

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRANDON BEST

Appellant,

v.

STATE OF NEVADA

Respondent.

CASE NO. 83495

Appeal from a Judgment of Conviction After Jury Verdict
in Case CR20-3438A
Second Judicial District Court of the State of Nevada, Washoe County
Honorable Barry L. Breslow, District Judge

APPELLANT'S APPENDIX VOLUME 1

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ATTORNEY FOR RESPONDENT

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DA #20-12524
SPD 20-008021

FILED
Electronically
CR20-3438A
2021-05-25 12:07:39 PM
Alicia L. Lerud
Clerk of the Court
Transaction # 8462564 : cagular

1 CODE 1800
2 Christopher J. Hicks
3 #7747
4 One South Sierra Street
5 Reno, NV 89501
6 districtattorney@da.washoecounty.us
7 (775) 328-3200
8 Attorney for Plaintiff

9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
10
11 IN AND FOR THE COUNTY OF WASHOE

12 * * *

13 THE STATE OF NEVADA,

14 Plaintiff,

Case No.: CR20-3438A

15 v.

Dept. No.: D08

16 BRANDON BEST,

17 Defendant.

18 INFORMATION

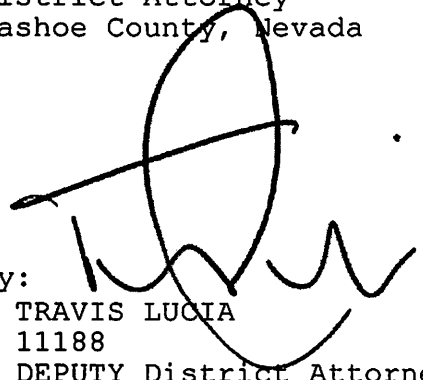
19 CHRISTOPHER J. HICKS, District Attorney within and for the
20 County of Washoe, State of Nevada, in the name and by the authority
21 of the State of Nevada, informs the above entitled Court that, the
22 defendant above-named, BRANDON BEST, has committed the crime of:

23 BATTERY WITH THE USE OF A DEADLY WEAPON, a violation of NRS
24 200.481(2)(e)(1) and NRS 193.165, (50223) in the manner following:

25 That the said defendant, BRANDON A. BEST, on or about
26 October 24, 2020, within the County of Washoe, State of Nevada, did
willfully and unlawfully use force or violence upon the person of
LUCAS BLAINE with the use of a deadly weapon, specifically a gun, by
shooting LUCAS BLAINE at or near Prater Way.

1 All of which is contrary to the form of the Statute in such
2 case made and provided, and against the peace and dignity of the
3 State of Nevada.

4
5 CHRISTOPHER J. HICKS
6 District Attorney
7 Washoe County, Nevada

8
9
10 By: 
11 TRAVIS LUCIA
12 11188
13 DEPUTY District Attorney
14
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1 The following are the names of such witnesses as are known
2 to me at the time of the filing of the within Information:

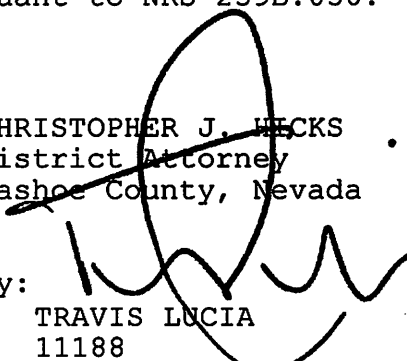
3 JENNIFER (HOUGH) BADER
4 CHRISTOPHER BARE
5 LUCAS BLAINE
6 MARTY BLAINE
7 MICHELLE BLAINE
8 BRANDON DOREN
9 JAMES HAMMERSTONE
10 DANIEL JONES
11 RYAN KOGER
12 JACOB MCCALL
13 GINGER MILLER
14 VIRGINIA MILLER
15 KULVIR SARAI
16 STEVYNN TREVINO

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26

AFFIRMATION PURSUANT TO NRS 239B.030

 The party executing this document hereby affirms that this
document submitted for recording does not contain the social security
number of any person or persons pursuant to NRS 239B.030.

CHRISTOPHER J. WECKS
District Attorney
Washoe County, Nevada

By: 
TRAVIS LUCIA
11188
DEPUTY District Attorney

PCN SPPD0063667C-BEST

DA #21-4328

RPD RP20-021604

FILED
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CR21-0995
2021-05-28 10:48:12 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8469097 : bblough

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2 Christopher J. Hicks
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7 (775) 328-3200
8 Attorney for Plaintiff

9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

10 IN AND FOR THE COUNTY OF WASHOE

11 * * *

12 THE STATE OF NEVADA,

13 Plaintiff,

Case No.: CR21-0995

14 v.

Dept. No.: D08

15 BRANDON ALLEN BEST,

16 Defendant.

17 INFORMATION

18 CHRISTOPHER J. HICKS, District Attorney within and for the
19 County of Washoe, State of Nevada, in the name and by the authority
20 of the State of Nevada, informs the above entitled Court that, the
21 defendant above-named, BRANDON ALLEN BEST, has committed the crime
22 of:

23 ROBBERY WITH THE USE OF A DEADLY WEAPON, a violation of NRS
24 200.380, NRS 193.165, and NRS 195.020, a category B felony, (50138) in
25 the manner following:

26 That the said defendant, BRANDON ALLEN BEST, on or about
December 8, 2020, within the County of Washoe, State of Nevada, did
willfully and unlawfully take personal property specifically a

1 backpack and/or skateboard and/or wallet and/or approximately \$200.00
2 and/or iPhone 7 and/or other property, from the persons of MATYSE
3 JACKSON and/or CADEN SIMMONS against the will of both victims and by
4 means of force or violence or fear of injury, immediate or future, to
5 their person, and with the use of a deadly weapon, specifically a
6 handgun, which the Defendant pointed at MATYSE JACKSON and/or CADEN
7 SIMMONS while demanding that the victims turn over their property
8 and/or by shooting MATYSE JACKSON while he fled from the scene, at or
9 near North Virginia Street;

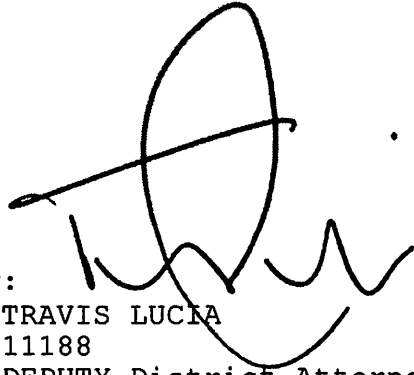
10 AND/OR the Defendant acted as a principal to the crime of
11 Robbery With the Use of a Deadly Weapon where, with the intent that
12 the crime occur, he aided, abetted, and/or encouraged another in the
13 crime's commission, in that the Defendant pointed a handgun at MATYSE
14 JACKSON and/or CADEN SIMMONS while demanding that both victims turn
15 over their property and/or by shooting MATYSE JACKSON while he fled
16 from the scene and/or while an unidentified suspect picked up MATYSE
17 JACKSON'S property after the Defendant threatened MATYSE JACKSON
18 and/or CADEN SIMMONS with the weapon and/or shot MATYSE JACKSON while
19 he fled from the scene;

20 AND/OR the Defendant acted as a co-conspirator to the crime
21 of Robbery With the Use of a Deadly Weapon where, after agreeing to
22 commit the crime, the Defendant and another unidentified suspect
23 committed an act in furtherance of the crime, in that the Defendant
24 pointed a handgun at MATYSE JACKSON and/or CADEN SIMMONS while
25 demanding that both victims turn over their property and/or by
26 shooting MATYSE JACKSON while he fled from the scene and/or while an

1 unidentified suspect picked up MATYSE JACKSON'S property after the
2 Defendant threatened MATYSE JACKSON and/or CADEN SIMMONS with the
3 weapon and/or shot MATYSE JACKSON while he fled from the scene.
4
5

6 All of which is contrary to the form of the Statute in such
7 case made and provided, and against the peace and dignity of the
8 State of Nevada.
9

10 CHRISTOPHER J. HICKS
11 District Attorney
12 Washoe County, Nevada
13
14

15 
16 By: TRAVIS LUCIA
17 11188
18 DEPUTY District Attorney
19
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25
26

1 The following are the names of such witnesses as are known
2 to me at the time of the filing of the within Information:

3 RICK ARRIBILLAGA
4 WILLIAM BRIAN ATKINSON
5 TAYLOR BAKOIS
6 RONALD FIELD
7 CHRISTOPHER A. GOOD
8 ROBERT HANNA
9 MATYSE JACKSON
10 PAUL JACKSON
11 ADAM JENKINS
12 ROLFE LEONARD
13 SHARON MANIACI
14 BRIANNA PEREZ
15 ROBERT W ROESLER
16 CADEN SIMMONS
17 MICHAEL STEWART

18
19
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23
24
25
26

AFFIRMATION PURSUANT TO NRS 239B.030

18 The party executing this document hereby affirms that this
19 document submitted for recording does not contain the social security
20 number of any person or persons pursuant to NRS 239B.030.

21
22
23
24
25
26

CHRISTOPHER J. HICKS
District Attorney
Washoe County, Nevada

By: 
TRAVIS LUCIA
11188
DEPUTY District Attorney

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2 Christopher J. Hicks
3 #7747
4 One South Sierra Street
5 Reno, NV 89501
6 districtattorney@da.washoecounty.us
7 (775) 328-3200
8 Attorney for Plaintiff

9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
10
11 IN AND FOR THE COUNTY OF WASHOE

12 * * *

13 THE STATE OF NEVADA,

14 Plaintiff,

Case No. CR20-3438A

15 v.

Dept. No. D08

16 BRANDON A BEST,

17 Defendant.

18
19 GUILTY PLEA MEMORANDUM

20 1. I, BRANDON A BEST, understand that I am charged with
21 the offense of: BATTERY WITH THE USE OF A DEADLY WEAPON, a violation
22 of NRS 200.481(2)(e)(1) and NRS 193.165.

23 BATTERY WITH THE USE OF A DEADLY WEAPON, a violation of NRS
24 200.481(2)(e)(1) and NRS 193.165, as more fully alleged in the charge
25 filed against me.

26 3. By entering my plea of guilty I know and understand
that I am waiving the following constitutional rights:

A. I waive my privilege against self-incrimination.

B. I waive my right to trial by jury, at which trial the

1 State would have to prove my guilt of all elements of the beyond a
2 reasonable doubt.

3 C. I waive my right to confront my accusers, that is, the
4 right to confront and cross examine all witnesses who would testify
5 at trial.

6 D. I waive my right to subpoena witnesses for trial on my
7 behalf.

8 4. I understand the charge against me and that the
9 elements of the offense which the State would have to prove beyond a
10 reasonable doubt at trial are that on October 24th, 2020, or
11 thereabout, in the County of Washoe, State of Nevada, I did,
12 willfully and unlawfully use force or violence upon the person of
13 LUCAS BLAINE with the use of a deadly weapon, specifically a gun, by
14 shooting LUCAS BLAINE at or near Prater Way.

15 5. I understand that I admit the facts which support all
16 the elements of the offense by pleading guilty. I admit that the
17 State possesses sufficient evidence which would result in my
18 conviction. I have considered and discussed all possible defenses
19 and defense strategies with my counsel. I understand that I have the
20 right to appeal from adverse rulings on pretrial motions only if the
21 State and the Court consent to my right to appeal in a separate
22 written agreement. I understand that any substantive or procedural
23 pretrial issue(s) which could have been raised at trial are waived by
24 my plea.

25 6. I understand that the consequences of my plea of guilty
26 are that I may be imprisoned in the Nevada State Department of

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3 #7747
4 One South Sierra Street
5 Reno, NV 89501
6 districtattorney@da.washoecounty.us
7 (775) 328-3200
8 Attorney for Plaintiff

8-11
9 AM

9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

10 IN AND FOR THE COUNTY OF WASHOE

11 * * *

12 THE STATE OF NEVADA,

13 Plaintiff,

Case No. CR20-3438A

14 v.

Dept. No. D08

15 BRANDON A BEST,

16 Defendant.

17 _____/
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10 reasonable doubt at trial are that on October 24th, 2020, or
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18 conviction. I have considered and discussed all possible defenses
19 and defense strategies with my counsel. I understand that I have the
20 right to appeal from adverse rulings on pretrial motions only if the
21 State and the Court consent to my right to appeal in a separate
22 written agreement. I understand that any substantive or procedural
23 pretrial issue(s) which could have been raised at trial are waived by
24 my plea.

25 6. I understand that the consequences of my plea of guilty
26 are that I may be imprisoned in the Nevada State Department of

1 Corrections for a minimum term of not less than 2 years and a maximum
2 term of not more than 10 years and may be further punished by a fine
3 up to \$10,000.00.

4 7. In exchange for my plea of guilty, the State, my
5 counsel and I have agreed to recommend the following: At sentencing,
6 both the State and I will be free to argue for any legally
7 appropriate sentence, to include whether the sentence in this case
8 runs concurrently with or consecutively to my sentence in any other
9 pending matter. The State will not pursue additional charges or
10 enhancements arising from the events in this case.

11 8. I understand that, even though the State and I have
12 reached this plea agreement, the State is reserving the right to
13 present arguments, facts, and/or witnesses at sentencing in support
14 of the plea agreement.

15 9. I also agree that I will make full restitution in this
16 matter, as determined by the Court. Where applicable, I additionally
17 understand and agree that I will be responsible for the repayment of
18 any costs incurred by the State or County in securing my return to
19 this jurisdiction.

20 10. I understand that the State, at their discretion, is
21 entitled to either withdraw from this agreement and proceed with the
22 prosecution of the original charges or be free to argue for an
23 appropriate sentence at the time of sentencing if I fail to appear at
24 any scheduled proceeding in this matter OR if prior to the date of my
25 sentencing I am arrested in any jurisdiction for a violation of law
26 OR if I have misrepresented my prior criminal history. I understand

1 and agree that the occurrence of any of these acts constitutes a
2 material breach of my plea agreement with the State. I further
3 understand and agree that by the execution of this agreement, I am
4 waiving any right I may have to remand this matter to Justice Court
5 should I later withdraw my plea.

6 11. I understand and agree that pursuant to the terms of
7 the plea agreement stated herein, any counts which are to be
8 dismissed and any other cases charged or uncharged which are either
9 to be dismissed or not pursued by the State, may be considered by the
10 court at the time of my sentencing.

11 12. I understand that the Court is not bound by the
12 agreement of the parties and that the matter of sentencing is to be
13 determined solely by the Court. I have discussed the charge(s), the
14 facts and the possible defenses with my attorney. All of the
15 foregoing rights, waiver of rights, elements, possible penalties, and
16 consequences, have been carefully explained to me by my attorney. My
17 attorney has not promised me anything not mentioned in this plea
18 memorandum, and, in particular, my attorney has not promised that I
19 will get any specific sentence. I am satisfied with my counsel's
20 advice and representation leading to this resolution of my case. I
21 am aware that if I am not satisfied with my counsel I should advise
22 the Court at this time. I believe that entering my plea is in my
23 best interest and that going to trial is not in my best interest. My
24 attorney has advised me that if I wish to appeal, any appeal, if
25 applicable to my case, must be filed within thirty days of my
26 sentence and/or judgment.

1 13. I understand that this plea and resulting conviction
2 will likely have adverse effects upon my residency in this country if
3 I am not a U. S. Citizen. I have discussed the effects my plea will
4 have upon my residency with my counsel.

5 14. I offer my plea freely, voluntarily, knowingly and
6 with full understanding of all matters set forth in the Information
7 and in this Plea Memorandum. I have read this plea memorandum
8 completely and I understand everything contained within it.

9 15. My plea of guilty is voluntary and is not the result
10 of any threats, coercion or promises of leniency.

11 16. I am signing this Plea Memorandum voluntarily with
12 advice of counsel, under no duress, coercion, or promises of
13 leniency.

14 17. I do hereby swear under penalty of perjury that all of
15 the assertions in this written plea agreement document are true.

16 AFFIRMATION PURSUANT TO NRS 239B.030

17 The undersigned does hereby affirm that the preceding
18 document does not contain the social security number of any person.

19 DATED this 9th day of June, 21.

20 Bonnie B. S. L.
21 Defendant

22 _____
23 Translator/Interpreter

24 [Signature]
25 Attorney Witnessing Defendant's Signature

26 [Signature]
 Prosecuting Attorney

1 4185
2
3
4
5
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE
8 HONORABLE BARRY L. BRESLOW
9 THE STATE OF NEVADA,
10 Plaintiff,
11 vs. Case No. CR20-3438A
12 BRANDON BEST, Department No. 8
13 Defendant.
14 -----/
15 TRANSCRIPT OF PROCEEDINGS
16 Arraignment
16 June 9, 2021
16 (Via Zoom)
17 APPEARANCES:
18 For the State: Nick Graham
18 Deputy District Attorney
19 1 South Sierra Street
20 Reno, Nevada
21 For the Defendant: Joe Merkin
21 Attorney at law
22 Reno, Nevada
23 For the Division of
23 Parole and Probation: Marissa Stavness
24 Reported by: Isolde Zihn, CCR #87

1 RENO, NEVADA, WEDNESDAY, JUNE 9, 2021, 9:00 A.M.
2 THE COURT: Ms. DeGayner, what's our next matter,
3 please?
4 THE CLERK: State versus Brandon Best, case number
5 CR20-3438A. Matter set for arraignment.
6 Counsel and the Division, please state your
7 appearances.
8 MR. GRAHAM: Nick Graham, for the State.
9 MR. MERKIN: Joe Merkin --
10 MS. STAVNESS: Marissa --
11 THE COURT: Hold on, Mr. Merkin. The way we roll in
12 Department 8 is, prosecutor, Division, defense counsel.
13 MR. MERKIN: Gotcha.
14 THE COURT: So, Officer.
15 MS. STAVNESS: Marissa Stavness, on behalf of the
16 Division.
17 THE COURT: Thank you.
18 Mr. Merkin.
19 MR. MERKIN: Joe Merkin, for Mr. Brandon Best.
20 THE COURT: Mr. Best, good morning.
21 Can you hear me all right?
22 THE DEFENDANT: Yes, sir.
23 THE COURT: All right. Very good.
24 This is the time set for an arraignment based on an

1 Information that was filed May 25th, 2021, charging Mr. Best
2 with a single count of battery with a deadly weapon.

3 Now, we all are aware that I previously revoked
4 Mr. Best's release. He's in custody now on a no-bail hold,
5 and apparently has new charges.

6 Mr. Merkin, if I have that right, do you still want
7 to go forward with the arraignment on this case today? Would
8 you like to postpone it to see what develops with any new
9 charges? What's the status of that?

10 By the way, Mr. Merkin, would you be handling -- are
11 you handling both 3438A and any potential new charges, or
12 just the one?

13 MR. MERKIN: No, Your Honor. The Public Defender's
14 Office has all cases, with the exception of CR20-3438A.

15 I'm aware that there's a settlement on all of his
16 cases.

17 I would ask that -- I believe that his -- the
18 ancillary cases, the other cases, are set for arraignment in
19 a week or so, so I would like this Court to try to set one
20 sentencing hearing on an anticipated sentencing date. So if
21 you would add a week to whatever would be your normal
22 sentencing schedule at the end of this arraignment.

23 THE COURT: You're suggesting the Court go forward
24 with the arraignment today on this case. If the Court

1 accepts the guilty plea, set it out for sentencing maybe 60
2 days from now, as opposed to 45, and in anticipation of a
3 possible guilty plea or pleas on other matters?

4 MR. MERKIN: Correct.

5 THE COURT: All right. I did see Ms. Roth turn on
6 her camera for a minute.

7 I'm going to assume, Ms. Roth, that you will be
8 representing Mr. Best on some or potentially all other
9 matters.

10 MS. ROTH: That's correct, Your Honor.

11 He is set for arraignment next week. At that time, I
12 was just going to ask that his sentencing be set on the same
13 day.

14 I think it could be set in 45 days from today's date,
15 as we only need one PSI. But I'll leave that, of course, to
16 the Court.

17 THE COURT: Thank you for coming on on this case,
18 before you go dark again.

19 This Court would not be presiding next week in
20 criminal justice calendar. Another department will cover.
21 But you can, you know, truthfully advise that Court that I'm
22 certainly comfortable with aligning a sentencing date for all
23 matters in the event of guilty pleas both today and next
24 week, so that it all can be heard at the same time.

1 MS. ROTH: Thank you, Your Honor.

2 THE COURT: All right. Thank you.

3 Okay. So, then, Mr. Merkin, have you gone over -- do
4 you have a copy of the Information? Is your client's name
5 correctly spelled? Will you waive a reading? And have you
6 had time to discuss it with him?

7 MR. MERKIN: Thank you, Your Honor.

8 Yes, I have a copy of the Information. I'm familiar
9 with the Information. I have reviewed it, and we would waive
10 a formal reading.

11 I also have, Your Honor, a guilty-plea memorandum,
12 which I've provided in full to Mr. Best.

13 My understanding is, Mr. Best has a physical copy of
14 that memorandum in his hands now, and will be prepared to
15 sign that document in front of you, Your Honor, in just a
16 moment.

17 The negotiations are as follows, Your Honor, for a
18 settlement of this case: Mr. Best is prepared to enter into
19 a guilty plea to battery with the use of a deadly weapon.
20 Your Honor, Mr. Best understands that this is a felony. He
21 further understands that the potential sentence is no less
22 than two years, nor more than 10 years, in the Nevada
23 Department of Corrections, and that he could receive a fine
24 of up to \$10,000, at your discretion.

1 In exchange for his plea today, all parties will be
2 free to argue. And as I've informed Mr. Best, that means
3 that we can argue for concurrent time with his other two
4 cases, and the State can argue for consecutive time. They'll
5 make that decision, obviously, at sentencing date.

6 The State has also agreed not to pursue any other
7 additional charges or enhancements arising from the events in
8 this case.

9 I should add that I've explained the difference
10 between concurrent time and consecutive time to my client.

11 THE COURT: All right. Very good.

12 Mr. Graham, did Mr. Merkin correctly articulate the
13 terms of the negotiations here?

14 MR. GRAHAM: He did, Your Honor.

15 THE COURT: All right. Very good.

16 At this time, Mr. Best, I'm going to ask you some
17 questions. You'll be under oath. So I would ask you to look
18 at Ms. DeGayner, and she'll administer the oath of witness to
19 you.

20 Ms. DeGayner.

21 THE CLERK: Just to confirm, is the defendant's name
22 truly and correctly spelled in the Information?

23 THE DEFENDANT: Yes.

24 MR. MERKIN: Yes, I believe so.

1 THE CLERK: Thank you.
2 (Defendant sworn.)
3 THE COURT: Thank you.
4 You may put your hand down.
5 Mr. Best, how old are you?
6 THE DEFENDANT: 21.
7 THE COURT: And how far did you go in school?
8 THE DEFENDANT: Graduated.
9 THE COURT: From which high school?
10 THE DEFENDANT: Mount Lassen Charter School, in
11 Susanville, California.
12 THE COURT: Got it.
13 And do you work?
14 THE DEFENDANT: I do.
15 THE COURT: What do you do?
16 THE DEFENDANT: I work at Truckee Meadows Hardwood
17 Flooring.
18 THE COURT: Got it.
19 Have you had enough time to speak with Mr. Merkin
20 about this case?
21 THE DEFENDANT: Yes, sir.
22 THE COURT: Are you happy with how he has helped you?
23 THE DEFENDANT: Yeah.
24 THE COURT: Good.

1 Is it your intention this morning to plead guilty?
2 THE DEFENDANT: Yes, sir.
3 THE COURT: Do you understand, if you plead guilty,
4 there will be no trial?
5 THE DEFENDANT: Yeah.
6 THE COURT: If there were a trial, Mr. Graham would
7 have to prove this charge against you with evidence beyond a
8 reasonable doubt. Do you understand that?
9 THE DEFENDANT: Yes, sir.
10 THE COURT: Before you could be convicted, all 12
11 jurors would have to vote for guilt. In other words, the
12 decision would have to be unanimous for guilt. Do you
13 understand that?
14 THE DEFENDANT: Yes, sir.
15 THE COURT: If there were a trial, Mr. Merkin could
16 defend you by doing things like challenging the evidence,
17 cross-examining witnesses, calling witnesses to the stand,
18 and he could also have the Court issue subpoenas, which are
19 orders to make witnesses come to court, even if they did not
20 want to. You're giving up those rights. Do you understand
21 that?
22 THE DEFENDANT: Yes, sir.
23 THE COURT: Do you understand that, if I accept your
24 guilty plea, the maximum potential sentence under Nevada law

1 is two to 10 years in prison, and a fine of up to \$10,000?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you understand that, if I accept your
4 guilty plea on this case, and you later plead guilty on
5 another case, then at the time you're sentenced the Court has
6 discretion to run the sentence in this case concurrent with
7 the new sentence or sentences, which means at the same time;
8 or, if the Court felt it was fair and just, to run the
9 sentence in this case consecutive, which means, you know,
10 they would have to go one, then the other. Do you understand
11 that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Has anybody threatened you to make you
14 plead guilty this morning against your free will?

15 THE DEFENDANT: No, sir.

16 THE COURT: Has anybody made any promises to you for
17 your guilty plea this morning?

18 THE DEFENDANT: No.

19 THE COURT: Do you understand that, if this case --
20 if you pled not guilty, and this case went to trial, you
21 would not have to testify? You could invoke your
22 constitutional rights under the Fifth Amendment not to
23 testify against yourself, and the jury would be instructed
24 that they would not be allowed to hold that against you or

1 even discuss it as part of their deliberations on this case.
2 Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you have a guilty-plea memorandum
5 there with you?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Did you read it?

8 THE DEFENDANT: I did.

9 THE COURT: Do you understand it?

10 THE DEFENDANT: I do.

11 THE COURT: Mr. Merkin, did you go over that with
12 Mr. Best?

13 MR. MERKIN: Yes, I did, Your Honor.

14 THE COURT: Any doubt in your mind that he
15 understands what the guilty-plea memorandum sets forth? In
16 other words, do you have any concern that he might not
17 understand it?

18 MR. MERKIN: I have no doubts or concerns, Your
19 Honor.

20 THE COURT: Mr. Best, if you would please get a pen
21 from the deputy there and sign on the last page.

22 And then, Deputy, once he has done so, if you would
23 kindly hold up the signature to the camera.

24 Thank you very much.

1 The Court sees the signature of Mr. Best, and the
2 record should so reflect.

3 All right. Mr. Best, listen carefully. I'm going to
4 ask the Deputy District Attorney, Mr. Graham, to read the
5 charge to you, and then I will ask for your plea.

6 Mr. Graham.

7 MR. GRAHAM: Thank you.

8 The charge is battery with the use of a deadly
9 weapon, a violation of NRS 200.481, Subsection (2) (e) (1),
10 and 193.165. That you, Brandon A. Best, on or about October
11 24th, 2020, within the County of Washoe, State of Nevada, did
12 willfully and unlawfully use force or violence upon the
13 person of Lucas Blaine with the use of a deadly weapon,
14 specifically, a gun, by shooting Lucas Blaine at or near
15 Prater Way.

16 THE COURT: Thank you.

17 Mr. Best, did you hear that charge?

18 THE DEFENDANT: I did.

19 THE COURT: Did you commit that crime?

20 THE DEFENDANT: I did.

21 THE COURT: How do you plead: Guilty or not guilty?

22 THE DEFENDANT: Guilty.

23 THE COURT: Fair enough.

24 The Court finds that Mr. Best understands the nature

1 of the charge against him, the consequences of his guilty
2 plea, and that he has made a knowing, voluntary, intelligent
3 waiver of his constitutional rights. And, therefore, the
4 Court accepts his guilty plea.

5 Ms. DeGayner, let's have a date and time for
6 sentencing. Let's put it out about, instead of 45 days,
7 closer to 50 or 55, please.

8 THE CLERK: Your Honor, that would be August 11th, at
9 9:00 a.m.

10 THE COURT: August 11th, at 9:00 a.m.

11 Mr. Best, listen to me carefully. I have three more
12 things I want to tell you.

13 First of all, stay in touch with Mr. Merkin. He's
14 going to help prepare you to make the best case, the best
15 argument to the Court at the time you're sentenced. So work
16 with him.

17 Second, while you're in jail, make sure you stay out
18 of trouble. Follow the rules, do what you're told, and don't
19 get in trouble up there. I don't want you to make a bad
20 situation any worse.

21 And now, third, I order that you cooperate with the
22 State of Nevada Division of Parole and Probation. Officer
23 Stavness in a moment will tell you how that will work. But
24 essentially your piece is twofold.

1 First, you fill out paperwork and get it back to her
2 for some background information.

3 And, second, you have an interview, where you answer
4 truthfully the questions that they ask you about where you
5 grew up, how you were raised, where you worked, how far you
6 went in school, how you did in school, your criminal justice
7 history, substance abuse history, if any, mental health
8 issues, if any, any other thing that happened to you that
9 would be relevant, and then some background on the case.

10 So I want you to cooperate with the Division, both
11 with respect to the paperwork and with respect to the
12 interview.

13 Did you understand that, Mr. Best?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: So, Ms. Stavness, how do we get the
16 paperwork to him to get back to you? And then how do you go
17 up there and interview? Or do you still do it
18 electronically?

19 MS. STAVNESS: Mr. Best, you should receive a
20 presentence investigation questionnaire packet from the
21 deputy. Make sure as soon as you get that to fill it out
22 entirely and accurately. Do that as soon as possible, and
23 then return it back to the deputy. As soon as we get that
24 packet, your presentence investigation report writer will

1 schedule an interview there at the Washoe County Jail with
2 you.

3 THE COURT: Mr. Best, did you hear all that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: All right. Thank you.

6 Mr. Merkin, anything else the Court may have
7 overlooked, or any questions about what just happened here?

8 MR. MERKIN: No, Your Honor.

9 Thank you.

10 THE COURT: Thank you.

11 Mr. Graham, anything else from the State?

12 MR. GRAHAM: No, Your Honor.

13 THE COURT: Okay. Officer Stavness, anything else?

14 MS. STAVNESS: No, Your Honor.

15 THE COURT: Thank you.

16 Mr. Best, thank you.

17 I'll see you in a couple months.

18 And you may have a seat, sir.

19 THE DEFENDANT: Thank you.

20 THE COURT: Thank you.

21

22

23

24

1 STATE OF NEVADA)

2 COUNTY OF WASHOE)

3

4 I, ISOLDE ZIHN, a Certified Shorthand Reporter of the
5 Second Judicial District Court of the State of Nevada, in and
6 for the County of Washoe, do hereby certify:

7 That I was present in Department 8 of the
8 above-entitled court on Wednesday, June 9, 2021, at the hour
9 of 9:00 a.m. of said day, and took verbatim stenotype notes
10 of the proceedings had upon the matter of THE STATE OF
11 NEVADA, Plaintiff, versus BRANDON BEST, Defendant, Case No.
12 CR20-3438A, and thereafter reduced to writing by means of
13 computer-assisted transcription as herein appears;

14 That the foregoing transcript, consisting of pages 1
15 through 15, all inclusive, contains a full, true and complete
16 transcript of my said stenotype notes, and is a full, true
17 and correct record of the proceedings had at said time and
18 place.

19 Dated at Reno, Nevada, this 10th day of June, 2021.

20

21

22 /s/ Isolde Zihn
23 Isolde Zihn, CCR #87

24

1 Code 1652
2 JOSEPH MERKIN, ESQ.
3 State Bar No. 3328
4 316 California Avenue
5 Suite 430
6 Reno, NV 89509
7 (775) 825-9495
8 Attorney for Defendant

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7
8 IN AND FOR THE COUNTY OF WASHOE

8 * * *

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

Case No. CR20-3438A

12 BRANDON ALLEN BEST,

Dept. No. 8

13 Defendant.

14
15 DOCUMENTS TO BE CONSIDERED BY THE COURT

16 The following document is submitted to be reviewed by the Court on the above-entitled
17 matter and to be sealed.

18 1. Copy of evaluation by JANICE FUNG, MA. attached hereto and made a part thereof
19 as Exhibit "1".

20 2. Copy of Mental Health Evaluation by ERICA P. ROTH, DPD attached hereto and
21 made a part thereof as Exhibit "2".

22 AFFIRMATION PURSUANT TO NRS 239B.030

23 The undersigned does hereby affirm that the preceding document does not contain the social
24 security number of any person.

25 DATED this 7th day of August, 2021

26
27 JOSEPH MERKIN, ESQ.
28 316 California Avenue
Suite 430
Reno, NV 89509
Attorney for Defendant

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that on this date I caused to be served by electronic filing with Washoe County e-filing, a true copy of the attached foregoing document addressed to:

Washoe County District Attorney's Office
1 South Sierra Street
Fourth Floor
Reno, NV 89501
VIA e-filing with Second Judicial District Court

DATED this 9th day of August, 2021.

Leslie Schubert

EXHIBIT LIST

Exhibit 1	Copy of Evaluation from Janice Fung, MA	3 pgs
Exhibit 2	Copy of Mental Health Evaluation from Erica P. Roth, DPD	5 pgs

EXHIBIT 1

EXHIBIT 1

Janice Fung, MA
Licensed Alcohol and Drug Counselor #631-L
3500 Lakeside Court, Suite 101, Reno Nevada 89509
Telephone Number: 775-786-6880, Cell: 775-771-9261 Fax: 775-786-6899
Email: jagcarry@sbcglobal.net

Substance Abuse Evaluation

Name: Brandon Allen Best

Date of Birth: January 27, 2000

Maternal Grandmother's Address: 744-025 Pickens Road, Doyle California

Maternal Grandmother's Telephone Number: 209-843-4477

Date of Evaluation: July 30, 2021

Date Report Written: July 30, 2021

Identifying Information: Brandon Allen Best is a 21-year-old White male. Erica Roth, Deputy Public Defender, with the Office of the Public Defender, County of Washoe, referred Brandon to me for an alcohol and drug evaluation.

Due to the continued concerns regarding the transmission of the COVID virus, this evaluation took place via IWebVisit rather than the preferred in person, face to face evaluation; Brandon was located at the Washoe County Detention Center. This visit was scheduled as a confidential visit; per IWebVisit, this confidential visit was not monitored or recorded. The limits of tele-behavioral health were explained, and Brandon chose to do his evaluation via IWebVisit rather than to wait for a face-to-face, in-person evaluation.

Prior to the assessment, the confidentiality regulations (42 CFR Part 2) pertaining to people who receive alcohol and drug assessment/treatment services were explained and Brandon gave his verbal authorization for the release of this report to his attorney. Brandon's written authorization will not be obtained.

Brandon reported no visual, auditory, or mental health issues that would interfere with his ability to participate in this evaluation.

An evaluation through IWebVisit (telehealth) has the potential to be less accurate than a face to face, in person evaluation due to the diminished ability to observe and discern facial expressions, tones of voice, body language and gestures. In addition, telehealth can be problematic due to technology

This notice accompanies a disclosure of information concerning a client in alcohol and drug abuse treatment, made to you with the consent of such client. This information has been disclosed to you from records protected by Federal confidentiality rules (42 CFR Part 2). The Federal rules prohibit you from making further disclosures of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of this information to criminally investigate or prosecute any alcohol or drug abuse patient.

Brandon Allen Best
Attorney copy of report
Page 1 of 4

issues such as poor connectivity which results in audio and visual problems. An evaluation through IWebVisit (telehealth) is not ideal but due to COVID-19, it is the best option.

Brandon provided the following information: the information appeared to be valid for diagnostic purposes. No additional interviews or reports were used to acquire this information.

Legal: Brandon said in October 2020, he was arrested for battery with a deadly weapon. He said about a month after his arrest, his grandmother bailed him out and said he was on a supervised bail. He said on January 10, 2021, he was arrested for robbery with a deadly weapon and child abuse (related to his 14-year-old brother). Brandon said he has been in custody since January 10, 2021. Brandon said in 2019, he was arrested for a DUI (marijuana; he said he did not cause an accident) and said he has an open case in Susanville for brandishing a firearm. Brandon said he has never committed a sex crime and said he has never been to prison.

Alcohol and Drugs: Brandon said Xanax and cocaine are his drugs of choice. He said he uses Xanax and Cocaine daily and said his last use was on the day of his arrest. He said when he was 14, he began smoking marijuana; he said he is a daily user and said his last use was on the day of his arrest. No other drugs were reported. Brandon said he has never used drugs intravenously. He said he was 16 years old when he had his first drink. He said he has only drank a couple of times and said each time, he got drunk. He said his last drink was a year ago. Brandon said he has never been to any type of substance abuse treatment and said he has never attended a 12-step meeting. Brandon said 3 to 4 months is his longest period of total abstinence.

Medical: Brandon said he has detoxed. He said he is 5'8" tall and 150 pounds. He said he has lost 10 pounds since his arrest. Brandon said he has post-traumatic stress disorder; he said, "I got it from when I was in foster care." He said his foster parents physically and sexually abused him; he said he told his social worker about it. No inpatient psychiatric hospitalizations, suicide attempts, or self-harm behaviors such as cutting or burning were reported. On this date, Brandon expressed no desire to hurt himself or others. No other medical conditions were reported. Brandon said currently, he is taking gabapentin and trazodone. Past alcohol/drug related injuries were reported; Brandon said he said he has been in a couple of car wrecks and said, "I have brain damage." Brandon said he has Medi-Cal.

Housing: Brandon said before his arrest, he lived with his maternal grandmother in Doyle, California. He said he has been living with her since she got him out of foster care at the age of 15. He said his grandmother does not have substance abuse, mental health, or gambling issues. He said she does not work and said she receives SSI. Brandon said when he is released, he can go back to his grandmother's house.

Financial: Brandon said he has no financial resources and said he has never had a credit card or a bank account. He said gambling has never been a problem.

Employment: Brandon said at the time of his arrest, he had a job; he said for three years, he worked for Truckee Meadows Hardwood and said he was earning \$11.00 per hour. He said this is

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Brandon Allen Best
Attorney copy of report
Page 2 of 4

his longest period of employment and said he can go back to his job. He said he has never served in the military.

Education: Brandon said he attended three high schools and said in 2018, he graduated from Mt Lassen Charter School. During his school-age years, he was already smoking marijuana. He said he was not in special education.

Other: Brandon said his support system includes his maternal grandmother, mother, aunt, and siblings. He said his grandmother does not have substance abuse, mental health, or gambling issues. He said his mother and two brothers live in Reno. He said his mother smokes marijuana. He said she has mental health issues but could not recall her diagnosis; he said, "She takes pills just like me." Brandon said his mother did not raise him. When I asked about his father, Brandon said, "I don't talk to him. He lives in Oregon. He has a different family." Brandon said his father did not raise him. He said his father smokes marijuana and has schizophrenia.

Brandon said he has a VW Jetta and said it is registered and insured to his sister's boyfriend. He said he has a valid California driver's license.

Impressions and Recommendations: Based upon the information presented, Brandon meets the criteria specified in the DSM-5 (Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition) for Sedative, Hypnotic or Anxiolytic Use Disorder, severe; Cocaine Use Disorder, severe; and Cannabis Use Disorder, severe

Brandon is 21 years old. Since the age of 14, for the past 7 years, he has used drugs on a habitual basis. He said his longest period of total sobriety is 3 to 4 months. When he uses drugs, he endangers the health, safety, and welfare of himself as well as those around him. Brandon needs treatment and court supervision; without long-term treatment and intensive court supervision to keep him on track, Brandon will continue to use drugs and continue to get into trouble as he has just demonstrated.

Brandon grew up with adverse childhood experiences: parents with substance abuse and mental health issues and physical and sexual abuse from his foster parents. He was at risk for developing substance abuse issues at a very young age and probably from before he was even born. Without an intervention, Brandon will continue down the path towards a life of chronic crime and untreated substance abuse and mental health issues. His treatment should begin in prison and continue upon his release. Brandon should be restricted from using, owning, possessing or being around a firearm.

/s/ Janice Fung

Janice Fung, MA, LADC

This notice accompanies a disclosure of information concerning a client in alcohol and drug abuse treatment, made to you with the consent of such client. This information has been disclosed to you from records protected by Federal confidentiality rules (42 CFR Part 2). The Federal rules prohibit you from making further disclosures of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of this information to criminally investigate or prosecute any alcohol or drug abuse patient.

Brandon Allen Best
Attorney copy of report
Page 3 of 4

EXHIBIT 2

EXHIBIT 2

NOTE: This information has been disclosed to you from records whose confidentiality is protected by federal law. Federal regulations (42CFR Part 2) prohibit you from making any further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by such regulations. A general authorization for the release of medical or other information is NOT sufficient for this purpose.

Released to ERICA P. ROTH, DPD

Mental Health Evaluation

Name: Brandon Allen Best
Date of Birth: 01/27/2000
Case Number: 21-SCR-00054
Date of Evaluation: 07/29/2021
Date of Report: 07/30/2021

Identifying Information:

Brandon Allen Best is a 21 y/o, single Caucasian male who was referred for a mental health evaluation by his attorney for possible Mental Health issues. He had been charged through the Sparks Justice Court of Washoe County, In and for the county of Washoe, In the state of Nevada, with the following offenses: Count I Child abuse, category B felony, Count II Child Abuse, category B Felony, Count III Aggravated stalking with the use of a deadly weapon, category B felony, and Count IV Aggravated stalking with the use of a deadly weapon, category B felony.

Limits of Confidentiality:

The limits of confidentiality were described to Mr. Best, including the voluntary nature of the evaluation. He was advised that a copy of the evaluation would be provided to his attorney and that it may be used to assist in the resolution of his legal case. Mr. Best indicated an understanding of the notification and he provided verbal authorization for the release of the information, as the interview was conducted via contact visit.

Method of Evaluation:

- An interview of Brandon Allen Best via In person contact visit.
- A review of the Washoe County Forensic Evaluation Request Form dated 07/14/2021.
- A review of the Criminal Complaint dated 01/13/2021.

(01-0001) 

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Released to ERICA P. ROTH, DPD

MENTAL SHEALTH EVALUATION
BEST, Brandon Allen
Page 2 of 5

- A review of the Arrest Report dated 01/10/2020

Brief Psycho-Social History:

Developmental History:

The client reports that he was born in Davis, CA and raised throughout CA due to the fact he was in the foster care system. He is not aware of any complications occurring during his birth or early development. Mr. Best states that he had a "not so good" childhood. He confirms that he experienced abuse while in the foster care system. The client describes being chiefly raised by his maternal grandmother from about the age of 16 years. The client's mother went to prison for a few years which is why he was taken away from her as well as his two younger brothers. Mr. Best states that he rarely had contact with his natural father, "he would rarely contact me because he lived in Oregon". Mr. Best advises that his father, stepfather and mother are still alive. Additionally, his mother and stepfather are still living together. The client's mother and stepfather continue to live in the Reno area. The client has five brothers and one sister here in Reno and four half-brothers and one half-sister who lives in Oregon. He reported that his youngest brother here in Reno died of a drug overdose.

Mr. Best states that at the time of his arrest, he had been living with his fiancée. He states that, overall, they have a good relationship and they have been together since they were 14 y/o. He states that his current support system includes his mother, stepfather, girlfriend, brothers, sister, aunts and uncles.

Educational History:

Mr. Best states that he graduated high school. The client denies that he was ever involved in any special education services. The client does express an interest in continuing his education for either culinary arts or auto mechanics.

Employment /Military History:

The client never served in the military.

Mr. Best states that he began working a career in Hard Wood Flooring Installation about one and one-half years ago. His employer stated that when he gets out of prison, he has a job waiting for him.

The client currently has no income. He states that upon his release from prison, he plans on working at Truckee Meadows Hard Wood Flooring again.

MENTAL HEALTH EVALUATION
BEST, Brandon Allen
Page 3 of 5

Marital History:

The client reports that he has never been married. He states that he has a fiancée whom he has been with since the age of 14 y/o. Mr. Best expresses remorse about his situation because it takes him away from his family and fiancée. He has no children.

Medical History:

Mr. Best denies having any significant medical problems. He confirms a history of serious head injury from two vehicle accidents. One was with a car and the other was with a semi-truck. He stated he was told that because of those accidents he has brain damage.

Mental Health History:

The client reports a history of mental illness. He reports a history of significant depression, mania and anxiety. He reports past suicide ideation. He denies a history of self-mutilation. He reports that in school he was always getting into fights with the bullies, so he was expelled from several schools. The client denies any other psychiatric treatment. He confirms experiencing some significant trauma due to physical abuse while in foster care. He reports a history of mental illness in his family of origin which includes Bipolarism.

Alcohol & Drug History:

Mr. Best reports that he began using alcohol and drugs (Marijuana) at the age of 15 although he does not like the taste of alcohol so he rarely drinks. He advises that he was arrested for Count I Child abuse, category B felony, Count II Child Abuse, category B Felony, Count III Aggravated stalking with the use of a deadly weapon, category B felony, and Count IV Aggravated stalking with the use of a deadly weapon, category B felony which he reports he was high at the time. He states that he had first used drugs at the age of 18. Mr. Best indicates that he has used more Cocaine, Xanax and Marijuana than intended, he has attempted to scale back his drug use with periodic success, and that drugs have affected his personal relationships and contributed to legal difficulties. The client also states that he has built up tolerance with his drug use.

The client began marijuana use at the age of 15. He states that he was quickly smoking the substance every day as well. He has tried many times to get clean and sober and had minimal success.

The client reports three substances he uses regularly. However, his drug of choice has always been marijuana, cocaine and benzodiazepines.

MENTAL SHEALTH EVALUATION

BEST, Brandon Allen

Page 4 of 5

Legal History:

The client reports that he has had other prior arrests. He reported that he had been arrested in 2019 in CA for Assault on a person that he describes as a rapist as well as DUI in that same year. He is currently incarcerated at the Washoe County Detention Facility (WCDF). His longest period of incarceration is his current experience which is seven months. He denies that he has ever been in prison.

Mental Status and Behavioral Observation:

Mr. Best presents as a young Caucasian man that appears to be approximately his stated age of 21. He is blonde and he wears his hair at a normal length for a male. He was clean shaven. His hygiene appeared adequate. He has several visible tattoos. The client sat fairly calmly throughout the interview. There did not appear to be some unusual mannerisms. The client demonstrated a full range of affect. He described his mood as "good", elaborating that he feels badly that he has gotten himself into this situation, but he is trying to be positive about it. He denies any thoughts of harm to himself or to others. He was cooperative. His thoughts appeared organized. His speech was goal directed and his conversation was normal. Mr. Best's responses were usually straight forward and to the point. He was oriented to person, place, time, and situation. He denies having any auditory or visual hallucinatory experiences and at no point during the interview did he appear to be responding to internal stimuli. There was no evidence of delusional thinking. His thought content appeared to be within normal limits. The client reported that he has a hard time getting to sleep, but his appetite is good. He stated that he had recently gained weight because he has not been using while in jail. The client's short term memory function appeared adequate, identifying two of three items named after 10-minute duration. He demonstrated average immediate memory and concentration ability, repeating up to six digits forward and four digits backwards in the digit span test. He was able to count backward from 100 by 5's. The client's arithmetic abilities appeared good, as he was able to correctly calculate several simple math problems. He identified the current and previous presidents of the United States. He was able to distinguish similarities and differences; an apple and an orange are both "round", and they are of different "colors". His abstract thinking abilities appeared adequate, he was able to complete the statement "down is to up, as out is to in" and "as flower is to plant as fruit is to tree/bush/vine". The client's proverb interpretation was adequate, such as when asked what the saying "still waters run deep" and "shallow brooks are noisy" means, Mr. Best was able to state, "when the surface is calm the depth is deep or quiet people usually have deep thoughts" or "shallow brooks are noisy" meaning "shallow people tend to talk a lot". He successfully completed the sentence completion task of "The fireman pouts out the fire" and "The doctor sees patients". Client's test judgement appeared to be within normal limits.

Summary and Recommendation:

Mr. Best was referred for a mental health evaluation to determine if he had a qualifying mental health disorder for consideration for mental health court. He reported a history of mental illness. There was much evidence during the interview of significant mania and depression as well as anxiety. However, Mr. Best appears to meet 8 of the 11 diagnostic criteria in the Diagnostic and Statistical Manual of

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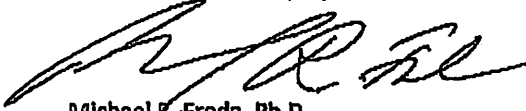
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MENTAL HEALTH EVALUATION

BEST, Brandon Allen

Page 5 of 5

Mental Disorders, Fifth Edition (DSM-5) for 296.42 Bipolar Disorder (F31.12) with rapid cycling features. Additionally, Mr. Best appears to meet 8 of the 11 criteria for 304.20 Stimulant Use Disorder (F15.20) severe cocaine use, 7 of the 11 criteria for 304.10 Sedative, Hypnotic or Anxiolytic Use Disorder (F13.20) severe, and 5 of the 11 diagnostic criteria for Cannabis Use Disorder (F12.20). Therefore it is this writer's opinion that Mr. Best *does* have a serious mental illness but also has serious substance use disorders. The client may benefit from the support and structure of a substance use program that could assist him in maintaining sobriety through group and/or individual substance use counseling with length of treatment to be determined by the provider. It appears he may be a good candidate for the NDOC in house substance abuse program (RISE). The assessment and recommendations were reviewed with Mr. Best and he expressed interest in participation in substance use treatment. Mr. Best indicated goals that include obtaining employment when he gets out on parole and being able to care for his girlfriend.



Michael R. Freda, Ph.D.

Nevada Licensed Marriage and Family Therapist

Lakes Crossing Center

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Christopher J. Hicks
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One South Sierra Street
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4 (775) 328-3200
Attorney for Plaintiff
5

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE

8 * * *

9 THE STATE OF NEVADA,

10 Plaintiff,

Case No. CR21-0995

11 v.

Dept. No. D08

12 BRANDON ALLEN BEST,

13 Defendant.
14 _____/

15 AMENDED GUILTY PLEA MEMORANDUM

16 1. I, BRANDON ALLEN BEST, understand that I am charged
17 with the offense of: ROBBERY WITH THE USE OF A DEADLY WEAPON, a
18 violation of NRS 200.380, NRS 193.165, and NRS 195.020, a category B
19 felony.

20 2. I desire to enter a plea of guilty to the offense of,
21 ROBBERY WITH THE USE OF A DEADLY WEAPON, a violation of NRS 200.380,
22 NRS 193.165, and NRS 195.020, a category B felony, as more fully
23 alleged in the charge filed against me.

24 3. By entering my plea of guilty I know and understand
25 that I am waiving the following constitutional rights:

26 A. I waive my privilege against self-incrimination.

1 B. I waive my right to trial by jury, at which trial the
2 State would have to prove my guilt of all elements of the offense
3 beyond a reasonable doubt.

4 C. I waive my right to confront my accusers, that is, the
5 right to confront and cross examine all witnesses who would testify
6 at trial.

7 D. I waive my right to subpoena witnesses for trial on my
8 behalf.

9 4. I understand the charge against me and that the
10 elements of the offense which the State would have to prove beyond a
11 reasonable doubt at trial are that on December 8th, 2020, or
12 thereabout, in the County of Washoe, State of Nevada, I did,
13 willfully and unlawfully take personal property specifically a
14 backpack and/or skateboard and/or wallet and/or approximately \$200.00
15 and/or iPhone 7 and/or other property, from the persons of MATYSE
16 JACKSON and/or CADEN SIMMONS against the will of both victims and by
17 means of force or violence or fear of injury, immediate or future, to
18 their person, and with the use of a deadly weapon, specifically a
19 handgun, which I pointed at MATYSE JACKSON and/or CADEN SIMMONS while
20 demanding that the victims turn over their property and/or by
21 shooting MATYSE JACKSON while he fled from the scene, at or near
22 North Virginia Street;

23 AND/OR I acted as a principal to the crime of Robbery With
24 the Use of a Deadly Weapon where, with the intent that the crime
25 occur, I aided, abetted, and/or encouraged another in the crime's
26 commission, in that I pointed a handgun at MATYSE JACKSON and/or

1 CADEN SIMMONS while demanding that both victims turn over their
2 property and/or by shooting MATYSE JACKSON while he fled from the
3 scene and/or while an unidentified suspect picked up MATYSE JACKSON'S
4 property after I threatened MATYSE JACKSON and/or CADEN SIMMONS with
5 the weapon and/or shot MATYSE JACKSON while he fled from the scene;

6 AND/OR I acted as a co-conspirator to the crime of Robbery
7 With the Use of a Deadly Weapon where, after agreeing to commit the
8 crime, myself and another unidentified suspect committed an act in
9 furtherance of the crime, in that I pointed a handgun at MATYSE
10 JACKSON and/or CADEN SIMMONS while demanding that both victims turn
11 over their property and/or by shooting MATYSE JACKSON while he fled
12 from the scene and/or while an unidentified suspect picked up MATYSE
13 JACKSON'S property after I threatened MATYSE JACKSON and/or CADEN
14 SIMMONS with the weapon and/or shot MATYSE JACKSON while he fled from
15 the scene.

16 5. I understand that I admit the facts which support all
17 the elements of the offense by pleading guilty. I admit that the
18 State possesses sufficient evidence which would result in my
19 conviction. I have considered and discussed all possible defenses
20 and defense strategies with my counsel. I understand that I have the
21 right to appeal from adverse rulings on pretrial motions only if the
22 State and the Court consent to my right to appeal in a separate
23 written agreement. I understand that any substantive or procedural
24 pretrial issue(s) which could have been raised at trial are waived by
25 my plea.

26 ///

1 6. I understand that the consequences of my plea of guilty
2 to the offense of robbery are that I may be imprisoned in the Nevada
3 State Department of Corrections for a minimum term of not less than
4 two¹ years and a maximum term of not more than fifteen years. I
5 further understand that the consequences of my plea of guilty to the
6 deadly weapon enhancement I may be imprisoned in the Nevada State
7 Department of Corrections for a minimum term of not less than one
8 year and a maximum term of not more than fifteen years. I understand
9 that my sentence for the deadly weapon enhancement must not exceed
10 the sentence imposed for the underlying robbery charge and must run
11 consecutively to that sentence. I understand that I am not eligible
12 for probation.

13 7. In exchange for my plea of guilty, the State, my
14 counsel and I have agreed to recommend the following: At sentencing,
15 I will be free to argue for any legally appropriate sentence. The
16 State will not object to my sentence in this case running
17 concurrently with my sentence in the Child Abuse case listed under DA
18 number 21-559 and under Justice Court caption 21-SCR-00054 but is
19 otherwise free to argue for any legally appropriate sentence. The
20 State will not pursue any additional charges or enhancements arising
21 from this event.

22 8. I understand that, even though the State and I have
23 reached this plea agreement, the State is reserving the right to
24 present arguments, facts, and/or witnesses at sentencing in support
25
26

¹ The previous iteration of the Guilty Plea Memorandum incorrectly listed the minimum sentence for robbery at one (1) year.

1 of the plea agreement.

2 ///

3 9. I also agree that I will make full restitution in this
4 matter, as determined by the Court. Where applicable, I additionally
5 understand and agree that I will be responsible for the repayment of
6 any costs incurred by the State or County in securing my return to
7 this jurisdiction.

8 10. I understand that the State, at their discretion, is
9 entitled to either withdraw from this agreement and proceed with the
10 prosecution of the original charges or be free to argue for an
11 appropriate sentence at the time of sentencing if I fail to appear at
12 any scheduled proceeding in this matter OR if prior to the date of my
13 sentencing I am arrested in any jurisdiction for a violation of law
14 OR if I have misrepresented my prior criminal history. I understand
15 and agree that the occurrence of any of these acts constitutes a
16 material breach of my plea agreement with the State. I further
17 understand and agree that by the execution of this agreement, I am
18 waiving any right I may have to remand this matter to Justice Court
19 should I later withdraw my plea.

20 11. I understand and agree that pursuant to the terms of
21 the plea agreement stated herein, any counts which are to be
22 dismissed and any other cases charged or uncharged which are either
23 to be dismissed or not pursued by the State, may be considered by the
24 court at the time of my sentencing.

25 12. I understand that the Court is not bound by the
26 agreement of the parties and that the matter of sentencing is to be

1 determined solely by the Court. I have discussed the charge(s), the
2 facts and the possible defenses with my attorney. All of the
3 foregoing rights, waiver of rights, elements, possible penalties, and
4 consequences, have been carefully explained to me by my attorney. My
5 attorney has not promised me anything not mentioned in this plea
6 memorandum, and, in particular, my attorney has not promised that I
7 will get any specific sentence. I am satisfied with my counsel's
8 advice and representation leading to this resolution of my case. I
9 am aware that if I am not satisfied with my counsel I should advise
10 the Court at this time. I believe that entering my plea is in my
11 best interest and that going to trial is not in my best interest. My
12 attorney has advised me that if I wish to appeal, any appeal, if
13 applicable to my case, must be filed within thirty days of my
14 sentence and/or judgment.

15 13. I understand that this plea and resulting conviction
16 will likely have adverse effects upon my residency in this country if
17 I am not a U. S. Citizen. I have discussed the effects my plea will
18 have upon my residency with my counsel.

19 14. I offer my plea freely, voluntarily, knowingly and
20 with full understanding of all matters set forth in the Information
21 and in this Plea Memorandum. I have read this plea memorandum
22 completely and I understand everything contained within it.

23 15. My plea of guilty is voluntary and is not the result
24 of any threats, coercion or promises of leniency.

25 16. I am signing this Plea Memorandum voluntarily with
26 advice of counsel, under no duress, coercion, or promises of

1 leniency.

2 17. I do hereby swear under penalty of perjury that all of
3 the assertions in this written plea agreement document are true.
4

5
6 AFFIRMATION PURSUANT TO NRS 239B.030

7 The undersigned does hereby affirm that the preceding
8 document does not contain the social security number of any person.

9 DATED this 21 day of August, 21.

10 Brandon Best
11 Defendant

12
13 Translator/Interpreter

14 Christine Hotchkin
Attorney Witnessing Defendant's Signature

15
16 [Signature]
Prosecuting Attorney
17
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1 4185

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF WASHOE

8 HONORABLE BARRY L. BRESLOW

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs. Case Nos. CR20-3438A & CR21-0995 & CR21-0102

12 BRANDON BEST, Department No. 8

13 Defendant.

14 -----/

15 TRANSCRIPT OF PROCEEDINGS

16 Arraignment & Sentencings

17 August 11, 2021

18 (Via Zoom)

19 APPEARANCES:

20 For the State:

Nicole Hicks

Deputy District Attorney

21 1 South Sierra Street

Reno, Nevada

22

23 For the Defendant:

Christine Hotchkin

24 Deputy Public Defender

350 South Center Street

25 Reno, Nevada

26 Joe Merkin

Attorney at law

27 Reno, Nevada

1	For the Division of	
2	Parole and Probation:	Carlos Perez
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24	Reported by:	Isolde Zihn, CCR #87

1 RENO, NEVADA, WEDNESDAY, AUGUST 11, 2021, 9:00 A.M.
2 THE COURT: Ms. Clerk, please call the next case.
3 THE CLERK: Yes, Your Honor.
4 State versus Brandon Best, CR20-3438A, CR21-0102 and
5 CR21-0995.
6 Please state your appearances.
7 MS. HICKS: Thank you.
8 Nicole Hicks, on behalf of the State.
9 THE COURT: Thank you.
10 The Division.
11 MR. PEREZ: Carlos Perez, on behalf of the Division.
12 THE COURT: Thank you.
13 Ms. Hotchkin, which case or cases are you on, please?
14 MS. HOTCHKIN: Thank you, Your Honor.
15 Christine Hotchkin, on behalf of Brandon Best, who is
16 present, in custody, and appearing from the Washoe County
17 Jail.
18 I will be appearing on two matters today, Your Honor.
19 That is CR21-0995 and CR21-0102.
20 THE COURT: Thank you.
21 Mr. Merkin, good morning.
22 Which case are you on, please?
23 MR. MERKIN: Good morning, Your Honor.
24 I'm here on Mr. Best's behalf in CR20-3438A.

1 I'm in Washoe County, as is he, in the Washoe County
2 Detention Center and on your screen.

3 THE COURT: Thank you.

4 Mr. Best, good morning.

5 Can you hear the Court?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Would you please state your name for the
8 record.

9 THE DEFENDANT: Brandon Allen Best.

10 THE COURT: Mr. Best, how old are you?

11 THE DEFENDANT: 21.

12 THE COURT: Got it.

13 All right. So we're here, unfortunately, to proceed
14 with sentencing, Mr. Best, on three matters, three very
15 serious matters; the first being the battery with the use of
16 a deadly weapon case that Mr. Merkin is here on, potential
17 sentencing range of two to 10 years Nevada Department of
18 Corrections; followed by two matters that Ms. Hotchkin is on,
19 the CR21-0102, the child-abuse case, sentencing range one to
20 six years Nevada Department of Corrections; and then the
21 CR21-0995, also Ms. Hotchkin's matter, robbery with the use
22 of a deadly weapon, sentencing range of two to 15 years, with
23 a consecutive enhancement range of one to 15 years.

24 MS. HICKS: Your Honor, I'm sorry to interrupt. I

1 want to make sure that the record is clear.

2 Previously at his arraignment on the robbery with a
3 deadly weapon charge, CR21-0995, the guilty-plea memo
4 indicated that the robbery charge was a one-to-15; however,
5 it's two to 15. That amended GPM was sent to Miss Hotchkin,
6 and I believe she's had an opportunity to go over that with
7 her client. However, I do believe Your Honor needs to
8 properly canvass him, since the penalty has increased,
9 according to the previous GPM.

10 THE COURT: Okay. Well, let's start with Ms.
11 Hotchkin.

12 As to that matter, did you receive the guilty-plea
13 memorandum, and have you had a chance to go over it with
14 Mr. Best?

15 MS. HOTCHKIN: Yes, Your Honor. We are in receipt of
16 the guilty-plea memorandum, the amended.

17 I did go over it at length with my client yesterday.
18 He did inform me he understood what the correction was. We
19 discussed thoroughly all penalties and what that alteration
20 was correcting. He expressed to me that he understood and
21 felt comfortable going forward.

22 He understood that he would likely need to be
23 canvassed again, due to the amended guilty-plea memorandum.
24 But he did inform me he would like to go forward with

1 sentencing today.

2 THE COURT: All right. Thank you.

3 Mr. Best, at this point, I'm going to ask you to
4 raise your hand and take the oath of witness. And then I'll
5 ask you some questions.

6 Ms. Schuck.

7 (Defendant sworn.)

8 THE COURT: Thank you, Mr. Best.

9 You may put your hand down.

10 All right. So we're speaking only about the charge
11 in CR21-0995, robbery with the use of a deadly weapon.

12 Previously you had entered a guilty plea in that
13 matter, which the Court accepted; but, as it turns out, there
14 was an error in that because the sentencing range indicated
15 to you for the underlying charge was one to 15 years, when,
16 in fact, the law provides two to 15 years. Do you understand
17 that, sir?

18 THE DEFENDANT: Yes.

19 THE COURT: Have you had a chance to speak with Ms.
20 Hotchkin about any -- potentially withdrawing your plea and
21 pleading not guilty on that charge?

22 THE DEFENDANT: I have.

23 THE COURT: Have you decided to go forward with the
24 guilty-plea memorandum?

1 THE DEFENDANT: Yes.

2 THE COURT: Do you understand that, if you withdrew
3 your guilty plea and pled not guilty, and the case was set
4 for trial, the State would have to prove the charge against
5 you with evidence beyond a reasonable doubt? Do you
6 understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you understand that, if there were a
9 trial, Ms. Hotchkin could defend you by doing things like
10 challenging the evidence, examining witnesses,
11 cross-examining the State's witnesses, even having the Court
12 issue subpoenas ordering witnesses to come to court? You're
13 giving up those rights. Do you understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: If there were a trial, a jury, to convict
16 you, would have to all agree, all 12 unanimously would have
17 to find guilt. Do you understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you understand, if there were a trial,
20 no one could force you to testify? You could remain silent,
21 and your silence not used against you. Do you understand
22 that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Has anybody threatened you to plead

1 guilty to this charge?

2 THE DEFENDANT: No.

3 THE COURT: Has anyone made any promises to you for
4 your guilty plea to this charge?

5 THE DEFENDANT: No.

6 THE COURT: Have you been provided with an updated or
7 revised guilty-plea memorandum on this charge?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Have you read it?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you believe you understood it?

12 THE DEFENDANT: I do.

13 THE COURT: You understand the maximum potential
14 sentence is two to 15 years in prison. Do you understand
15 that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Ms. Hicks, is there a potential
18 penalty -- financial penalty or fine the Court could impose
19 on this charge; and, if so, what is it, please?

20 MS. HICKS: Your Honor, one moment, please.

21 Your Honor, I don't see if there is a possible
22 financial penalty. But let me double-check the statute, just
23 to be sure. Sometimes our computer system is behind the
24 times with regard to financial.

1 THE COURT: Okay.

2 MS. HICKS: No, Your Honor, it does not seem that
3 there is any financial possible sentence in this robbery
4 charge.

5 THE COURT: All right. The Court agrees.

6 All right. So, Mr. Best, do you have the guilty-plea
7 memorandum there in front of you?

8 THE DEFENDANT: I do.

9 THE COURT: Would you please get a pen from the
10 deputy and sign your name on the last page, and then ask her
11 to hold up your signature page to the camera.

12 MS. HICKS: Your Honor, I'm sorry if I missed it.
13 I'm not sure if you canvassed him on the deadly-weapon
14 enhancement, as well. That was correct during the
15 arraignment, but just to ensure, going forward, he
16 understands that, as well.

17 THE COURT: Thank you.

18 Deputy, would you mind taking it and putting it a
19 little closer to the camera so I can see it better.

20 THE DEPUTY: Certainly, Your Honor.

21 THE COURT: Very good. Thank you.

22 The record should reflect Mr. Best has signed the
23 guilty-plea memorandum.

24 Mr. Best, just so we're clear, as well, if the Court

1 accepts your guilty plea now to this charge, do you
2 understand, as well, sir, that the law provides for a
3 consecutive sentence based on the weapons enhancement to the
4 underlying sentence? Do you understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you understand the potential range is
7 one to 15 years Nevada Department of Corrections? Do you
8 understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And knowing that, do you still want to
11 plead guilty?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Thank you.

14 Ms. Hicks, what is the charge, please, to which
15 Mr. Best is pleading in case number CR21-0995?

16 MS. HICKS: Thank you, Your Honor.

17 The charge that the State would prove beyond a
18 reasonable doubt is robbery with the use of a deadly weapon,
19 a violation of NRS 200.380, NRS 193.165, and NRS 195.020, a
20 Category B felony. That the defendant, Brandon Allen Best,
21 on or about December 8th, 2020, within the County of Washoe,
22 State of Nevada, did willfully and unlawfully take personal
23 property, specifically, a backpack and a -- and/or a
24 skateboard and/or wallet and/or approximately \$200 and/or

1 iPhone 7 and/or other property from the persons of Matyse
2 Jackson and/or Caden Simmons against the will of both
3 victims, and by means of force or violence or fear of injury,
4 immediate or future, to their person, and with the use of a
5 deadly weapon, specifically, a handgun, which the defendant
6 pointed at Matyse Jackson and/or Caden Simmons while
7 demanding that the victims turn over their property and/or by
8 shooting Matyse Jackson while he fled from the scene, at or
9 near North Virginia Street; and/or the defendant acted as a
10 principal to the crime of robbery with the use of a deadly
11 weapon, where, with the intent that the crime occur, he
12 aided, abetted and/or encouraged another in the crime's
13 commission, in that the defendant pointed a handgun at Matyse
14 Jackson and/or Caden Simmons while demanding that both
15 victims turn over their property and/or by shooting Matyse
16 Jackson while he fled from the scene and/or while an
17 unidentified suspect picked up Matyse Jackson's property
18 after the defendant threatened Matyse Jackson and/or Caden
19 Simmons with the weapon and/or shot Matyse Jackson while he
20 fled from the scene; and/or the defendant acted as a
21 co-conspirator to the crime of robbery with the use of a
22 deadly weapon, where, after agreeing to commit the crime, the
23 defendant and another unidentified suspect committed an act
24 in furtherance of the crime, in that the defendant pointed a

1 handgun --

2 MS. HOTCHKIN: I'm sorry to -- I don't mean to
3 interrupt, but I don't see the jail is still logged on.
4 Sorry.

5 MS. HICKS: I'm glad. It's a long canvass -- or a
6 long reading.

7 THE COURT: You were right at the end there, too.
8 All right. So let's go off the record.

9 THE CLERK: Your Honor, I'll call them again.

10 THE COURT: Yes. We can all do what we did before.
11 We will go off the record and sit tight and come back on as
12 soon as they're on.

13 MS. HICKS: Ms. Hotchkin, do you know, when they were
14 off, where I stopped?

15 MS. HOTCHKIN: I'm not exact, but I did notice.
16 Sorry.

17 MS. HICKS: Thank you.

18 (Off the record.)

19 THE COURT: All right. Let's go back on the record,
20 please.

21 Mr. Best, if you can -- can you hear us? Just
22 checking.

23 THE DEFENDANT: Yeah, I can.

24 THE COURT: Okay. Thank you.

1 The Court recognizes all defense counsel, the
2 Division, court reporter and court clerk and prosecutor.

3 All right. So, Ms. Hicks, I was tracking as you were
4 reading here, but I'm not exactly sure on when the link went
5 down.

6 Does anybody have any intel on that?

7 If not, Ms. Hicks, I do know that we -- the link was
8 up through the Information, page 2, line 10.

9 If anybody knows differently, please tell me now. If
10 not, I would ask Ms. Hicks to resume with the Information
11 reading on line 10, on page 2.

12 All right. Ms. Hicks.

13 MS. HICKS: And/or the defendant acted as a principal
14 to the crime of robbery with the use of a deadly weapon,
15 where, with the intent that the crime occur, he aided,
16 abetted and/or encouraged another in the crime's commission,
17 in that the defendant pointed a handgun at Matyse Jackson
18 and/or Caden Simmons while demanding that both victims turn
19 over their property and/or by shooting Matyse Jackson while
20 he fled from the scene and/or while an unidentified suspect
21 picked up Matyse Jackson's property after the defendant
22 threatened Matyse Jackson and/or Caden Simmons with the
23 weapon and/or shot Matyse Jackson while he fled from the
24 scene; and/or the defendant acted as a co-conspirator to the

1 crime of robbery with the use of a deadly weapon, where,
2 after agreeing to commit the crime, the defendant and another
3 unidentified suspect committed an act in furtherance of the
4 crime, in that the defendant pointed a handgun at Matyse
5 Jackson and/or Caden Simmons while demanding that both
6 victims turn over their property and/or by shooting Matyse
7 Jackson while he fled from the scene and/or while an
8 unidentified suspect picked up Matyse Jackson's property
9 after the defendant threatened Matyse Jackson and/or Caden
10 Simmons with the weapon and/or shot Matyse Jackson while he
11 fled from the scene.

12 THE COURT: All right. Thank you.

13 Mr. Best, did you hear the charge that was just read
14 in case number CR21-0995?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Did you commit that crime?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: How do you plead: Guilty or not guilty?

19 THE DEFENDANT: Guilty.

20 THE COURT: Fair enough.

21 The Court finds that Mr. Best understands the nature
22 of the charge against him, the consequences of his plea, and
23 that he has made a knowing, voluntary and intelligent waiver
24 of his constitutional rights. The Court, therefore, accepts

1 his guilty plea.

2 Ms. Hotchkin, is there any reason we should not
3 proceed with sentencing on that case, along with the other
4 two this morning?

5 MS. HOTCHKIN: No, Your Honor.

6 THE COURT: All right. Thank you.

7 Ms. Hicks, is there any reason the State would ask
8 that this sentence be carved out for a later time?

9 MS. HICKS: No, Your Honor.

10 Thank you.

11 THE COURT: Mr. Best, do you have any objection if
12 the Court moves forward with sentencing on all your cases
13 right now at the same time?

14 THE DEFENDANT: No, Your Honor.

15 THE COURT: All right. Thank you.

16 Let me go back, then, and make some additional
17 preliminary comments about Mr. Best and what is in the record
18 here.

19 In preparing for these sentencing matters, the Court
20 has reviewed the entirety of the files on all three cases.

21 To state that Mr. Best had a tough childhood would be
22 an understatement, a big understatement. He had a horrible
23 childhood. Bad things happened to him. He didn't have the
24 benefit of a solid, cohesive family life.

1 He also had bad things happen to him personally, his
2 body.

3 Somewhat understandably, he appears to have turned to
4 drugs to mask the pain and the discomfort and the trauma that
5 he endured, because he has a serious drug problem.

6 Ms. Fung has identified in her evaluation that was
7 filed on these cases that Mr. Best has essentially been using
8 and abusing controlled substances in one or more forms from
9 age 14 through the present.

10 He also, rather understandably, has mental health
11 issues. Those were identified by Dr. Frieda to be, at a
12 minimum, consistent with bipolar and post-traumatic stress.

13 The Court is aware that Mr. Best has some marketable
14 skills. He is a wood flooring assembly person, apparently is
15 good at it, and has worked in that field.

16 The Court has reviewed Mr. Best's statement that he
17 wrote.

18 The Court has reviewed the presentence investigation
19 reports in these three matters, including the specifics of
20 the three crimes, some commentary from the victims or other
21 persons; and, of course, is taking into account Mr. Best's
22 youth, as it is well-documented that in young men the brain
23 doesn't fully form, allowing for complete, unfiltered
24 critical thinking, impulse control, or other things.

1 Of course, on the other side, we have the seriousness
2 of the crimes here, which are horrible.

3 So the question for the Court today is how to fashion
4 a fair and just sentence, taking all this into account, in
5 addition to what counsel will present to the Court and
6 statements that Mr. Best may make in allocution; plus, if
7 there are any victims that would like to be heard, they'll
8 have an opportunity to speak on issues of how the crime
9 affected them and what their thoughts are for sentencing.

10 So we need to start somewhere, so I'm going to start
11 with you, Mr. Merkin, in case number CR20-3438A.

12 I'm going to ask you if there are any changes or
13 corrections to the presentence investigation report. And
14 after that, please proceed to argue what the defense believes
15 a fair sentence is on that case.

16 MR. MERKIN: Thank you, Your Honor.

17 There are no changes, nor any corrections we wish to
18 offer this morning.

19 We're prepared to go forward, Your Honor.

20 All the documents that the Court has referenced have
21 been provided to the defendant, to Mr. Best, and I've had
22 adequate time to discuss Mr. Best's position before the Court
23 prior to today's hearing.

24 Your Honor, your opening statement shows that you're

1 obviously quite cognizant of the life experiences of my
2 client, Brandon Best.

3 This is a profoundly unfortunate case.

4 What I don't think is clear in my -- in the
5 presentence report in my case, the victim was at one time,
6 prior to this incident, would describe himself as the best
7 friend.

8 THE COURT: I saw that. I saw that.

9 MR. MERKIN: Which it's just a profound tragedy, this
10 case. These two were very good lifelong friends, and then
11 the victim was victimized by Mr. Best. It's profoundly sad.

12 As you noted, Your Honor, this is a very young man.
13 Twenty-one years of age. He has spent the last seven months
14 incarcerated here in Washoe County. He tells me that he's
15 never been incarcerated for so long. And as you are aware,
16 Your Honor, he's never been to prison.

17 The mental health issues are profound, and they're
18 obvious to anyone who has read any of the reports; as well as
19 the fact that he has a chronic and ongoing problem with
20 substance abuse.

21 He has a loving family, and the results or the -- one
22 of the consequences of his incarceration is that two members
23 of his family have passed away while he's been incarcerated.
24 His grandmother still lives in northern California, what we

1 commonly refer to as the fire zone right now. But he tells
2 me that he has spoken with her. And eventually he'd like to
3 reunite with her and return to the State of California. But
4 he understands the seriousness of these charges.

5 No one -- Mr. Best and I have spoken on numerous
6 occasions at great length. He has never tried to dissipate
7 the seriousness of these charges, and he has always expressed
8 his clear understanding that his behavior was unacceptable,
9 and that he needs to modify his behavior, Your Honor, in
10 order for him to become a productive citizen.

11 We've talked about that. That he's all of 21 years
12 young, and that he can -- and only he can -- decide if he
13 wants to keep coming before District Court judges throughout
14 our community and other communities, or he wants to live a
15 more law-abiding life.

16 He has told me he needs to address the substance
17 abuse issues. He's told me that he needs to address the
18 mental health issues. And he's told me -- just this week he
19 said that he can't conceive -- obviously, he's a felon, he
20 shouldn't have a weapon, but he said he could assure me there
21 would never be another opportunity in his life he'll be in
22 possession, physically or constructively, of a weapon,
23 because that brings about terrible consequences.

24 Your Honor, what I'm asking today is that you take

1 the sentence that you order, that -- Mr. Best is fully aware
2 in my case that he is going to be incarcerated. So what we
3 collectively have decided to request is that you would order
4 the minimum sentence allowed by law, which I believe would be
5 a two-to-five-year sentence, and that you run that concurrent
6 with the cases -- the ancillary cases in which Ms. Hotchkin
7 represents Mr. Best.

8 Brandon and I, as I've stated, have discussed the
9 unfortunate incident involved in this case, the victimization
10 of his friend, and the fact that he needs to decide that this
11 is going to be prior conduct in his life.

12 I would suggest to the Court that the suggested
13 sentence is fair and appropriate, and I would submit it.

14 THE COURT: All right. Thank you.

15 Let me ask you this: Would counsel and Mr. Best like
16 the Court to ask Mr. Best -- to invite Mr. Best to make a
17 statement to the Court as we go through each charge; or would
18 it make more sense to let him speak to the Court one time,
19 and then he can address all three at the same time?

20 Ms. Hicks, what do you think?

21 MS. HICKS: Your Honor, I think either way would be
22 fine. It just depends on what Mr. Best would like to do. So
23 long as he -- unless he has specific things for each case
24 that he'd like to say to the Court, it might make it a little

1 cleaner --

2 THE COURT: Okay.

3 MS. HICKS: -- that way. But either way I think is

4 appropriate.

5 THE COURT: All right. Mr. Merkin, any strong

6 thoughts on that?

7 MR. MERKIN: Your Honor, I think it would be best if

8 Mr. Best is given an opportunity to address the Court once.

9 I don't see a need to bifurcate.

10 THE COURT: Thank you.

11 Ms. Hotchkin.

12 MS. HOTCHKIN: Your Honor, I agree with Mr. Merkin on

13 that.

14 THE COURT: Okay. So, Mr. Best, the law gives you an

15 opportunity to tell me anything you'd like to say to the

16 Court to have me consider before you're sentenced.

17 You have three charges; right? So we can do this

18 three times, and you can be specific as to each charge.

19 That's totally fine. Or I can hear from the prosecutor after

20 Ms. Hotchkin argues on the other two cases, and then I'll

21 hear from you one time, and then I'll hear from Ms. Hicks.

22 Mr. Best, would you like to address the Court one

23 time or three times?

24 THE DEFENDANT: One time, Your Honor.

1 THE COURT: Are you sure? I don't want to pressure
2 you. I'm not trying to direct you one way or the other. Do
3 you understand that?

4 THE DEFENDANT: I'm positive, yeah.

5 THE COURT: Fair enough.

6 Ms. Hicks, with your permission, I'll turn to Ms.
7 Hotchkin and ask her to argue as to what the defense believes
8 a fair and just sentence is on those two matters, then I'll
9 hear from Mr. Best, and then the State.

10 Is that okay, Ms. Hicks?

11 MS. HICKS: That's fine, Your Honor.

12 THE COURT: Thank you.

13 All right. Ms. Hotchkin, are there any corrections
14 or changes to the presentence investigation report in either
15 CR21-102 or CR21-995?

16 MS. HOTCHKIN: No, Your Honor. I have reviewed both
17 PSI reports with my client, and we have no corrections at
18 this time.

19 And I would like to note for the record that it is
20 140 days on CR21-0995 for credit time served; and in
21 CR21-0102, that would be 214 days credit time served.

22 THE COURT: Okay. Before you -- just pause for a
23 moment there.

24 Mr. Perez, do you agree with those numbers?

1 MR. PEREZ: Your Honor, I do agree with those
2 numbers, if Your Honor should run these cases concurrent.
3 THE COURT: Okay. Then what about in CR20-3438A?
4 MR. PEREZ: Your Honor, I show 218 days.
5 THE COURT: All right. And then, Ms. Hotchkin, does
6 the defense stipulate to the restitution amounts identified
7 in the presentence report in 0995, that being \$200 to the one
8 victim, and 2,000 to Victims of Crime?
9 MS. HOTCHKIN: Yes, Your Honor.
10 THE COURT: Very good. Thank you.
11 Let me go back to Mr. Merkin, please, on 3438A.
12 Does the defense stipulate to the \$180 restitution
13 indicated in that case?
14 MR. MERKIN: Yes, we do, Your Honor.
15 THE COURT: Thank you.
16 So, Ms. Hotchkin, back to you, then.
17 On these two cases, what does the defense believe the
18 Court should do by way of sentencing?
19 MS. HOTCHKIN: Your Honor, we are requesting the
20 minimum sentence for these matters, and we are requesting
21 that it run concurrent with his other matter with Mr. Merkin,
22 as stated by Mr. Merkin.
23 So we would ask 24 to 60 months on the robbery, with
24 the 12 to 34 months enhancement, and by law to run

1 consecutive; and then 12 to 36 months on the child-abuse
2 case, Your Honor.

3 THE COURT: All right. How do you justify that? I
4 mean, these are very, very serious crimes. You've already
5 heard the Court's preliminary thoughts, recognizing Mr. Best
6 had bad things happen to him; has significant substance abuse
7 issues; has unresolved mental health issues; he did not have
8 the benefit of an upbringing anywhere near what one would
9 hope for someone; and he's, unfortunately, been on the wrong
10 side of the pipe or a needle or a-- some controlled
11 substance device or item for the last seven years; right?

12 And, so, even taking all that into account, though,
13 these are very, very serious crimes. I mean, the aggregate,
14 if the Court were inclined to run the maximum on these and
15 run them consecutive to each other, the aggregate maximum on
16 this is 46 years. And that's how seriously our society,
17 through its legislators, have determined that these crimes
18 justify such a penalty in the right circumstances.

19 So why do you think the Court should go completely to
20 the other side?

21 MS. HOTCHKIN: Your Honor, as the Court has already
22 addressed the case, as well as the evaluations, I first want
23 to turn to the facts of CR21-0995, the robbery with a deadly
24 weapon.

1 I think it's important to note that, yes, my client
2 is young, and he was young at the time of this event. But it
3 also was basically a marijuana drug deal that went wrong.
4 And I'm not justifying the actions, but I think it's
5 important to shed some true light onto the events.

6 He does want to take responsibility today. He does
7 want to move forward with his life in the best way possible.
8 But, again, these three cases seem very out of character for
9 my client.

10 He only -- he has very minimal criminal history. He
11 has one DUI, and then recently has these three cases. So I
12 do think it shows to the Court that this is a very
13 out-of-character experience for him.

14 And then, when we're considering his background and
15 recent issues with substance abuse, it kind of puts
16 perspective on the situations that occurred.

17 Again, due to the mental health and substance abuse
18 evaluations that were filed in this case, we do learn that my
19 client was placed in foster care. From the ages of eight to
20 15 he did suffer abuse, physical abuse.

21 He also was diagnosed with depression, anxiety,
22 bipolar disorder, and having a substance abuse disorder.

23 He also suffers from post-traumatic-stress disorder.

24 I think, additionally, it's important to note that he

1 has brain damage. And he informed me that he did suffer two
2 car accidents actually close in time together, quite recently
3 before these events even occurred, in which one car accident
4 he hit a brick wall, and then, the other one, he was hit by a
5 truck driver. And in one of these car accidents he was Care
6 Flighted to the hospital.

7 So I do think it's important to note not only do we
8 have a traumatic background for this young man, we also have
9 the additional substance abuse issues that started at age 14,
10 but then we have a recent traumatic experience with these two
11 car accidents that go into his mental abilities and health,
12 and go into the realities of what he was experiencing at the
13 time of these events.

14 I think it's also relevant to note that he had been
15 on medication. And he informed me he was not on his
16 medication at the time of these events; in addition to which
17 Your Honor has already noted he was struggling with substance
18 abuse and had never had treatment prior.

19 In regard to the robbery, I think it's important to
20 note that it does not excuse the situation, but due to PTSD
21 and due to his mental health, he did have an experience of
22 fear in that moment, and he reacted. He understands he did
23 not react appropriately. And he wants to do right by the
24 community and do right for his own life moving forward.

1 But we do have a young man who has suffered, again,
2 not only in his personal life with trauma, but from substance
3 abuse issues, as well as, again, these traumatic car
4 accidents.

5 These events were young men acting inappropriately,
6 and it definitely got out of hand. And he understands he has
7 to move forward with his life, and he understands he has to
8 take responsibility.

9 But, again, he is a young man, and he still has a
10 bright future. He did inform me he intends to go to school
11 when this is all done.

12 If we are to max this young man out, we are depriving
13 him of opportunities such as education and a successful life
14 moving forward.

15 I do think the Court has an opportunity today to not
16 only allow my client to take responsibility for these actions
17 and serve the necessary time, but to move on with his life
18 and to have a healthy, successful life moving forward, go to
19 school, get the jobs he wants, and have a successful adult
20 life moving forward, Your Honor.

21 And for those reasons, I would ask for the minimums
22 in these cases.

23 THE COURT: Okay. Thank you. Well-stated.

24 Mr. Best, now is your opportunity to make a statement

1 to the Court, tell me anything you'd like the Court to
2 consider before sentence is entered. You can take these one
3 case at a time. You can give me an overview of all issues.
4 However you want to approach it. You're not on a clock here.
5 Tell me whatever you'd like the Court to consider.

6 Go ahead, sir.

7 THE DEFENDANT: I'm truly sorry for the crimes I've
8 committed. I was on substance abuse at the time. I was
9 taking all kinds of pills and doing all kinds of other
10 things.

11 And, you know, I just want to redo my life and do
12 better this time, go back to school and be with my family.

13 THE COURT: You understand that, whatever happens
14 here, at some point, you will be released from custody;
15 either because you're paroled, which, if you follow the rules
16 in prison and get some help while in prison, take advantage
17 of the resources in prison, that will help, as I understand
18 it, your chances in front of the Parole Board. But even if
19 you're never paroled, and you have to expire the sentence,
20 serve the full term, at some point, you're going to be out.
21 You're going to be an older, more mature version of yourself,
22 but you're going to be out.

23 And you can decide if the fellow that you have been
24 is the one you want to continue to be, or if you want to try

1 to be the best version of yourself you possibly can, which is
2 somebody who works on themselves, gets a job, finds meaning
3 in life other than through drugs and alcohol.

4 Do you understand that, Mr. Best?

5 THE DEFENDANT: I do.

6 THE COURT: Because this -- you're hurting yourself;
7 you're hurting people that care about you; you're hurting
8 other people in this community. Somebody got shot.

9 Could have been a lot worse, too. That's a
10 remarkable thing. Although, if I'm standing right there in
11 the jail listening to a judge talk before he sentences me, I
12 wouldn't feel very lucky. But, frankly, with everything that
13 you did here, somebody could have been killed. You could
14 have been killed. Somebody could have been shot in the back
15 and been a paraplegic for the rest of their life.

16 Someday, when you look back on all this, you may
17 realize that, as bad as it was and as serious as it was, that
18 it could have been a lot worse, and you should be thankful.

19 All right. Let me hear, please, from Ms. Hicks on
20 what the State would ask the Court to do by way of sentence.

21 And, you know, Ms. Hicks, it's not lost on the Court
22 that in the 0995 case, the robbery with the use of a deadly
23 weapon, it looks like Mr. Best was trying to threaten the
24 victim not to call the authorities, or else something even

1 worse would happen. So I'm not loving that, at all. I just
2 make that observation.

3 You may proceed, Ms. Hicks.

4 MS. HICKS: Thank you, Your Honor.

5 Your Honor, the State is asking in 21-0102 for a
6 12-to-48-month sentence. And because of the negotiations we
7 are agreeing to recommend that that run concurrent.

8 In CR21-0995, the State is asking for 72 to 180
9 months on the robbery, and 24 to 60 on the deadly-weapon
10 enhancement. Obviously, pursuant to law, that must run
11 consecutive.

12 On the battery with a deadly weapon case, which is
13 CR20-3438A, we are asking for 48 to 120, to run consecutive.

14 I've read everything that was provided by the
15 defense, his substance abuse eval, his mental health eval.
16 And I obviously took into consideration his age when making
17 my recommendation.

18 I think that Mr. Best is a bully with a gun. I think
19 he has bullied people for the last six months -- or the time
20 that he was out of custody that brings us here today. He was
21 not afraid to use a gun, he was not afraid to threaten with a
22 gun, and he did that numerous times throughout those three
23 cases.

24 There wasn't just one person shot, Your Honor. There

1 | were two people shot. Mr. Best shot the two young men that
2 | he robbed, for whatever reason, whether it was marijuana or
3 | it was for their backpack, but he shot one of them in the
4 | hand. And the other victim that was shot was his alleged
5 | best friend, Mr. Blaine. He was shot -- or something came
6 | into the room and hit him in the chest and the arm, and he
7 | felt like one of his ribs was broken.

8 | Mr. Best is someone who comes from foster care. And,
9 | Your Honor, if anybody is aware of foster care, it's me. I
10 | have seen it both professionally and personally. And I do
11 | know that children that come out of the foster care system
12 | that were abused as children have these mitigating factors
13 | when they are in situations such as these.

14 | But I also know there's kids that come out of that
15 | same situation where they're thriving, they're professionals,
16 | they grasped onto some loved ones to help them along the way.
17 | And Mr. Best had that in his grandmother, and he still does.

18 | But not only is this a sentence argument on behalf of
19 | the victims that he victimized, five in total, but it's a
20 | sentence argument on behalf of the community. Mr. Best is a
21 | threat to the community. He is a threat to the community.
22 | He has shown you that he is a threat to the community.

23 | He has been -- one of the pieces that I thought
24 | was -- there's so many different aggravators, in my mind.

1 One of them was that Mr. Blaine was his best friend. So here
2 we have a situation where there's, again, argument over a
3 marijuana deal, and Mr. Best decides to shoot up his house.
4 That's problematic. If you have a best friend, and that's
5 your course of action, you're a bully, and you're a danger to
6 our community. We don't know who else could have been in
7 that house. And Your Honor is right. He could have killed
8 someone.

9 And not only -- we're not only here just to discuss
10 this case. In that three-month period of time, then he goes
11 on and he victimizes two 17-year-old children.
12 Seventeen-year-old children. And Mr. Blaine was only 19.

13 So now we move on to a robbery with a deadly weapon.
14 And the facts of that case are tremendous. And one of the
15 things that I noted is, he says things like, "If you run,
16 I'll shoot you." Again -- and he did. He ran, and he shot
17 them. And so it definitely deserves the 72 to 180 months on
18 that robbery with a deadly weapon, and with the additional
19 time that I requested.

20 Now --

21 THE CLERK: Your Honor, I apologize to interrupt.
22 We lost the jail.

23 THE COURT: I was just looking at Mr. Best a moment
24 ago.

1 Okay. Sorry to break up the argument.

2 Ms. Hicks, unfortunately, we're going to have to

3 again take a short recess and wait for the jail to reconnect.

4 So we will go off the record, everyone, please.

5 (Off the record.)

6 THE COURT: Okay. We're back on the record.

7 Mr. Best, can you hear the Court?

8 THE DEFENDANT: I can.

9 THE COURT: All right. Thank you.

10 All right. So, Ms. Hicks, if you could sort of go

11 back 30 seconds or so into your argument and resume there,

12 please.

13 MS. HICKS: Thank you, Your Honor.

14 With regard to the robbery with a deadly weapon, it

15 was important for the State to note that, despite what this

16 case incurred or what these facts of the case were, it seems

17 that Mr. Best was a man with a gun intending on robbing these

18 two kids. Again, two 17-year-old kids.

19 And what was especially troubling to the State was,

20 he said, "Give me everything you got. If you run, I'll

21 shoot."

22 The kid turns around and he runs, and he shoots him.

23 This wasn't an accidental shooting. He was specific with his

24 words. He said, "If you run, I'll shoot." And he did, in

1 fact, that: he shot. He shot him in the hand.

2 And then what was even more troubling to the State
3 is, once this young man is in the hospital after being shot
4 by Mr. Best, he says, "If you tell anybody," he says he would
5 appear at his home and harm him.

6 So, again, a situation where he's terrifying and
7 terrorizing these two young -- these two young men,
8 17-year-old kids.

9 Now, the other piece that I thought was even more
10 troubling was the child-abuse case. Why I think it's an
11 important fact to bring in front of Your Honor is it just
12 continues to show his bullying behavior with a firearm.

13 He thinks he's tough when he has a gun. He's not
14 afraid to put it on Snapchat, he's not afraid to send
15 threatening messages. And he does exactly that. And then
16 not only does he threaten it, he follows it up with his
17 actions.

18 And in that case what was extremely troubling to the
19 State is what he says to one of the victims. Now, again,
20 Your Honor, I want to note for the record these are
21 14-year-old kids that a 20-year-old man is threatening. And,
22 again, not sure what it's over. I think it's over a girl.
23 Not even his girlfriend. Someone else's ex-girlfriend.

24 He says to one of the young men in the video on

1 | Snapchat, holding a black handgun, he says, "Are you going to
2 | meet me one-on-one, nigga, or I'm going to put a cap in you.
3 | I don't give a fuck, man. Let's meet one-on-one, my nigga,
4 | or I will bust your mama, your daddy, your sister, and I will
5 | stick my dick up in that nigga."

6 | So here is a man who is threatening -- he's
7 | threatening a kid's family, again, a 14-year-old kid.

8 | So despite all of the justice that needs to be had
9 | for the victims in this case, this is a threat to society.
10 | He is a community threat, and the shorter sentence you give
11 | him, the more time he will possibly be out in our community
12 | acting a fool, like he did in these three cases. This was
13 | over a three-month period.

14 | And what I thought was also interesting is, Ms.
15 | Hotchkin says that this is out of his character. Well, we
16 | don't know his character. He's only 20 years old. He's been
17 | in our society as an adult for only two years, and he commits
18 | three heinous crimes.

19 | And I didn't ask for the max on all of it. I only
20 | asked for the max on some of it. But I would strongly,
21 | strongly urge the Court to follow my recommendations.

22 | And, Your Honor, I don't believe any of the victims
23 | are in the gallery and would wish to make a statement.

24 | But before you do deliver your sentence, I would ask

1 the clerk to just double-check that.

2 They've all been noticed of this hearing.

3 THE COURT: Thank you.

4 Ms. Schuck, do you see anybody trying to get your
5 attention indicating that they would like --

6 THE CLERK: No, Your Honor, there are no raised
7 hands.

8 THE COURT: All right. Thank you,
9 Mr. Merkin, is there any legal cause why the Court
10 should not proceed to sentence on case number CR20-3438A?

11 MR. MERKIN: No, Your Honor.

12 THE COURT: Ms. Hotchkin, is there any legal cause
13 why the Court should not proceed to sentence on the two cases
14 you're handling, those being CR21-0102 and case number
15 CR21-0995?

16 MS. HOTCHKIN: No, Your Honor.

17 THE COURT: In 3438A, the Court finds Mr. Best guilty
18 of battery with the use of a deadly weapon.

19 In case number ending 0102, the Court finds the
20 defendant guilty of the felony charge, child abuse.

21 In CR21-0995, the Court adjudicates the defendant
22 guilty of the felony charge, robbery with the use of a deadly
23 weapon.

24 Well, much of what I -- excuse me. Much of what I

1 wanted to say with respect to Mr. Best I've already said.
2 Horrible upbringing; substance abuse issues; mental health
3 issues; been abusing controlled substances for the last seven
4 years through his teen years, formative years, early
5 adulthood. He has skills in the community. He does have a
6 grandmother, apparently, that cares deeply about him and
7 wants to maintain a good relationship. And, of course, his
8 youth.

9 Ms. Hotchkin points out to the Court that, in
10 addition to all the trauma imposed upon him, he also had two
11 serious vehicle accidents, which didn't help at all in his
12 physical or, apparently, emotional or mental health.

13 On the other hand, people could have died here. The
14 threats, the violence, the approach, the words used, the
15 circumstances are extremely disturbing.

16 Taking all that into account, starting with
17 CR20-3438, it's the order of the Court, Mr. Best, you're
18 sentenced to four to 10 years in the Nevada Department of
19 Corrections. Forty-eight months to 120 months. You have 218
20 days credit for time served. Restitution is ordered in the
21 amount of \$180. You owe a \$3 genetic-marker fee, \$25
22 administrative fee, \$150 DNA fee, \$500 in attorney's fees.

23 In CR21-0102, you're sentenced to 12 to 48 months in
24 the Nevada Department of Corrections. That sentence will run

1 concurrently with the sentence the Court just pronounced in
2 CR20-3438A. You, similarly, owe a \$3 genetic-marker fee and
3 a \$25 administrative fee. Two hundred fourteen days credit
4 for time served.

5 In CR21-0995, underlying sentence is pronounced of
6 the 72 to 180 months Nevada Department of Corrections.

7 The Court has evaluated the factors under NRS 193.165
8 in arriving at the weapons enhancement sentence, which will
9 by law run consecutively to the underlying sentence.

10 The facts and circumstances of the case, extremely
11 disturbing and violent. That works against the defendant.

12 The defendant's criminal history, well, if we leave
13 out this three months of criminality, it's very modest. If
14 we factor all this in, it's extremely serious and concerning.
15 So for purposes of the Court's evaluation here, that really
16 is a net-neutral.

17 Victim impact. I haven't heard a direct statement
18 from the victim, although there is -- there are some comments
19 embedded in the PSI in the case synopsis. That works in
20 aggravation.

21 Mitigating factors are several traumas that were
22 foisted upon him, his challenging upbringing, mental health
23 concerns, substance abuse concerns, and the car accidents.

24 And anything else is that I do find Mr. Best sincere

1 and wanting to make changes in his life. It did appear, or
2 at least he represented to the Court, he was under the
3 influence of something at the time, and this is acting out of
4 character.

5 So taking all that into account, the Court finds that
6 24 to 60 months consecutive is fair and just, and is so
7 ordered. Therefore, the aggregate sentence in 0995 is 96 to
8 240 months. The sentence in 0995 will run consecutive to the
9 sentence pronounced by the Court in CR20-3438A, and run
10 concurrent with CR21-0102.

11 In addition, in 0995, again, a \$3 genetic-marker fee,
12 \$25 administrative fee, \$200 to the first victim, \$2,000 to
13 the other victim, by way of restitution to the victims.

14 Mr. Best, I don't know what else to say. I hope that
15 you serve your time well, work on yourself, learn some things
16 that can translate to a productive life when you get out.
17 And I hope, when you are freed, either by expiring the
18 sentence or, more likely, paroled, that you're able to find
19 your way.

20 That will be the order of the Court.

21 Ms. Hicks, anything else from the State?

22 MS. HICKS: I don't believe so, Your Honor.

23 THE COURT: Mr. Perez, did the Court overlook
24 anything or in any way confuse you with respect to the credit

1 for time served calculation?

2 MR. PEREZ: No, Your Honor.

3 Thank you.

4 THE COURT: All right. Ms. Hotchkin, anything else
5 from the defense?

6 MS. HOTCHKIN: No, Your Honor.

7 THE COURT: Mr. Merkin.

8 MR. MERKIN: Nothing further, Your Honor.

9 THE COURT: Thank you very much, everyone.

10 I appreciate the very informed, spirited argument
11 here with respect to this case.

12 Mr. Best, thank you, sir. Best of luck to you.

13 You may have a seat.

14 THE CLERK: Your Honor?

15 THE COURT: Yes.

16 THE CLERK: For the clerk's clarification, on 0995,
17 what was the credit for time served in that case, please?

18 THE COURT: Mr. Perez.

19 MR. PEREZ: Court's indulgence, Your Honor.

20 I'm just pulling it up.

21 THE COURT: Again, that's being run concurrent with
22 the child-abuse case and consecutive with the battery with
23 the use of a deadly weapon.

24 THE CLERK: I got all that. It was just I missed

1 the -- I didn't hear the credit for time served.

2 MR. PEREZ: Your Honor, it's zero on that case, on
3 the 0995.

4 THE CLERK: Thank you.

5 THE COURT: Thank you very much.

6 Mr. Best, you may have a seat.

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1 STATE OF NEVADA)

2 COUNTY OF WASHOE)

3 I, ISOLDE ZIHN, a Certified Shorthand Reporter of the
4 Second Judicial District Court of the State of Nevada, in and
5 for the County of Washoe, do hereby certify:

6 That I was present in Department 8 of the
7 above-entitled court on Wednesday, the 11th day of August,
8 2021, at the hour of 9:00 a.m. of said day, and took verbatim
9 stenotype notes of the proceedings had upon the matter of THE
10 STATE OF NEVADA, Plaintiff, versus BRANDON BEST, Defendant,
11 Case Nos. CR20-3438A, CR21-0995 & CR21-0102, and thereafter
12 reduced to writing by means of computer-assisted
13 transcription as herein appears;

14 That the foregoing transcript, consisting of pages 1
15 through 42, all inclusive, contains a full, true and complete
16 transcript of my said stenotype notes, and is a full, true
17 and correct record of the proceedings had at said time and
18 place.

19 Dated at Reno, Nevada, this 18th day of December,
20 2021.

21 /s/ Isolde Zihn
22 Isolde Zihn, CCR #87
23
24

1 **CODE 1850**

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**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE**

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STATE OF NEVADA,

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Plaintiff,

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vs.

Case No. CR20-3438A

12

BRANDON ALLEN BEST,

Dept. No. 8

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Defendant.

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JUDGMENT OF CONVICTION

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The Defendant, having entered a plea of guilty, and no sufficient cause being shown by Defendant as to why judgment should not be pronounced against him, the Court rendered judgment as follows:

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Brandon Allen Best is guilty of the crime of Battery with the Use of a Deadly Weapon, a violation of NRS 200.481(2)(e)(1) and NRS 193.165, as charged in the Information, and that he be punished by imprisonment in the Nevada Department of Corrections for a minimum term of forty-eight (48) months to a maximum term of one hundred twenty (120) months, with two hundred eighteen (218) days credit for time served.

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The Defendant is ordered to pay restitution in the amount of One Hundred Eighty Dollars (\$180.00) to victim VC2279871. All monetary payments, money and property collected from the Defendant shall be first applied to pay the amount ordered as restitution to the Victim(s).

The Defendant is further ordered to pay a Three Dollar (\$3.00) administrative assessment for obtaining a biological specimen and conducting a genetic marker analysis, a Twenty-Five Dollar (\$25.00) administrative assessment fee, a One Hundred Fifty Dollar (\$150.00) DNA analysis fee, and attorney's fees for legal representation by the Washoe County Public Defender's Office in the sum of Five Hundred Dollars (\$500.00) to the Clerk of the Second Judicial District Court.

Any fine, fee administrative assessment or restitution imposed today (as reflected in this Judgment) constitutes a lien, as defined in Nevada Revised Statute NRS 176.275. Should the Defendant not pay these fines, fees, or assessments, collection efforts may be undertaken against him.

Dated this 11th day of August, 2021.

Ben
DISTRICT JUDGE

1 **CODE 1850**

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6 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**
8

9 **STATE OF NEVADA,**

10 **Plaintiff,**

11 **vs.**

Case No. CR21-0995

12 **BRANDON ALLEN BEST,**

Dept. No. 8

13 **Defendant.**
14 _____/

15 **JUDGMENT OF CONVICTION**

16 The Defendant, having entered a plea of guilty, and no sufficient cause
17 being shown by Defendant as to why judgment should not be pronounced against him,
18 the Court rendered judgment as follows:

19 Brandon Allen Best is guilty of the crime Robbery with the Use of a Deadly
20 Weapon, a violation of NRS 200.380, NRS 193.165, and NRS 195.020, a category B
21 felony, as charged in the Information, and that he be punished by imprisonment in the
22 Nevada Department of Corrections for a minimum term of seventy two (72) months to a
23 maximum term of one hundred eighty (180) months to be served consecutively to the
24 sentence imposed in case number CR20-3438A, but concurrently with the sentence
25 imposed in case number CR21-0102, and that the Court having specifically considered
26 the information required by NRS 193.165 (1) (a) through (e) that Brandon Allen Best be
27 punished by imprisonment in the Nevada Department of Corrections with a consecutive
28 term of a minimum term of twenty four (24) months to a maximum term of sixty (60)

1 months for the deadly weapon enhancement. The Defendant is given zero (0) days
2 credit for time served.

3 It is ordered that the aggregate sentence imposed is a minimum of ninety-
4 six (96) months to a maximum of two hundred forty (240) months.

5 The Defendant is ordered to pay restitution in the amount of Two Hundred
6 Dollars (\$200.00) to VC2279848 and Two Thousand Dollars (\$2,000.00) to VC2108500.
7 All monetary payments, money and property collected from the Defendant shall be first
8 applied to pay the amount ordered as restitution to the Victim(s).

9 The Defendant is further ordered to pay a Three Dollar (\$3.00)
10 administrative assessment for obtaining a biological specimen and conducting a genetic
11 marker analysis, and a Twenty-Five Dollar (\$25.00) administrative assessment fee to the
12 Clerk of the Second Judicial District Court.

13 Any fine, fee administrative assessment or restitution imposed today (as
14 reflected in this Judgment) constitutes a lien, as defined in Nevada Revised Statute NRS
15 176.275. Should the Defendant not pay these fines, fees, or assessments, collection
16 efforts may be undertaken against him.

17 Dated this 11th day of August, 2021.

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21 DISTRICT JUDGE
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1 Code 2515
2 JOSEPH MERKIN, ESQ.
3 State Bar No. 3328
4 316 California Avenue
5 Suite 430
6 Reno, NV 89509
7 (775) 825-9495

8
9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
10
11 IN AND FOR THE COUNTY OF WASHOE

12 * * *

13 THE STATE OF NEVADA,

14 Plaintiff,

15 v.

Case No. CR20-3438A

16 BRANDON ALLEN BEST,

Dept. No. 8

17 Defendant.
18 _____/


19 NOTICE OF APPEAL

20 Defendant, BRANDON ALLEN BEST, hereby appeals to the Supreme Court of Nevada
21 from the Judgment of Conviction in this action on August 12, 2021.

22 AFFIRMATION PURSUANT TO NRS 239B.030

23 The undersigned does hereby affirm that the preceding document does not contain the social
24 security number of any person.

25 DATED this 9th day of September, 2021.

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JOSEPH MERKIN, ESQ.
316 California Avenue
Suite 430
Reno, NV 89509

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that on this date I caused to be served postage prepaid by United States mail, a true copy of the attached foregoing document addressed to:

JENNIFER P. NOBLE. ESQ.
Washoe County District Attorney's Office
Appellate Division
1 South Sierra Street
Fourth Floor
Reno, NV 89501
VIA e-filing with Second Judicial District Court

BRANDON ALLEN BEST
Northern Nevada Correction Center
P.O. Box 7000
Carson City, NV 89702

AARON D. FORD
Attorney General State of Nevada
100 N. Carson Street
Carson City, NV 89701

DATED this 9th day of September, 2021.

Leslie Schuh