

Electronically Filed  
Jan 06 2022 04:19 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

1 **NOASC**  
2 STEVEN S. OWENS, ESQ  
3 Nevada Bar No. 4352  
4 1000 N. Green Valley #440-529  
5 Henderson, Nevada 89074  
6 Telephone: (702) 595-1171  
7 owenscrimlaw@gmail.com  
8 *Attorney for Petitioner Lequana Brown*

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

8 LEQUANA BROWN,  
9  
10 Petitioner,  
11 vs.

CASE NO.: A-20-823908-W  
DEPT NO.: XIX

**NOTICE OF APPEAL**

11 THE STATE OF NEVADA; NEVADA  
12 DEPARTMENT OF CORRECTIONS;  
13 FLORENCE McCLURE WOMEN'S  
14 CORRECTIONAL CENTER, Warden.

15 Respondents.

16 TO: THE STATE OF NEVADA, et al. Respondents.

17 TO: DEPARTMENT XIX OF EIGHTH JUDICIAL DISTRICT COURT

18 Notice is hereby given that LEQUANA BROWN, Petitioner in the above-entitled action,  
19 appeals to the Nevada Supreme Court from the Findings of Fact and Conclusions of Law, filed  
20 on January 3, 2022.

21 DATED this 3<sup>rd</sup> day of January 2021.

23 /s/ Steven S. Owens, Esq.  
24 STEVEN S. OWENS, ESQ.  
25 Nevada Bar No. 4352  
26 1000 N. Green Valley #440-529  
27 Henderson, Nevada 89074  
28 (702) 595-1171  
Attorney for Petitioner  
LEQUANA BROWN

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

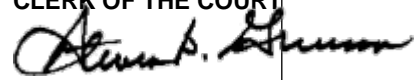
Attorney's Office by sending a copy via electronic mail to:

Steve Wolfson

Motions@clarkcountydac.com

BY:

Attorney for Petitioner  
LEQUANA BROWN



1 **ASTA**  
2 STEVEN S. OWENS, ESQ  
3 Nevada Bar No. 4352  
4 1000 N. Green Valley #440-529  
5 Henderson, Nevada 89074  
6 Telephone: (702) 595-1171  
7 owenscrimlaw@gmail.com  
8 *Attorney for Petitioner Lequana Brown*

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

8 LEQUANA BROWN,

9 Petitioner,

10 vs.

11 THE STATE OF NEVADA; NEVADA  
12 DEPARTMENT OF CORRECTIONS;  
13 SOUTHERN DESERT CORRECTIONAL  
14 CENTER; HUTCHINS, Warden.

15 Respondents.

CASE NO.: A-20-823908-W  
DEPT NO.: XIX

**CASE APPEAL STATEMENT**

16 **1. Appellant filing this case appeal statement:** LEQUANA BROWN

17 **2. Judge issuing the decision, judgment, or order appealed from:**

18 Honorable Crystal Eller

19 **3. Appellant and the name and address of counsel for each appellant:**

20 STEVEN S. OWENS, ESQ.  
21 Nevada Bar No. 4352  
22 1000 N. Green Valley #440-529  
23 Henderson, Nevada 89074  
24 Attorney for Petitioner

LEQUANA BROWN, Petitioner

25 **4. Respondent and the name and address of appellate counsel:**

26 STEVEN B. WOLFSON  
27 Clark County, Nevada District Attorney  
28 200 Lewis Avenue  
Las Vegas, Nevada 89101

STATE OF NEVADA, Respondent

1  
2 **5. Whether any attorney identified above is not licensed to practice law in Nevada:**

3 Licensed

4 **6. Whether appellant was represented by appointed or retained counsel in the district**  
5 **court:** Appointed

6 **7. Whether appellant is represented by appointed or retained counsel on appeal:**  
7 Appointed

8 **8. Whether appellant was granted leave to proceed in forma pauperis, and the date of**  
9 **entry of the district court order granting such leave:** N/A

10 **9. Date the proceedings commenced in the district court:** October 29, 2020

11 **10. Brief description of the nature of the action and result in the district court, including**  
12 **the type of judgment or order being appealed and the relief granted by the district court:**  
13 This is an appeal from the denial of petition for writ of habeas corpus (post-conviction)

14 **11. Whether the case has previously been the subject of an appeal to or original writ**  
15 **proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number**  
16 **of the prior proceedings:** None

17 **12. Whether this appeal involves child custody or visitation:** No

18 **13. If this is a civil case, whether this appeal involves the possibility of settlement:** No

19 DATED this 3<sup>rd</sup> day of January 2022.

20  
21  
22  
23 /s/ Steven S. Owens, Esq.  
24 STEVEN S. OWENS, ESQ.  
25 Nevada Bar No. 4352  
26 1000 N. Green Valley #440-529  
27 Henderson, Nevada 89074  
28 (702) 595-1171  
Attorney for Petitioner  
LEQUANA BROWN

## EIGHTH JUDICIAL DISTRICT COURT

# CASE SUMMARY

## CASE NO. A-20-823908-W

Lequana Brown, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

§  
§  
§  
§  
§

Location: **Department 19**  
Judicial Officer: **Eller, Crystal**  
Filed on: **10/29/2020**  
Case Number History:  
Cross-Reference Case Number: **A823908**

### CASE INFORMATION

#### Related Cases

C-19-344112-3 (Writ Related Case)

Case Type: **Writ of Habeas Corpus**

#### Statistical Closures

01/03/2022 Involuntary Dismissal

Case Status: **01/03/2022 Dismissed**

### DATE

### CASE ASSIGNMENT

#### Current Case Assignment

Case Number A-20-823908-W  
Court Department 19  
Date Assigned 09/07/2021  
Judicial Officer Eller, Crystal

### PARTY INFORMATION

**Plaintiff** **Brown, Lequana**

**Owens, Steven S.**  
*Retained*  
7024556453(W)

**Defendant** **State of Nevada**


**Wolfson, Steven B**  
*Retained*  
702-671-2700(W)


### DATE


### EVENTS & ORDERS OF THE COURT


### INDEX


#### EVENTS

10/29/2020  Inmate Filed - Petition for Writ of Habeas Corpus  
Party: Plaintiff Brown, Lequana  
*[1] Post Conviction*













10/29/2020  Motion for Appointment of Attorney  
Filed By: Plaintiff Brown, Lequana  
*[2]*

10/29/2020  Motion  
Filed By: Plaintiff Brown, Lequana  
*[3] Motion to Withdraw Counsel*

10/29/2020  Application to Proceed in Forma Pauperis  
Filed By: Plaintiff Brown, Lequana  
*[4]*









11/03/2020  Order for Petition for Writ of Habeas Corpus  
*[5] Order for Petition for Writ of Habeas Corpus*

**CASE SUMMARY**  
**CASE NO. A-20-823908-W**

11/04/2020	 Clerk's Notice of Hearing <i>[6] Notice of Hearing</i>
12/17/2020	 Response <i>[7] State's Response to Petition for Writ of Habeas Corpus (Post-Conviction) and Motion for Appointment of Counsel</i>
03/04/2021	 Order <i>[8] ORDER APPOINTING COUNSEL</i>
04/05/2021	 Request Filed by: Plaintiff Brown, Lequana <i>[9] Request for Transcript of Proceeding</i>
04/05/2021	 Order <i>[10] Order for transcripts</i>
04/09/2021	 Order <i>[11] Order for transcripts</i>
05/06/2021	 Recorders Transcript of Hearing <i>[12] Recorder's Transcript of Hearing: Arraignment and Sentencing Heard on June 18, 2020</i>
06/14/2021	 Supplemental Filed by: Plaintiff Brown, Lequana <i>[13] Supplemental Brief in Support of Petition for Writ of Habeas Corpus</i>
07/29/2021	 Response Filed by: Defendant State of Nevada <i>[14] State's Response to Supplemental Brief in Support of Petition for Writ of Habeas Corpus (Post-Conviction)</i>
08/16/2021	 Reply Filed by: Plaintiff Brown, Lequana <i>[15] REPLY TO STATE S RESPONSE TO SUPPLEMENTAL BRIEF IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)</i>
08/25/2021	 Order for Production of Inmate <i>[16] ORDER FOR PRODUCTION OF INMATE LEQUANA BROWN, BAC #1235328</i>
08/27/2021	 Order Filed By: Plaintiff Brown, Lequana <i>[17] Order for Audiovisual Appearance of Inmate Lequana brown, BAC # 1235328</i>
09/04/2021	 Notice of Change of Hearing <i>[18] Notice of Change of Hearing</i>
09/07/2021	Case Reassigned to Department 19 <i>From Judge Michael Villani to Judge Crystal Eller</i>
09/14/2021	 Order <i>[19] Order for Audiovisual Appearance</i>

# CASE SUMMARY

## CASE NO. A-20-823908-W





12/01/2021	 <b>Recorders Transcript of Hearing</b> <i>[20] Recorders Transcript of Hearing Re: Evidentiary Hearing November 4, 2021</i>
01/03/2022	 <b>Findings of Fact, Conclusions of Law and Order</b> <i>[21] FoFCoL re: Habeas Petition</i>
01/03/2022	 <b>Notice of Appeal (Criminal)</b> <i>[22] Notice of Appeal</i>
01/03/2022	 <b>Case Appeal Statement</b> <i>[23] Case Appeal Statement</i>
01/04/2022	 <b>Notice of Entry of Findings of Fact, Conclusions of Law</b> Filed By: Defendant State of Nevada <i>[24] Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
<b>HEARINGS</b>	
11/03/2020	 <b>Minute Order (3:00 AM)</b> (Judicial Officer: Villani, Michael) Minute Order - No Hearing Held; Journal Entry Details: <i>In conjunction with the Order for Petition for Writ of Habeas Corpus filed on November 3, 2020 by this court. This Court ORDERS said matter SET on February 5th 2021, at 10:00 AM.;</i>
02/05/2021	<b>Petition for Writ of Habeas Corpus (10:00 AM)</b> (Judicial Officer: Villani, Michael) Under Advisement;
02/05/2021	<b>Motion to Withdraw as Counsel (10:00 AM)</b> (Judicial Officer: Villani, Michael) <i>Plaintiff's Motion to Withdraw Counsel</i> Under Advisement;
02/05/2021	<b>Motion for Appointment of Attorney (10:00 AM)</b> (Judicial Officer: Villani, Michael) <i>Plaintiff's Motion for Appointment of Counsel</i> Under Advisement;
02/05/2021	 <b>All Pending Motions (10:00 AM)</b> (Judicial Officer: Villani, Michael) Matter Heard; Journal Entry Details: <b>PETITION FOR WRIT OF HABEAS CORPUS...PLAINTIFF'S MOTION FOR APPOINTMENT OF COUNSEL...PLAINTIFF'S MOTION TO WITHDRAW COUNSEL</b> <i>Defendant not present. COURT ORDERED, matters TAKEN UNDER ADVISEMENT. Court advised it was basing its decision on the pleadings on file herein, not accepting any oral argument and a written decision would be issued next week. NDC CLERK'S NOTE: A copy of this Minute Order was mailed to: Lequana Brown #1235328 FMWCC 4370 Smiley Rd Las Vegas, NV 89115 (2/11/2021 sa);</i>
02/25/2021	 <b>Minute Order (3:00 AM)</b> (Judicial Officer: Villani, Michael) Minute Order - No Hearing Held; Journal Entry Details: <i>Petitioner's Motion for Appointment of Counsel and Petition for Writ of Habeas Corpus (Post-Conviction) came before the Court, whereupon the Court took the matter under further advisement. After considering all pleadings and arguments, the Court renders its decision as follows: Based upon the nature of the allegations and the sentence imposed, Petitioner's Motion for Appointment of Counsel is GRANTED. Furthermore, THIS COURT ORDERS a Status Check: Appointment of Counsel SET for March 9, 2021, at 8:30 AM. This Court ruling on Petitioner's Writ of Habeas Corpus is DEFERRED, as this Court is appointing counsel to supplement Petitioner's Pro Per Petition for Writ of Habeas Corpus. Therefore, THIS COURT ORDERS a Status Check: Briefing Schedule SET for March 9, 2021, at 8:30 AM. CLERK'S NOTE: A copy of this Minute Order distributed to counsel by e-mail and mailed to: Lequana</i>

EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**

**CASE NO. A-20-823908-W**

*Brown #1235328 FMWCC 4370 Smiley Rd Las Vegas, NV 89115 (2/25/2021 sa);*

03/09/2021	<p><b>Status Check</b> (8:30 AM) (Judicial Officer: Villani, Michael)  <i>Status Check: Appointment of Counsel</i>  Counsel Confirmed;</p>
03/09/2021	<p><b>Status Check</b> (8:30 AM) (Judicial Officer: Villani, Michael)  <i>Status Check: Briefing Schedule</i>  Matter Heard;</p>
03/09/2021	<p> <b>All Pending Motions</b> (8:30 AM) (Judicial Officer: Villani, Michael)  Matter Heard;  Journal Entry Details:  <b>STATUS CHECK: APPOINTMENT OF COUNSEL...STATUS CHECK: BRIEFING SCHEDULE</b> Upon Court's inquiry, Steven Owens <b>CONFIRMED</b> as counsel of record for the Defendant and noted he still needs the file. <b>COURT ORDERED</b>, matter <b>SET</b> for Status Check. Court advised Mr. Owens that there were 4 or 5 hearings before her entry of plea, however she backed out or had other questions and directed Mr. Owens to review those Court minutes. <b>NDC 4/13/2021 8:30 AM STATUS CHECK: FILE/SET BRIEFING SCHEDULE;</b></p>
04/13/2021	<p> <b>Status Check: Status of Case</b> (8:30 AM) (Judicial Officer: Ballou, Erika)  <i>Status Check: File/Set Briefing Schedule</i>  Briefing Schedule Set;  Journal Entry Details:  Steven Owens, Esq. and David Stanton, Esq. present via Bluejeans video conference. Colloquy regarding briefing schedule. Following colloquy, <b>COURT ORDERED</b>, following Briefing Schedule <b>SET</b>: Supplemental Brief filed by June 14, 2021; Response Brief filed by August 2, 2021; Reply Brief filed by August 16, 2021; matter <b>SET</b> for argument. <b>NDC 08.24.2021 8:30 AM ARGUMENT ;</b></p>
08/24/2021	<p> <b>Argument</b> (8:30 AM) (Judicial Officer: Villani, Michael)  <b>08/24/2021, 08/26/2021</b>  Matter Continued;  Matter Heard;  Journal Entry Details:  Defendant not present. Mr. Owens advised Defendant was seeking to withdraw her plea based on manifest injustice and ineffectiveness of counsel. Argument by Mr. Owens. State submitted on their response. <b>COURT ORDERED</b>, Evidentiary Hearing to be <b>SET</b> for the second plea with Matthew Lay and Rochelle Nguyen present. Court stated it wanted to hear this Evidentiary Hearing before the reassignment on September 7th. Court advised the Law Clerk would reach out to the parties regarding an available date for the Evidentiary Hearing on either Friday or Monday and if the Court was unable to place the matter on calendar next week for the Evidentiary Hearing, case would be set for a Status Check regarding setting of the Evidentiary Hearing. <b>NDC;</b>  Matter Continued;  Matter Heard;  Journal Entry Details:  Defendant not transported. Due to time constraints with Clark County Detention Center s Bluejeans videoconferencing, <b>COURT ORDERED</b>, matter <b>CONTINUED</b>. <b>NDC CONTINUED TO: 8/26/2021 10:00 AM;</b></p>
09/02/2021	<p> <b>Status Check</b> (8:30 AM) (Judicial Officer: Eller, Crystal)  <b>09/02/2021, 09/09/2021</b>  <i>Status Check: Scheduling Evidentiary Hearing</i>  Matter Continued;  Hearing Set;  Journal Entry Details:  Counsel appeared via BlueJeans. Defendant not present. Colloquy regarding hearing date. <b>COURT ORDERED</b>, evidentiary hearing <b>SET</b>. <b>IN CUSTODY 11/04/21 1:00 P.M.</b>  <b>EVIDENTIARY HEARING;</b>  Matter Continued;</p>



EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**

**CASE NO. A-20-823908-W**

Hearing Set;

Journal Entry Details:

*Defendant not present. Mr. Owens advised they were unable to get the Defendant transported and the 2 witnesses, Matthew Lay and Rochelle Nguyen, were unavailable this week, therefore he requested an Evidentiary Hearing be set in 30 to 45 days per the prison's request. COURT ORDERED, Status Check CONTINUED. Court noted it was available, however Defendant was unable to be transported and the witnesses were unavailable. NDC CONTINUED TO: 9/9/2021 8:30 AM;*

11/04/2021



**Evidentiary Hearing (1:30 PM)** (Judicial Officer: Eller, Crystal)

Denied;

Journal Entry Details:

*Defendant appeared via BlueJeans. Rochelle Nguyen SWORN and TESTIFIED. Mr. Owens indicated Defendant was waiving her attorney/client privilege. Lequana Brown SWORN and TESTIFIED. Closings by Mr. Owens and Mr. Niman. COURT stated its findings and ORDERED, Writ DENIED. Mr. Niman to prepare the order and circulate to counsel. Upon Mr. Owens' request, COURT FURTHER ORDERED, Mr. Owens APPOINTED for appeal. NDC;*

12/13/2021

**Status Check (3:00 AM)** (Judicial Officer: Eller, Crystal)

*ISC - Order*

## DISTRICT COURT CIVIL COVER SHEET

A-20-823908-W  
Dept.17

County, Nevada

Case No.

(Assigned by Clerk's Office)

**I. Party Information** (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): Lequanna Brown	Defendant(s) (name/address/phone): State of Nevada
Attorney (name/address/phone):	Attorney (name/address/phone):

**II. Nature of Controversy** (please select the one most applicable filing type below)**Civil Case Filing Types**

<b>Real Property</b> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <b>Title to Property</b> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <b>Other Real Property</b> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<b>Negligence</b> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <b>Malpractice</b> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<b>Torts</b> <b>Other Torts</b> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
<b>Probate</b> <b>Probate</b> (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <b>Estate Value</b> <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	<b>Construction Defect &amp; Contract</b> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <b>Contract Case</b> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<b>Judicial Review/Appeal</b> <b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <b>Nevada State Agency Appeal</b> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<b>Civil Writ</b> <b>Civil Writ</b> <input checked="" type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		<b>Other Civil Filing</b> <b>Other Civil Filing</b> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

October 29, 2020

Date

PREPARED BY CLERK

Signature of initiating party or representative

See other side for family-related case filings.

**RSPN**  
**STEVEN B. WOLFSON**  
Clark County District Attorney  
Nevada Bar #001565  
**JOHN AFSHAR**  
Deputy District Attorney  
Nevada Bar #14408  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**LEQUANA BROWN,**  
#2651822

Petitioner,

CASE NO: A-20-823908-W

-vs-

**THE STATE OF NEVADA,**

DEPT NO: XIX

Respondent.

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

DATE OF HEARING: November 4, 2021  
TIME OF HEARING: 1:30 PM

THIS CAUSE having come on for hearing before the Honorable CRYSTAL ELLER, District Judge, on the 4th day of November, 2021, the Defendant present via BlueJeans, represented by Steven S. Owens, Esq., present via BlueJeans, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through JOHN NIMAN, Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, testimony adduced at the evidentiary hearing, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

**POINTS AND AUTHORITIES**

**STATEMENT OF THE CASE**

On October 17, 2019, LEQUANA BROWN, aka Lequana Leatrice Brown (hereinafter "Petitioner") was charged by way of Indictment with two (2) counts of

1 CONSPIRACY TO COMMIT ROBBERY (Category B Felony – NRS 200.380, 199.480);  
2 two (2) counts of ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony –  
3 NRS 200.380, 193.165); two (2) counts of BURGLARY (Category B Felony – NRS  
4 205.060); one (1) count of GRAND LARCENY (Category C Felony – NRS 205.220.1,  
5 205.222.2); and one (1) count of OBTAINING AND USING PERSONAL IDENTIFYING  
6 INFORMATION OF ANOTHER (Category C Felony – NRS 205.463) for actions on or  
7 between June 4, 2019 and June 23, 2019.

8 On March 12, 2020, represented by Mr. Arnold, Esq., Petitioner pled guilty, pursuant  
9 to a Guilty Plea Agreement (“GPA”), to one (1) count of ROBBERY WITH USE OF A  
10 DEADLY WEAPON. Contemporaneous with the GPA, the State filed an Amended  
11 Indictment reflecting the single count to which Petitioner pled guilty. Petitioner further  
12 agreed to plead guilty to ROBBERY in a separate case, and the parties stipulated that  
13 Petitioner would receive sentences of four (4) to ten (10) years in each case, consecutive to  
14 each other.

15 On April 30, 2020, Petitioner represented that she wished to withdraw her plea and  
16 requested alternate counsel be appointed. The Court granted the motion to appoint alternate  
17 counsel, and Mr. Arnold was removed as counsel. On May 7, 2020, Matthew Lay, Esq., was  
18 appointed. Rochelle Nguyen, Esq (hereinafter “Counsel”), associated with Mr. Lay,  
19 primarily represented Petitioner. Recorder’s Transcript of Hearing Re: Evidentiary Hearing,  
20 November 4, 2021, (“EH”) at 4.

21 On June 4, 2020, Counsel represented that she had spoken with Petitioner and  
22 Petitioner no longer wished to withdraw her plea and wished to be sentenced.

23 On June 11, 2020, Petitioner’s sentencing was continued to amend the GPA because  
24 Counsel noticed the GPA did not include another case that was to be dismissed pursuant to  
25 negotiations.

26 On June 17, 2020, Petitioner executed an Amended GPA, with the amendment being  
27 that the State agreed to dismiss that separate case against Petitioner after rendition of  
28 sentence in the instant underlying case. On June 18, 2020, the Court canvassed Petitioner

1 regarding the Amended GPA and accepted Petitioner's guilty plea. The Court thereafter  
2 sentenced Petitioner to two (2) to five (5) years in the Nevada Department of Corrections for  
3 Robbery, with a consecutive two (2) to five (5) years for Use of a Deadly Weapon. Petitioner  
4 was given three hundred fifty-eight (358) days of credit for time served. Petitioner's  
5 Judgment of Conviction was filed on June 22, 2020.

6 Petitioner did not file a direct appeal. On October 29, 2020, Petitioner filed her  
7 Petition for Writ of Habeas Corpus. Petitioner included in her filed Petition a Motion for  
8 Appointment of Counsel. The State filed its Response to the Petition and Motion on  
9 December 17, 2020. On February 25, 2021, the Court granted Petitioner's Motion for  
10 Appointment of Counsel.

11 On June 14, 2021, Petitioner – through counsel – filed a Supplemental Brief in  
12 Support of Petition for Writ of Habeas Corpus (Post-Conviction). The State responded on  
13 July 29, 2021. Petitioner filed a reply on August 16, 2021. On August 26, 2021, this district  
14 court heard argument on the Petition and ordered an evidentiary hearing as to Petitioner's  
15 plea when she was represented by attorneys Matthew Lay and Rochelle Nguyen.<sup>1</sup> The  
16 evidentiary hearing was conducted on November 4, 2021, wherein this Court denied the  
17 petition and supplemental petition.

### 18 **STATEMENT OF FACTS**

19 The Court relied on the following facts when sentencing Petitioner:

20 On June 23, 2019, officers learned of the following events from the victim and  
21 other employees of Big 5. They stated the co-defendant, Sarah Gonzalez,  
22 started shopping for various clothing items. Shortly after, defendant, Lequana  
23 Brown, entered the store with a canvas shopping bag and began selecting  
24 various shoes and other items. Store employee #1 attempted to help Ms.  
25 Gonzalez; however, she stated that she did not need help. Employee #1 noted  
26 Ms. Gonzalez and Ms. Brown began interacting with each other and that they  
27 were associated with one another. Ms. Brown told the employee she just won  
28 money and was engaging in some spending. Ms. Gonzalez then came to the  
register where employee #2 was ringing up her transaction.

---

<sup>1</sup> The initial post-conviction proceedings were conducted before the Honorable Judge Michael Villani. On September 7, 2021, the case was reassigned to the Honorable Judge Crystal Eller.

1 As employee #1 was ringing up Ms. Brown's items, she told employee #2 she  
2 was in a hurry and needed to have her items rung up. Ms. Gonzalez then told  
3 employee #2 to ring all the items up on the same bill so that she and Ms.  
4 Brown can check out together. As employee #2 rung up the merchandize [sic],  
5 he set the bags behind the counter to prevent either defendant from walking out  
6 of the store before paying. Ms. Brown and Ms. Gonzalez drank Powerade that  
7 was from the stores [sic] coolers and left them unfinished at the register.

8 Ms. Brown told employee #3 she wanted to look at the shoes to make sure they  
9 were the right sizes. Employee #2 became suspicious and showed the shoes to  
10 her without allowing her to take control of the property. Ms. Brown  
11 complained and requested employee #1 finish the transaction. As employee #1  
12 began re-ringing all the items, the bags were set on the counter. Prior to the  
13 items being paid for, Ms. Gonzalez told him she also wanted to buy a pellet  
14 gun and the items were brought back inside Big 5. An additional co-defendant,  
15 identified as Mark Anthony Fink, aka, Mark Anthony Finks Jr, entered the  
16 store following Ms. Gonzalez and the victim. He then asked the victim if he  
17 could look at the pellet/BB guns. The victim and employee #2 showed Mr.  
18 Finks some of the guns until he chose a display model. Employee #2 put the  
19 gun and pellets into a plastic bag and the victim took the items to the register.

20 Once at the register, Mr. Finks and Ms. Gonzalez gathered a few items that  
21 were rung up and exited the store, without paying, with Ms. Brown following  
22 behind them. The victim yelled at the defendant to stop; however, Ms. Brown  
23 threw a debit card, that was not in her name, at him saying "here take this. [sic]  
24 The victim saw the defendants in a vehicle along with a fourth person. The  
25 victim attempted to retrieve one of the bags of property from Ms. Brown who  
26 was in the driver's side rear passenger. Mr. Finks pulled a gun on the victim  
27 which caused him to let go and the vehicle fled. Employee #1 noted the license  
28 plate while the victim called emergency services. The officers were informed a  
total \$2,251.91 worth of merchandise was stolen.

During the officer's investigation, the victim provided them with surveillance  
and the PowerAde drink bottles that were left. One of the officers located the  
vehicle used and noted Mr. Fink was in the driver's seat. A second male was  
handing shoes to a child who was trying them on. They then saw Ms. Gonzalez  
enter the passenger side. While they were arresting Ms. Gonzalez, she stated  
she had a gun in her bra and that Ms. Brown was in apartment 311.  
Additionally, officers observed Big 5 bags in the vehicle. The officers were  
able to recover \$481.34 worth of merchandise.

Officers went up to the third floor to locate Ms. Brown who was in the  
apartment; however, she was using an alias of Mia Jones. The stolen items  
recovered were returned to Big 5. After being transported to the Las Vegas  
Metropolitan Police Department Headquarters, Ms. Brown was interviewed.  
She admitted she was the person at Big 5 and knew the other defendants. She  
observed Ms. Gonzalez and Mr. Finks nearby and entered the vehicle to go to  
Big 5 due to Ms. Gonzalez stating she had coupons. Once in the store, Ms.

1 Brown picked out several shirts and handed them to Ms. Gonzalez who then  
2 began bagging up a large amount of clothing, along with the other merchandise  
3 before proceeding past all points of entry. Ms. Brown followed Mr. Finks out  
4 of the store and the employees followed after them. Mr. Finks then pointed a  
5 handgun at the employees. She admitted she never attempted to pay for the  
6 items she gave Ms. Gonzalez, nor did she make any attempts to notify police of  
7 the crime. Additionally, Ms. Brown admitted she was involved in another  
8 robbery of a Champs store on June 4, 2019, after being shown surveillance of  
9 that incident. When the officers interviewed Mr. Finks, he admitted he pointed  
10 a gun at the victim and told him to get the fuck away from the car due to him  
11 pulling on Ms. Brown. Ms. Gonzalez stated Ms. Brown told her she could pick  
12 out whatever she wanted, and she would pay for it. She stated she had a feeling  
13 Ms. Brown was going to use a fake check and a debit card that would not work  
14 to pay for the items. When the commotion started at the car, Ms. Gonzalez  
15 stated that Ms. Brown told Mr. Finks to just drive.

16 Presentence Investigation Report, at 8-9.

## 17 **ARGUMENT**

### 18 **I. PETITIONER FAILS TO DEMONSTRATE MANIFEST INJUSTICE**

19 Pursuant to NRS 176.165, once a defendant has been sentenced, she may only  
20 withdraw a guilty plea “[t]o correct manifest injustice.” See also, Baal v. State, 106 Nev. 69,  
21 72, 787 P.2d 391, 394 (1990). Reviewing courts must view a guilty plea as presumptively  
22 valid, and the burden rests with the defendant to establish that her plea was not entered  
23 knowingly and intelligently. Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986)  
24 (superseded by statute on other grounds as stated in Hart v. State, 116 Nev. 558, 1 P.3d 969  
25 (2000)). Manifest injustice does not exist if the defendant entered her plea voluntarily. Baal,  
26 106 Nev. at 72, 787 P.2d at 394 (given district court’s canvassing and defendant’s assertions  
27 of voluntariness, the district court did not abuse its discretion in denying defendant’s motion  
28 to withdraw guilty plea).

To determine the voluntariness of a guilty plea, a reviewing court considers the  
totality of the circumstances. Bryant, 102 Nev. at 271, 721 P.2d at 367. A proper plea canvas  
should reflect:

[T]he defendant knowingly waived his privilege against self-incrimination, the  
right to trial by jury, and the right to confront his accusers; (2) the plea was  
voluntary, was not coerced, and was not the result of a promise of leniency; (3)

1 the defendant understood the consequences of his plea and the range of  
2 punishments; and (4) the defendant understood the nature of the charge, i.e.,  
the elements of the crime.

3 Wilson v. State, 99 Nev. 362, 367, 664 P.2d 328, 331 (1983) (citing Higby v. Sheriff, 86  
4 Nev. 774 476 P.2d 950 (1970)). The presence and advice of counsel is a significant factor in  
5 determining the voluntariness of a guilty plea. Patton v. Warden, 91 Nev. 1, 2, 530 P.2d 107,  
6 107 (1975).

7 A court accepting a guilty plea must personally address the defendant at the time she  
8 enters her plea to determine whether she understands the nature of the charges to which she  
9 is pleading. Bryant, 102 Nev. at 271, 721 P.2d at 367. A written plea agreement, without  
10 some verbal interaction with the defendant, is insufficient. Id. However, the court need not  
11 conduct a ritualistic oral canvass. State v. Freese, 116 Nev. 1097, 13 P.3d 442 (2000). A  
12 guilty plea canvass does not “require the articulation of talismanic phrases.” Heffley v.  
13 Warden, 89 Nev. 573, 575, 516 P.2d 1403, 1404 (1973). Instead, the record must simply  
14 demonstrate that the defendant entered his guilty plea understandingly and voluntarily. Id.;  
15 see also, Brady v. United States, 397 U.S. 742, 747-48, 90 S.Ct. 1463, 1470 (1970).

16 Petitioner alleges that the circumstances surrounding her entry of plea constitute  
17 “manifest injustice,” such that she should be allowed to withdraw her guilty plea.  
18 Supplement at 3-7. Petitioner summarizes the extent of plea negotiations, which she  
19 describes as “confusing and protracted,” mentions the State’s filing of a Notice of Intent to  
20 Seek Treatment as a Habitual Criminal (“despite one of the priors being for drugs”), and  
21 complains that her amended GPA was signed by counsel, rather than by Petitioner herself.  
22 Id. However, Petitioner’s reliance on these “circumstances” is misguided, as Petitioner’s  
23 qualms are belied by the record.

24 Petitioner was not entitled to plea negotiations. NRS 174.035, is *permissive*, rather  
25 than compulsory. See NRS 174.035(2) (“If a plea of guilty...is made in a written plea  
26 agreement...” (emphasis added)). Therefore, whether the State extended *any* offer, or  
27 included *any* limitations on its offer, or revoked its offer, was within the discretion of the  
28 State.



Each of Petitioner's proposed qualms with her underlying case are expressly belied by the record and do not entitle Petitioner to relief. See Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984) ("bare" and "naked" allegations are not sufficient for relief, nor are allegations belied and repelled by the record). While Petitioner represents that the initial offer in Petitioner's case "were eventually revoked on December 5, 2019," the record demonstrates that on November 19, 2019, the State placed the offer on the record, and advised all parties that the offer would expire on December 5, 2019. See Court Minutes (Case No. C344112-3), dated November 19, 2019. Petitioner rejected that offer, and therefore the State withdrew it. Compare Supplement at 5:11-14 with Court Minutes (Case No. C344112-3), dated December 5, 2019. Thereafter, on January 3, 2020, Petitioner rejected negotiations again. See Recorder's Transcript of Proceedings, dated January 3, 2020 (filed May 5, 2020) ("RT 1.03.20").

At the January 3, 2020, hearing, Petitioner made an oral request for release on house arrest or electronic monitoring, providing the following explanation:

If I could get the ankle monitor to get my affairs in order and pack up my house and put stuff in storage and I'm willing to sign for the deal today and then come back for sentencing, if that's not the case I feel like I'm losing everything so I might as well just go to trial and just [indiscernible].

Id. at 4:18-22. However, the Court rejected Petitioner's request, explaining that such requests must be made in writing, and explaining:

I don't want anyone to enter negotiations just to get out of custody because then people come back and say, well, I only did it just to get out of custody. I didn't really mean it. I didn't do it. I was pressured, coerced into entering the negotiations. So, I don't allow that to occur. I mean if you're going to plead guilty, if you're taking responsibility, that's fine. If you don't want to take responsibility, then that's fine as well. Then we go to trial on all the charges. So, I don't want you – like I said, it – I'm not going to have my hands tied to say I'll only take a deal if you let me out today. That – I'm not – I don't work that way.

Id. at 5:11-20. Having been unsuccessful in her attempt, Petitioner reneged on the agreed-upon plea agreement. Id. at 6:4-9 (Petitioner had already signed the plea agreement but told the Court she did not want to go through with it). The record demonstrates that release from

1 custody was Petitioner's condition – not a term of negotiations – and does not constitute  
2 manifest injustice.

3 Petitioner argues that re-opening plea negotiations was “confusing.” On November  
4 19, 2019, the State revoked its offer after Petitioner rejected the offer. On January 3, 2020,  
5 the State temporarily re-extended the offer:

6 [STATE]: The offers that are currently on the table today have already been  
7 revoked previously. When *Mr. Arnold told us that Ms. Brown was interested in*  
8 *the offer*, since I was going to be out of town next week for my honeymoon, I  
9 decided to re-extend that offer just for this instant based upon the  
circumstances, but if the offers aren't being entered into today it will again be  
revoked.

10 RT 1.03.20 at 8:17-22 (emphasis added). The record is clear that Petitioner initiated  
11 discussions, and there is nothing “manifestly unjust” about the State being willing to engage  
12 with Petitioner's request. The State was clear that, while the offer had been previously  
13 revoked, it was being temporarily re-extended. Counsel (Mr. Beckett, Esq., on behalf of Mr.  
14 Arnold) asked Petitioner if she wanted to accept the offer, and she said no. *Id.* at 6:4-7.  
15 When Petitioner rejected the offer that second time, the State revoked it again.

16 Nor were the later offers made reasonably “confusing,” especially given Counsel's  
17 efforts to ensure that Petitioner understood the negotiations. Petitioner believed that the offer  
18 being extended in her case was 6 to 15 years. EH at 7, 9, 16-17. Counsel testified that,  
19 despite the prior 6-to-15-year offer being revoked, an 8-to-20-year offer had been extended  
20 to Petitioner while she was represented by Mr. Arnold. EH at 17. Petitioner eventually  
21 agreed to a virtually identical 8-to-20-year offer, except that Counsel negotiated the  
22 additional benefit of another case being dismissed. EH at 20. Prior to entering into the guilty  
23 plea, Counsel had delivered a copy of the GPA to CCDC, mailed Petitioner a copy of the  
24 GPA twice, and reviewed the GPA with Petitioner “line by line” over the phone. EH at 20-  
25 21. Counsel called back “numerous times,” and was satisfied that Petitioner had no further  
26 questions about the GPA. EH at 21. Counsel answered whatever questions Petitioner asked.  
27 *Id.* at 21. When Petitioner represented that she had “freely and voluntarily entered into” the  
28 negotiations without being coerced on June 18, 2020, Counsel believed that to be true based

1 on their interactions. Id. at 22-23. While Petitioner testified generally that she remained  
2 confused about negotiations, this Court finds that any confusion which remained was not  
3 reasonable given Counsel's efforts to ensure Petitioner understood the negotiations. *See*  
4 *generally* EH 26-49. Petitioner testified that she was aware the 6-to-15-year offer was going  
5 to be revoked if she did not accept it at the December 5, 2019 hearing, and she did not accept  
6 it. EH 34. This Court finds Petitioner's testimony that she was confused about the  
7 negotiations after Counsel explained them to her is not credible in light of Counsel's  
8 testimony and the record as a whole.

9 Petitioner argues that the State's filing of a Notice of Intent to Seek Punishment as a  
10 Habitual Criminal was intended "[t]o punish Brown." Supplement at 5:17. However, that  
11 claim is not supported by the record.

12 Petitioner asserts that the State placed undue pressure on Petitioner by claiming that  
13 the State would not give Petitioner time to contemplate an offer. Supplement at 5:19-23.  
14 However, the transcript of the March 12, 2020, hearing belies Petitioner's assertion. See RT  
15 3.12.20. The beginning of that hearing demonstrates that Petitioner's counsel indicated that  
16 Petitioner was ready to proceed with negotiations. See id. at 2:7-11 (counsel represented to  
17 co-defendant's counsel that Petitioner wanted to enter a plea), 3:20-4:10 (counsel  
18 representing to the Court that the matter had resolved). Petitioner requested additional time  
19 to "think about it." Id. at 4:14. Thereafter, the State explained its situation:

20 ...Your Honor, at this point, the State's going to revoke the offer. We have a  
21 pre-trial at 2:00 o'clock, We've already pre-trialed several people. If she wants  
22 to take it now, like I told Mr. Arnold earlier, she can have it now, otherwise it's  
going to be revoked and there won't be any other offers made.

23 Id. at 4:17-21. The Court assured Petitioner that it was not biased between a plea or trial but  
24 did note Petitioner's back-and-forth throughout the proceedings. Id. at 5:8-10 ("All right,  
25 Ms. Brown, we've done this two or three times, okay..."), 5:24-25 ("I don't care – ma'am, I  
26 don't care if you accept [the negotiations] or not. I'm free next week."), 6:8-9 ("...you have  
27 the right to go to trial. I will not rush you into any negotiations.").

28 Thereafter, Petitioner changed her decision and decided to proceed with the guilty  
plea. RT 3.12.20 at 6:14-19. During that March 12, 2020, plea canvass, an issue regarding

1 the “deadly weapon” charge arose. See id. at 10:23-11:14; see also Supplement at 5:23-6:2.  
2 However, the parties agreed to modify negotiations so that Petitioner would only be pleading  
3 to the use of a deadly weapon in a single case. Id. at 11:23-12:4. After the parties had agreed  
4 to modify negotiations, the Court had proceeded, yet again, with a plea canvass, Petitioner  
5 began to quibble about the remaining deadly weapon charge. Id. at 13:19-14:2. However, the  
6 Court explained to Petitioner how that charge could apply to her:

7 THE COURT: Were you working with these people to steal things?

8 DEFENDANT BROWN: Yes.

9 THE COURT: Okay. Do you – because as an aider and abettor, you  
10 understand that you’re liable for everything they do and they’re liable for what  
11 you do as well as part of the conspiracy to commit this crime? Do you  
12 understand that?

12 DEFENDANT BROWN: Yeah.

13 Id. at 14:3-10. Before the Court took a recess to allow the State to make the modifications,  
14 the Court asked a final time if Petitioner was certain of her decision:

15 THE COURT: Okay, are you going to enter these pleas today, ma’am?  
16 I don’t have time to play games here. They’ll redo the paperwork. They’re only  
17 going to allege a robbery here, robbery with use in the other case, 4 to 10 on  
each case, consecutive. Do you understand that?

18 DEFENDANT BROWN: Yes.

19 THE COURT: Do you want to go forward? It’s not Mr. Arnold’s  
20 decision, its [sic] not mine, its [sic] yours.

20 DEFENDANT BROWN: Yes.

21 THE COURT: Are you sure?

22 DEFENDANT BROWN: Yes.

23 THE COURT: Okay. They’re going to get the paperwork fixed and  
24 then Mr. Arnold will go over those again with you. And if not, like I said, I’m  
25 ready for trial Monday on 19 charges and if you’re found guilty, I’ll sentence  
26 you on 19. If you’re found guilty on one, I’ll sentence you on one, or any  
combination thereof. If you’re found not guilty, then you walk out the door. Do  
you understand that?

27 DEFENDANT BROWN: Yeah.

1 Id. at 14:11-15:3. Therefore, the Court did not “express frustration” but instead was making  
2 sure the situation was clear, so that the matter could progress (whether to trial or to a guilty  
3 plea). There was nothing “manifestly unjust” about this exchange.

4         Petitioner asserts that she was “pressured by her attorney and the judge.” Supplement  
5 at 6:9-11. This assertion is belied by the transcript of the plea canvass. When the Court asked  
6 Petitioner to confirm the factual basis for her plea, Petitioner equivocated. RT 3.12.20 at  
7 19:3-22. Petitioner’s attorney then submitted that there was video evidence that Petitioner  
8 had “used her forearm to move [a clerk] out of the way to get out the door.” Id. at 19:23-  
9 20:3. When asked to confirm that submission, Petitioner agreed. Id. at 20:5. However,  
10 Petitioner disagreed that her action constituted force. Id. at 20:6-16. The Court then  
11 attempted to clarify the situation and specify which facts Petitioner would admit. Id. at  
12 20:13-22:23. The State offered that Petitioner had told the clerk to “back off, or you know,  
13 I’ll stab you, or something like that, and that was the threat or force that was used in this  
14 case...” Id. at 22:24-23:4. After Petitioner again equivocated, the Court ended its canvass  
15 and indicated it would proceed to trial. See id. at 23:24:8. Petitioner’s counsel called the  
16 Court back to proceed with the plea. Id. at 24:11-14. Rather than tell Petitioner what it  
17 wanted to hear, the Court simply asked, “What did you do, ma’am?” Id. at 24:15.  
18 Petitioner’s counsel clarified, “What force did you use...to get out of there?” Id. at 24:21-23.  
19 Petitioner said: “I told [the clerk] if she touched me – I said if she touched me when she  
20 come, I’ll beat her ass.” Id. at 25:1-2. While *co-defendant’s counsel* may have interjected  
21 something to which Petitioner did not agree,<sup>2</sup> the transcript shows that Petitioner volunteered  
22 this element of robbery, without any coercion whatsoever. See id. at 26:1-7. Because the  
23 context shows that the Court and Petitioner’s counsel each *clarified* the elements of the  
24 crime with which Petitioner was charged, and because Petitioner fails to offer any specific  
25 instance of pressure or coercion, this assertion likewise fails to meet Petitioner’s burden.

26  
27  
28 <sup>2</sup> See RT 3.12.20 at 25:22-23 (“MR. HART: How about do you want to get stabbed or  
killed? DEFENDANT BROWN: No.”).

1 Moreover, Petitioner repeatedly asserted that she was no coerced when canvassed by the  
2 Court.

3 Petitioner asserts that the Amended GPA was filed “without first withdrawing from  
4 the prior plea or agreement” and that it was “signed by counsel Nguyen rather than by  
5 Brown herself.” Supplement at 6:18-21. Petitioner also asserts that “she had not received a  
6 copy of the amended guilty plea agreement.” Id. at 16:22-23. The transcript of the June 16,  
7 2020, hearing shows that that the extraneous Henderson case had been contemplated as part  
8 of the original plea agreement, and that the GPA was amended simply “for clarity and  
9 conformity.” RT 6.16.20 at 2:16-20. Petitioner affirmed her understanding of the clerical  
10 change. Id. at 5:7-14. Thus, because the GPA was amended for a *clerical* change, and did not  
11 substantively change the negotiations, there was no “manifest injustice” in the Court  
12 proceeding with the Amended GPA.

13 Likewise, there is no “manifest injustice” to Petitioner’s counsel having signed the  
14 Amended GPA, as the practice was mandated by COVID-19 procedures, and because the  
15 signature was affixed at Petitioner’s direction. Specifically, in Administrative Order 20-10,  
16 the Chief Judge set out that a “guilty plea shall be signed by counsel in the following  
17 manner: ‘Signature affixed by (insert name of defense counsel) at the direction of (insert  
18 name of defendant).’” At 5:25-27. Moreover, Petitioner specifically affirmed that she  
19 authorized counsel to sign on her behalf. RT 6.18.20 at 6:6-13. Therefore, Petitioner cannot  
20 point to the signature on the Amended GPA as warranting relief.

21 Finally, there was no “manifest injustice” from Petitioner’s lack of possession of a  
22 physical copy of her Amended GPA prior to her plea canvass. Out of an abundance of  
23 caution (“[b]ecause of the tortured history of this case”) the Court wanted to have all of the  
24 documents together and wanted Petitioner to have every document “in front of [her]” before  
25 proceeding. Id. at 6:13-20. When Petitioner indicated that she had not yet received such a  
26 copy, Counsel indicated that she had left one with CCDC, but that the COVID-19 protocols  
27 were making it difficult for physical copies to get to inmates. Id. at 3:25-4:7. Counsel mailed  
28 two copies to CCDC. EH 20-21. Counsel also made clear that she had reviewed the

1 Amended GPA “word for word” with Petitioner. RT 6.18.20 at 3:22. The Court verified that  
2 with Petitioner:

3 THE COURT: Is that correct, Ms. Brown?

4 DEFENDANT BROWN: Yes.

5 THE COURT: She read everything to you?

6 DEFENDANT BROWN: Yes, she did.

7 THE COURT: Do you wish to go forward today?

8 DEFENDANT BROWN: Yes.

9 Id. at 4:8-13. The Court later reaffirmed counsel’s review of the Amended GPA:

10 THE COURT: ...again we had previously mentioned that she did read  
11 the entire Guilty Plea Agreement to you; is that correct, ma’am?

12 DEFENDANT BROWN: Yes.

13 Id. at 6:10-13. Because the Court simply wanted Petitioner to have copies to prevent any  
14 misunderstandings, and because Petitioner had affirmed that she had been read – and had no  
15 questions about – the Amended GPA, there was no “manifest injustice” from Petitioner’s  
16 lack of possession of a physical copy.

17 In sum, Petitioner has failed to demonstrate that her plea was not knowingly and  
18 voluntarily entered, and therefore has failed to demonstrate “manifest injustice” warranting  
19 withdrawal of her guilty plea.

20 **II. PETITIONER FAILS TO DEMONSTRATE INEFFECTIVE ASSISTANCE OF**  
21 **COUNSEL**

22 The Sixth Amendment to the United States Constitution provides that, “[i]n all  
23 criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel  
24 for his defense.” The United States Supreme Court has long recognized that “the right to  
25 counsel is the right to the effective assistance of counsel.” Strickland v. Washington, 466  
26 U.S. 668, 686, 104 S.Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138,  
27 865 P.2d 322, 323 (1993).

1 To prevail on a claim of ineffective assistance of trial counsel, a defendant must prove  
2 she was denied “reasonably effective assistance” of counsel by satisfying the two-prong test  
3 of Strickland, 466 U.S. at 686-87, 104 S.Ct. at 2063-64; see also Love, 109 Nev. at 1138,  
4 865 P.2d at 323. Under Strickland, a defendant must show first that her counsel's  
5 representation fell below an objective standard of reasonableness, and second, that but for  
6 counsel's errors, there is a reasonable probability that the result of the proceedings would  
7 have been different. 466 U.S. at 687-88, 694, 104 S.Ct. at 2065, 2068; Warden, Nevada  
8 State Prison v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting the Strickland  
9 two-part test). “[T]here is no reason for a court deciding an ineffective assistance claim to  
10 approach the inquiry in the same order or even to address both components of the inquiry if  
11 the defendant makes an insufficient showing on one.” Strickland, 466 U.S. at 697, 104 S.Ct.  
12 at 2069.

13 Even if a defendant can demonstrate that her counsel’s representation fell below an  
14 objective standard of reasonableness, she must still demonstrate prejudice and show a  
15 reasonable probability that, but for counsel’s errors, the result of the trial would have been  
16 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing  
17 Strickland, 466 U.S. at 687, 104 S.Ct. at 2064). “A reasonable probability is a probability  
18 sufficient to undermine confidence in the outcome.” Id. (citing Strickland, 466 U.S. at 687-  
19 89, 694, 104 S.Ct. at 2064-65, 2068). This portion of the test is slightly modified when the  
20 convictions occur due to a guilty plea. Hill v. Lockhart, 474 U.S. 52, 59, 106 S.Ct. 366, 370  
21 (1985); Kirksey v. State, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996). For a guilty plea, a  
22 defendant “must show that there is a reasonable probability that, but for counsel’s errors, he  
23 would not have pleaded guilty and would have insisted on going to trial.” Kirksey, 112 Nev.  
24 at 998, 923 P.2d at 1107 (quoting Hill, 474 U.S. at 59, 106 S.Ct. at 370).

25 The court begins with the presumption of effectiveness and then must determine  
26 whether the defendant has demonstrated by a preponderance of the evidence that counsel  
27 was ineffective. Means v. State, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004). “Effective  
28 counsel does not mean errorless counsel, but rather counsel whose assistance is ‘[w]ithin the



1 range of competence demanded of attorneys in criminal cases.” Jackson v. Warden, 91  
2 Nev. 430, 432, 537 P.2d 473, 474 (1975).

3 Here, Petitioner initially pled guilty, but then requested new counsel be appointed to  
4 investigate withdrawing Petitioner’s plea. See Court Minutes dated April 30, 2020. New  
5 counsel was confirmed on May 7, 2020. See Court Minutes dated May 7, 2020. However, at  
6 the status check on Petitioner’s plea withdrawal, Counsel represented that she had spoken  
7 with Petitioner, and that Petitioner was instead “prepared to go forward with sentencing.” RT  
8 6.04.20 at 2:9-12. On June 16, 2020, the Court confirmed with Petitioner that she no longer  
9 wished to withdraw her plea but wished “to go forward with the negotiations for [her] two  
10 cases.” RT 6.16.20 at 2:10-3:2 (Petitioner affirming that she wished to proceed). Because  
11 Petitioner affirmed that *she* wished to forego her efforts to withdraw her guilty plea,  
12 Petitioner cannot demonstrate prejudice. Kirksey, 112 Nev. at 998, 923 P.2d at 1107.  
13 Furthermore, Petitioner’s decision to proceed with sentencing precludes a finding of  
14 ineffectiveness here, as nothing in the record indicates that Counsel had made a value  
15 judgment on the likelihood of success of a motion to withdraw. See Supplement at 7-9. At  
16 the evidentiary hearing, Counsel testified that she spoke with Petitioner many times, for  
17 “hours” on the phone, discussed the likelihood of a motion to withdraw plea, and explained  
18 the ramifications of withdrawing the plea, including the very lengthy potential sentences  
19 Petitioner faced if she was successful in withdrawing her plea, and that Petitioner ultimately  
20 decided that accepting the plea was in her best interest. EH at 6-8, 10-12, 14-16, 18-19.

21 This Court finds that Counsel represented Petitioner competently and thoroughly, that  
22 her advice was not in any way neglectful or careless, and that her advice to enter into this  
23 plea agreement was in petitioner’s best interest and was not unreasonable.

### 24 **ORDER**

25 Therefore, Brown’s Petition for Writ of Habeas Corpus, and Supplement thereto, is  
26 DENIED.

27 DATED this \_\_\_\_\_ day of December, 2021.  
28

Dated this 3rd day of January, 2022

DISTRICT JUDGE



Respectfully submitted, **3EA 4F0 946A 5AB0**  
**Crystal Eller**  
**District Court Judge**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565

BY /S John Afshar  
JOHN AFSHAR  
Deputy District Attorney  
Nevada Bar #14408

Yes, I approve of the attached findings as to  
form and content and approve of my  
electronic signature being affixed to that  
effect.

Steven S. Owens  
/s Steven S. Owens  
STEVEN S. OWENS  
COUNSEL FOR PETITIONER  
NEVADA BAR #4352

## John Niman

---

**From:** Steve Owens <owenscrimlaw@gmail.com>  
**Sent:** Thursday, December 9, 2021 3:58 PM  
**To:** John Niman  
**Subject:** Re: FW: A-20-823908-W FFCO-(BROWN, LEQUANA)  
**Attachments:** Brown, Lequana A823908 FOFCL - FINAL.docx

**CAUTION:** This email originated from an **External Source**. Please **use caution** before opening attachments, clicking links, or responding to this email. **Do not sign-in with your DA account credentials.**

John,

Yes, I approve of the attached findings as to form and content and approve of my electronic signature being affixed to that effect. Please re-submit to the court for filing and attach this email if necessary as to my approval. Thanks.

Steven S. Owens

On Thu, Dec 9, 2021 at 2:24 PM John Niman <[John.Niman@clarkcountyda.com](mailto:John.Niman@clarkcountyda.com)> wrote:

Hi Steve,

You reviewed it before and OK'd the filing, but I added a signature block to e-sign your approval as to form and content. Could you please email be back with your approval so I can submit it with the findings?

Thank you,

John Afshar  
Deputy District Attorney  
Clark County District Attorney's Office  
P: 702-671-2630  
E: [john.niman@clarkcountyda.com](mailto:john.niman@clarkcountyda.com)

---

**From:** DC19Inbox <[DC19Inbox@clarkcountycourts.us](mailto:DC19Inbox@clarkcountycourts.us)>  
**Sent:** Thursday, December 9, 2021 1:57 PM  
**To:** Margaret Hernandez <[Margaret.Hernandez@clarkcountyda.com](mailto:Margaret.Hernandez@clarkcountyda.com)>  
**Cc:** Howard, Melody <[HowardM@clarkcountycourts.us](mailto:HowardM@clarkcountycourts.us)>; John Niman <[John.Niman@clarkcountyda.com](mailto:John.Niman@clarkcountyda.com)>; 'owenscrimlaw@gmail.com' <[owenscrimlaw@gmail.com](mailto:owenscrimlaw@gmail.com)>  
**Subject:** FW: A-20-823908-W FFCO-(BROWN, LEQUANA)  
**Importance:** High

**CAUTION:** This email originated from an **External Source**. Please **use caution** before opening attachments, clicking links, or responding to this email. **Do not sign-in with your DA account credentials.**

Ms. Hernandez/Counsel,

The submitted Findings of Fact, Conclusions of Law cannot be processed at this time. There is no indication that opposing counsel (Mr. Owens) was provided opportunity to review and countersign as to “form and content.”

Please revise the signature blocks to include a section for Mr. Owens’ signature (if electronically signed, please comply with the requirements of AO 21-04 for the electronic “signature of another person”). If Mr. Owens fails to respond, within 24 hours of given the opportunity, please attach as the last page(s) of the FFCO, all emails/correspondence demonstrating that he was provided an opportunity to review and sign as to “form and content,” and declined/refused to do so.

If you have any questions, please do not hesitate to contact me.

Regards,



**BRANDON M. THOMPSON, ESQ.**

Eighth Judicial District Court | Department 19

Law Clerk to the Honorable Crystal Eller

[Dept19LC@clarkcountycourts.us](mailto:Dept19LC@clarkcountycourts.us)

702.671.4443

---

**From:** Margaret Hernandez [<mailto:Margaret.Hernandez@clarkcountyda.com>]  
**Sent:** Thursday, December 9, 2021 11:12 AM  
**To:** DC19Inbox  
**Cc:** John Niman  
**Subject:** A-20-823908-W FFCO-(BROWN, LEQUANA)  
**Importance:** High

[NOTICE: This message originated outside of Eighth Judicial District Court -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Please see attached Findings of Fact, Conclusions of Law, and Order.

Thank you,



*Margaret Hernandez*

Legal Secretary II

Clark County District Attorney's Office

Criminal Division, Team L3

JC7, DC 17 & DC 19

(702) 671-2594 Direct

(702) 671-2670 Team

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Lequana Brown, Plaintiff(s)

CASE NO: A-20-823908-W

7 vs.

DEPT. NO. Department 19

8 State of Nevada, Defendant(s)

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 1/3/2022

15 Department XVII

Dept17LC@clarkcountycourts.us

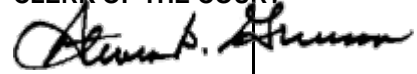
16 Steven Owens

owenscrimlaw@gmail.com

17  
18 If indicated below, a copy of the above mentioned filings were also served by mail  
19 via United States Postal Service, postage prepaid, to the parties listed below at their last  
known addresses on 1/4/2022

20 Steven Wolfson

Clark County District Attorney  
200 Lewis Avenue, 3rd Floor  
Las Vegas, NV, 89155



NEFF

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

LEQUANA BROWN,

Petitioner,

vs.

STATE OF NEVADA,

Respondent,

Case No: A-20-823908-W

Dept No: XIX

**NOTICE OF ENTRY OF FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER**

**PLEASE TAKE NOTICE** that on January 3, 2022, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on January 4, 2022.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

**CERTIFICATE OF E-SERVICE / MAILING**

I hereby certify that on this 4 day of January 2022, I served a copy of this Notice of Entry on the following:

☒ By e-mail:

Clark County District Attorney's Office  
Attorney General's Office – Appellate Division-

☒ The United States mail addressed as follows:

Lequana Brown # 1235328  
4370 Smiley Rd.  
Las Vegas, NV 89115

Steven S. Owens, Esq.  
1000 N. Green Valley #440-529  
Henderson, NV 89074

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

**RSPN**  
**STEVEN B. WOLFSON**  
Clark County District Attorney  
Nevada Bar #001565  
**JOHN AFSHAR**  
Deputy District Attorney  
Nevada Bar #14408  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**LEQUANA BROWN,**  
#2651822

Petitioner,

CASE NO: A-20-823908-W

-vs-

**THE STATE OF NEVADA,**

DEPT NO: XIX

Respondent.

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

DATE OF HEARING: November 4, 2021  
TIME OF HEARING: 1:30 PM

THIS CAUSE having come on for hearing before the Honorable CRYSTAL ELLER, District Judge, on the 4th day of November, 2021, the Defendant present via BlueJeans, represented by Steven S. Owens, Esq., present via BlueJeans, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through JOHN NIMAN, Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, testimony adduced at the evidentiary hearing, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

**POINTS AND AUTHORITIES**

**STATEMENT OF THE CASE**

On October 17, 2019, LEQUANA BROWN, aka Lequana Leatrice Brown (hereinafter "Petitioner") was charged by way of Indictment with two (2) counts of



1 CONSPIRACY TO COMMIT ROBBERY (Category B Felony – NRS 200.380, 199.480);  
2 two (2) counts of ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony –  
3 NRS 200.380, 193.165); two (2) counts of BURGLARY (Category B Felony – NRS  
4 205.060); one (1) count of GRAND LARCENY (Category C Felony – NRS 205.220.1,  
5 205.222.2); and one (1) count of OBTAINING AND USING PERSONAL IDENTIFYING  
6 INFORMATION OF ANOTHER (Category C Felony – NRS 205.463) for actions on or  
7 between June 4, 2019 and June 23, 2019.

8 On March 12, 2020, represented by Mr. Arnold, Esq., Petitioner pled guilty, pursuant  
9 to a Guilty Plea Agreement (“GPA”), to one (1) count of ROBBERY WITH USE OF A  
10 DEADLY WEAPON. Contemporaneous with the GPA, the State filed an Amended  
11 Indictment reflecting the single count to which Petitioner pled guilty. Petitioner further  
12 agreed to plead guilty to ROBBERY in a separate case, and the parties stipulated that  
13 Petitioner would receive sentences of four (4) to ten (10) years in each case, consecutive to  
14 each other.

15 On April 30, 2020, Petitioner represented that she wished to withdraw her plea and  
16 requested alternate counsel be appointed. The Court granted the motion to appoint alternate  
17 counsel, and Mr. Arnold was removed as counsel. On May 7, 2020, Matthew Lay, Esq., was  
18 appointed. Rochelle Nguyen, Esq (hereinafter “Counsel”), associated with Mr. Lay,  
19 primarily represented Petitioner. Recorder’s Transcript of Hearing Re: Evidentiary Hearing,  
20 November 4, 2021, (“EH”) at 4.

21 On June 4, 2020, Counsel represented that she had spoken with Petitioner and  
22 Petitioner no longer wished to withdraw her plea and wished to be sentenced.

23 On June 11, 2020, Petitioner’s sentencing was continued to amend the GPA because  
24 Counsel noticed the GPA did not include another case that was to be dismissed pursuant to  
25 negotiations.

26 On June 17, 2020, Petitioner executed an Amended GPA, with the amendment being  
27 that the State agreed to dismiss that separate case against Petitioner after rendition of  
28 sentence in the instant underlying case. On June 18, 2020, the Court canvassed Petitioner

1 regarding the Amended GPA and accepted Petitioner's guilty plea. The Court thereafter  
2 sentenced Petitioner to two (2) to five (5) years in the Nevada Department of Corrections for  
3 Robbery, with a consecutive two (2) to five (5) years for Use of a Deadly Weapon. Petitioner  
4 was given three hundred fifty-eight (358) days of credit for time served. Petitioner's  
5 Judgment of Conviction was filed on June 22, 2020.

6 Petitioner did not file a direct appeal. On October 29, 2020, Petitioner filed her  
7 Petition for Writ of Habeas Corpus. Petitioner included in her filed Petition a Motion for  
8 Appointment of Counsel. The State filed its Response to the Petition and Motion on  
9 December 17, 2020. On February 25, 2021, the Court granted Petitioner's Motion for  
10 Appointment of Counsel.

11 On June 14, 2021, Petitioner – through counsel – filed a Supplemental Brief in  
12 Support of Petition for Writ of Habeas Corpus (Post-Conviction). The State responded on  
13 July 29, 2021. Petitioner filed a reply on August 16, 2021. On August 26, 2021, this district  
14 court heard argument on the Petition and ordered an evidentiary hearing as to Petitioner's  
15 plea when she was represented by attorneys Matthew Lay and Rochelle Nguyen.<sup>1</sup> The  
16 evidentiary hearing was conducted on November 4, 2021, wherein this Court denied the  
17 petition and supplemental petition.

### 18 **STATEMENT OF FACTS**

19 The Court relied on the following facts when sentencing Petitioner:

20 On June 23, 2019, officers learned of the following events from the victim and  
21 other employees of Big 5. They stated the co-defendant, Sarah Gonzalez,  
22 started shopping for various clothing items. Shortly after, defendant, Lequana  
23 Brown, entered the store with a canvas shopping bag and began selecting  
24 various shoes and other items. Store employee #1 attempted to help Ms.  
25 Gonzalez; however, she stated that she did not need help. Employee #1 noted  
26 Ms. Gonzalez and Ms. Brown began interacting with each other and that they  
27 were associated with one another. Ms. Brown told the employee she just won  
28 money and was engaging in some spending. Ms. Gonzalez then came to the  
register where employee #2 was ringing up her transaction.

---

<sup>1</sup> The initial post-conviction proceedings were conducted before the Honorable Judge Michael Villani. On September 7, 2021, the case was reassigned to the Honorable Judge Crystal Eller.

1 As employee #1 was ringing up Ms. Brown's items, she told employee #2 she  
2 was in a hurry and needed to have her items rung up. Ms. Gonzalez then told  
3 employee #2 to ring all the items up on the same bill so that she and Ms.  
4 Brown can check out together. As employee #2 rung up the merchandize [sic],  
5 he set the bags behind the counter to prevent either defendant from walking out  
6 of the store before paying. Ms. Brown and Ms. Gonzalez drank Powerade that  
7 was from the stores [sic] coolers and left them unfinished at the register.

8 Ms. Brown told employee #3 she wanted to look at the shoes to make sure they  
9 were the right sizes. Employee #2 became suspicious and showed the shoes to  
10 her without allowing her to take control of the property. Ms. Brown  
11 complained and requested employee #1 finish the transaction. As employee #1  
12 began re-ringing all the items, the bags were set on the counter. Prior to the  
13 items being paid for, Ms. Gonzalez told him she also wanted to buy a pellet  
14 gun and the items were brought back inside Big 5. An additional co-defendant,  
15 identified as Mark Anthony Fink, aka, Mark Anthony Finks Jr, entered the  
16 store following Ms. Gonzalez and the victim. He then asked the victim if he  
17 could look at the pellet/BB guns. The victim and employee #2 showed Mr.  
18 Finks some of the guns until he chose a display model. Employee #2 put the  
19 gun and pellets into a plastic bag and the victim took the items to the register.

20 Once at the register, Mr. Finks and Ms. Gonzalez gathered a few items that  
21 were rung up and exited the store, without paying, with Ms. Brown following  
22 behind them. The victim yelled at the defendant to stop; however, Ms. Brown  
23 threw a debit card, that was not in her name, at him saying "here take this. [sic]  
24 The victim saw the defendants in a vehicle along with a fourth person. The  
25 victim attempted to retrieve one of the bags of property from Ms. Brown who  
26 was in the driver's side rear passenger. Mr. Finks pulled a gun on the victim  
27 which caused him to let go and the vehicle fled. Employee #1 noted the license  
28 plate while the victim called emergency services. The officers were informed a  
total \$2,251.91 worth of merchandise was stolen.

During the officer's investigation, the victim provided them with surveillance  
and the PowerAde drink bottles that were left. One of the officers located the  
vehicle used and noted Mr. Fink was in the driver's seat. A second male was  
handing shoes to a child who was trying them on. They then saw Ms. Gonzalez  
enter the passenger side. While they were arresting Ms. Gonzalez, she stated  
she had a gun in her bra and that Ms. Brown was in apartment 311.  
Additionally, officers observed Big 5 bags in the vehicle. The officers were  
able to recover \$481.34 worth of merchandise.

Officers went up to the third floor to locate Ms. Brown who was in the  
apartment; however, she was using an alias of Mia Jones. The stolen items  
recovered were returned to Big 5. After being transported to the Las Vegas  
Metropolitan Police Department Headquarters, Ms. Brown was interviewed.  
She admitted she was the person at Big 5 and knew the other defendants. She  
observed Ms. Gonzalez and Mr. Finks nearby and entered the vehicle to go to  
Big 5 due to Ms. Gonzalez stating she had coupons. Once in the store, Ms.

1 Brown picked out several shirts and handed them to Ms. Gonzalez who then  
2 began bagging up a large amount of clothing, along with the other merchandise  
3 before proceeding past all points of entry. Ms. Brown followed Mr. Finks out  
4 of the store and the employees followed after them. Mr. Finks then pointed a  
5 handgun at the employees. She admitted she never attempted to pay for the  
6 items she gave Ms. Gonzalez, nor did she make any attempts to notify police of  
7 the crime. Additionally, Ms. Brown admitted she was involved in another  
8 robbery of a Champs store on June 4, 2019, after being shown surveillance of  
9 that incident. When the officers interviewed Mr. Finks, he admitted he pointed  
10 a gun at the victim and told him to get the fuck away from the car due to him  
11 pulling on Ms. Brown. Ms. Gonzalez stated Ms. Brown told her she could pick  
12 out whatever she wanted, and she would pay for it. She stated she had a feeling  
13 Ms. Brown was going to use a fake check and a debit card that would not work  
14 to pay for the items. When the commotion started at the car, Ms. Gonzalez  
15 stated that Ms. Brown told Mr. Finks to just drive.

16 Presentence Investigation Report, at 8-9.

## 17 **ARGUMENT**

### 18 **I. PETITIONER FAILS TO DEMONSTRATE MANIFEST INJUSTICE**

19 Pursuant to NRS 176.165, once a defendant has been sentenced, she may only  
20 withdraw a guilty plea “[t]o correct manifest injustice.” See also, Baal v. State, 106 Nev. 69,  
21 72, 787 P.2d 391, 394 (1990). Reviewing courts must view a guilty plea as presumptively  
22 valid, and the burden rests with the defendant to establish that her plea was not entered  
23 knowingly and intelligently. Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986)  
24 (superseded by statute on other grounds as stated in Hart v. State, 116 Nev. 558, 1 P.3d 969  
25 (2000)). Manifest injustice does not exist if the defendant entered her plea voluntarily. Baal,  
26 106 Nev. at 72, 787 P.2d at 394 (given district court’s canvassing and defendant’s assertions  
27 of voluntariness, the district court did not abuse its discretion in denying defendant’s motion  
28 to withdraw guilty plea).

To determine the voluntariness of a guilty plea, a reviewing court considers the  
totality of the circumstances. Bryant, 102 Nev. at 271, 721 P.2d at 367. A proper plea canvas  
should reflect:

[T]he defendant knowingly waived his privilege against self-incrimination, the  
right to trial by jury, and the right to confront his accusers; (2) the plea was  
voluntary, was not coerced, and was not the result of a promise of leniency; (3)

1 the defendant understood the consequences of his plea and the range of  
2 punishments; and (4) the defendant understood the nature of the charge, i.e.,  
the elements of the crime.

3 Wilson v. State, 99 Nev. 362, 367, 664 P.2d 328, 331 (1983) (citing Higby v. Sheriff, 86  
4 Nev. 774 476 P.2d 950 (1970)). The presence and advice of counsel is a significant factor in  
5 determining the voluntariness of a guilty plea. Patton v. Warden, 91 Nev. 1, 2, 530 P.2d 107,  
6 107 (1975).

7 A court accepting a guilty plea must personally address the defendant at the time she  
8 enters her plea to determine whether she understands the nature of the charges to which she  
9 is pleading. Bryant, 102 Nev. at 271, 721 P.2d at 367. A written plea agreement, without  
10 some verbal interaction with the defendant, is insufficient. Id. However, the court need not  
11 conduct a ritualistic oral canvass. State v. Freese, 116 Nev. 1097, 13 P.3d 442 (2000). A  
12 guilty plea canvass does not “require the articulation of talismanic phrases.” Heffley v.  
13 Warden, 89 Nev. 573, 575, 516 P.2d 1403, 1404 (1973). Instead, the record must simply  
14 demonstrate that the defendant entered his guilty plea understandingly and voluntarily. Id.;  
15 see also, Brady v. United States, 397 U.S. 742, 747-48, 90 S.Ct. 1463, 1470 (1970).

16 Petitioner alleges that the circumstances surrounding her entry of plea constitute  
17 “manifest injustice,” such that she should be allowed to withdraw her guilty plea.  
18 Supplement at 3-7. Petitioner summarizes the extent of plea negotiations, which she  
19 describes as “confusing and protracted,” mentions the State’s filing of a Notice of Intent to  
20 Seek Treatment as a Habitual Criminal (“despite one of the priors being for drugs”), and  
21 complains that her amended GPA was signed by counsel, rather than by Petitioner herself.  
22 Id. However, Petitioner’s reliance on these “circumstances” is misguided, as Petitioner’s  
23 qualms are belied by the record.

24 Petitioner was not entitled to plea negotiations. NRS 174.035, is *permissive*, rather  
25 than compulsory. See NRS 174.035(2) (“If a plea of guilty...is made in a written plea  
26 agreement...” (emphasis added)). Therefore, whether the State extended *any* offer, or  
27 included *any* limitations on its offer, or revoked its offer, was within the discretion of the  
28 State.

Each of Petitioner's proposed qualms with her underlying case are expressly belied by the record and do not entitle Petitioner to relief. See Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984) ("bare" and "naked" allegations are not sufficient for relief, nor are allegations belied and repelled by the record). While Petitioner represents that the initial offer in Petitioner's case "were eventually revoked on December 5, 2019," the record demonstrates that on November 19, 2019, the State placed the offer on the record, and advised all parties that the offer would expire on December 5, 2019. See Court Minutes (Case No. C344112-3), dated November 19, 2019. Petitioner rejected that offer, and therefore the State withdrew it. Compare Supplement at 5:11-14 with Court Minutes (Case No. C344112-3), dated December 5, 2019. Thereafter, on January 3, 2020, Petitioner rejected negotiations again. See Recorder's Transcript of Proceedings, dated January 3, 2020 (filed May 5, 2020) ("RT 1.03.20").

At the January 3, 2020, hearing, Petitioner made an oral request for release on house arrest or electronic monitoring, providing the following explanation:

If I could get the ankle monitor to get my affairs in order and pack up my house and put stuff in storage and I'm willing to sign for the deal today and then come back for sentencing, if that's not the case I feel like I'm losing everything so I might as well just go to trial and just [indiscernible].

Id. at 4:18-22. However, the Court rejected Petitioner's request, explaining that such requests must be made in writing, and explaining:

I don't want anyone to enter negotiations just to get out of custody because then people come back and say, well, I only did it just to get out of custody. I didn't really mean it. I didn't do it. I was pressured, coerced into entering the negotiations. So, I don't allow that to occur. I mean if you're going to plead guilty, if you're taking responsibility, that's fine. If you don't want to take responsibility, then that's fine as well. Then we go to trial on all the charges. So, I don't want you – like I said, it – I'm not going to have my hands tied to say I'll only take a deal if you let me out today. That – I'm not – I don't work that way.

Id. at 5:11-20. Having been unsuccessful in her attempt, Petitioner reneged on the agreed-upon plea agreement. Id. at 6:4-9 (Petitioner had already signed the plea agreement but told the Court she did not want to go through with it). The record demonstrates that release from

1 custody was Petitioner's condition – not a term of negotiations – and does not constitute  
2 manifest injustice.

3 Petitioner argues that re-opening plea negotiations was “confusing.” On November  
4 19, 2019, the State revoked its offer after Petitioner rejected the offer. On January 3, 2020,  
5 the State temporarily re-extended the offer:

6  
7 [STATE]: The offers that are currently on the table today have already been  
8 revoked previously. When *Mr. Arnold told us that Ms. Brown was interested in*  
9 *the offer*, since I was going to be out of town next week for my honeymoon, I  
decided to re-extend that offer just for this instant based upon the  
circumstances, but if the offers aren't being entered into today it will again be  
revoked.

10 RT 1.03.20 at 8:17-22 (emphasis added). The record is clear that Petitioner initiated  
11 discussions, and there is nothing “manifestly unjust” about the State being willing to engage  
12 with Petitioner's request. The State was clear that, while the offer had been previously  
13 revoked, it was being temporarily re-extended. Counsel (Mr. Beckett, Esq., on behalf of Mr.  
14 Arnold) asked Petitioner if she wanted to accept the offer, and she said no. *Id.* at 6:4-7.  
15 When Petitioner rejected the offer that second time, the State revoked it again.

16 Nor were the later offers made reasonably “confusing,” especially given Counsel's  
17 efforts to ensure that Petitioner understood the negotiations. Petitioner believed that the offer  
18 being extended in her case was 6 to 15 years. EH at 7, 9, 16-17. Counsel testified that,  
19 despite the prior 6-to-15-year offer being revoked, an 8-to-20-year offer had been extended  
20 to Petitioner while she was represented by Mr. Arnold. EH at 17. Petitioner eventually  
21 agreed to a virtually identical 8-to-20-year offer, except that Counsel negotiated the  
22 additional benefit of another case being dismissed. EH at 20. Prior to entering into the guilty  
23 plea, Counsel had delivered a copy of the GPA to CCDC, mailed Petitioner a copy of the  
24 GPA twice, and reviewed the GPA with Petitioner “line by line” over the phone. EH at 20-  
25 21. Counsel called back “numerous times,” and was satisfied that Petitioner had no further  
26 questions about the GPA. EH at 21. Counsel answered whatever questions Petitioner asked.  
27 *Id.* at 21. When Petitioner represented that she had “freely and voluntarily entered into” the  
28 negotiations without being coerced on June 18, 2020, Counsel believed that to be true based

1 on their interactions. Id. at 22-23. While Petitioner testified generally that she remained  
2 confused about negotiations, this Court finds that any confusion which remained was not  
3 reasonable given Counsel's efforts to ensure Petitioner understood the negotiations. *See*  
4 *generally* EH 26-49. Petitioner testified that she was aware the 6-to-15-year offer was going  
5 to be revoked if she did not accept it at the December 5, 2019 hearing, and she did not accept  
6 it. EH 34. This Court finds Petitioner's testimony that she was confused about the  
7 negotiations after Counsel explained them to her is not credible in light of Counsel's  
8 testimony and the record as a whole.

9 Petitioner argues that the State's filing of a Notice of Intent to Seek Punishment as a  
10 Habitual Criminal was intended "[t]o punish Brown." Supplement at 5:17. However, that  
11 claim is not supported by the record.

12 Petitioner asserts that the State placed undue pressure on Petitioner by claiming that  
13 the State would not give Petitioner time to contemplate an offer. Supplement at 5:19-23.  
14 However, the transcript of the March 12, 2020, hearing belies Petitioner's assertion. See RT  
15 3.12.20. The beginning of that hearing demonstrates that Petitioner's counsel indicated that  
16 Petitioner was ready to proceed with negotiations. See id. at 2:7-11 (counsel represented to  
17 co-defendant's counsel that Petitioner wanted to enter a plea), 3:20-4:10 (counsel  
18 representing to the Court that the matter had resolved). Petitioner requested additional time  
19 to "think about it." Id. at 4:14. Thereafter, the State explained its situation:

20 ...Your Honor, at this point, the State's going to revoke the offer. We have a  
21 pre-trial at 2:00 o'clock, We've already pre-trialed several people. If she wants  
22 to take it now, like I told Mr. Arnold earlier, she can have it now, otherwise it's  
going to be revoked and there won't be any other offers made.

23 Id. at 4:17-21. The Court assured Petitioner that it was not biased between a plea or trial but  
24 did note Petitioner's back-and-forth throughout the proceedings. Id. at 5:8-10 ("All right,  
25 Ms. Brown, we've done this two or three times, okay..."), 5:24-25 ("I don't care – ma'am, I  
26 don't care if you accept [the negotiations] or not. I'm free next week."), 6:8-9 ("...you have  
27 the right to go to trial. I will not rush you into any negotiations.").

28 Thereafter, Petitioner changed her decision and decided to proceed with the guilty  
plea. RT 3.12.20 at 6:14-19. During that March 12, 2020, plea canvass, an issue regarding



1 the “deadly weapon” charge arose. See id. at 10:23-11:14; see also Supplement at 5:23-6:2.  
2 However, the parties agreed to modify negotiations so that Petitioner would only be pleading  
3 to the use of a deadly weapon in a single case. Id. at 11:23-12:4. After the parties had agreed  
4 to modify negotiations, the Court had proceeded, yet again, with a plea canvass, Petitioner  
5 began to quibble about the remaining deadly weapon charge. Id. at 13:19-14:2. However, the  
6 Court explained to Petitioner how that charge could apply to her:

7 THE COURT: Were you working with these people to steal things?

8 DEFENDANT BROWN: Yes.

9 THE COURT: Okay. Do you – because as an aider and abettor, you  
10 understand that you’re liable for everything they do and they’re liable for what  
11 you do as well as part of the conspiracy to commit this crime? Do you  
12 understand that?

12 DEFENDANT BROWN: Yeah.

13 Id. at 14:3-10. Before the Court took a recess to allow the State to make the modifications,  
14 the Court asked a final time if Petitioner was certain of her decision:

15 THE COURT: Okay, are you going to enter these pleas today, ma’am?  
16 I don’t have time to play games here. They’ll redo the paperwork. They’re only  
17 going to allege a robbery here, robbery with use in the other case, 4 to 10 on  
each case, consecutive. Do you understand that?

18 DEFENDANT BROWN: Yes.

19 THE COURT: Do you want to go forward? It’s not Mr. Arnold’s  
20 decision, its [sic] not mine, its [sic] yours.

20 DEFENDANT BROWN: Yes.

21 THE COURT: Are you sure?

22 DEFENDANT BROWN: Yes.

23 THE COURT: Okay. They’re going to get the paperwork fixed and  
24 then Mr. Arnold will go over those again with you. And if not, like I said, I’m  
25 ready for trial Monday on 19 charges and if you’re found guilty, I’ll sentence  
26 you on 19. If you’re found guilty on one, I’ll sentence you on one, or any  
combination thereof. If you’re found not guilty, then you walk out the door. Do  
you understand that?

27 DEFENDANT BROWN: Yeah.

1 Id. at 14:11-15:3. Therefore, the Court did not “express frustration” but instead was making  
2 sure the situation was clear, so that the matter could progress (whether to trial or to a guilty  
3 plea). There was nothing “manifestly unjust” about this exchange.

4         Petitioner asserts that she was “pressured by her attorney and the judge.” Supplement  
5 at 6:9-11. This assertion is belied by the transcript of the plea canvass. When the Court asked  
6 Petitioner to confirm the factual basis for her plea, Petitioner equivocated. RT 3.12.20 at  
7 19:3-22. Petitioner’s attorney then submitted that there was video evidence that Petitioner  
8 had “used her forearm to move [a clerk] out of the way to get out the door.” Id. at 19:23-  
9 20:3. When asked to confirm that submission, Petitioner agreed. Id. at 20:5. However,  
10 Petitioner disagreed that her action constituted force. Id. at 20:6-16. The Court then  
11 attempted to clarify the situation and specify which facts Petitioner would admit. Id. at  
12 20:13-22:23. The State offered that Petitioner had told the clerk to “back off, or you know,  
13 I’ll stab you, or something like that, and that was the threat or force that was used in this  
14 case...” Id. at 22:24-23:4. After Petitioner again equivocated, the Court ended its canvass  
15 and indicated it would proceed to trial. See id. at 23:24:8. Petitioner’s counsel called the  
16 Court back to proceed with the plea. Id. at 24:11-14. Rather than tell Petitioner what it  
17 wanted to hear, the Court simply asked, “What did you do, ma’am?” Id. at 24:15.  
18 Petitioner’s counsel clarified, “What force did you use...to get out of there?” Id. at 24:21-23.  
19 Petitioner said: “I told [the clerk] if she touched me – I said if she touched me when she  
20 come, I’ll beat her ass.” Id. at 25:1-2. While *co-defendant’s counsel* may have interjected  
21 something to which Petitioner did not agree,<sup>2</sup> the transcript shows that Petitioner volunteered  
22 this element of robbery, without any coercion whatsoever. See id. at 26:1-7. Because the  
23 context shows that the Court and Petitioner’s counsel each *clarified* the elements of the  
24 crime with which Petitioner was charged, and because Petitioner fails to offer any specific  
25 instance of pressure or coercion, this assertion likewise fails to meet Petitioner’s burden.

26  
27  
28 <sup>2</sup> See RT 3.12.20 at 25:22-23 (“MR. HART: How about do you want to get stabbed or  
killed? DEFENDANT BROWN: No.”).

1 Moreover, Petitioner repeatedly asserted that she was no coerced when canvassed by the  
2 Court.

3 Petitioner asserts that the Amended GPA was filed “without first withdrawing from  
4 the prior plea or agreement” and that it was “signed by counsel Nguyen rather than by  
5 Brown herself.” Supplement at 6:18-21. Petitioner also asserts that “she had not received a  
6 copy of the amended guilty plea agreement.” Id. at 16:22-23. The transcript of the June 16,  
7 2020, hearing shows that that the extraneous Henderson case had been contemplated as part  
8 of the original plea agreement, and that the GPA was amended simply “for clarity and  
9 conformity.” RT 6.16.20 at 2:16-20. Petitioner affirmed her understanding of the clerical  
10 change. Id. at 5:7-14. Thus, because the GPA was amended for a *clerical* change, and did not  
11 substantively change the negotiations, there was no “manifest injustice” in the Court  
12 proceeding with the Amended GPA.

13 Likewise, there is no “manifest injustice” to Petitioner’s counsel having signed the  
14 Amended GPA, as the practice was mandated by COVID-19 procedures, and because the  
15 signature was affixed at Petitioner’s direction. Specifically, in Administrative Order 20-10,  
16 the Chief Judge set out that a “guilty plea shall be signed by counsel in the following  
17 manner: ‘Signature affixed by (insert name of defense counsel) at the direction of (insert  
18 name of defendant).’” At 5:25-27. Moreover, Petitioner specifically affirmed that she  
19 authorized counsel to sign on her behalf. RT 6.18.20 at 6:6-13. Therefore, Petitioner cannot  
20 point to the signature on the Amended GPA as warranting relief.

21 Finally, there was no “manifest injustice” from Petitioner’s lack of possession of a  
22 physical copy of her Amended GPA prior to her plea canvass. Out of an abundance of  
23 caution (“[b]ecause of the tortured history of this case”) the Court wanted to have all of the  
24 documents together and wanted Petitioner to have every document “in front of [her]” before  
25 proceeding. Id. at 6:13-20. When Petitioner indicated that she had not yet received such a  
26 copy, Counsel indicated that she had left one with CCDC, but that the COVID-19 protocols  
27 were making it difficult for physical copies to get to inmates. Id. at 3:25-4:7. Counsel mailed  
28 two copies to CCDC. EH 20-21. Counsel also made clear that she had reviewed the

1 Amended GPA “word for word” with Petitioner. RT 6.18.20 at 3:22. The Court verified that  
2 with Petitioner:

3 THE COURT: Is that correct, Ms. Brown?

4 DEFENDANT BROWN: Yes.

5 THE COURT: She read everything to you?

6 DEFENDANT BROWN: Yes, she did.

7 THE COURT: Do you wish to go forward today?

8 DEFENDANT BROWN: Yes.

9 Id. at 4:8-13. The Court later reaffirmed counsel’s review of the Amended GPA:

10 THE COURT: ...again we had previously mentioned that she did read  
11 the entire Guilty Plea Agreement to you; is that correct, ma’am?

12 DEFENDANT BROWN: Yes.

13 Id. at 6:10-13. Because the Court simply wanted Petitioner to have copies to prevent any  
14 misunderstandings, and because Petitioner had affirmed that she had been read – and had no  
15 questions about – the Amended GPA, there was no “manifest injustice” from Petitioner’s  
16 lack of possession of a physical copy.

17 In sum, Petitioner has failed to demonstrate that her plea was not knowingly and  
18 voluntarily entered, and therefore has failed to demonstrate “manifest injustice” warranting  
19 withdrawal of her guilty plea.

20 **II. PETITIONER FAILS TO DEMONSTRATE INEFFECTIVE ASSISTANCE OF**  
21 **COUNSEL**

22 The Sixth Amendment to the United States Constitution provides that, “[i]n all  
23 criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel  
24 for his defense.” The United States Supreme Court has long recognized that “the right to  
25 counsel is the right to the effective assistance of counsel.” Strickland v. Washington, 466  
26 U.S. 668, 686, 104 S.Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138,  
27 865 P.2d 322, 323 (1993).

1 To prevail on a claim of ineffective assistance of trial counsel, a defendant must prove  
2 she was denied “reasonably effective assistance” of counsel by satisfying the two-prong test  
3 of Strickland, 466 U.S. at 686-87, 104 S.Ct. at 2063-64; see also Love, 109 Nev. at 1138,  
4 865 P.2d at 323. Under Strickland, a defendant must show first that her counsel's  
5 representation fell below an objective standard of reasonableness, and second, that but for  
6 counsel's errors, there is a reasonable probability that the result of the proceedings would  
7 have been different. 466 U.S. at 687-88, 694, 104 S.Ct. at 2065, 2068; Warden, Nevada  
8 State Prison v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting the Strickland  
9 two-part test). “[T]here is no reason for a court deciding an ineffective assistance claim to  
10 approach the inquiry in the same order or even to address both components of the inquiry if  
11 the defendant makes an insufficient showing on one.” Strickland, 466 U.S. at 697, 104 S.Ct.  
12 at 2069.

13 Even if a defendant can demonstrate that her counsel’s representation fell below an  
14 objective standard of reasonableness, she must still demonstrate prejudice and show a  
15 reasonable probability that, but for counsel’s errors, the result of the trial would have been  
16 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing  
17 Strickland, 466 U.S. at 687, 104 S.Ct. at 2064). “A reasonable probability is a probability  
18 sufficient to undermine confidence in the outcome.” Id. (citing Strickland, 466 U.S. at 687-  
19 89, 694, 104 S.Ct. at 2064-65, 2068). This portion of the test is slightly modified when the  
20 convictions occur due to a guilty plea. Hill v. Lockhart, 474 U.S. 52, 59, 106 S.Ct. 366, 370  
21 (1985); Kirksey v. State, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996). For a guilty plea, a  
22 defendant “must show that there is a reasonable probability that, but for counsel’s errors, he  
23 would not have pleaded guilty and would have insisted on going to trial.” Kirksey, 112 Nev.  
24 at 998, 923 P.2d at 1107 (quoting Hill, 474 U.S. at 59, 106 S.Ct. at 370).

25 The court begins with the presumption of effectiveness and then must determine  
26 whether the defendant has demonstrated by a preponderance of the evidence that counsel  
27 was ineffective. Means v. State, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004). “Effective  
28 counsel does not mean errorless counsel, but rather counsel whose assistance is ‘[w]ithin the

1 range of competence demanded of attorneys in criminal cases.” Jackson v. Warden, 91  
2 Nev. 430, 432, 537 P.2d 473, 474 (1975).

3 Here, Petitioner initially pled guilty, but then requested new counsel be appointed to  
4 investigate withdrawing Petitioner’s plea. See Court Minutes dated April 30, 2020. New  
5 counsel was confirmed on May 7, 2020. See Court Minutes dated May 7, 2020. However, at  
6 the status check on Petitioner’s plea withdrawal, Counsel represented that she had spoken  
7 with Petitioner, and that Petitioner was instead “prepared to go forward with sentencing.” RT  
8 6.04.20 at 2:9-12. On June 16, 2020, the Court confirmed with Petitioner that she no longer  
9 wished to withdraw her plea but wished “to go forward with the negotiations for [her] two  
10 cases.” RT 6.16.20 at 2:10-3:2 (Petitioner affirming that she wished to proceed). Because  
11 Petitioner affirmed that *she* wished to forego her efforts to withdraw her guilty plea,  
12 Petitioner cannot demonstrate prejudice. Kirksey, 112 Nev. at 998, 923 P.2d at 1107.  
13 Furthermore, Petitioner’s decision to proceed with sentencing precludes a finding of  
14 ineffectiveness here, as nothing in the record indicates that Counsel had made a value  
15 judgment on the likelihood of success of a motion to withdraw. See Supplement at 7-9. At  
16 the evidentiary hearing, Counsel testified that she spoke with Petitioner many times, for  
17 “hours” on the phone, discussed the likelihood of a motion to withdraw plea, and explained  
18 the ramifications of withdrawing the plea, including the very lengthy potential sentences  
19 Petitioner faced if she was successful in withdrawing her plea, and that Petitioner ultimately  
20 decided that accepting the plea was in her best interest. EH at 6-8, 10-12, 14-16, 18-19.

21 This Court finds that Counsel represented Petitioner competently and thoroughly, that  
22 her advice was not in any way neglectful or careless, and that her advice to enter into this  
23 plea agreement was in petitioner’s best interest and was not unreasonable.

### 24 **ORDER**

25 Therefore, Brown’s Petition for Writ of Habeas Corpus, and Supplement thereto, is  
26 DENIED.

27 DATED this \_\_\_\_\_ day of December, 2021.  
28

Dated this 3rd day of January, 2022

DISTRICT JUDGE



Respectfully submitted, **3EA 4F0 946A 5AB0**  
**Crystal Eller**  
**District Court Judge**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565

BY /S John Afshar  
JOHN AFSHAR  
Deputy District Attorney  
Nevada Bar #14408

Yes, I approve of the attached findings as to  
form and content and approve of my  
electronic signature being affixed to that  
effect.

Steven S. Owens  
/s Steven S. Owens  
STEVEN S. OWENS  
COUNSEL FOR PETITIONER  
NEVADA BAR #4352

## John Niman

---

**From:** Steve Owens <owenscrimlaw@gmail.com>  
**Sent:** Thursday, December 9, 2021 3:58 PM  
**To:** John Niman  
**Subject:** Re: FW: A-20-823908-W FFCO-(BROWN, LEQUANA)  
**Attachments:** Brown, Lequana A823908 FOFCL - FINAL.docx

**CAUTION:** This email originated from an **External Source**. Please **use caution** before opening attachments, clicking links, or responding to this email. **Do not sign-in with your DA account credentials.**

John,

Yes, I approve of the attached findings as to form and content and approve of my electronic signature being affixed to that effect. Please re-submit to the court for filing and attach this email if necessary as to my approval. Thanks.

Steven S. Owens

On Thu, Dec 9, 2021 at 2:24 PM John Niman <[John.Niman@clarkcountyda.com](mailto:John.Niman@clarkcountyda.com)> wrote:

Hi Steve,

You reviewed it before and OK'd the filing, but I added a signature block to e-sign your approval as to form and content. Could you please email be back with your approval so I can submit it with the findings?

Thank you,

John Afshar  
Deputy District Attorney  
Clark County District Attorney's Office  
P: 702-671-2630  
E: [john.niman@clarkcountyda.com](mailto:john.niman@clarkcountyda.com)

---

**From:** DC19Inbox <[DC19Inbox@clarkcountycourts.us](mailto:DC19Inbox@clarkcountycourts.us)>  
**Sent:** Thursday, December 9, 2021 1:57 PM  
**To:** Margaret Hernandez <[Margaret.Hernandez@clarkcountyda.com](mailto:Margaret.Hernandez@clarkcountyda.com)>  
**Cc:** Howard, Melody <[HowardM@clarkcountycourts.us](mailto:HowardM@clarkcountycourts.us)>; John Niman <[John.Niman@clarkcountyda.com](mailto:John.Niman@clarkcountyda.com)>; 'owenscrimlaw@gmail.com' <[owenscrimlaw@gmail.com](mailto:owenscrimlaw@gmail.com)>  
**Subject:** FW: A-20-823908-W FFCO-(BROWN, LEQUANA)  
**Importance:** High



**CAUTION:** This email originated from an **External Source**. Please **use caution** before opening attachments, clicking links, or responding to this email. **Do not sign-in with your DA account credentials.**

Ms. Hernandez/Counsel,

The submitted Findings of Fact, Conclusions of Law cannot be processed at this time. There is no indication that opposing counsel (Mr. Owens) was provided opportunity to review and countersign as to “form and content.”

Please revise the signature blocks to include a section for Mr. Owens’ signature (if electronically signed, please comply with the requirements of AO 21-04 for the electronic “signature of another person”). If Mr. Owens fails to respond, within 24 hours of given the opportunity, please attach as the last page(s) of the FFCO, all emails/correspondence demonstrating that he was provided an opportunity to review and sign as to “form and content,” and declined/refused to do so.

If you have any questions, please do not hesitate to contact me.

Regards,



**BRANDON M. THOMPSON, ESQ.**

Eighth Judicial District Court | Department 19

Law Clerk to the Honorable Crystal Eller

[Dept19LC@clarkcountycourts.us](mailto:Dept19LC@clarkcountycourts.us)

702.671.4443

---

**From:** Margaret Hernandez [<mailto:Margaret.Hernandez@clarkcountyda.com>]  
**Sent:** Thursday, December 9, 2021 11:12 AM  
**To:** DC19Inbox  
**Cc:** John Niman  
**Subject:** A-20-823908-W FFCO-(BROWN, LEQUANA)  
**Importance:** High

[NOTICE: This message originated outside of Eighth Judicial District Court -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Please see attached Findings of Fact, Conclusions of Law, and Order.

Thank you,



*Margaret Hernandez*

Legal Secretary II

Clark County District Attorney's Office

Criminal Division, Team L3

JC7, DC 17 & DC 19

(702) 671-2594 Direct

(702) 671-2670 Team

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Lequana Brown, Plaintiff(s)

CASE NO: A-20-823908-W

7 vs.

DEPT. NO. Department 19

8 State of Nevada, Defendant(s)

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 1/3/2022

15 Department XVII

Dept17LC@clarkcountycourts.us

16 Steven Owens

owenscrimlaw@gmail.com

17  
18 If indicated below, a copy of the above mentioned filings were also served by mail  
19 via United States Postal Service, postage prepaid, to the parties listed below at their last  
known addresses on 1/4/2022

20 Steven Wolfson

Clark County District Attorney  
200 Lewis Avenue, 3rd Floor  
Las Vegas, NV, 89155

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**November 03, 2020**

---

A-20-823908-W      Lequana Brown, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

---

**November 03, 2020      3:00 AM      Minute Order**

**HEARD BY:** Villani, Michael

**COURTROOM:** Chambers

**COURT CLERK:** Samantha Albrecht

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- In conjunction with the Order for Petition for Writ of Habeas Corpus filed on November 3, 2020 by this court. This Court ORDERS said matter SET on February 5th 2021, at 10:00 AM.

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

## Writ of Habeas Corpus

# COURT MINUTES

February 05, 2021

A-20-823908-W      Lequana Brown, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

**February 05, 2021      10:00 AM      All Pending Motions**

**HEARD BY:** Villani, Michael

**COURTROOM:** RJC Courtroom 11A

**COURT CLERK:** Samantha Albrecht

**RECORDER:** Cynthia Georgilas

**REPORTER:**

## PARTIES

**PRESENT:** Stanton, David L. Attorney  
State of Nevada Defendant

## JOURNAL ENTRIES

- PETITION FOR WRIT OF HABEAS CORPUS...PLAINTIFF'S MOTION FOR APPOINTMENT OF COUNSEL...PLAINTIFF'S MOTION TO WITHDRAW COUNSEL

Defendant not present. COURT ORDERED, matters TAKEN UNDER ADVISEMENT. Court advised it was basing its decision on the pleadings on file herein, not accepting any oral argument and a written decision would be issued next week.

NDC

CLERK'S NOTE: A copy of this Minute Order was mailed to:  
Lequana Brown #1235328  
FMWCC  
4370 Smiley Rd  
Las Vegas, NV 89115 (2/11/2021 sa)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**February 25, 2021**

---

A-20-823908-W      Lequana Brown, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

---

**February 25, 2021      3:00 AM      Minute Order**

**HEARD BY:** Villani, Michael      **COURTROOM:** Chambers

**COURT CLERK:** Samantha Albrecht

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Petitioner's Motion for Appointment of Counsel and Petition for Writ of Habeas Corpus (Post-Conviction) came before the Court, whereupon the Court took the matter under further advisement. After considering all pleadings and arguments, the Court renders its decision as follows:

Based upon the nature of the allegations and the sentence imposed, Petitioner's Motion for Appointment of Counsel is GRANTED. Furthermore, THIS COURT ORDERS a Status Check: Appointment of Counsel SET for March 9, 2021, at 8:30 AM.

This Court ruling on Petitioner's Writ of Habeas Corpus is DEFERRED, as this Court is appointing counsel to supplement Petitioner's Pro Per Petition for Writ of Habeas Corpus. Therefore, THIS COURT ORDERS a Status Check: Briefing Schedule SET for March 9, 2021, at 8:30 AM.

CLERK'S NOTE: A copy of this Minute Order distributed to counsel by e-mail and mailed to:

Lequana Brown #1235328  
FMWCC  
4370 Smiley Rd  
Las Vegas, NV 89115 (2/25/2021 sa)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**March 09, 2021**

---

A-20-823908-W	Lequana Brown, Plaintiff(s)
	vs.
	State of Nevada, Defendant(s)

---

**March 09, 2021      8:30 AM      All Pending Motions**

**HEARD BY:** Villani, Michael      **COURTROOM:** RJC Courtroom 11A

**COURT CLERK:** Samantha Albrecht

**RECORDER:** Cynthia Georgilas

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Luong, Vivian	Attorney
	Owens, Steven S.	Attorney
	State of Nevada	Defendant

**JOURNAL ENTRIES**

- STATUS CHECK: APPOINTMENT OF COUNSEL...STATUS CHECK: BRIEFING SCHEDULE

Upon Court's inquiry, Steven Owens CONFIRMED as counsel of record for the Defendant and noted he still needs the file. COURT ORDERED, matter SET for Status Check. Court advised Mr. Owens that there were 4 or 5 hearings before her entry of plea, however she backed out or had other questions and directed Mr. Owens to review those Court minutes.

NDC

4/13/2021 8:30 AM STATUS CHECK: FILE/SET BRIEFING SCHEDULE

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**April 13, 2021**

---

A-20-823908-W	Lequana Brown, Plaintiff(s)
	vs.
	State of Nevada, Defendant(s)

---

<b>April 13, 2021</b>	<b>8:30 AM</b>	<b>Status Check: Status of Case</b>
-----------------------	----------------	-------------------------------------

**HEARD BY:** Ballou, Erika

**COURTROOM:** RJC Courtroom 12C

**COURT CLERK:**  
Ro'Shell Hurtado

**RECORDER:** Susan Schofield

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Owens, Steven S.	Attorney
	Stanton, David L.	Attorney

**JOURNAL ENTRIES**

- Steven Owens, Esq. and David Stanton, Esq. present via Bluejeans video conference.

Colloquy regarding briefing schedule. Following colloquy, COURT ORDERED, following Briefing Schedule SET: Supplemental Brief filed by June 14, 2021; Response Brief filed by August 2, 2021; Reply Brief filed by August 16, 2021; matter SET for argument.

NDC

08.24.2021 8:30 AM ARGUMENT



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**August 24, 2021**

---

A-20-823908-W      Lequana Brown, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

---

**August 24, 2021      8:30 AM      Argument**

**HEARD BY:** Villani, Michael      **COURTROOM:** RJC Courtroom 11A

**COURT CLERK:** Samantha Albrecht

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

**PRESENT:**      Botelho, Agnes M      Attorney  
Owens, Steven S.      Attorney

**JOURNAL ENTRIES**

- Defendant not transported.

Due to time constraints with Clark County Detention Center s Bluejeans videoconferencing, COURT ORDERED, matter CONTINUED.

NDC

CONTINUED TO: 8/26/2021 10:00 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**August 26, 2021**

---

A-20-823908-W	Lequana Brown, Plaintiff(s)
	vs.
	State of Nevada, Defendant(s)

---

**August 26, 2021      10:00 AM      Argument**

**HEARD BY:** Villani, Michael      **COURTROOM:** RJC Courtroom 11A

**COURT CLERK:** Samantha Albrecht

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Owens, Steven S.	Attorney
	State of Nevada	Defendant
	Wyse, Seleste A	Attorney

**JOURNAL ENTRIES**

- Defendant not present.

Mr. Owens advised Defendant was seeking to withdraw her plea based on manifest injustice and ineffectiveness of counsel. Argument by Mr. Owens. State submitted on their response. COURT ORDERED, Evidentiary Hearing to be SET for the second plea with Matthew Lay and Rochelle Nguyen present. Court stated it wanted to hear this Evidentiary Hearing before the reassignment on September 7th. Court advised the Law Clerk would reach out to the parties regarding an available date for the Evidentiary Hearing on either Friday or Monday and if the Court was unable to place the matter on calendar next week for the Evidentiary Hearing, case would be set for a Status Check regarding setting of the Evidentiary Hearing.

NDC

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

## Writ of Habeas Corpus

# COURT MINUTES

September 02, 2021

A-20-823908-W      Lequana Brown, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

**September 02, 2021      8:30 AM      Status Check**

**HEARD BY:** Villani, Michael

**COURTROOM:** RJC Courtroom 11A

**COURT CLERK:** Samantha Albrecht

**RECORDER:** Kristine Santi

**REPORTER:**

## PARTIES

**PRESENT:** Niman, John T. Attorney  
Owens, Steven S. Attorney  
State of Nevada Defendant

## JOURNAL ENTRIES

- Defendant not present.

Mr. Owens advised they were unable to get the Defendant transported and the 2 witnesses, Matthew Lay and Rochelle Nguyen, were unavailable this week, therefore he requested an Evidentiary Hearing be set in 30 to 45 days per the prison's request. COURT ORDERED, Status Check CONTINUED. Court noted it was available, however Defendant was unable to be transported and the witnesses were unavailable.

NDC

CONTINUED TO: 9/9/2021 8:30 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**September 09, 2021**

---

A-20-823908-W      Lequana Brown, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

---

**September 09, 2021    11:00 AM      Status Check**

**HEARD BY:** Eller, Crystal      **COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Cynthia Moleres

**RECORDER:** Brittany Amoroso

**REPORTER:**

**PARTIES**

**PRESENT:**      Niman, John T.      Attorney  
                 Owens, Steven S.      Attorney

**JOURNAL ENTRIES**

- Counsel appeared via BlueJeans.

Defendant not present. Colloquy regarding hearing date. COURT ORDERED, evidentiary hearing SET.

IN CUSTODY

11/04/21 1:00 P.M. EVIDENTIARY HEARING

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

## Writ of Habeas Corpus

# COURT MINUTES

November 04, 2021

A-20-823908-W      Lequana Brown, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

**November 04, 2021      1:30 PM      Evidentiary Hearing**

**HEARD BY:** Eller, Crystal

**COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Cynthia Moleres

**RECORDER:** Brittany Amoroso

**REPORTER:**

## PARTIES

<b>PRESENT:</b>	Brown, Lequana	Plaintiff
	Niman, John T.	Attorney
	Owens, Steven S.	Attorney

## JOURNAL ENTRIES

- Defendant appeared via BlueJeans.

Rochelle Nguyen SWORN and TESTIFIED. Mr. Owens indicated Defendant was waiving her attorney/client privilege. Lequana Brown SWORN and TESTIFIED. Closings by Mr. Owens and Mr. Niman. COURT stated its findings and ORDERED, Writ DENIED. Mr. Niman to prepare the order and circulate to counsel. Upon Mr. Owens' request, COURT FURTHER ORDERED, Mr. Owens APPOINTED for appeal.

NDC

# Certification of Copy

State of Nevada }  
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT  
DOCKET ENTRIES; CIVIL COVER SHEET; FINDINGS OF FACT, CONCLUSIONS OF LAW, AND  
ORDER; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER;  
DISTRICT COURT MINUTES

LEQUANA BROWN,

Plaintiff(s),

vs.

THE STATE OF NEVADA,

Defendant(s),

Case No: A-20-823908-W

Dept No: XIX

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 4 day of January 2022.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk

