP 193 ("...making my mom sicker"). While in
11 general Julie was likely permitted to act as a speaker, had she been properly noticed (which she
12 was not), she would not have been permitted to mislead the court into thinking her mother
13 wrote something that Julie herself in fact wrote. Additionally, Ms. Parks could have provided
14 information that she was aware Julie had been thrown out of at least one assisted living facility
15 because of her behavior. Ms. Parks could also have explained that she never forced any ward to
16 take medication.

17
18
19 On the whole, evidence was widely available that rebutted any allegation that Ms. Parks
20 ever created an unnecessary guardianship. In addition, specific points of evidence were
21 available to rebut various points made by individual speakers. Further, several speakers used
22 inflammatory terms to describe Ms. Parks which is not part of the information permitted by
23 victim speakers under the statute.

24
25
26 Additional information could have been provided by Ms. Parks that ward Weinstock was
27 provided personal items like needlepoint pictures at the assisted living facility but that the
28 facility discarded them.

1 Ms. Parks has a right to be sentenced based on accurate information and a lot of what
2 was presented at sentencing could have been rebutted by effectively functioning counsel. Had
3 this been done, there would have been a reasonable probability of a more favorable outcome.
4

5 Failure to object to improperly computed restitution

6 Pursuant to the plea agreement, Ms. Parks agreed to pay \$559,205.32 in restitution to
7 some 27 individuals, jointly and severally with her co-defendants. SUPP 17. There does not
8 appear to be any evidence that trial counsel attempted to negotiate this figure, or even
9 determine how it was computed. Effectively functioning counsel would have sought to reduce
10 the amount of restitution imposed, or alternatively would have alerted the court at sentencing
11 to errors in its computation.
12
13

14 Parks had a constitutional right to sentencing based on accurate information. Silks v.
15 State, 92 Nev. 91, 545 P.2d 1159 (1976); United States v. Tucker, 404 U.S. 443, 447 (1972). That
16 right extends to restitution, which must also be accurate. United States v. Watchman, 749 F.2d
17 616, 618 (10th Cir. 1984). Restitution cannot rest upon impalpable or highly suspect evidence.
18 Martinez v. State, 115 Nev. 9, 13, 974 P.2d 133 (1999). A defendant is entitled to present
19 evidence which challenges the amount of restitution sought. Id.
20
21

22 The issue here certainly involves the amount of restitution, but more is at stake than just
23 the amount Parks is expected to pay back. The \$559,205.32 the State sought in restitution was
24 used throughout the sentencing as a measure of the seriousness of Park's conduct. But the
25 State seemed to acknowledge that it would affect sentencing in Park's favor if restitution were in
26 fact paid. SUPP 52. The State likewise sought a maximum sentence based on the argument that
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1 Parks stole "159 times the threshold" for a Category B felony. SUPP 52. Plainly, the total
2 amount of claimed loss is relevant to amount of punishment.

3
4 That being the case, effective counsel could have explained that Parks did in fact return
5 some of the money taken, or, that some of the State's math was not supported by the evidence
6 of record. Either of these events would have reduced the total restitution amount and thereby
7 reduced the relative seriousness of the offense.

8
9 For example, the largest loss stated in the judgment of conviction, by far, pertained to
10 Dorothy Trumbich, with restitution ordered in the amount of \$167,204.49. That amount is
11 precisely the amount testified to as the loss at the grand jury hearing. SUPP 479. What the
12 State neglected to inform the sentencing court is that, pursuant to the sworn grand jury
13 testimony, Parks repaid \$50,000 to Ms. Trumbich's estate when it "went to probate court." SUPP
14 479. According to publicly available records, the probate case was filed in early 2014. See W-
15 14-006398. As a result, Parks repaid the \$50,000 before even being involved in this criminal
16 case, and that amount never should have been sought as restitution in the first instance, and any
17 remaining amount was paid by insurance. Effective counsel would have so argued, either in
18 conjunction with the plea negotiations or should have at least informed the sentencing court
19 that regardless of what was agreed or ordered, a portion of the restitution had in fact been
20 prepaid.

21
22 Another example is the case of Baxter Burns. According to the judgment of conviction,
23 Burns was awarded \$32,006.72 in restitution. However, deep in the discovery documents
24 provided in the case was evidence that of that amount, Burns confirmed receipt of the return of
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1 \$8,529.84. SUPP 481-483. Effective counsel would have pointed this out as well as part of the
2 negotiations or at least at the time of sentencing.

3
4 Just taking these two examples alone, combined they amount to \$58,529.84 which
5 should have been deducted from the restitution amount identified in the judgment of
6 conviction. Had this amount been deducted from the restitution of \$554,397.71 stated in the
7 judgment of conviction, the total restitution and total loss would have been reduced to
8 \$495,867.87, if no other adjustments are made based on the State's many mathematical errors.
9

10 Second, as a matter of both due process and State law, the court could only award
11 restitution in a specific amount to identified victims. Pursuant to NRS 176.033, a sentencing
12 court is only authorized to set restitution "for each victim of the offense." Restitution cannot be
13 set in "uncertain terms." Botts v. State, 109 Nev. 567, 854 P.2d 856 (1993). Restitution must be
14 payable, in a specific amount, to a victim of a crime, which can encompass a specific individual
15 or entity. Igbinovia v. State, 111 Nev. 699, 895 P.2d 1304 (1995). To comply with the Due
16 Process Clause, restitution awards must be only for the victim or victims of the offense charged,
17 and the amount "must be just and supported by a factual basis within the record." Burt v. State,
18 445 S.W. 3d 752, 758 (Tex. Crim. App. 2014).
19
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22 Reasonably effective counsel would have objected to an award of restitution in violation
23 of these requirements. Specifically, the award of restitution to named victims in the amended
24 judgment of conviction only adds up to \$412,943.02. It's no great mystery where the rest of the
25 award comes from: At the plea canvass, the State documented various "scams" it claimed it
26 could prove at trial, such as the "court paperwork scam," "mortuary and toilet paper scam,"
27 "holiday gift scam," "bank deposit scam," and "SSA scam." SUPP 23-25. But these alleged
28

1 schemes were never attributed to a specific victim and instead, whether through inadvertence or
2 shoddy investigation, were simply all lumped together.

3
4 The judgment of conviction therefore purports to award restitution for these five scams,
5 but there is no record of who those funds would be payable to. Restitution cannot exist in a
6 vacuum, it must be specifically award to a victim for an identifiable loss. Reasonably effective
7 counsel would have explained this to the court, and there is a reasonable probability of a more
8 favorable outcome had this been done. In particular, the unadjusted loss/restitution amount
9 could have been reduced to \$412,943.02, which then should further have been reduced by the
10 \$58,529.84 Parks returned, leaving an actual restitution award of no greater than \$354,413.18.

11
12
13 The State's evidence fails in yet a third way in that many of the claimed losses simply
14 don't match up to the amounts found in the discovery. Reasonably effective counsel would
15 have double checked the State's math at some point. It appears counsel did attempt to engage
16 a forensic accounting firm while the case was ongoing, but that firm never completed an
17 analysis of the claimed losses.

18
19 As part of the post-conviction investigation, paralegal review of the State's voluminous
20 and unorganized 15,000+ page discovery production was attempted. SUPP 484-490 (backup
21 documentation from discovery attached as SUPP 491-505). Looking specifically at SUPP 490,
22 comparison is made between three sources of data: the total restitution shown in the judgment
23 of conviction, the total losses documented in police reports, and the total losses to the extent
24 they could be determined based on a review of the discovery. It is readily apparent from these
25 totals that there is a \$100,000+ spread in the numbers between the actual restitution imposed
26 and the restitution supported by the discovery. The losses shown in the police reports are closer
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28

1 to the lower end of the scale, despite the fact it was often impossible to follow the State's
2 conclusory math. That is, simply because a police officer said a loss occurred does not make it
3 so.
4

5 Using these numbers, Parks would suggest the restitution to named victims supported
6 by the State's documentation was no greater than \$436,816.02. This number already includes
7 the repaid amounts discussed earlier. However, from it must still be deducted the "five scams"
8 for which no victim was identified. Those scams total \$146,262.30, leaving a total restitution/loss
9 supported by the discovery of \$290,553.72. This is barely half the amount identified in the
10 judgment of conviction.
11
12

13 Due process requires that the loss be accurately identified, particular where the amount
14 has been repeatedly held up by the State as a basis for a gigantic sentence. Due process also
15 requires restitution be accurately computed, assigned to a named victim, and have a factual
16 basis, regardless of whether Parks voluntarily agreed to pay it. The allegation here includes a
17 claim that effective counsel would have figured this all out ahead of time, i.e. that Parks would
18 have declined to agree to restitution in the proposed amount had someone such as her attorney
19 informed her there was no factual basis for it. But this information should also have been
20 brought out at sentencing as there is a reasonable probability of a more favorable outcome in
21 the form of a lower sentence or lower restitution had counsel done so.
22
23

24 Failure to challenge reasonableness of sentence sought or imposed
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26 While the recommendation of the Department of Parole and Probation is not binding on
27 the sentencing court, see Lloyd v. State, 94 Nev. 167, 170 (1978) (citing Collins v. State, 88 Nev.
28 168 (1972)), the recommendation is based on "the normal punishment given in other

1 jurisdictions for similar offenses.” Id. (citing NRS 176.145). Moreover, the presentence report, like
2 all information presented at sentencing, cannot contain impalpable or highly suspect material.
3
4 Blankenship v. State, 132 Nev. 500, 375 P.3d 407 (2016). As a result, if a sentencing judge were
5 to sentence significantly beyond the recommendation of Parole and Probation, then the judge is
6 sentencing significantly beyond what the normal punishment is for the same or similar crimes in
7 other jurisdictions. Moreover, by disregarding a presentence report that contains accurate
8 information in favor of other, inaccurate information, the ultimate sentence would rely on
9 impalpable information in violation of Nevada law.
10

11 Here, there was a wholesale rejection of P&P’s presentence report sentencing
12 recommendation by the Court. (“I have no idea how parole and probation only thinks that you
13 deserve 64 months on the bottom, because that is absolutely not accurate and that is absolutely
14 what is not about to happen today”). SUPP 211. In fact, after a thorough presentence
15 investigation, P&P found that Petitioner actually qualified for a recommendation of probation
16 with a probation success probability score of 66. To be sure, P&P ultimately did recommend a
17 minimum sentence of incarceration of 64 months, but the overall finding of the presentence
18 report was favorable to Petitioner. Effective counsel would have either presented information to
19 the sentencing court to support P&P’s recommendation, or requested someone from P&P come
20 to the sentencing to explain it themselves.
21

22 As a result of these errors, the trial court sentenced Petitioner to a minimum term of
23 incarceration of 192 months. This is **more than three times what P&P recommended and**
24 **double what the original offer would have called for.** The Supreme Court has held that any
25 increased amount of incarceration has constitutional significance and therefore the increased
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1 sentence imposed on Petitioner as a result of counsel's errors was prejudicial. Had trial counsel
2 objected to the failure to consider P&P's accurate presentence report, or requested that the
3 drafting officer appear to better explain how the recommendation was arrived at, Parks would
4 have enjoyed a reasonable probability of a more favorable outcome. Petitioner should receive a
5 new sentencing hearing before a judge who is unfamiliar with the record in this matter.
6

7
8 In addition, the 16 to 40 year sentence imposed by the trial court was unreasonable and
9 constituted cruel and unusual punishment. Effective trial counsel would have challenged the
10 sentence imposed by way of a motion for reconsideration, a new trial, or by filing a direct
11 appeal. A sentence of no less than 16 years in prison shocks the conscience, because it is
12 unreasonable and disproportionate to literally any other sentence imposed in Nevada for theft.
13 Allred v. State, 120 Nev. 410, 420, 92 P.3d 1246 (2004), overruled on other grounds by Knipes v.
14 State, 124 Nev. 927, 192 P.3d 1178 (2008), see also Solem v. Helm, 463 U.S. 277 (1983). A
15 necessary component of this analysis is comparison of the offense to the same or similar crimes
16 either within or outside the jurisdiction where the offense occurred. In re Lynch, 8 Cal.3d 410,
17 427 503 P.2d 921 (1972). Courts must sentence defendants individually and take into
18 consideration the defendant's circumstances as well as the facts of the crime. Martinez v. State,
19 114 Nev. 735, 961 P.2d 143 (1998).
20
21

22
23 While challenging to analyze due to the lack of any centralized data, a compelling case
24 could be made that Ms. Park's sentence was way outside the norm for theft based sentences
25 either in or outside Nevada – or potentially *the most severe* sentence handed down based on
26 the amount of money at issue. To be sure, the approximate half-million dollar loss in this case is
27 substantial, but it pales in comparison to numerous other high publicity theft cases.
28

1 Effective counsel could have alerted the court that sentences imposed for similar crimes
2 were significantly less severe than either the incarceration time sought by the State, or the actual
3 sentence imposed. A compilation of sentences with backup documentation is attached to the
4 appendix in this matter.

5
6 Specifically, as part of the post-conviction investigation, a survey of similar cases was
7 conducted. While these are primarily theft cases from Nevada, other related cases from other
8 jurisdictions are also included to ensure an adequate sample size. SUPP 514-516. Then, a
9 statistical analysis of those sentences was performed to determine just how great an outlier
10 Parks' sentence was. SUPP 517-520.

11
12 The statistical analysis confirms that, mathematically speaking, Parks' minimum sentence
13 of 192 months "shocks the conscience" because it is almost three standard deviations beyond
14 the predicted sentence based on the amount of money allegedly stolen. That is, the predicted
15 sentence for \$554,397.71 would be 48 months in prison – an amount itself that is similar to what
16 P&P recommended for Ms. Parks. But the 192 month sentence actually imposed lies almost at
17 the third standard deviation of the results range, meaning, it is higher than would be expected
18 in 95% to 99% of all cases.

19
20 The results themselves bear this out. More simply, only one sentencing in the entire data
21 sample involved a sentence longer than 192 months. Sharon Moore was sentenced to 240
22 months in prison for a guardianship fraud scheme, but in that case, some \$11 million was
23 alleged to have gone missing. There are many examples of thefts over \$1 million that results in
24 substantially less lengthy sentences than what was imposed on Ms. Parks. And the sample was
25 not drawn in any way to exclude unhelpful results; there simply are none to report. The State is
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1 welcome to justify a 16 year minimum sentence for what the State's own prosecutor described
2 as "largely a billing fraud case" by pointing to any examples of similar sentences it can find.

3
4 SUPP 20. Parks believes any such examples are rare or nonexistent.

5 In total, the sentence imposed on Ms. Parks was overly harsh based on State and Federal
6 Constitutional law. The only way a sentence could ever "shock" society is in comparison to other
7 sentences, and that comparison here shows the sentence imposed was at the highest levels of
8 rareness and way out of line with the amount of money alleged taken.

9
10 Of course, the amount of money at issue is but one factor the court would consider at
11 sentencing, but in a financial crime case it is likely the most important factor. It would be natural
12 to consider the impact of the offense on the victims, but as detailed above, that factor is not
13 nearly as clear cut as the State suggests either. Ms. Parks was called upon, time and again, to
14 make judgment calls about complicated care questions in cases where no one else could or
15 would serve in that role. The sentence imposed must reflect these individualized considerations,
16 the 192 month minimum sentence was unreasonable, and counsel acted ineffectively by failing
17 to argue these points to the Court either at or after sentencing.

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21 Investigation Continues

22 This supplement is filed within the timeframes previously set. Investigation of
23 supporting facts continues and Parks reserves the right to add additional factual context to
24 these allegations, potentially in the form of witness statements, documents or other evidence
25 which would further support her claim of ineffective assistance of counsel at the time of
26 sentencing.
27
28

1 (c) Ground Three: **Petitioner received ineffective assistance of trial counsel in**
2 **violation of her rights as guaranteed by the Fifth, Sixth or Fourteenth Amendments to the**
3 **United States Constitution and/or under state law or the Nevada Constitution due to the**
4 **fact Petitioner was wrongfully deprived of her right to a direct appeal; Petitioner hereby**
5 **requests relief pursuant to Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994) and NRAP**
6 **4(c).**
7

8 Petitioner specifically informed trial counsel that she was dissatisfied with the sentence
9 and wanted to challenge it any way possible, including specifically an appeal. Further, effective
10 counsel would have understood, based on the errors outlined above, that Petitioner would have
11 wanted to appeal and that appealable issues existed concerning the events at sentencing and
12 the sentence itself. However, trial counsel did not file a notice of appeal within the thirty days
13 required, and the time for filing a notice of appeal has now expired.
14

15 Because Petitioner was unconstitutionally deprived of her right to a direct appeal with
16 the assistance of counsel, she requests this Court grant relief in the form of an untimely direct
17 appeal. If a criminal defendant is deprived of a direct appeal, prejudice is presumed and there is
18 no requirement that the issues to be raised on appeal be identified. Toston v. State, 127
19 Nev.Adv.Op. 87, 267 P.3d 795 (2011). Petitioner would simply state, in general and as explored
20 above, there are significant questions about the actual sentence imposed and the means by
21 which it was arrived at which would have been appropriate for direct review.
22

23 Pursuant to NRAP 4(c), there is a procedure by which the trial court can direct the Clerk
24 of Court to prepare and file a notice of appeal on Petitioner's behalf, and Petitioner requests the
25 court grant this relief as the remedy to this appeal deprivation claim.
26
27
28

1 In support of this claim, the evidence shows that Parks wrote counsel during the time
2 when a direct appeal could have been timely filed. SUPP 507. In that letter, Parks alluded to an
3 in-person discussion she had with counsel. In the letter, Parks expressly stated she was
4 dissatisfied with the sentence because she requested counsel "get the paperwork started for a
5 sentence modification." SUPP 507. Parks further alleges that this series of correspondence only
6 arose after a meeting between Parks and counsel, following sentencing, in which Parks
7 unequivocally informed counsel that she wanted to appeal her sentence.
8

9
10 Instead of filing a notice of appeal, counsel wrote Parks a letter back indicating that he
11 would clarify what they had recently discussed.¹ Counsel stated the only "potentially legitimate"
12 course of action was a post-conviction petition. SUPP 508. Despite the ongoing availability of
13 direct appeal as a remedy, counsel advised Parks to raise "issues at the sentencing hearing" as
14 part of a post-conviction petition.
15

16
17 While Parks may have operated at the periphery of law, she was not a trained lawyer and
18 whatever she knew about guardianships would provide no basis to conclude she knew anything
19 about criminal law. Reasonably effective counsel would have understood that by complaining
20 about her sentence and requesting relief from it, Parks expressed a desire to appeal. Courts,
21 including the Nevada Supreme Court, have held counsel is ineffective when he or she talks a
22

23
24
25
26
27
28 ¹ The letter provided by counsel was in Word format and the date automatically
updated when opened for reading. However, the filename suggests the original date of
counsel's letter was 1-30-19 which was still during the direct appeal time period.


1 defendant out of filing a direct appeal. United States v. Waller, 2013 U.S.Dist. LEXIS 39845 (W.D.
2 Tenn. 2013), Burns v. State, 2020 WL 406319, 455 P.3d 840 (Nev. Jan. 23, 2020) (unpublished).

3
4 WHEREFORE, Petitioner prays that the court grant petitioner relief to which petitioner
5 may be entitled in this proceeding to include (1) withdrawal from the plea agreement with a
6 finding that the State is directed to re-offer the previous 8 to 20 year offer, (2) a new sentencing
7 hearing before a judge who is unfamiliar with the record of these proceedings, (3) an untimely
8 direct appeal with the assistance of appointed counsel, (4) an evidentiary hearing, or (5) any
9 other such relief as may be required.
10

11 DATED this 30th day of September, 2020.
12
13

14 Submitted By:

15 RESCH LAW, PLLC d/b/a Conviction Solutions
16

17
18 By: 
19 JAMIE J. RESCH
20 Attorney for Petitioner

21 ///

22 ///

23 ///

24 ///

25
26
27
28

VERIFICATION

I, JAMIE J. RESCH, ESQ., declare under penalty of perjury as follows:

That I am the attorney of record for Petitioner / Defendant April Parks; that I have read the foregoing supplement and know the contents thereof; that the same are true and correct to the best of my knowledge, information and belief, except for those matters stated therein on information and belief, and as to those matters, I believe them to be true; that Petitioner/Defendant personally authorized me to commence this Supplemental Petition for Writ of Habeas Corpus.

I declare under penalty of perjury that the foregoing is true and correct.

9-30-2020

Executed on

Signature

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Resch Law, PLLC d/b/a Conviction Solutions and that, pursuant to N.R.C.P. 5(b), on September 30, 2020, I served a true and correct copy of the foregoing Petition for Writ of Habeas Corpus (Post-Conviction) via first class mail in envelopes addressed to:

Clark County District Attorney
200 Lewis Ave.
Las Vegas, NV 89155


Nevada Attorney General
555 E. Washington, #3900
Las Vegas, NV 89101

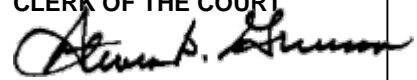
April Parks #1210454
Florence McClure Wm. Corr. Ctr.
4370 Smiley Rd.
Las Vegas, NV 89115

and via Wiznet's electronic filing system, as permitted by local practice to the following person(s):

Steven B. Wolfson
Clark County District Attorney
PDmotions@ClarkCountyDA.com

Michael J. Bongard
Office of the Nevada Attorney General
MBongard@ag.nv.gov


An Employee of Conviction Solutions



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13 Attorneys for Respondents

8 **DISTRICT COURT**
9 **CLARK COUNTY NEVADA**

10 APRIL PARKS,)	Case No.: A-19-807564-W
)	Department X
11 Petitioner,)	
)	
12 vs.)	(Criminal Case No. C-17-321808-1)
)	
13 DWIGHT NEVEN, WARDEN, AND, THE)	
14 STATE OF NEVADA,)	
)	
15 Respondents.)	

16 **ANSWER TO POST-CONVICTION PETITION FOR WRIT OF**
17 **HABEAS CORPUS**

18 Respondents, by and through counsel, Aaron D. Ford, Attorney General of The State of Nevada,
19 and Michael J. Bongard, Senior Deputy Attorney General, hereby submit their answer to Petitioner
20 April Parks' (Parks) Petition for Writ of Habeas Corpus (Post-conviction). Respondents base this
21 answer upon the pleadings, the legal authorities, and the pleadings on file in this case and the criminal
22 case.

23 **PROCEDUAL HISTORY**

24 **I. Trial Court Proceedings, Eighth Judicial District Court**

25 In March of 2017, a Clark County grand jury returned an indictment against Parks for 270
26 counts including racketeering, theft (Category 'B' and 'C' felonies), offering false instrument for filing
27 or record, and perjury. Exhibit #1.¹

28 ¹ Exhibits 1 and 2 are attached to this answer.

1 Pursuant to a guilty plea agreement filed in November of 2018, Parks entered an *Alford*² plea to
2 2 counts of exploitation of an older/vulnerable person, 2 counts of theft, and 1 count of perjury in this
3 case, with the sentence to run concurrent to the sentence in C329886. App 1.³ Parks rejected a
4 stipulated sentence of 8-20 years, leaving the parties free to argue for any lawful sentence. *Id.* at 2.

5 The parties submitted sentencing memorandums prior to the January 4 sentencing hearing. *Id.* at
6 33 and 55. The Court imposed an aggregated sentence of 16-40 years in this case and a concurrent 6 to
7 15-year sentence in C329886. *Id.* at 82. The Court ordered restitution of \$559,205.32, reduced to
8 \$554,397.71 in the amended judgment of conviction filed on February 4, 2019. Exhibit #2.

9 **II. Appellate Proceedings**

10 Parks did not file a notice of appeal. However, in Ground Three of the supplemental petition,
11 Parks alleges that trial counsel failed to file a notice of appeal.

12 **III. State Habeas Corpus Proceedings, Eighth Judicial District Court**

13 Through counsel, Parks filed her original state habeas corpus petition on December 27, 2019.

14 On September 30, 2020, Parks filed her supplemental state habeas corpus petition (SPWHC). In
15 that pleading, Parks raises the following claims (all claims previously raised in the original petition):

- 16 • Ground One: Trial counsel advised Parks to reject a more favorable plea deal and Parks
17 subsequently received a much harsher sentence;
- 18 • Ground Two: Parks' trial counsel was ineffective when trial counsel failed to challenge
19 errors during sentencing and/or was otherwise ineffective in conjunction with the
20 sentence proceeding;
- 21 • Ground Three: Parks was deprived of her right to a direct appeal.

22 SPWHC.

23 The matter is currently set for a hearing before the Court on February 8, 2021. Based upon the
24 arguments and law presented in this answer, Parks' claims are either meritless or procedurally
25 defaulted.

26 ///

27 ² *North Carolina v. Alford*, 400 U.S. 25 (1970).

28 ³ Exhibits in Petitioner's appendix are referenced by their Bates stamp page at the bottom right.
(APP___).

1 **ARGUMENT AND LAW**

2 **I. Applicable Law**

3 Nevada law governs state habeas corpus proceedings. *McConnell v. State*, 212 P.3d 307, 309
4 (Nev. 2009).

5 By statute, habeas corpus proceedings permit a person to challenge that his conviction or
6 sentence violate the Constitution of the United States or the Constitution or laws of Nevada. NRS
7 34.724(1). To the extent they do not conflict with habeas corpus statutes, the Nevada Rules of Civil
8 Procedure apply to habeas corpus proceedings. NRS 34.780. Appointment of counsel in habeas corpus
9 proceedings lies with the discretion of the court. NRS 34.750. A court determines the propriety and
10 necessity of discovery or an evidentiary hearing. NRS 34.770.

11 A court may dismiss a petition if the petition is untimely, contains claims that could have been
12 litigated in previous proceedings, or if the petitioner unduly delays in filing a petition. NRS 34.800,
13 NRS 34.810, NRS 34.726.

14 **II. Parks' First Claim**

15 **A. Parks' First Claim**

16 Parks alleges ineffective assistance of trial counsel because counsel advised her to reject a more
17 favorable plea deal. SPWHC at 5. Parks rejected a stipulated sentence in the plea agreement and
18 subsequently received a longer prison sentence after both sides were free to argue for a lawful sentence.

19 **B. The Relevant Law**

20 In 2012, the United States Supreme Court decided *Lafler v. Cooper*, 566 U.S. 156 (2012) and
21 *Missouri v. Frye*, 566 U.S. 134 (2012).

22 In *Frye*, the Court held “that, as a general rule, defense counsel has the duty to communicate
23 formal offers from the prosecution to accept a plea on terms and conditions that may be favorable to the
24 accused.” 566 U.S. at 145. Allowing an offer to expire “without advising the defendant or allowing him
25 to consider it,” constituted deficient conduct on the part of defense counsel. *Frye*, 566 U.S. at 145.

26 In *Lafler v. Cooper*, the Court held that trial counsel’s advice, to reject a plea offer amounted to
27 ineffective assistance. 566 U.S. at 163. The Court found deficient the advice consisted of the attorney
28 advising the rejection of a plea offer which included a charge of assault with intent to murder, advising

Cooper of the fact that “the prosecution would be unable to establish intent to murder [the victim] because she had been shot below the waist.” *Id.* at 161. The Sixth Circuit found that counsel’s performance was deficient because counsel advised Cooper of “an incorrect legal rule.” *Id.* at 162 (citation to appellate decision omitted).

Prior to the holdings in *Lafler* and *Frye*, the United States Supreme Court held that the two-part test in *Strickland v. Washington*⁴ applies to plea bargaining. *Hill v. Lockhart*, 474 U.S. 52, 58 (1985). The Court found the deficient conduct prong remains unchanged. *Id.* at 58-59. A petitioner demonstrates prejudice by showing that “counsel’s constitutionally ineffective performance affected the outcome of the plea process.” *Id.* at 59. In *Lafler*, the Court found that in the case of a rejected offer, the petitioner must show the offer would have been accepted by petitioner and the court, and the results (convictions or sentence) would have been “less severe” than the results imposed by the judgment and sentence. 566 U.S. at 164.

The ultimate decision to accept or reject an offer remains with the defendant. *See, Wainwright v. Sykes*, 433 U.S. 72, 93 n.1 (1977) (Burger, C.J., concurring).

C. Parks’ Ground One Claim Fails to Allege Deficient Conduct on the Part of Trial Counsel

1.) The facts

The plea agreement in this case required a concurrent sentence between this case (C321808) and the sentence in C329886. The plea agreement also contained the statement “I reject a stipulated aggregate sentence of eight (8) to twenty (20) years concurrent to each other in this case and Case No. C329886, and understand the State may argue for more than the stipulated sentence.” Plea Agreement (filed November 5, 2018).

During the plea canvass, the Court specifically asked Parks if she rejected the stipulated sentence of eight to twenty years. APP 17-18. Parks stated that she did. *Id.* The Court also made sure Parks understood the fact that sentencing, including whether individual counts ran consecutive or concurrent to each other, was in the discretion of the Court. *Id.* at 22. The Court also ensured that Parks understood that “no one can promise you probation, leniency or any special treatment.” *Id.*

⁴ 466 U.S. 668 (1984).

1 Parks never advised the court during the plea canvass or in the plea agreement that the rejection
2 of the stipulated sentence was based solely on the advice of counsel. To the contrary, both the canvass
3 and plea agreement reflect that the rejection of the stipulated sentence was Parks' decision.

4 The sentencing memorandum provides the reasons why Parks rejected the stipulated sentence—
5 Parks thought an 8-20 year sentence too harsh. APP 55. That pleading argues that given; 1.) Parks and
6 her co-defendants committed no physical abuse, or negligent treatment (*id.* at 57-58), 2.) Parks was
7 never sanctioned by any court for perjury or perpetrating fraud in court filings (*id.* at 63), 3.) Parks' co-
8 defendant conducted most of the billing of wards (*id.* at 65-67), 4.) Parks herself protected wards from
9 exploitation (*id.* at 67-68), and 5.) Prior to her arrest in this case, Parks had never been jailed or
10 imprisoned, and disputes whether she (as opposed to co-defendants) committed all the crimes alleged in
11 the indictment. *Id.* at 74. Parks' memorandum concluded the recommendation in the Pre-Sentence
12 Investigation report (PSI) of 64-226 months (and the almost certainly higher request from the State)
13 "wrongfully punishes Parks for the actions of others." *Id.* at 73.

14 While Parks' reply to this answer may argue that Parks' counsel submitted the sentencing
15 memorandum, Parks' statements at sentencing reflect that counsel and Parks were of one mind
16 regarding the argument presented in the sentencing memorandum. At sentencing, it was Parks, not her
17 attorney who stated to the Court "so much of what was done was mischaracterized." *Id.* at 117. She
18 further stated, "I believe that the pre-sentencing memo that my attorney Mr. Goldstein filed speaks well
19 to what did happen." *Id.* at 118. Parks added, "Things could have been done better, or differently, but at
20 no time was anything done with any intent to harm." *Id.* Parks emphasized that they never physically
21 neglected or harmed anyone. *Id.* at 119.

22 At Parks' sentencing, the Court rejected the arguments of Parks and her counsel, as well as the
23 recommendation in the PSI and imposed an aggregated term of 16-40 years. *Id.* at 211-13.

24 **2.) Parks failed to meet her burden under *Strickland***

25 In order to demonstrate that her trial counsel was ineffective, Parks must demonstrate (1) that
26 counsel gave her constitutionally deficient advice; and (2) that she suffered prejudice as a result of
27 following the advice. *Lafler*, 566 U.S. at 164. In *Lafler*, the advice of counsel was deficient, because
28 nothing in the law stated that the State could not prove intent to murder based upon where the victim

1 was shot. *Id.* As discussed below, the record in this case presents no evidence of deficient conduct by
2 counsel.

3 **a.) Parks does not present any evidence of deficient advice by counsel**

4 By failing to plead the content of the rejected advice, Parks does not explain how the given
5 advice (if advice was given) was constitutionally deficient. *See Lafler*, 566 U.S. at 161.

6 In the present case, Parks’ petition alleges counsel advised her to reject a more favorable plea
7 deal. In the petition, Parks fails to state what advice counsel gave her (if counsel gave her any advice)
8 that caused her to reject the plea, as opposed to rejecting the stipulated sentence on her own accord. The
9 comments made by Parks at sentencing reflect that Parks failed to understand the seriousness of her
10 actions. A person not understanding the seriousness of her actions certainly would not believe that her
11 actions warranted a minimum prison term of 8 years. Parks clearly sought less than 8 years in prison (if
12 not probation). However, even if Parks’ attorney gave her advice to reject the stipulated sentence, the
13 advice is not constitutionally deficient if the advice was reasonable.

14 Whether to accept or reject a plea deal is ultimately the decision of the defendant, not counsel.
15 *Wainwright v. Sykes*, *supra*. Parks must prove that counsel’s advice was deficient, not merely wrong.
16 This Court’s scrutiny of trial counsel’s actions “must be highly deferential.” *Strickland*, 466 U.S. at
17 689. Because it is “all too easy” for a court to Monday morning quarterback the actions of counsel,
18 *Strickland* requires this Court’s assessment of counsel’s conduct to evaluate counsel’s conduct at the
19 time it was made.

20 **b.) Parks presents no evidence of constitutionally deficient advice**

21 Assuming Parks’ counsel gave advice, the question this Court must ask is not, “Was counsel’s
22 advice wrong?” Rather, the question is “Did counsel’s advice in this matter fall outside the range of
23 competence demanded of attorneys in criminal cases?” *Id.* at 687. There is a difference between
24 “wrong,” but not deficient advice and constitutionally deficient advice. “Wrong” advice is only wrong
25 in hindsight and can still be the product of sound strategy and reasonable given the circumstances.
26 Reasonable advice based upon a strategic decision is virtually unchallengeable under *Strickland*, even if
27 the advice is “wrong” in hindsight. *Id.* at 689. On the other hand, “constitutionally deficient” advice is
28 wrong no matter the outcome of the proceedings (and unreasonable). In this case, the decision to reject

1 the stipulation could be reasonable and the product of sound strategy, even though Parks received a
2 sentence higher than the rejected stipulation. Had Parks received the sentence recommended in the PSI,
3 Parks would not be presenting Ground One to the Court for consideration.

4 The sentencing memorandum presented reasonable, strategic reasons supporting a request for a
5 lower sentence than the stipulated 8 year minimum. The recommendation in the PSI reflected that these
6 arguments were not unreasonable. If counsel actually counseled Parks' to reject the stipulation, the
7 PSI's recommendation of a lower sentence supports a finding that counsel's advice was reasonable, not
8 constitutionally deficient.

9 In this case, the record reveals that Parks rejected a stipulated sentence. Parks' sentencing
10 memorandum (and statements to the Court) suggest that Parks sought a more lenient sentence of her
11 own accord, rather than rejecting the advice of counsel. In the sentencing memorandum, counsel
12 reasonably argued that several factors (including Parks' absence of a record) merited a lower sentence
13 than the stipulated sentence of 8-20 years. Parks' statements to the Court reflected her belief that her
14 actions may not have been wrong. However, if the actions were wrong, they did not merit a severe
15 prison sentence.

16 **c.) Parks does not satisfy the deficient conduct prong of *Strickland***

17 If Parks rejected the stipulated sentence on her own, the analysis is over. The Court must find
18 that counsel was not ineffective. If Parks relied on counsel's advice when rejecting the stipulation,
19 evidence in the record demonstrates that counsel's advice was strategic, not constitutionally deficient,
20 only wrong in hindsight. It is reasonable to argue for a lower sentence for a defendant given the fact
21 that this was Parks' first felony conviction. The fact that the PSI in this case recommended lower
22 minimum and maximum terms of imprisonment than the stipulated sentence demonstrates that seeking
23 a sentence lower than the rejected stipulated sentence was a reasonable decision.

24 The pleadings and record in this case contain no facts supporting a claim counsel gave
25 constitutionally deficient advice. The record reflects reasonable arguments for a lower sentence. The
26 PSI's recommendation affirms that rejecting the stipulation and seeking a lower sentence was a
27 reasonable strategic decision. The record does not support Parks' claim that counsel performed
28 deficiently (assuming counsel gave Parks advice to reject the stipulated sentence).

1 **D. Prejudice**

2 Parks’ petition assumes prejudice. Just because Parks received a higher sentence than the
3 stipulation does not evidence prejudice under *Strickland*. In order to demonstrate prejudice (assuming
4 deficient conduct on the part of counsel), Parks must show that the Court would have imposed the
5 stipulated sentence had Parks agreed to recommend a stipulated sentence. *Lafler*, 566 U.S. at 168 (there
6 is no federal right that a judge must accept or abide by a plea).

7 **E. Conclusion**

8 Parks has not alleged how counsel was deficient. There is a significant difference between
9 “wrong,” advice that was based on strategy and advice that is “constitutionally deficient: The latter
10 violates the defendant’s rights under the constitution. The former happens daily in criminal cases across
11 the country. Conflating the two would hold trial counsel to a requirement of performing perfectly in
12 every case. *Strickland* (and our constitution) requires competence, not perfection.

13 Failing to establish deficient conduct under *Strickland*, Respondents request the Court find that
14 Parks failed to satisfy her burden of establishing trial counsel was ineffective for allegedly giving
15 defective advice, and further find that Ground One is meritless.

16 **III. Ground Two**

17 In Ground Two of the supplemental petition, Parks alleges that trial counsel performed
18 ineffectively at her sentencing hearing. SPWHC at 9. Parks alleges: 1.) counsel failed to object to
19 improper arguments and present accurate information to rebut the State’s arguments (*id.* at 10), 2.)
20 failure to object to lack of notice about victim speakers (*id.* at 17), 3.) failure to object to the ordered
21 restitution (SPWHC at 24); 4.) failure to challenge the reasonableness of the sentence/the sentence
22 constituted cruel and unusual punishment. *Id.* at 28. These claims are procedurally defaulted under the
23 current state of Nevada law.

24 **A. Ground Two is Procedurally Defaulted Pursuant to NRS 34.810(1)**

25 **1.) NRS 34.810(1)**

26 Nevada law governs the procedure in state habeas proceedings. One of the habeas corpus
27 statutes, NRS 34.810(1)(a), limits the scope of claims in cases where the conviction is based upon a
28 plea, to those claims that allege “the *plea* was involuntarily or unknowingly entered” or “that the plea

1 was entered without effective assistance of counsel.”

2 **2.) *Gonzales v. State***

3 The Nevada Court of Appeals recently addressed the scope of claims that can be raised in a state
4 habeas petition challenging a judgment and sentence pursuant to a guilty plea. *Gonzales v. State*, 2020
5 WL 5889017 (NVCA, Order of Affirmance, October 1, 2020).⁵

6 The Court of Appeal in *Gonzales* held “both the plain language of the statute and the legislative
7 and statutory history of NRS 34.810(1)(a) demonstrate that the scope of claims that may be raised in a
8 postconviction petition challenging a conviction entered as a result of a guilty plea are limited to claims
9 that challenge the validity of the guilty plea.” *Id.* at *5. The Court of Appeals further held the claims
10 could be raised directly (the plea was not knowing intelligent or voluntary) or as a claim counsel was
11 ineffective during the plea process. *Id.*

12 The Court of Appeals in *Gonzales* found NRS 34.810(1)(a) barred Gonzales’ claims challenging
13 counsel’s effectiveness at the sentencing hearing because the claims did not address the plea, or
14 counsel’s ineffectiveness during the plea. *Id.* at *6.

15 **3.) Parks’ Ground Two claim is procedurally barred**

16 Because Parks’ Ground Two claim does not challenge the voluntariness of the plea, or the
17 effectiveness of counsel at the change of plea, Respondents request the Court apply *Gonzales* and find
18 that Ground Two is defaulted.

19 **IV. Ground Three**

20 In Ground Three of the supplemental petition, Parks alleges that counsel failed to file an appeal.
21 SPWHC at 33. Parks alleges that she specifically requested counsel file a notice of appeal. *Id.* at 34.

22 However, in the exhibits submitted by Parks, she submits a letter requesting counsel “get the
23 paperwork started for a sentence modification.” App 507. Parks’ counsel responded to Parks’ letter,
24 stating that the best option for obtaining a sentence modification was by filing a state habeas corpus
25 petition, and requesting appointment of counsel through the court. *Id.* at 508-09. Both letters reference
26 an in-person discussion that took place after sentencing.

27 ///

28 ⁵ Nev. Adv. Op. 60

1 **A. Out of Time Appeals**

2 The Nevada Rules of Appellate Procedure (NRAP) address how to file an untimely appeal from
3 a judgment of conviction. NRAP 4(c)(1).

4 **B. How to Construe the Letters Exchanged Between Counsel and Parks**

5 Based upon the exhibits provided with the supplemental petition, a genuine issue of material
6 fact exists. That issue is: Whether Parks and counsel agreed that counsel should file a direct appeal, or
7 whether Parks would file a habeas corpus petition after their in-person meeting that took place after
8 sentencing. A plain reading of the letters exchanged between Parks and trial counsel reflect that Parks
9 and trial counsel discussed and agreed upon a strategy of how to proceed to obtain reconsideration of
10 Parks' sentence. However, Parks appears to have forgotten exactly what was stated and how to proceed.
11 App 507. Counsel's response appears to reiterate what counsel and Parks previously agreed upon. Id. at
12 508-09.

13 Parks' letter cannot be construed upon as a request for an appeal. Parks clearly did not ask for an
14 appeal. While the supplemental petition states that the letter should be construed as a request to file a
15 notice of appeal, the more reasonable construction of the letter is Parks asking counsel to inform her
16 how to proceed based upon her inability to remember what was discussed. Counsel's response clearly
17 reflected that after discussing the matter, counsel and Parks agreed that she would file a state habeas
18 petition challenging counsel's effectiveness during the sentencing proceeding. A person without
19 knowledge or experience in criminal law would more likely use the term "appeal" to request an appeal
20 as opposed to the phrase "sentence modification."

21 **C. An Evidentiary Hearing May Be Necessary**

22 Respondents concede that on Ground Three an evidentiary hearing could be necessary for this
23 Court to issue findings pursuant to NRAP 4(c)(1)(B). See, *Nika v. State*, 124 Nev. 1272, 1300-01, 198
24 P.3d 839, 858 (2008) (an evidentiary hearing is warranted when a petition "asserts specific factual
25 allegations that are not belied or repelled by the record and that, if true, would entitle [] relief"). Only
26 after hearing from the parties regarding the in-person meeting will this Court be able to determine the
27 merit of this claim. Without evidence of the nature of the discussions, and what specific challenges
28 were contemplated, the Court may be unable to determine whether an appeal, or a state habeas petition

1 was the agreed upon course of conduct.

2 **CONCLUSION**

3 For the reasons stated herein, Respondents request the Court deny Grounds One and Two of
4 Parks' supplemental habeas corpus petition. In order to determine whether Ground Three of the petition
5 warrants relief in the form of an untimely appeal, this Court should conduct an evidentiary hearing to
6 determine the content of the discussions between Parks and trial counsel during the meeting that took
7 place after Parks' sentencing hearing.

8 RESPECTFULLY SUBMITTED this 31st day of December 2020.

9 AARON D. FORD
10 Attorney General

11 By: /s/ Michael J. Bongard
12 Michael J. Bongard
13 Senior Deputy Attorney General
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16 Post-Conviction Division
17 1539 Avenue F, Suite 2
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DATED this 31st day of December 2020.

By: /s/ Michael J. Bongard
Michael J. Bongard
Senior Deputy Attorney General
Nevada Bar No. 007997
mbongard@ag.nv.gov
Post-Conviction Division
1539 Avenue F, Suite 2
Ely, Nevada 89301

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I electronically filed the foregoing *Answer to Post-Conviction Petition for*
3 *Writ of Habeas Corpus* with the Clerk of the Court by using the electronic filing system on the 31st day
4 of December 2020.

5 The following participants in this case are registered electronic filing system users and will be
6 served electronically:

7 Jamie J. Resch
8 RESCH LAW, PLLC
9 2620 Regatta Dr., Suite 102
Las Vegas, Nevada, 89128
Jresch@convictionsolutions.com

10 /s/ M. Landreth
11 An Employee of the office of the Attorney General
12
13
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15
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Exhibit 1

Indictment

ORIGINAL

1 IND

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

5 JAY P. RAMAN
6 Chief Deputy District Attorney
7 Nevada Bar #010193

8 ADAM P. LAXALT
9 Nevada Attorney General
10 Nevada Bar #012426

11 DANIEL E. WESTMEYER
12 Senior Deputy Attorney General
13 Nevada Bar #010273

14 200 Lewis Avenue
15 Las Vegas, Nevada 89155-2212
16 (702) 671-2500
17 Attorney for Plaintiff

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

MAR 08 2017

BY: 
DULCE MARIE ROMEA, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO: C-17-321808-1

-vs-

DEPT NO: X

APRIL PARKS #1571645
MARK SIMMONS
GARY NEAL TAYLOR
NOEL PALMER SIMPSON

Defendant(s).

INDICTMENT

STATE OF NEVADA }
COUNTY OF CLARK } ss.

The Defendant(s) above named, APRIL PARKS, MARK SIMMONS, GARY NEAL TAYLOR, and NOEL PALMER SIMPSON, are accused by the Clark County Grand Jury of the crimes of RACKETEERING (Category B Felony - NRS 207.400 - NOC 53190); THEFT (Category B Felony - NRS 205.0832, 205.0835.4 - NOC 55991); EXPLOITATION OF AN OLDER PERSON (Category B Felony - NRS 200.5092, 200.5099 - NOC 50304); EXPLOITATION OF AN OLDER PERSON/VULNERABLE PERSON (Category B Felony - NRS 200.5092, 200.5099 - NOC 55984); THEFT (Category C Felony - NRS 205.0832, 205.0835.3 - NOC 55989); OFFERING FALSE INSTRUMENT FOR FILING OR RECORD

C-17-321808-1

IND
Indictment
4630111



AA 0649

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1 (Category C Felony - NRS 239.330 - NOC 52399) and PERJURY (Category D Felony - NRS
2 199.120 - NOC 52971), committed at and within the County of Clark, State of Nevada, on or
3 between December 21, 2011 and July 6, 2016, as follows:

4 COUNT 1 - RACKETEERING

5 Defendants APRIL PARKS, MARK SIMMONS, and GARY NEAL TAYLOR, did on
6 or between December 21, 2011 and July 6, 2016, then and there, within Clark County, Nevada,
7 knowingly, willfully and feloniously, while employed by or associated with an enterprise,
8 conduct or participate either directly or indirectly, in racketeering activity through the affairs
9 of said enterprise, and/or in the affairs of the enterprise through racketeering activity, did
10 engage in said acts, to wit: by Defendants working for A Private Professional Guardian, LLC
11 using their position to steal funds belonging to elderly and disabled persons over whom they
12 had guardianship authority, through the use of a series of fraudulent billing practices, said
13 activity constituting Racketeering contrary to NRS 207.400 (1)(c)(2). Defendants APRIL
14 PARKS and MARK SIMMONS also intentionally organized, managed, directed, and
15 supervised a criminal syndicate as defined in NRS 207.370, namely A Private Professional
16 Guardian, LLC, a business that was formed on May 23, 2011, that had at various times between
17 3 and 7 employees and continued to engage in or had the purpose of engaging in racketeering
18 activity even when individual members entered or left the organization, all contrary to NRS
19 207.400 (1)(d). Defendants APRIL PARKS and MARK SIMMONS also conspired to violate
20 the provisions of the racketeering statutes, contrary to NRS 207.400 (1)(j). The Defendants
21 engaged in racketeering activity by committing numerous crimes involving taking property
22 from another under circumstances not amounting to robbery, perjury or subornation of perjury,
23 and offering false evidence. Through this racketeering activity, APRIL PARKS and MARK
24 SIMMONS stole approximately \$559,205.32 from 150 victims, as further alleged in Counts
25 2-270 and incorporated by reference as though fully set forth herein; Defendants are criminally
26 liable under one or more of the following principles of criminal liability, to wit: (1) by directly
27 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with
28 the intent that this crime be committed, by providing counsel and/or encouragement and by

1 entering into a course of conduct whereby APRIL PARKS and MARK SIMMONS operated
2 A Private Professional Guardian, LLC, and worked as guardians and fiduciaries and engaged
3 in various billing schemes to illegally obtain money from elderly and vulnerable people under
4 guardianship, as well as non-guardianship assets, as alleged in Counts 2 through 270, and
5 whereby GARY NEAL TAYLOR acted as agent of said entity and/or obtained monies from a
6 bank account in the name of said entity by engaging in said exploitative billing schemes and
7 conspiring to over bill for house checks, court trips, and/or other unnecessary services; and/or
8 (3) pursuant to a conspiracy to commit this crime, with the intent that the crime be committed.

9 COUNT 2 - THEFT

10 Defendants APRIL PARKS and MARK SIMMONS did on or between May 3, 2012
11 and July 11, 2012 willfully, knowingly, feloniously, and without lawful authority, use the
12 services or property of another person entrusted to them, or placed in their possession for a
13 limited, authorized period of determined or prescribed duration or for a limited use, having a
14 value of \$3,500.00 or more, belonging to AUDREY WEBER and/or the ESTATE OF
15 AUDREY WEBER, in the following manner, to wit: through the use of a false billing scheme,
16 thereby unlawfully converting money belonging to AUDREY WEBER and/or the ESTATE
17 OF AUDREY WEBER in the amount of approximately \$3,819.60. Defendants are criminally
18 liable under one or more of the following principles of criminal liability, to wit: (1) by directly
19 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with
20 the intent that this crime be committed, by providing counsel and/or encouragement and by
21 entering into a course of conduct whereby APRIL PARKS acted as guardian for AUDREY
22 WEBER and overcharged for ward visits, shopping trips, bank deposits, and/or other tasks on
23 behalf of A Private Professional Guardian, LLC that either did not benefit AUDREY WEBER
24 or did not occur, and/or directed Angelica Sanchez and/or Heidi Kramer and/or Sue Pehrson
25 to do the same; and MARK SIMMONS documented the same ward visits, shopping trips,
26 bank deposits, and/or other tasks on behalf of A Private Professional Guardian, LLC that either
27 did not benefit AUDREY WEBER or did not occur, and/or directed Angelica Sanchez and/or

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1 Heidi Kramer and/or Sue Pehrson to do the same; and/or (3) pursuant to a conspiracy to
2 commit this crime, with the intent that the crime be committed.

3 COUNT 3 - THEFT

4 Defendant APRIL PARKS did on or about July 10, 2012 willfully, knowingly,
5 feloniously, and without lawful authority, convert, make an unauthorized transfer of an interest
6 in, or without authorization control property, having a value of \$3,500.00, or more, belonging
7 to WILLIAM FLEWELLEN and/or the ESTATE OF WILLIAM FLEWELLEN, in the
8 following manner, to wit: by misrepresenting that guardianship papers presented to Bank of
9 America authorized her to control said property, knowing this to be false, with the intent to
10 deprive WILLIAM FLEWELLEN and/or the ESTATE OF WILLIAM FLEWELLEN, of
11 control of his property, said property having a value of approximately \$4,807.61.

12 COUNT 4 - THEFT

13 Defendants APRIL PARKS and NOEL PALMER SIMPSON did on between August
14 22, 2011 and May 15, 2012 willfully, knowingly, feloniously, and without lawful authority,
15 obtain lawful money of the United States in the amount of \$3,500.00 or more, belonging to
16 JOHN DENTON and/or SALLY DENTON, by a material misrepresentation with intent to
17 deprive those persons of the property, in the following manner, to wit: by APRIL PARKS
18 exceeding her authority as guardian of MARY WOODS changing MARY WOODS' life
19 insurance beneficiary from JOHN DENTON and/or SALLY DENTON to herself, without
20 court permission; and by NOEL PALMER SIMPSON filing a Petition to Set Aside Estate
21 Without Administration in the Clark County District Court, containing false statements in the
22 probate case of MARY WOODS, and unlawfully changing MARY WOODS' life insurance
23 beneficiary from JOHN DENTON and/or SALLY DENTON to the ESTATE OF MARY
24 WOODS, thereby depriving JOHN DENTON and/or SALLY DENTON of \$25,278.57, from
25 which NOEL PALMER SIMPSON was paid \$9,196.70. Defendants are criminally liable
26 under one or more of the following principles of criminal liability, to wit: (1) by directly
27 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with
28 the intent that this crime be committed, by providing counsel and/or encouragement and by

1 entering into a course of conduct whereby by APRIL PARKS exceeded her authority as
2 guardian of MARY WOODS and changed MARY WOODS' life insurance beneficiary from
3 JOHN DENTON and/or SALLY DENTON to herself, without court permission; and whereby
4 NOEL PALMER SIMPSON filed a Petition to Set Aside Estate Without Administration in the
5 Clark County District Court, containing false statements in the probate case of MARY
6 WOODS P-12-074144-E, and unlawfully changing MARY WOODS' life insurance
7 beneficiary from JOHN DENTON and/or SALLY DENTON to the ESTATE OF MARY
8 WOODS; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that the
9 crime be committed.

10 COUNT 5 - THEFT

11 Defendant APRIL PARKS did on or about December 29, 2011 willfully, knowingly,
12 feloniously, and without lawful authority, convert, make an unauthorized transfer of an interest
13 in, or without authorization control property, having a value of \$3,500.00, or more, belonging
14 to BAXTER BURNS and/or the ESTATE OF BAXTER BURNS and/or THE BURNS
15 FAMILY TRUST, in the following manner, to wit: by misrepresenting that guardianship
16 papers presented to Bank of America authorized her to control said property which allowed
17 her to unlawfully control trust assets, knowing this to be false, with the intent to deprive
18 BAXTER BURNS and/or the ESTATE OF BAXTER BURNS and/or THE BURNS FAMILY
19 TRUST, of his property, said property having a value of approximately \$32,006.72.

20 COUNT 6 - EXPLOITATION OF AN OLDER PERSON

21 Defendants APRIL PARKS and MARK SIMMONS did on or between December 3,
22 2012 and November 4, 2013 willfully, unlawfully and feloniously exploit an older person
23 having been born in 1922, to wit: DOROTHY TRUMBICH and/or THE DOROTHY A.
24 TRUMBICH REVOKABLE TRUST, by use of a guardianship converting DOROTHY
25 TRUMBICH's money, assets or property, Defendants intending to permanently deprive
26 DOROTHY TRUMBICH of the ownership, use, benefit or possession of his money, assets or
27 property having an value of more than \$5,000.00, by working in their role as guardian and
28 fiduciary, overbilling for visits, shopping trips, court filings, banking visits, and/or by

1 unlawfully controlling trust assets, thereby exploiting DOROTHY TRUMBICH in the amount
2 of approximately \$167,204.49. Defendants are criminally liable under one or more of the
3 following principles of criminal liability, to wit: (1) by directly committing this crime; and/or
4 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be
5 committed, by providing counsel and/or encouragement and by entering into a course of
6 conduct whereby APRIL PARKS acted as guardian for DOROTHY TRUMBICH and
7 overcharged for ward visits, shopping trips, bank deposits, and/or other tasks on behalf of A
8 Private Professional Guardian, LLC that either did not benefit DOROTHY TRUMBICH or
9 did not occur, and/or directed Angelica Sanchez and/or Heidi Kramer and/or Sue Pehrson to
10 do the same; and MARK SIMMONS documented the same ward visits, shopping trips, bank
11 deposits, and/or by unlawfully controlling assets from THE DOROTHY A. TRUMBICH
12 REVOKABLE TRUST and/or other tasks on behalf of A Private Professional Guardian, LLC
13 that either did not benefit DOROTHY TRUMBICH or did not occur, and/or directed Angelica
14 Sanchez and/or Heidi Kramer and/or Sue Pehrson to do the same; and/or (3) pursuant to a
15 conspiracy to commit this crime, with the intent that the crime be committed.

16 COUNT 7 - THEFT

17 Defendants APRIL PARKS and MARK SIMMONS did on or between January 4, 2013
18 and November 4, 2013 willfully, knowingly, feloniously, and without lawful authority, use the
19 services or property of another person entrusted to them, or placed in their possession for a
20 limited, authorized period of determined or prescribed duration or for a limited use, having a
21 value of \$3,500.00 or more, belonging to DOROTHY TRUMBICH and/or the ESTATE OF
22 DOROTHY TRUMBICH and/or THE DOROTHY A. TRUMBICH REVOKABLE TRUST,
23 in the following manner, to wit: by working in their role as guardian and fiduciary, overbilling
24 for visits, shopping trips, court filings, banking visits. and/or by unlawfully controlling trust
25 assets, thereby unlawfully converting money belonging to DOROTHY TRUMBICH and/or
26 THE DOROTHY A. TRUMBICH REVOKABLE TRUST in the amount of approximately
27 \$167,204.49. Defendants are criminally liable under one or more of the following principles
28 of criminal liability, to wit: (1) by directly committing this crime; and/or (2) by aiding or

1 abetting in the commission of this crime, with the intent that this crime be committed, by
2 providing counsel and/or encouragement and by entering into a course of conduct whereby
3 APRIL PARKS acted as guardian for DOROTHY TRUMBICH and overcharged for ward
4 visits, shopping trips, bank deposits, and/or unlawfully control the assets of THE DOROTHY
5 A. TRUMBICH REVOKABLE TRUST and/or other tasks on behalf of A Private Professional
6 Guardian, LLC that either did not benefit DOROTHY TRUMBICH or did not occur, and/or
7 directed Angelica Sanchez and/or Heidi Kramer and/or Sue Pehrson to do the same; and
8 MARK SIMMONS documented the same ward visits, shopping trips, bank deposits, and/or
9 other tasks on behalf of A Private Professional Guardian, LLC that either did not benefit
10 DOROTHY TRUMBICH or did not occur, and/or directed Angelica Sanchez and/or Heidi
11 Kramer and/or Sue Pehrson to do the same; and/or (3) pursuant to a conspiracy to commit this
12 crime, with the intent that the crime be committed.

13 COUNT 8 - EXPLOITATION OF AN OLDER PERSON

14 Defendants APRIL PARKS and MARK SIMMONS did on or between April 16, 2013
15 and November 3, 2015 willfully, unlawfully and feloniously exploit an older person having
16 been born in 1925, to wit: RUTH BRASLOW, by Defendants, having the trust or confidence
17 of RUTH BRASLOW or by use of a power of attorney or guardianship, obtain control, through
18 deception, intimidation or undue influence, over RUTH BRASLOW's money, assets or
19 property and/or by converting RUTH BRASLOW's money, assets or property, Defendants
20 intending to permanently deprive RUTH BRASLOW of the ownership, use, benefit or
21 possession of her money, assets or property having an value of more than \$5,000.00, by
22 working in their role as guardian and fiduciary, overbilling for visits, shopping trips, court
23 filings, banking visits, and fraudulent fees thereby exploiting RUTH BRASLOW in the
24 amount of approximately \$13,180.67. Defendants are criminally liable under one or more of
25 the following principles of criminal liability, to wit: (1) by directly committing this crime;
26 and/or (2) by aiding or abetting in the commission of this crime, with the intent that this crime
27 be committed, by providing counsel and/or encouragement and by entering into a course of
28 conduct whereby APRIL PARKS acted as guardian for RUTH BRASLOW and overcharged

1 for ward visits, shopping trips, bank deposits, and/or other tasks on behalf of A Private
2 Professional Guardian, LLC that either did not benefit RUTH BRASLOW or did not occur,
3 and/or directed Angelica Sanchez and/or Heidi Kramer and/or Sue Pehrson to do the same;
4 and MARK SIMMONS documented the same ward visits, shopping trips, bank deposits,
5 and/or other tasks on behalf of A Private Professional Guardian, LLC that either did not benefit
6 RUTH BRASLOW or did not occur, and/or directed Angelica Sanchez and/or Heidi Kramer
7 and/or Sue Pehrson to do the same; and/or (3) pursuant to a conspiracy to commit this crime,
8 with the intent that the crime be committed.

9 COUNT 9 - THEFT

10 Defendants APRIL PARKS and MARK SIMMONS did on or between April 16, 2013
11 and November 3, 2015 willfully, knowingly, feloniously, and without lawful authority, use the
12 services or property of another person entrusted to them, or placed in their possession for a
13 limited, authorized period of determined or prescribed duration or for a limited use, having a
14 value of \$3,500.00 or more, belonging to RUTH BRASLOW and/or the ESTATE OF RUTH
15 BRASLOW, in the following manner, to wit: by working in their role as guardian and
16 fiduciary, overbilling for visits, shopping trips, court filings, banking visits, and fraudulent
17 fees thereby unlawfully converting money belonging to RUTH BRASLOW in the amount of
18 approximately \$13,180.67. Defendants are criminally liable under one or more of the
19 following principles of criminal liability, to wit: (1) by directly committing this crime; and/or
20 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be
21 committed, by providing counsel and/or encouragement and by entering into a course of
22 conduct whereby APRIL PARKS acted as guardian for RUTH BRASLOW and overcharged
23 for ward visits, shopping trips, bank deposits, and/or other tasks on behalf of A Private
24 Professional Guardian, LLC that either did not benefit RUTH BRASLOW or did not occur,
25 and/or directed Angelica Sanchez and/or Heidi Kramer and/or Sue Pehrson to do the same;
26 and MARK SIMMONS documented the same ward visits, shopping trips, bank deposits,
27 and/or other tasks on behalf of A Private Professional Guardian, LLC that either did not benefit
28 RUTH BRASLOW or did not occur, and/or directed Angelica Sanchez and/or Heidi Kramer

1 and/or Sue Pehrson to do the same; and/or (3) pursuant to a conspiracy to commit this crime,
2 with the intent that the crime be committed.

3 COUNT 10 - EXPLOITATION OF AN OLDER PERSON

4 Defendants APRIL PARKS and MARK SIMMONS did on or between October 4, 2013
5 and November 4, 2015 willfully, unlawfully and feloniously exploit an older person having
6 been born in 1948, to wit: JAMES POYA, by use of a guardianship, obtain control over
7 JAMES POYA's money, assets or property and/or by converting JAMES POYA's money,
8 assets or property, Defendants intending to permanently deprive JAMES POYA of the
9 ownership, use, benefit or possession of his money, assets or property having an value of more
10 than \$5,000.00, by working in their role as guardian and fiduciary, overbilling for visits,
11 shopping trips, court filings, and banking visits thereby exploiting JAMES POYA in the
12 amount of approximately \$6,032.50. Defendants are criminally liable under one or more of the
13 following principles of criminal liability, to wit: (1) by directly committing this crime; and/or
14 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be
15 committed, by providing counsel and/or encouragement and by entering into a course of
16 conduct whereby APRIL PARKS acted as guardian for JAMES POYA and overcharged for
17 ward visits, shopping trips, bank deposits, and/or other tasks on behalf of A Private
18 Professional Guardian, LLC that either did not benefit JAMES POYA or did not occur, and/or
19 directed Angelica Sanchez and/or Heidi Kramer and/or Sue Pehrson to do the same; and
20 MARK SIMMONS documented the same ward visits, shopping trips, bank deposits, and/or
21 other tasks on behalf of A Private Professional Guardian, LLC that either did not benefit
22 JAMES POYA or did not occur, and/or directed Angelica Sanchez and/or Heidi Kramer and/or
23 Sue Pehrson to do the same; and/or (3) pursuant to a conspiracy to commit this crime, with the
24 intent that the crime be committed.

25 COUNT 11 - THEFT

26 Defendants APRIL PARKS and MARK SIMMONS did on or between October 4, 2013
27 and November 4, 2015 willfully, knowingly, feloniously, and without lawful authority, use the
28 services or property of another person entrusted to them, or placed in their possession for a

1 limited, authorized period of determined or prescribed duration or for a limited use, having a
2 value of \$3,500.00 or more, belonging to JAMES POYA and/or the ESTATE OF JAMES
3 POYA, in the following manner, to wit: by working in their role as guardian and fiduciary,
4 overbilling for visits, shopping trips, court filings, and banking visits thereby unlawfully
5 converting money belonging to JAMES POYA in the amount of approximately \$6,032.50.
6 Defendants are criminally liable under one or more of the following principles of criminal
7 liability, to wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the
8 commission of this crime, with the intent that this crime be committed, by providing counsel
9 and/or encouragement and by entering into a course of conduct whereby APRIL PARKS acted
10 as guardian for JAMES POYA and overcharged for ward visits, shopping trips, bank deposits,
11 and/or other tasks on behalf of A Private Professional Guardian, LLC that either did not benefit
12 JAMES POYA or did not occur, and/or directed Angelica Sanchez and/or Heidi Kramer and/or
13 Sue Pehrson to do the same; and MARK SIMMONS documented the same ward visits,
14 shopping trips, bank deposits, and/or other tasks on behalf of A Private Professional Guardian,
15 LLC that either did not benefit JAMES POYA or did not occur, and/or directed Angelica
16 Sanchez and/or Heidi Kramer and/or Sue Pehrson to do the same; and/or (3) pursuant to a
17 conspiracy to commit this crime, with the intent that the crime be committed.

18 COUNT 12 - EXPLOITATION OF AN OLDER PERSON

19 Defendants APRIL PARKS and MARK SIMMONS did on or between November 3,
20 2014 and November 3, 2015 willfully, unlawfully and feloniously exploit an older person
21 having been born in 1942, to wit: CAROLYN RICKENBAUGH, by use of a guardianship
22 converting CAROLYN RICKENBAUGH's money, assets or property, Defendants intending
23 to permanently deprive CAROLYN RICKENBAUGH of the ownership, use, benefit or
24 possession of her money, assets or property having an value of more than \$650.00, by working
25 in their role as guardian and fiduciary, overbilling for visits, shopping trips, court filings, and
26 banking visits thereby exploiting CAROLYN RICKENBAUGH in the amount of
27 approximately \$3,804.39. Defendants are criminally liable under one or more of the following
28 principles of criminal liability, to wit: (1) by directly committing this crime; and/or (2) by

1 aiding or abetting in the commission of this crime, with the intent that this crime be committed,
2 by providing counsel and/or encouragement and by entering into a course of conduct whereby
3 APRIL PARKS acted as guardian for CAROLYN RICKENBAUGH and overcharged for
4 ward visits, shopping trips, bank deposits, and/or other tasks on behalf of A Private
5 Professional Guardian, LLC that either did not benefit CAROLYN RICKENBAUGH or did
6 not occur, and/or directed Angelica Sanchez and/or Heidi Kramer and/or Sue Pehrson to do
7 the same; and MARK SIMMONS documented the same ward visits, shopping trips, bank
8 deposits, and/or other tasks on behalf of A Private Professional Guardian, LLC that either did
9 not benefit CAROLYN RICKENBAUGH or did not occur, and/or directed Angelica Sanchez
10 and/or Heidi Kramer and/or Sue Pehrson to do the same; and/or (3) pursuant to a conspiracy
11 to commit this crime, with the intent that the crime be committed.

12 COUNT 13 - THEFT

13 Defendants APRIL PARKS and MARK SIMMONS did on or between November 3,
14 2014 and November 3, 2015 willfully, knowingly, feloniously, and without lawful authority,
15 use the services or property of another person entrusted to them, or placed in their possession
16 for a limited, authorized period of determined or prescribed duration or for a limited use,
17 having a value of \$3,500.00 or more, belonging to CAROLYN RICKENBAUGH and/or the
18 ESTATE OF CAROLYN RICKENBAUGH, in the following manner, to wit: by working in
19 their role as guardian and fiduciary, overbilling for visits, shopping trips, court filings, and
20 banking visits thereby unlawfully converting money belonging to CAROLYN
21 RICKENBAUGH in the amount of approximately \$3,804.39. Defendants are criminally liable
22 under one or more of the following principles of criminal liability, to wit: (1) by directly
23 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with
24 the intent that this crime be committed, by providing counsel and/or encouragement and by
25 entering into a course of conduct whereby APRIL PARKS acted as guardian for CAROLYN
26 RICKENBAUGH and overcharged for ward visits, shopping trips, bank deposits, and/or other
27 tasks on behalf of A Private Professional Guardian, LLC that either did not benefit CAROLYN
28 RICKENBAUGH or did not occur, and/or directed Angelica Sanchez and/or Heidi Kramer

1 and/or Sue Pehrson to do the same; and MARK SIMMONS documented the same ward visits,
2 shopping trips, bank deposits, and/or other tasks on behalf of A Private Professional Guardian,
3 LLC that either did not benefit CAROLYN RICKENBAUGH or did not occur, and/or directed
4 Angelica Sanchez and/or Heidi Kramer and/or Sue Pehrson to do the same; and/or (3) pursuant
5 to a conspiracy to commit this crime, with the intent that the crime be committed.

6 COUNT 14 - EXPLOITATION OF AN OLDER PERSON

7 Defendants APRIL PARKS and MARK SIMMONS did on or between April 4, 2013
8 and November 4, 2015 willfully, unlawfully and feloniously exploit an older person having
9 been born in 1930, to wit: DELMOND FOSTER, by use of a guardianship converting
10 DELMOND FOSTER's money, assets or property, Defendants intending to permanently
11 deprive DELMOND FOSTER of the ownership, use, benefit or possession of his money,
12 assets or property having an value of more than \$5,000.00, by working in their role as guardian
13 and fiduciary, overbilling for visits, shopping trips, court filings, and banking visits thereby
14 exploiting DELMOND FOSTER in the amount of approximately \$5,134.40. Defendants are
15 criminally liable under one or more of the following principles of criminal liability, to wit: (1)
16 by directly committing this crime; and/or (2) by aiding or abetting in the commission of this
17 crime, with the intent that this crime be committed, by providing counsel and/or
18 encouragement and by entering into a course of conduct whereby APRIL PARKS acted as
19 guardian for DELMOND FOSTER and overcharged for ward visits, shopping trips, bank
20 deposits, and/or other tasks on behalf of A Private Professional Guardian, LLC that either did
21 not benefit DELMOND FOSTER or did not occur, and/or directed Angelica Sanchez and/or
22 Heidi Kramer and/or Sue Pehrson to do the same; and MARK SIMMONS documented the
23 same ward visits, shopping trips, bank deposits, and/or other tasks on behalf of A Private
24 Professional Guardian, LLC that either did not benefit DELMOND FOSTER or did not occur,
25 and/or directed Angelica Sanchez and/or Heidi Kramer and/or Sue Pehrson to do the same;
26 and/or (3) pursuant to a conspiracy to commit this crime, with the intent that the crime be
27 committed.

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