

IN THE SUPREME COURT OF THE STATE OF NEVADA

LEQUANA BROWN,

Appellant,

v.

STATE OF NEVADA,

Respondent.

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CASE NO: 84042

APPELLANT'S APPENDIX

Volume 1

STEVEN S. OWENS, ESQ.
Nevada Bar #004352
Steven S. Owens, LLC
1000 N. Green Valley #440-529
Henderson, Nevada 89074
(702) 595-1171

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
200 Lewis Avenue
Post Office Box 552212
Las Vegas, Nevada 89155-2212
(702) 671-2500

AARON D. FORD
Nevada Attorney General
Nevada Bar #007704
100 North Carson Street
Carson City, Nevada 89701-4717
(775) 684-1265

Counsel for Appellant

Counsel for Respondent

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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)
)
Plaintiff,)
)
vs.) GJ No. 19BGJ023ABC
) DC No. C344112
MARK ANTHONY FINK, aka Mark)
Anthony Finks, Jr., SARAH)
GONZALEZ, LEQUANA BROWN, aka)
Lequana Leatrice Brown,)
Defendants.)

Taken at Las Vegas, Nevada

Wednesday, October 16, 2019

8:35 a.m.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Reported by: Danette L. Antonacci, C.C.R. No. 222

12:00 1 GRAND JURORS PRESENT ON OCTOBER 16, 2019
2
3 STEVE LURVEY, FOREPERSON
4 TIARA COSENTINO, Deputy Foreperson
12:00 5 MARLA SMITH, Secretary
6 KATHERINE FORRED, Assistant Secretary
7 JOHN FINKOWSKI
8 PAUL GILLENWATER
9 MARK GOODMAN
12:00 10 JEFFREY GRUBER
11 CRISTAL HINOJOSH CRUZ
12 PAUL KOSLUCHER
13 WILLIAM LISTON
14 FLORA MCCLINTON-MCFARLING
12:00 15 GERALD REID
16 DANIEL STACK
17 NOEL WELLMAN
18 WALTER ZUKOWSKI
19
12:00 20
21 Also present at the request of the Grand Jury:
22 Brandon Albright, Deputy District Attorney
23 Stephanie Getler, Deputy District Attorney
24
25

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JAVON KAMANUWAI	18
BRIAN AKITA	34
ERIK PERKETT	49

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12:00

1

LAS VEGAS, NEVADA, OCTOBER 16, 2019

2

* * * * *

3

4

DANETTE L. ANTONACCI,

12:00

5

having been first duly sworn to faithfully

6

and accurately transcribe the following

7

proceedings to the best of her ability.

8

9

THE FOREPERSON: Let the record reflect

08:16

10

that I have canvassed the waiting area and no one has

11

appeared in response to Notice of Intent to Seek

12

Indictment.

13

MS. GETLER: Ladies and gentlemen of the

14

Grand Jury, my name is Stephanie Getler and with me will

08:35

15

be my co-counsel Brandon Albright. We are presenting

16

Grand Jury case number 19BGJ023AB&C, State of Nevada

17

versus Fink, Gonzalez and Brown. The record will

18

reflect that we have marked a copy of the proposed

19

Indictment as Exhibit Number 1 and that all Grand Jury

08:35

20

members have a copy of it. We have also marked a copy

21

of the elements of these charges and the instructions

22

regarding these charges as Exhibit Number 2 for your

23

review.

24

The defendants in this case are charged

08:35

25

with conspiracy to commit robbery, robbery with use of a

08:35 1 deadly weapon, burglary, grand larceny, and then
2 defendant Brown is charged with obtaining and using
3 personal identifying information of another and
4 defendant Gonzalez is charged with carrying a concealed
08:36 5 pneumatic gun. Today we will only be presenting and
6 deliberating on Counts 13 through 16 and Counts 24 to
7 28. That was 13 to 16 and 24 to 28.

8 Our first witness is Kelsey Mestre.

9 THE FOREPERSON: Raise your right hand.

08:37 10 You do solemnly swear the testimony you are
11 about to give upon the investigation now pending before
12 this Grand Jury shall be the truth, the whole truth, and
13 nothing but the truth, so help you God?

14 THE WITNESS: I do.

08:37 15 THE FOREPERSON: Have a seat.

16 You are advised that you are here today to
17 give testimony in the investigation pertaining to the
18 offenses of conspiracy to commit robbery, robbery with
19 use of a deadly weapon, burglary, obtaining and using
08:37 20 personal identifying information of another, grand
21 larceny, robbery, grand larceny, carrying a concealed
22 pneumatic gun, involving the named defendants of Mark
23 Anthony Fink, Sarah Gonzalez, Lequana Brown.

24 Do you understand this advisement?

08:37 25 THE WITNESS: I do.

08:38 1 THE FOREPERSON: Please state your first
2 and last name, spell both for the record.

3 THE WITNESS: My name is Kelsey Mestre.
4 K-E-L-S-E-Y, M-E-S-T-R-E.

08:38 5 MS. GETLER: May I proceed?

6 THE FOREPERSON: Yes.

7 KELSEY MESTRE,

8 having been first duly sworn by the Foreperson of the
9 Grand Jury to testify to the truth, the whole truth,
08:38 10 and nothing but the truth, testified as follows:

11 EXAMINATION

12

13 BY MS. GETLER:

14 Q. Kelsey, how are you employed?

08:38 15 A. I work for Champ Sports.

16 Q. And on June 4th of 2019, were you working
17 at the location at 10975 Sage Park Drive?

18 A. I was.

19 Q. And is that in Clark County, Nevada?

08:38 20 A. It is.

21 Q. What position do you hold at Champs?

22 A. I'm an assistant manager.

23 Q. What types of responsibilities do you have
24 in that position?

08:38 25 A. I open and close the store. I do daily

08:38 1 activities. I am in the store in charge by myself
2 often.

3 Q. Are you also able to review video
4 surveillance on your video surveillance system?

08:39 5 A. I am.

6 Q. And are you also familiar with the pricing
7 of different merchandise in your store?

8 A. I am.

9 Q. Okay. On June 4, 2019, were you working?

08:39 10 A. I was.

11 Q. And around 6:30 p.m. did a black female and
12 black male enter the store?

13 A. They did.

14 Q. Can you describe both of them for the grand
08:39 15 jurors?

16 A. I can. The woman was bigger build. She
17 was taller than I was. She had brown hair, glasses.
18 She was wearing a white shirt with black and white
19 shoes. The male had braids, a do-rag, a black shirt and
08:39 20 gray pants.

21 Q. Okay. And you said the woman was taller
22 than you. How tall are you?

23 A. I'm 5'2".

24 Q. So about how tall do you think she was?

08:39 25 A. Like 5'5", 5'6".

08:39 1 Q. Okay. Once they entered the store, did you
2 go over to assist them?

3 A. Yes, we greet them as soon as they walk in.

4 Q. And what did you do with the two of them?

08:40 5 A. So as soon as they walked in, me and my
6 associate, we started to assist them. We greeted them,
7 hi, welcome in. They started to look through our
8 clothes to find matching outfits, like Nike pants, Nike
9 pants, Adidas shirts to Adidas pants, putting outfits
08:40 10 together, finding matching shoes. Through the time of
11 them being in our store we found them matching outfits
12 with shoes and clothing together.

13 Q. And did the woman say anything in
14 particular to you while you were helping her?

08:40 15 A. Throughout their time in our store they
16 talked, she directly talked about how they had won money
17 at the casino. They were looking to get items for their
18 family members, for themselves.

19 Q. Okay. And you mentioned they were looking
08:40 20 at Nike and Adidas stuff. Do you remember any other
21 specific brands they were looking at?

22 A. They obtained Nike, Jordan, Adidas, CSG
23 which is our Champs brand, all of the time of being in
24 our store.

08:41 25 Q. About how long were you assisting them?

08:41 1 A. About 45 minutes.

2 Q. At some point did they appear ready to
3 check out to you?

4 A. They did. So throughout them going through
08:41 5 our store, everything that they had picked out we
6 organized behind our counter to prepare to ring it up.
7 As they were finishing up finding everything that they
8 had wanted to purchase, we had everything prepared at
9 the register and we started to ring it up through our
08:41 10 cash register. At that point we started to organize it
11 through bags for them to pay and then they didn't pay.

12 Q. So while you were ringing them up, did one
13 of them start to leave?

14 A. So as I was ringing them up, she inclined
08:42 15 that she wanted an additional shirt. As I went to go
16 grab the shirt, the male in our store had picked up two
17 handfuls of the merchandise that was already in the bags
18 and walked out of the door. At that time I turned
19 around to see the woman walking towards the door as my
08:42 20 associate motioned to me that they did not pay.

21 Q. Okay. So at the time that the woman began
22 walking towards the door, what did you do?

23 A. So I approached her and asked her if she
24 had paid. She said she had left the card on the counter
08:42 25 and I informed her she did not pay so she could not

08:42 1 leave the store with our merchandise.

2 Q. What happened then?

3 A. At that time she started to motion towards
4 the door. At this point my back was towards the door

08:42 5 and she was facing me towards the exit. At that time

6 she started to walk towards me, so I grabbed the bag

7 that she had secured in her arm, which was the

8 merchandise that she had not paid for. At this time she

9 had adjusted her position to where her back was towards

08:43 10 the door and I was facing out the door and at this time

11 I had my hand on the bag and that's when she reached

12 into her bra and grabbed the knife.

13 Q. Okay. Where did she -- you said she

14 grabbed the knife from her bra?

08:43 15 A. Uh-huh.

16 Q. What did it look like?

17 A. It was a black knife. It was about five to
18 six inches long.

19 Q. And once she pulled the knife out, what did

08:43 20 she do?

21 A. The knife was open and she motioned towards
22 my hand that had the bag in my hand.

23 Q. Okay. So you said it was open. Was it
24 like a folding knife?

08:43 25 A. Yes, it was like a, I don't want to say a

08:43 1 pocket knife because it was larger than that.

2 Q. But some type of folding knife?

3 A. Yes.

4 Q. So she had it in her hand and you said she

08:43 5 motioned it toward your hand. Was that the hand that

6 you had on the bag of merchandise?

7 A. Yes.

8 Q. About how close did she get the knife to

9 your hand?

08:44 10 A. It was, if I didn't move my hand she would

11 have stabbed me.

12 Q. At that point did you pull your hand away?

13 A. Yes.

14 Q. Did she say anything when this was going

08:44 15 on?

16 A. She said you don't want to do this, we're

17 not going to do this, something along those lines.

18 Q. After you pulled your hand away, what

19 happened?

08:44 20 A. After I released my hand from the bag she

21 walked away.

22 Q. And which way did she go?

23 A. She exited our store to the right.

24 Q. Was the male already out of the store at

08:44 25 that point in time?

08:44 1 A. Yes.

2 Q. Did the merchandise leave the store with
3 them?

4 A. Yes.

08:44 5 Q. Do you remember approximately how many bags
6 they had combined?

7 A. Fifteen to 20.

8 Q. And as the assistant manager you mentioned
9 you're familiar with pricing of merchandise in the
08:44 10 store?

11 A. Yes.

12 Q. And you were present when the merchandise
13 that went into those bags was being rung up?

14 A. Yes.

08:44 15 Q. Do you recall what the total value of that
16 merchandise was?

17 A. It was approximately \$3000.

18 Q. Do you remember if it was slightly less
19 than that?

08:45 20 A. It was about \$2700.

21 Q. You also mentioned in your position you are
22 able to review video surveillance?

23 A. Yes.

24 Q. And are you familiar with how your video
08:45 25 surveillance system works?

08:45 1 A. Yes.

2 Q. Can you describe it a little bit?

3 A. So our video surveillance system, our home

4 base is located in our back office. We have cameras

08:45 5 throughout our store. Our camera system is set up where

6 it records the whole entire time. We can go back and

7 witness any of the cameras by searching the time and

8 date and clicking a camera.

9 Q. Okay. And does it also have time stamps on

08:45 10 it that you can view?

11 A. It does.

12 Q. After this incident did you go back and

13 view some video surveillance?

14 A. We did.

08:45 15 Q. And did you provide that video surveillance

16 to police?

17 A. I did.

18 Q. Okay. I'm going to show you a couple

19 photos. They are Exhibits 3, 4, 5, 6 and 7. Can you

08:46 20 flip through these and tell me if you recognize them?

21 A. I do recognize them.

22 Q. How do you recognize them?

23 A. These are snapshots of the video

24 surveillance footage I gave to police and these are the

08:46 25 two people who stole our merchandise.

08:46 1 Q. And this is from the Champs Sports store
2 we've been discussing from June 4th; is that right?

3 A. Yes.

4 Q. And are these fair and accurate depictions
08:46 5 of what happens that day?

6 A. Yes.

7 Q. Okay. Thank you.

8 Publish Number 3. Can you describe what's
9 in this photo?

08:46 10 A. So in this photo, this is the position I
11 explained previously where my back was to the door and
12 she was facing out.

13 Q. So sorry to cut you off. Is the woman in
14 the white shirt the person that we have been discussing
08:47 15 that did these things that day?

16 A. Yes.

17 Q. And the other person in the photo, is that
18 you?

19 A. Yes.

08:47 20 Q. And this is near the front door of the
21 business?

22 A. Yes.

23 Q. And were those bags some of the bags of
24 merchandise that she took?

08:47 25 A. Yes.

08:47 1 Q. And showing Exhibit Number 4. What about
2 this picture?

3 A. This photo is when we were ringing up and
4 organizing the merchandise.

08:47 5 Q. And that is the same woman we've been
6 talking about?

7 A. Yes.

8 Q. And Number 5, is that the same thing you
9 were just describing?

08:47 10 A. It is.

11 Q. Is this other person in the photo to the
12 right hand side of the woman the man we've been talking
13 about?

14 A. It is.

08:47 15 Q. Okay. And Number 6, is that kind of the
16 same thing you just described?

17 A. It is.

18 Q. And Number 7, what about this picture?

19 A. That's the man leaving with the majority of
08:48 20 the bags.

21 MS. GETLER: I have no further questions
22 for this witness. Are there any questions by the Grand
23 Jury members?

24 THE FOREPERSON: Any questions?

08:48 25 By law, these proceedings are secret and

08:48 1 you are prohibited from disclosing to anyone anything
2 that has transpired before us, including evidence and
3 statements presented to the Grand Jury, any event
4 occurring or statement made in the presence of the Grand
08:48 5 Jury, and information obtained by the Grand Jury.

6 Failure to comply with this admonition is a
7 gross misdemeanor punishable by up to 364 days in the
8 Clark County Detention Center and a \$2,000 fine. In
9 addition, you may be held in contempt of court
08:48 10 punishable by an additional \$500 fine and 25 days in the
11 Clark County Detention Center.

12 Do you understand this admonition?

13 THE WITNESS: I do.

14 THE FOREPERSON: Thank you.

08:48 15 THE WITNESS: Thank you.

16 MR. ALBRIGHT: Our next witness is Javon
17 Kamanuwai.

18 MS. GETLER: Just for the record, the first
19 witness's name is spelled K-E-L-S-E-Y, M-E-S-T-R-E, the
08:49 20 second witness's name is spelled J-A-V-O-N,
21 K-A-M-A-N-U-W-A-I.

22 THE FOREPERSON: Raise your right hand
23 please.

24 You do solemnly swear the testimony you are
08:49 25 about to give upon the investigation now pending before

08:49 1 this Grand Jury shall be the truth, the whole truth, and
2 nothing but the truth, so help you God?

3 THE WITNESS: Yes.

4 THE FOREPERSON: You can sit down.

08:50 5 You are advised that you are here today to
6 give testimony in the investigation pertaining to the
7 offenses of conspiracy to commit robbery, robbery with
8 use of a deadly weapon, burglary, obtaining and using
9 personal identifying information of another, grand
08:50 10 larceny, robbery, grand larceny, carrying concealed
11 pneumatic gun, with the defendants of Mark Fink, Sarah
12 Gonzalez, Lequana Brown.

13 Do you understand this advisement?

14 THE WITNESS: Yes.

08:50 15 THE FOREPERSON: Please state your first
16 and last name and spell both for the record.

17 THE WITNESS: My name is Javon Kamanuwai.
18 J-A-V-O-N, K-A-M-A-N-U-W-A-I.

19 MR. ALBRIGHT: Just for the Grand Jury's
08:50 20 edification, the next couple witnesses, including Javon,
21 will be testifying as to Counts 24 through 28.

22 JAVON KAMANUWAI,
23 having been first duly sworn by the Foreperson of the
24 Grand Jury to testify to the truth, the whole truth,
08:51 25 and nothing but the truth, testified as follows:

08:51 1 EXAMINATION

2

3 BY MR. ALBRIGHT:

4 Q. All right. Javon -- am I saying that

08:51 5 right?

6 A. Yes.

7 Q. I'm going to use Javon instead of your last

8 name. Is that all right?

9 A. Yes.

08:51 10 Q. Javon, tell us where you work.

11 A. I work at Big 5 Sporting Goods on

12 Charleston and Lamb.

13 Q. Is the physical address 4275 East

14 Charleston?

08:51 15 A. Yes.

16 Q. Is that within Clark County, Nevada?

17 A. Yes.

18 Q. And were you on duty at that location on

19 June 23, 2019 at approximately 2:30 in the afternoon?

08:51 20 A. Yes, I was.

21 Q. What's your position there at the store?

22 A. I'm a sales associate.

23 Q. And do you recall who else was working with

24 you on that afternoon?

08:51 25 A. That afternoon was, it was myself, it was

08:51 1 my manager Brian Akita and a cashier Fabian.

2 Q. Fabian?

3 A. Yes.

4 Q. Is his last name Calvillo?

08:52 5 A. I believe so.

6 Q. Calvillo being C-A-L-V-I-L-L-O? Does that
7 sound correct, Javon?

8 A. Yes.

9 Q. At approximately 2:30 do you recall a white
08:52 10 female entering the store that ultimately leads to the
11 reason you're here today?

12 A. Yes.

13 Q. Can you describe what that woman looked
14 like?

08:52 15 A. She's about 5'7", wearing, maybe 5'7", 5'8,
16 gray top and gray cargo pants.

17 Q. And what kind of build?

18 A. Medium build.

19 Q. Okay. Do you recall what color her hair
08:52 20 was?

21 A. It was brown.

22 Q. In your position as a sales associate, do
23 you go and try to help this woman?

24 A. Yeah. Yeah, I greet her and ask her if I

08:52 25 can help her find anything and she lets me know that

08:53 1 she's just browsing.

2 Q. What happens next?

3 A. Next. So I leave her, I find the other
4 woman. I'm not sure how to pronounce her name.

08:53 5 Q. So when you say another woman, has another
6 woman entered the store at that point?

7 A. Yes. So she entered, I didn't personally
8 see her enter, but I did greet her and try to offer my
9 services to her as well.

08:53 10 Q. What does the second female look like?

11 A. The second female is about 5'3", 5'4",
12 heavysset, she's wearing a black top and I believe black
13 or dark gray pants.

14 Q. What ethnicity is this woman?

08:53 15 A. She's black.

16 Q. Do you offer your help to her?

17 A. Yes, I ask her if I can help her find
18 anything.

19 Q. And do you ultimately come to believe that
08:53 20 these two women are there together?

21 A. At that moment, no.

22 Q. When does that occur?

23 A. At, shortly after I offered my services to
24 both of them, they kind of grouped in the shoe

08:54 25 department and brought the things that they were

08:54 1 carrying around all to that one spot and that's when I
2 knew that they were together.

3 Q. What if anything does the black female tell
4 you in regards to why she's there?

08:54 5 A. So once they go to the shoe department,
6 which is my department, they start asking me to bring
7 them shoes. She tells me that she won a great deal of
8 money the night before at a casino and that she was here
9 just to, you know, spend her winnings.

08:54 10 Q. Do they stay in the shoe department or what
11 happens next?

12 A. After I bring them out everything that
13 they're asking, I start taking it personally from the
14 shoe department up to the cash register just to keep it
08:54 15 all together and stay on top of it because it was a lot
16 of stuff.

17 Q. When you say a lot of stuff, was it all
18 shoes?

19 A. No, because they had things that they had
08:54 20 already grabbed from around the store, plus the shoes
21 that I was bringing out for them.

22 Q. Did you bring the additional stuff up to
23 the cash register too?

24 A. Yes. Yeah.

08:55 25 Q. Who was working the cash register at that

08:55 1 point?

2 A. Fabian.

3 Q. Ultimately do these two women go to the
4 cash register to check out?

08:55 5 A. No. As I'm kind of taking the stuff back
6 and forth they're still grabbing more stuff, they're
7 still grabbing more merchandise from around the store.

8 Q. Okay. What happens next?

9 A. Finally once I kind of have been taking
08:55 10 everything from them and it's all piled up in one great
11 pile at the front, they go up to check out, and I
12 continue walking around the store as a sales associate.
13 After a few minutes of them being up there I get paged
14 to the front and I was requested to check them out
08:55 15 instead of Fabian.

16 Q. Who pages you to the front?

17 A. Fabian pages me to the front and let me
18 know that they want to switch out.

19 Q. So do you then continue to cash them out
08:56 20 instead of Fabian?

21 A. Yes.

22 Q. What happens next?

23 A. So I continue to process the, you know, the
24 shoes and clothes and everything, and as I'm doing so

08:56 25 I'm setting it inside the cash register but they

08:56 1 continue to ask for me to hand it to them so they can
2 sort through it and kind of divide it up.

3 Q. Do you allow them to do that?

4 A. At first no. At first I do a good job of
08:56 5 keeping all of it on my side, but as it starts piling up
6 they start slipping bags on their end.

7 Q. Do you say anything when they do that?

8 A. Yeah, I tell them I need the bags back.
9 They don't give them back. Yes.

08:56 10 Q. While this is happening, you mentioned your
11 manager Brian Akita, where is he located?

12 A. He is at the cash register the entire time
13 from what I know. Even before I get there he's up there
14 watching the entire purchase.

08:56 15 Q. When you say the cash registers, you mean
16 the one you're at, he's right next to you?

17 A. Yes. Yes. But he's not behind it, he's on
18 the outside of it overlooking everything.

19 Q. What happens next?

08:57 20 A. After I've gotten a lot of things bagged,
21 most of the merchandise bagged, the white girl starts
22 exiting the store with some of the bags to which my
23 manager is telling her she can't and I'm trying to stay
24 on top of the entire situation.

08:57 25 Q. Let me ask you this. When the white woman

08:57 1 leaves with the merchandise, has any of it been paid for
2 at that point?

3 A. No. I'm actually still scanning things as
4 she's leaving, yes.

08:57 5 Q. When she's told she can't leave, does she
6 stop or keep going?

7 A. No, she keeps going.

8 Q. Does she ever come back?

9 A. She does. So she leaves with some bags,
08:57 10 she comes back in, not with those bags, but she does
11 come in with someone else, a third party.

12 Q. Who's with her at that point?

13 A. So it's a man, he's about 6'2", heavyset,
14 about 200 plus pounds, he had a tank top and shorts I
08:58 15 believe.

16 Q. Do you recall his ethnicity?

17 A. He looked to be black or Hispanic.

18 Q. And what does that person do?

19 A. He comes in and he's kind of just telling
08:58 20 us that we need to treat them better as customers and
21 that, you know, they're going to pay for the things,
22 that they just want to start packing it into the car.
23 He goes back and forth with my manager who tells him he
24 can't leave with the stuff.

08:58 25 Q. Okay. When you say he can't leave with the

08:58 1 stuff, does the male eventually try to leave with
2 anything?

3 A. Eventually. At that time no, he's just
4 kind of talking, but yes, eventually he does.

08:58 5 Q. And what happens next?

6 A. So he asks to be let into the restroom.

7 Q. When you say he, who is he?

8 A. The male. So he asked to be let into the
9 restroom and my manager shows him to the restroom.

08:59 10 Q. Let me ask you something. When you say be
11 let into the restroom, is there a restroom for
12 customers?

13 A. No, there is no public restroom in the
14 store, it's an employees only restroom. And it's kind
08:59 15 of, it's not locked but it's at our discretion as to who
16 we let in the back.

17 Q. But he asks to use the restroom?

18 A. He asks, yes.

19 Q. And he's shown back to the restroom by

08:59 20 Mr. Akita?

21 A. Yes.

22 Q. What happens next?

23 A. As far as that situation, I don't know.

24 I'm still at the cash register. Eventually he comes

08:59 25 back to the front of the store. He grabs some of the

08:59 1 bags and he exits with some bags as well.

2 Q. When you say he, who are we talking about?

3 A. The same gentleman who entered the store
4 and was led to restroom. After he returns from the back
09:00 5 of the store to the front, he takes some more bags. I
6 don't have a name for --

7 Q. Do you tell him he can't take those bags?

8 A. At that time my manager starts going back
9 and forth with him again, but they exit the store. He
09:00 10 exits the store and the white girl also exits the store.

11 Q. If those two have exited, where now is the
12 black female?

13 A. So now there's only the black woman and
14 she's still at the cash register with me still claiming
09:00 15 to want to pay for everything but still asking for more
16 things to be brought to the front as well.

17 Q. What happens next?

18 A. So next she asks my manager Akita for a
19 speaker or something and at that time when he turns his
09:00 20 back, when his attention is distracted, she turns around
21 and she exits the store with what she has in her hands.

22 Q. What do you do at that point?

23 A. At that point I jump the counter, I alert
24 my manager that she's, she and I are both leaving the
09:01 25 store and we exit the store.

09:01 1 Q. And where are the three individuals at this
2 point from what you can see?

3 A. That entered that were --

4 Q. Yes, the three individuals we've been
09:01 5 talking about.

6 A. Yes.

7 Q. Are they standing outside of the store?

8 A. So at this point when we leave the store
9 the other two individuals are already in a car.

09:01 10 Q. Do you recall what kind of car that was?

11 A. It was a Nissan Altima.

12 Q. What color?

13 A. White.

14 Q. Do you recall if there was any damage to
09:01 15 the car?

16 A. No.

17 Q. So at that point the white female and the
18 male are in the car?

19 A. Correct.

09:01 20 Q. Where is the black female?

21 A. She is heading for the car. She's walking
22 out. I'm standing back just trying to get an angle so I
23 can see a license plate number.

24 Q. Okay. Do you get a license plate number?

09:01 25 A. Yes.

09:01 1 Q. Do you recall if that number was 5WSK749?

2 A. That sounds familiar, yes.

3 Q. Do you recall what state that was from?

4 A. It was a California license plate.

09:02 5 Q. And why at that point are you trying to
6 memorize the license plate?

7 A. With the intention of reporting it to the
8 police. At the time when we went out of the store, I
9 planned to get the license plate number and come back in
09:02 10 and call the police and when I went back in they were
11 already on the phone so I was able to give it to them
12 right away.

13 Q. Okay. So does the black female eventually
14 make her way into the vehicle?

09:02 15 A. Yes. At that time she walks out and she
16 doesn't get to get into the vehicle because my manager
17 is blocking the door and he keeps telling her that she
18 can't leave with the stuff, she can't put the stuff in
19 the car until they pay for it.

09:02 20 Q. Let me stop you.

21 Ladies and gentlemen, so what you've just
22 heard in regards to what Mr. Akita said would be
23 hearsay, so you're not to regard that or accept that for
24 the truth of the matter, only for what it caused Javon
09:03 25 to do next. Do you guys understand that?

09:03 1 A JUROR: Yes.

2 MR. ALBRIGHT: Okay.

3 Q. So he's not letting her in the car. What
4 does she do?

09:03 5 A. She's just kind of, you know, they're
6 bickering, they're going back and forth. This is the
7 time of which I'm able to get the license plate number
8 cause the car is just parked there. After they, he
9 denies her getting in the car, she kind of says that
09:03 10 she'll go back in the store and pay for it but he needs
11 to lead the way and she tries to draw him away from the
12 store by kind of walking towards the store and then she
13 says, you know what, forget it, and she throws her debit
14 card that she had in her hand at the store. And after
09:03 15 that she goes around, at that time they were standing on
16 the passenger side of the car, the rear passenger door,
17 she goes around to the driver's side rear seat where
18 someone was sitting and she hops in on their lap and
19 while the door is open my manager Akita, he grabs one of
09:04 20 the bags, he pulls one out, and they pull off.

21 Q. And then you mentioned after that you go
22 inside but someone has already called the police; is
23 that correct?

24 A. Fabian is already on the phone with the
09:04 25 police when I go back in the store.

09:04 1 Q. Do police respond to the scene?
2 A. Yes.
3 Q. Do you give them that license plate?
4 A. Yes.
09:04 5 Q. Is there an accounting done of what is
6 missing in the store?
7 A. Yes.
8 Q. And are you involved in that process?
9 A. Just in terms of gathering the things. I
09:04 10 didn't do anything as far as the paperwork or the back
11 office stuff.
12 Q. Brief indulgence.
13 I have no further questions for this
14 witness. Any questions?
09:04 15 BY A JUROR:
16 Q. That debit card that she threw out, was
17 that debit card actually her debit card?
18 A. No, after we recovered it, it did not
19 belong to her.
09:05 20 Q. Is that store policy that you guys chase
21 after that stuff or --
22 A. No.
23 BY A JUROR:
24 Q. Do you have a turnstile to get in and out
09:05 25 of the store?

09:05 1 A. Turnstile? Oh, no, no. Like in front of
2 the door you mean or is it just a plain entrance?

3 Q. Yeah, just open entrance.

4 A. It's an open entrance.

09:05 5 BY MR. ALBRIGHT:

6 Q. Is it a mechanical door that opens, like an
7 electric?

8 A. No.

9 Q. No. Okay. It's a swinging door?

09:05 10 A. Correct.

11 Q. Okay.

12 THE FOREPERSON: Any other questions?

13 By law, these proceedings are secret and

14 you are prohibited from disclosing to anyone anything

09:05 15 that has transpired before us, including evidence and

16 statements presented to the Grand Jury, any event

17 occurring or statement made in the presence of the Grand

18 Jury, and information obtained by the Grand Jury.

19 Failure to comply with this admonition is a

09:05 20 gross misdemeanor punishable by up to 364 days in the

21 Clark County Detention Center and a \$2,000 fine. In

22 addition, you may be held in contempt of court

23 punishable by an additional \$500 fine and 25 days in the

24 Clark County Detention Center.

09:05 25 Do you understand this admonition?

09:06 1 THE WITNESS: Yes.

2 THE FOREPERSON: Thank you, sir.

3 MR. ALBRIGHT: Our next witness is Brian

4 Akita. Akita is A-K-I-T-A. Brian is B-R-I-A-N.

09:06 5 A JUROR: Can I use the restroom real

6 quick.

7 (Recess.)

8 THE FOREPERSON: Raise your right hand

9 please.

09:11 10 You do solemnly swear the testimony you are

11 about to give upon the investigation now pending before

12 this Grand Jury shall be the truth, the whole truth, and

13 nothing but the truth, so help you God?

14 THE WITNESS: Yes.

09:11 15 THE FOREPERSON: Be seated.

16 You are advised that you are here today to

17 give testimony in the investigation pertaining to the

18 offenses of conspiracy to commit robbery, robbery with

19 use of a deadly weapon, burglary, obtaining and using

09:11 20 personal identifying information of another, grand

21 larceny, robbery, grand larceny, carrying concealed

22 pneumatic gun, involving Mark Fink, Sarah Gonzalez,

23 Lequana Brown.

24 Do you understand this advisement?

09:12 25 THE WITNESS: Yes.

09:12 1 THE FOREPERSON: Please state your first
2 and last name, spell both for the record.

3 THE WITNESS: Brian Akita. B-R-I-A-N,
4 A-K-I-T-A.

09:12 5 BRIAN AKITA,
6 having been first duly sworn by the Foreperson of the
7 Grand Jury to testify to the truth, the whole truth,
8 and nothing but the truth, testified as follows:

9 EXAMINATION

09:12 10
11 BY MR. ALBRIGHT:

12 Q. Good morning, Mr. Akita.

13 A. Good morning.

14 Q. What do you do for a living?

09:12 15 A. I am the store manager of Big 5 Sporting
16 Goods.

17 Q. Specifically the location at 4275 East
18 Charleston?

19 A. Correct.

09:12 20 Q. Is that in Clark County, Las Vegas, Nevada?

21 A. It is.

22 Q. And were you working in that capacity on
23 June 23, 2019 at approximately 2:00 to 3:00 p.m.?

24 A. Yes.

09:12 25 Q. As store manager are you aware is there a

09:12 1 video surveillance system in the store?

2 A. Yes.

3 Q. And are you aware of where the cameras are
4 located?

09:12 5 A. Yes.

6 Q. Are you aware and trained on how to use
7 that video surveillance system?

8 A. Yes.

9 Q. Are you able to, if needed, recall and
09:12 10 watch past video and download that?

11 A. Yes.

12 Q. Okay. I want to draw your attention to the
13 date I just mentioned, June 23, 2019. Were you working
14 or did you have sales associates there that day by the
09:13 15 name of Javon Kamanuwai?

16 A. Yes.

17 Q. And Fabian Calvillo?

18 A. Yes.

19 Q. And at some point was Javon helping some
09:13 20 individuals, two females, check out?

21 A. Correct.

22 Q. And when do you become aware of any sort of
23 situation that you take notice of as your position of
24 manager?

09:13 25 A. So I did not see them come in but I was at

09:13 1 the register with Fabian and Javon brought a stack of
2 shoes to the front and I asked him what was going on and
3 he said these two ladies here said they won some money
4 on a jackpot and they were going to spend some of their
09:13 5 money and he was just making a pile at the register. I
6 said okay. He left, went to go help them. I talked to
7 Fabian and Fabian's like got this, no problem, start
8 checking sizes and everything so he knew what was going
9 on.

09:14 10 Q. When you say checking sizes, of the shoes
11 to make sure the right shoes are in the right box?

12 A. Correct, yeah. Uh-huh.

13 Q. What happens next?

14 A. So they bring some more stuff up to the
09:14 15 front and Fabian starts to bag the stuff, put it, you
16 know, on the ground, and at which point they asked
17 Fabian hey, I need to see what's in the bag, I don't
18 know if I want that, I don't know if I need this or
19 whatever. Fabian then tells them hey, I can't give you
09:14 20 the bags, if you want to look at it you need to come
21 around and you can look down here. At that point they
22 get irritated and they tell Fabian we don't like your
23 attitude so where's that other guy, why don't you bring
24 him up here. So Fabian doesn't want to make an argument
09:14 25 out of it, so Fabian voids the transaction and he goes

09:14 1 back, switches with Javon. And I'm at the register, on
2 the outside of the register just standing there and I
3 said that's fine. So Javon comes up --

4 Q. Let me stop you there, Mr. Akita.

09:15 5 So ladies and gentlemen, just to admonish
6 you. There was a little bit of testimony in regards to
7 things that Fabian said and/or Javon. I will admonish
8 you that that is hearsay although you may have even
9 already heard from Javon, that should not be taken for
09:15 10 the truth of the matter, just for what it made Mr. Akita
11 do by hearing it.

12 Let me ask you this, Mr. Akita. We're
13 talking about two females; correct?

14 A. Correct.

09:15 15 Q. Can you describe them for me?

16 A. Yes. So one of them was medium build,
17 about 5-foot 6, white, female, and the other one was
18 about 5-foot 4, heavyset black female.

19 Q. And do you recall at all what the white
09:15 20 female was wearing?

21 A. Yeah, she was wearing all gray.

22 Q. And the black female?

23 A. All black.

24 Q. All black you said?

09:15 25 A. Yes.

09:15 1 Q. Okay. After Javon takes over checking them
2 out, are you still standing nearby?

3 A. Still standing in the same spot. So Javon,
4 they're doing the same thing with Javon, telling him
09:16 5 hey -- while he's talking to the black lady, the white
6 lady is grabbing more stuff, piling more stuff at the
7 register. So Javon is just trying to figure everything
8 out. We are kind of busy so at some point I do have to
9 go to the other register and start ringing people. So

09:16 10 my back is turned to them, I'm kind of just turning
11 around, but I can hear everything they're saying. At
12 this point my assistant manager Jenny comes in the door
13 and she starts helping Javon. So at that point as we're
14 ringing and then they're grabbing stuff and I can hear
09:16 15 her say hey, you can't leave with the stuff, you haven't
16 paid for anything. The black lady keeps saying we're
17 going to pay for it, we're going to a pay for it. Jenny
18 told her that doesn't, you know, you can't do that, that
19 doesn't change, you haven't paid for it.

09:16 20 Q. When you say she says we're going to pay
21 for it, who says that?

22 A. The black lady says that.

23 Q. What happens next?

24 A. So at that point I'm done ringing, I go
09:17 25 back to the same spot I was outside the register, and

09:17 1 then Jenny's still helping Javon ring. At some point
2 the white lady had left the store with some bags. She
3 went to the car and she comes back with herself and
4 another gentleman, a black gentleman. He's probably
09:17 5 like 6-foot 2, heavy built guy. He comes in --

6 Q. Do you recall what the male is wearing?

7 A. I don't. I know he had a hat and a tank
8 top. One of those like sun hats, those circle hats.

9 Q. What if anything does the male gentleman
09:17 10 do?

11 A. So he's standing there. He then starts,
12 she starts passing him, the while female starts passing
13 him some bags and I said hey, you can't leave, you guys
14 haven't paid for this, you need to drop the bags. At
09:17 15 that point he then tells us hey, you guys need to act
16 better, you can't come at people like this, it's not
17 right. And I was like okay, you can't leave, you
18 haven't paid for it. She says we're going to pay for
19 it, again the black lady says. I go that doesn't change
09:18 20 the fact that you haven't paid for it. So at that point
21 he goes okay, I'm not going to leave, I'm just going to
22 stand here with the bags in my hands. I said I need you
23 to drop the bags. He said I'm not going to do that.
24 Okay, fine. At that point he then realizes that I'm not
09:18 25 leaving so he thens asks me hey, do you guys have a

09:18 1 restroom and I said yes. So Fabian then shows him where
2 the restroom is. He goes to the back. He then comes
3 out after a few minutes and he says hey, I want to look
4 at a BB gun. So Fabian helps him behind the counter
09:18 5 showing him BB gun pistols, because we don't sell
6 handguns. So he decides on one, he brings it to the
7 register, and while this is happening I'm kind of
8 watching him and Fabian, but while this is happening I
9 guess the white lady is still grabbing more bags and
09:18 10 taking it out to the car. At some point she goes to the
11 car and doesn't come back. So now it's just him and the
12 black lady in the store. At that point after he decides
13 what gun he wants, he gives it to the, Fabian gives it
14 to Javon to put in the pile and then he leaves and now
09:19 15 it's just --

16 Q. When you say he leaves, who is he?

17 A. The black male leaves. He leaves, doesn't
18 come back. At that point the black female is the only
19 one left in the store. She then asks me hey, what is
09:19 20 that and I say that's an outdoor speaker and it's on top
21 on our high Coke machine, she goes I want one of those
22 too, I says okay. So I grab one and as I'm grabbing it
23 she leaves. Javon then says hey, she's leaving. He
24 then follows her outside and then I follow Javon. When
09:19 25 we get outside --

09:19 1 Q. At this point are you aware whether or not
2 any of this merchandise has been paid for?

3 A. No, I realize it has not been paid for.

4 Q. Okay. What happens when you follow her
09:19 5 outside?

6 A. I follow her outside, I said hey, come in
7 and pay for the stuff. She says I'm going to drop this
8 stuff off and I'm going to come in and pay for it and I
9 say no, you need to come back in and pay for it, you
09:19 10 haven't paid for anything, I need you to come back in
11 there. When I come outside there's a white car out
12 there ready to drive away with the passenger side, it's
13 a four door car, so the back door is open.

14 Q. When you say ready to drive away, is it
09:20 15 backed into the parking spot?

16 A. No, it's actually out. Like it's out ready
17 to go. Like it's not even in a parking spot. It's
18 ready to go. The door in the backside is open and I, I
19 don't touch her, I block her from getting in the door.

09:20 20 I said I need you to go back in the store. She's like
21 I'm going to come back. I said if you're not going to
22 come back then I need my stuff back. So as I look to my
23 left, I see that all the bags are sitting on the back
24 seat, so I grab some and I start throwing them into the
09:20 25 parking lot and I said if you're not going to go pay for

09:20 1 this stuff I'm just going to take my stuff back. At
2 that point --

3 Q. When you say the bags, were these bags that
4 say Big 5?

09:20 5 A. They are Big 5 bags, yes. They're all Big
6 5 bags.

7 Q. With the door open were you able to see
8 into the car to see who was driving?

9 A. Yes. So the black male is driving, the
09:21 10 white female is in the passenger side in the front, and
11 in the back there is a Hispanic male on the driver's
12 side in the back seat.

13 Q. What happens after you start taking your
14 stuff out of the car?

09:21 15 A. So then she says fine, I'm going to pay for
16 it. I said okay, I said then let's go. And then she
17 goes lead the way. I said no, I need you to lead the
18 way. And she says okay. She's like no, you go. I said
19 no, you're going to go. So she goes, she gets upset,
09:21 20 stops after a few steps, looks at me, looks at Javon,
21 throws the credit card at the wall towards the trash can
22 and said you guys can pay for your damn self. And then
23 she tries to get back in the car. I block her again,
24 again I don't touch her. She does have one of those
09:21 25 inexpensive like tote bags, so as she's getting, now she

09:21 1 goes around to the driver's side in the back seat and as
2 the guy opens the door for her, the Hispanic male --

3 Q. When you say he opens it, has he gotten out
4 of the car or did he reach back and --

09:21 5 A. I did not see him get out of the car. At
6 the time that I saw him he was in the car. So he gets
7 in, she, as she's getting in I grab her bag, again I
8 don't touch her, I grab the bag, and she kind of lays on
9 his lap. As I'm grabbing the bag and pulling back, I
09:22 10 look up at the driver who is pointing a, what looks like
11 to me a weapon, a gun, at me. And then I let go -- oh.
12 She lets -- I'm sorry. She let's go of the bag, I have
13 the bag, and then they drive off.

14 Q. When you go inside have the police been
09:22 15 notified?

16 A. Yes, Fabian is talking to the police
17 currently as I walk back into the store.

18 Q. Do you do an accounting of what is missing?

19 A. Yes, we do. Jenny is going back into the
09:22 20 computer and printing receipts of everything that was
21 potentially taken.

22 Q. Do you recall an approximate value of all
23 that stuff?

24 A. It was thousands of dollars, yeah.

09:22 25 Q. Do you recall -- some of the stuff though

09:23 1 you said you had thrown back out of the car?

2 A. Unfortunately most of the stuff I threw
3 back out was more of the less expensive stuff like candy
4 and chips, stuff that probably doesn't total much.

09:23 5 Q. Do you eventually learn however that
6 included among the stuff that was not taken was the BB
7 gun?

8 A. I did not realize that at the moment.

9 Q. Do you learn that at some point?

09:23 10 A. I learn that later that the BB gun, which
11 at the time when he pointed at me I assumed that's what
12 it was. I learned later that it could be, could not be,
13 because the BB gun that he picked is sitting on the
14 floor behind the register.

09:23 15 Q. Still in the store?

16 A. Still in the store.

17 A JUROR: Okay.

18 BY MR. ALBRIGHT:

19 Q. You mentioned earlier that you're familiar
09:24 20 with the video surveillance system; is that correct?

21 A. Correct.

22 Q. I'm showing you Exhibits 8, 9 and 10.

23 A. Okay.

24 Q. Do you recognize those?

09:24 25 A. Yes, that is my store.

09:24 1 Q. So you recognize the shelves here and some
2 of the different display cases?

3 A. Correct.

4 Q. And does this fairly and accurately depict
09:24 5 shots from video from the event that we've been
6 describing today?

7 A. Yes.

8 Q. In fact I see on Exhibit 10 there's a date
9 stamp that says June 23rd. That was the day we're
09:24 10 talking about; correct?

11 A. Correct.

12 Q. Okay. And on Exhibit 10 does that appear
13 to be the black male with the hat that you talked about?

14 A. Yes.

09:24 15 Q. And in Exhibit 9, is that the white female?

16 A. Yes.

17 Q. And her hands are full of bags?

18 A. Correct.

19 Q. And in Exhibit 8, is that the white female
09:24 20 and it's also the black female?

21 A. Yes.

22 Q. Is this the tote bag that you described
23 earlier?

24 A. Yes.

09:24 25 Q. That red and white bag?

09:25 1 A. Uh-huh.

2 MR. ALBRIGHT: Nothing further from this
3 witness.

4 THE FOREPERSON: By law, these proceedings
09:25 5 are secret and you are prohibited from disclosing to
6 anyone anything that has transpired before us, including
7 evidence and statements presented to the Grand Jury, any
8 event occurring --

9 MR. ALBRIGHT: Do we have a question? I
09:25 10 apologize.

11 BY A JUROR:

12 Q. So the gun that the defendant pulled on
13 you --

14 A. Uh-huh.

09:25 15 Q. That wasn't that BB gun?

16 A. Correct. It could have been. It could
17 have been a real --

18 MR. ALBRIGHT: Let me clarify.

19 Q. You don't know, correct?

09:25 20 A. I don't know.

21 MR. ALBRIGHT: And at this juncture that
22 would be speculation.

23 THE FOREPERSON: Any other questions?

24 MR. ALBRIGHT: I appreciate it. Thank you,

09:25 25 sir.

09:25 1 Oh, one more.

2 BY A JUROR:

3 Q. Do you have a procedure for once
4 merchandise is purchased you place it behind the
09:25 5 counter, then does the merchant take it once they've
6 bagged the material?

7 A. Correct. We place everything on the floor,
8 especially, most of the items there were high end items
9 like Nike, Adidas, Under Armour. So when that happens,
09:26 10 and it was a wide array of things from shoes to Corn
11 Nuts so that seems a little weird. If you work long
12 enough in retail it seems very bizarre that you're going
13 to buy the most randomness things. And so we put -- but
14 either way it doesn't matter. That is our procedure, we
09:26 15 put it behind the counter and then we give it to them
16 after the transaction has gone through.

17 Q. So they went behind the counter then?

18 A. Correct. I mean, well, at some point it was
19 just so much stuff that we run out of space on the floor
09:26 20 to be honest. And it's just a lot of bags, a lot of
21 bags.

22 THE FOREPERSON: Go ahead.

23 BY A JUROR:

24 Q. So basically you could tell from what they
09:26 25 were grabbing this was a set up to steal because people

09:26 1 don't come in --

2 A. I mean it's potential. I don't know that
3 for 100 percent sure but it's potential, yeah.

4 Q. Right.

09:26 5 THE FOREPERSON: Any other questions?

6 By law, these proceedings are secret and
7 you are prohibited from disclosing to anyone anything
8 that has transpired before us, including evidence and
9 statements presented to the Grand Jury, any event

09:26 10 occurring or statement made in the presence of the Grand
11 Jury, and information obtained by the Grand Jury.

12 Failure to comply with this admonition is a
13 gross misdemeanor punishable by up to 364 days in the
14 Clark County Detention Center and a \$2,000 fine. In
09:26 15 addition, you may be held in contempt of court
16 punishable by an additional \$500 fine and 25 days in the
17 Clark County Detention Center.

18 Do you understand this admonition?

19 THE WITNESS: Yes.

09:27 20 THE FOREPERSON: Thank you, sir.

21 THE WITNESS: Thank you.

22 MS. GETLER: Our next and final witness is
23 Detective Perkett.

24 You do solemnly swear the testimony you are
09:28 25 about to give upon the investigation now pending before

09:28 1 this Grand Jury shall be the truth, the whole truth, and
2 nothing but the truth, so help you God?

3 THE WITNESS: I do.

4 THE FOREPERSON: You can sit down.

09:28 5 THE WITNESS: Thank you.

6 THE FOREPERSON: You are advised that you

7 are here today to give testimony in the investigation

8 pertaining to the offenses of conspiracy to commit

9 robbery, robbery with use of a deadly weapon, burglary,

09:28 10 obtaining and using personal identifying information of

11 another, grand larceny, robbery, grand larceny, carrying

12 concealed pneumatic gun.

13 THE WITNESS: Yes.

14 THE FOREPERSON: Of the defendants Mark

09:28 15 Fink, Sarah Gonzalez, Lequana Brown.

16 Do you understand this advisement?

17 THE WITNESS: Yes.

18 THE FOREPERSON: Please state your first

19 and last name and spell both for the record.

09:29 20 THE WITNESS: Erik, E-R-I-K, Perkett,

21 P-E-R-K-E-T-T.

22 ERIK PERKETT,

23 having been first duly sworn by the Foreperson of the

24 Grand Jury to testify to the truth, the whole truth,

09:29 25 and nothing but the truth, testified as follows:

EXAMINATION

BY MS. GETLER:

Q. How are you employed?

A. Currently I'm a sergeant assigned to the Convention Center Area Command. Prior to that I was a robbery detective for two years assigned to the commercial robbery section with Las Vegas Metropolitan Police Department.

Q. And how long have you worked with Metro?

A. Ten years.

Q. In June of 2019 was your assignment the robbery position?

A. Yes.

Q. And in June of 2019 did you become involved in the case that you're here today to testify about?

A. Yes.

Q. How did you become involved in that case?

A. At the time I was assigned to the robbery section, we were notified that a robbery had occurred at a Big 5 Sporting Goods store in the northeast part of the Las Vegas valley. A detective was assigned to that case. During the case we learned that a white Nissan Altima with California plates had been observed by a victim or witness at the scene and they gave patrol and

09:30 1 our dispatch the plate number for the vehicle. Myself
2 and another detective used a law enforcement data base
3 to research that license plate to see if the license
4 plate had been targeted or photographed anywhere in the
09:30 5 Las Vegas valley.

6 Q. And upon doing that did you discover
7 someplace that that vehicle may be?

8 A. Yes, we found that the vehicle had recently
9 been photographed in the parking lot of the Siegel
09:30 10 Suites at 4055 Swenson.

11 Q. And is that located in Clark County,
12 Nevada?

13 A. Yes.

14 Q. Did you then respond to that address?

09:30 15 A. Yes.

16 Q. Who else was with you?

17 A. It was myself, Detective Joseph Parra,
18 Detective Ted Weirauch, we set up plain clothes,
19 unmarked police vehicle surveillance, once we got into

09:31 20 the parking lot we noticed near the southwest corner of
21 the complex a white Nissan Altima with California plates
22 and the same license plate given by the victim witnesses
23 of the robbery.

24 Q. At that point did you believe that that was
09:31 25 the vehicle that you were looking for?

09:31 1 A. Yes. It had damage that matched the
2 description also given by the victims along with the
3 license plate. Also in the front driver's seat we
4 noticed there was a male matching the description of one
09:31 5 of the robbery suspects wearing the same clothing and
6 shoes. So at that time we did believe that that could
7 be the car used in the robbery.

8 Q. Do you recall what that description was of
9 the male?

09:31 10 A. He was wearing a boonie style hat, it's
11 like a fisherman style hat, and a camo tank top and
12 sandals. I can't remember what color.

13 Q. Were there anybody else in or around the
14 vehicle at that time?

09:32 15 A. In the back seat there was a, we didn't
16 know what gender or ethnicity the male was in the back
17 seat. Also there was a very young child that was
18 approaching the vehicle. The male in the back seat was
19 handing the child shoes and the child was trying on
09:32 20 shoes that were being handed to him by the male in the
21 back seat.

22 Q. And at this point are you and the other
23 detectives still conducting surveillance and just
24 watching what's going on?

09:32 25 A. Yes.

09:32 1 Q. Was another person you believed to be
2 involved in the robbery approaching that vehicle at some
3 point?

4 A. Yes. A white female was also described as
09:32 5 a suspect in the robbery. She approached the driver's
6 side, spoke to the driver of the white Nissan Altima.
7 The female was wearing the same clothing observed in the
8 video surveillance from the robbery.

9 Q. And do you recall what the description of
09:33 10 her was?

11 A. It was a white female adult wearing a gray
12 tank top.

13 Q. What did you do at that point?

14 A. At that point she entered the vehicle, we
09:33 15 decided since they were going to possibly leave the area
16 to get patrol officers in marked uniforms, in marked
17 patrol vehicles, to come in and detain the subjects for
18 an investigation.

19 Q. Is that what was done?

09:33 20 A. Yes.

21 Q. Once you came into contact with the people
22 who are currently in the vehicle, did you determine that
23 male matching the description of the robbery to be known
24 as Mark Finks?

09:33 25 A. Yes.

09:33 1 Q. And the white female to be known as Sarah
2 Gonzalez?

3 A. Yes.

4 Q. Did anything happen when they were being
09:33 5 taken into custody?

6 A. As Sarah Gonzalez was being taken into
7 custody, the white female with the gray tank top, the
8 uniformed officer was calling her back and was placing
9 her into handcuffs to detain her for the investigation,
09:34 10 she uttered to the officer "I have a firearm in my bra."

11 Q. Was anything asked of her before she said
12 that?

13 A. No.

14 Q. She just said it on her own?

09:34 15 A. Yes.

16 Q. At that point did any officers look to see
17 if she had a firearm on her?

18 A. Yes. Officers removed a black
19 semi-automatic style firearm from her bra area and that
09:34 20 was placed in an area so that could be impounded and
21 seized.

22 Q. Okay. And was that firearm looked at later
23 to determine anything about it?

24 A. Yes.

09:34 25 Q. What was determined?

09:34 1 A. It was determined that it was a replica
2 style firearm, pneumatic firearm. A pneumatic firearm
3 is a air or gas compressed firearm which uses that to
4 power the projectile which could be a plastic or metal
09:34 5 BB. The BB is typically a small caliber that can be
6 used to cause substantial bodily harm or death because
7 of the amount of compressed air and gas in the firearm.

8 Q. What does it mean to be a replica style
9 firearm?

09:35 10 A. It's a replica style firearm because they
11 typically fashion them to look exactly like the firearm
12 that they are mimicking. A person without experience or
13 knowledge of firearms would think that it's actually a
14 firearm, one that police or someone could buy at a
09:35 15 sporting goods store.

16 Q. Earlier you mentioned that there were Big 5
17 bags in the car as well?

18 A. Yes. After we detained everybody from the
19 vehicle, I approached the vehicle, the doors of the
09:35 20 vehicle were open, I noticed in the back seat that there
21 were numerous Big 5 shopping bags in the back seat.

22 Q. What happened after that?

23 A. After that, my role is I went back to our
24 headquarters with the suspects and I interviewed a black
09:35 25 female adult.

09:35 1 Q. Was the black female adult in the vehicle
2 with the other, with Fink and Gonzalez?

3 A. No.

4 Q. How did you come into contact with her?

09:36 5 A. Other detectives on scene, Joseph Parra and
6 Ted Weirauch, gained information on scene that the black
7 female adult involved in the robbery was possibly
8 upstairs in an apartment and they went to that apartment
9 on property in the same building where the car was
09:36 10 parked where we detained them and located a female who
11 identified herself as Mia Jones.

12 Q. And then at some point was she also brought
13 down to the parking lot where the other two suspects
14 were?

09:36 15 A. Yes.

16 Q. After that did you say that the three of
17 them were brought to somewhere else?

18 A. They were brought to LVMPD headquarters to
19 be interviewed.

09:36 20 Q. And you went there as well?

21 A. Yes.

22 Q. Okay. And then you mentioned that you had
23 the opportunity to interview the suspect that you
24 believed to be Mia Jones?

09:36 25 A. Yes.

09:36 1 Q. What did Mia Jones look like?

2 A. She was a heavysset black female adult.

3 Q. And did she also match the description of

4 someone involved in the robbery at the Big 5?

09:37 5 A. Yes, she was wearing the clothing observed

6 on video surveillance.

7 Q. Do you recall the description of her?

8 A. Of the clothing?

9 Q. Yes.

09:37 10 A. I don't recall.

11 Q. Okay. At some point later did you learn

12 that Mia Jones was not her name?

13 A. Yes.

14 Q. What was her actual name?

09:37 15 A. Lequana Brown.

16 Q. When you interviewed her, did you read her

17 her Miranda rights?

18 A. Yes.

19 Q. Did she indicate that she understood those?

09:37 20 A. Yes.

21 Q. And did she agree to speak with you?

22 A. Yes.

23 Q. While you were interviewing her, did she

24 acknowledge that she was involved in the incident at the

09:37 25 Big 5 at 4275 East Charleston?

09:37 1 A. Yes.

2 Q. And that was the incident that took place
3 on June 23rd?

4 A. Yes.

09:37 5 Q. And then did she also match the description
6 of another incident that took place at a Champs Sports
7 store?

8 A. Yes.

9 Q. Did you also ask her about that?

09:37 10 A. Yes.

11 Q. Did she acknowledge that she was involved
12 in that incident was well?

13 A. Yes.

14 Q. That was the incident that took place at
09:38 15 10975 Sage Park Drive on June 4th?

16 A. Yes.

17 Q. Did you show her surveillance video from
18 both of those incidents?

19 A. I showed her still photographs of the video
09:38 20 surveillance to her during the interview.

21 Q. Okay. So did you obtain the surveillance
22 video from both of those incidents?

23 A. Yes. Well, I didn't personally obtain it,
24 no, but I had access to the video surveillance to get
09:38 25 stills to show Miss Jones later known as Miss Brown.

09:38 1 Q. So someone else obtained it and then you
2 had access to it?

3 A. Yes.

4 Q. And you then took stills from that video?

09:38 5 A. Yes.

6 Q. And then you showed her those photos during
7 the interviews?

8 A. Yes.

9 Q. Okay. Did she also agree that it was her
09:38 10 in the surveillance from the Big 5 incident?

11 A. Yes.

12 Q. And did she also agree that it was her in
13 the surveillance from the Champs incident?

14 A. Yes.

09:39 15 Q. Okay. I am first going to show you
16 Exhibits 3 through 7. Can you flip through these and
17 tell me if you recognize those.

18 A. Yes.

19 Q. How do you recognize them?

09:39 20 A. It's video surveillance from the Champs
21 store, that was a robbery that occurred on June 4th.

22 Q. And are these fair and accurate depictions
23 of that video?

24 A. Yes.

09:39 25 Q. And is the woman in this video who you

09:39 1 determined to be Lequana Brown?

2 A. Yes.

3 Q. And this is the video that she indicated
4 this is her in the video; correct?

09:39 5 A. That's correct.

6 Q. And now showing you 10, I'm sorry, 8, 9 and
7 10. Can you flip through these and tell me if you
8 recognize those?

9 A. Yes.

09:40 10 Q. How do you recognize them?

11 A. It's video surveillance that was taken from
12 the Big 5 on June 23, 2019.

13 Q. Okay. And you showed Miss Brown Exhibit
14 Number 8 and this was a photo that she identified
09:40 15 herself in; is that right?

16 A. Yes.

17 Q. Okay. And showing you Exhibit 11. Do you
18 recognize this?

19 A. Yes, that is the female that identified
09:40 20 herself initially as Mia Jones, later identified as
21 Lequana Brown.

22 Q. Publishing for the Grand Jury members.

23 And now showing you Exhibit 12. Do you
24 recognize this person?

09:40 25 A. Yes.

09:40 1 Q. Who is that?

2 A. Sarah Gonzalez.

3 Q. Publish for the Grand Jury members.

4 And showing you Exhibit 13. Do you

09:40 5 recognize this person?

6 A. Yes.

7 Q. Who is that?

8 A. That's Mark Finks.

9 Q. And publishing for the Grand Jury members.

09:41 10 When Miss Brown identified herself as Mia
11 Jones, did she also give you additional information for
12 that person such as a birth date or anything like that?

13 A. Yes, she provided her name and date of
14 birth and provided additional information that we could
09:41 15 use to identify her. When we ran her up in our system
16 we did find a Mia Jones that matched the physical
17 descriptors of the woman that we were interviewing so at
18 the time we did believe that that was her because she
19 was being cooperative. However later down the road she
09:41 20 openly admitted prior to being booked into Clark County
21 Detention Center that she lied to detectives and that
22 she was actually Lequana Brown.

23 Q. Was the birth date and the information she
24 gave for Mia Jones different than the information that
09:42 25 actually belonged to her?

09:42 1 A. Yes.

2 MS. GETLER: I have no further questions
3 for this witness. Are there any questions by the Grand
4 Jury members?

09:42 5 THE FOREPERSON: Yes.

6 BY A JUROR:

7 Q. Perception, when someone pulls a gun on, a
8 defendant pulls a gun on someone, whether it's a BB gun
9 or whether it's a real gun, it's taken equally as a
09:42 10 threat, right?

11 A. Yes.

12 MS. GETLER: Okay, I'm --

13 MR. ALBRIGHT: I guess -- do you have the
14 instructions in front of you? Is your question is the
09:42 15 severity because it was a BB gun different than if it
16 was a real gun?

17 A JUROR: Right. Right.

18 MR. ALBRIGHT: So we'll just point out in
19 the instructions it does define a deadly weapon as a BB
09:42 20 gun, pneumatic gun or a firearm. If that answers your
21 question.

22 A JUROR: That does.

23 THE FOREPERSON: Any other questions?

24 Okay. By law, these proceedings are secret

09:43 25 and you are prohibited from disclosing to anyone

09:43 1 anything that has transpired before us, including
2 evidence and statements presented to the Grand Jury, any
3 event occurring or statement made in the presence of the
4 Grand Jury, and information obtained by the Grand Jury.

09:43 5 Failure to comply with this admonition is a
6 gross misdemeanor punishable by up to 364 days in the
7 Clark County Detention Center and a \$2,000 fine. In
8 addition, you may be held in contempt of court
9 punishable by an additional \$500 fine and 25 days in the
09:43 10 Clark County Detention Center.

11 Do you understand this admonition?

12 THE WITNESS: Yes.

13 THE FOREPERSON: Thank you, sir.

14 THE WITNESS: Thank you.

09:43 15 MS. GETLER: That is the State's conclusion
16 of the presentation of evidence in this matter. At this
17 time as I mentioned in the beginning today we are only
18 asking you to deliberate on Counts 13 through 16, and 24
19 to 28. Thank you.

09:43 20 (At this time, all persons, other than
21 members of the Grand Jury, exit the room at 9:43 a.m.
22 and return at 9:47 a.m.)

23 THE FOREPERSON: Mr. District Attorney, by
24 a vote of 12 or more grand jurors a true bill has been
09:47 25 returned against the defendants charging the crimes of

09:47 1 conspiracy to commit robbery, robbery with use of a
2 deadly weapon, burglary, obtaining and using personal
3 identifying information of another, grand larceny,
4 robbery, grand larceny, carrying a concealed pneumatic
09:47 5 gun. We instruct -- case number 19BGJ023AB&C. We
6 instruct you to prepare an Indictment in conformance
7 with the proposed Indictment previously submitted to us.

8 MR. ALBRIGHT: Thank you, ladies and
9 gentlemen.

09:47 10 MS. GETLER: Thank you.

11 (Proceedings concluded.)

12 --oo0oo--

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09:47

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REPORTER'S CERTIFICATE

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3

STATE OF NEVADA)

: ss

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COUNTY OF CLARK)

09:47

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6

I, Danette L. Antonacci, C.C.R. 222, do

7

hereby certify that I took down in Shorthand (Stenotype)

8

all of the proceedings had in the before-entitled matter

9

at the time and place indicated and thereafter said

09:47

10

shorthand notes were transcribed at and under my

11

direction and supervision and that the foregoing

12

transcript constitutes a full, true, and accurate record

13

of the proceedings had.

14

Dated at Las Vegas, Nevada,

09:47

15

October 17, 2019.

16

17

/s/ Danette L. Antonacci

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19

Danette L. Antonacci, C.C.R. 222

09:48

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09:48

1

AFFIRMATION

2

Pursuant to NRS 239B.030

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4

The undersigned does hereby affirm that the
preceding TRANSCRIPT filed in GRAND JURY CASE NUMBER
19BGJ023ABC:

09:48

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8

X Does not contain the social security number of any
person,

9

09:48

10

-OR-

11

 Contains the social security number of a person as
required by:

12

13

A. A specific state or federal law, to-
wit: NRS 656.250.

14

-OR-

09:48

15

16

B. For the administration of a public program
or for an application for a federal or
state grant.

17

18

/s/ Danette L. Antonacci

19

Signature

10-17-19

Date

09:48

20

21

Danette L. Antonacci

Print Name

22

23

Official Court Reporter

Title

24

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MR. ALBRIGHT: [12] 17/15 18/18 30/1 33/2 46/1 46/8 46/17 46/20 46/23 62/12 62/17 64/7	1	28 [4] 6/7 6/7 18/21 63/19
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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)
)
 Plaintiff,)
)
 vs.) GJ No. 19BGJ020X
) DC No. C344115
 JAVIER FLORES, aka Javier Felipe)
 Flores,)
)
 Defendant.)

Taken at Las Vegas, Nevada

Wednesday, October 16, 2019

9:58 a.m.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

VOLUME 2

Reported by: Danette L. Antonacci, C.C.R. No. 222

12:00 1 GRAND JURORS PRESENT ON OCTOBER 16, 2019
2
3 STEVE LURVEY, FOREPERSON
4 TIARA COSENTINO, Deputy Foreperson
12:00 5 MARLA SMITH, Secretary
6 KATHERINE FORRED, Assistant Secretary
7 BARBARA ALESSI (Does not deliberate.)
8 JOHN FINKOWSKI
9 PAUL GILLENWATER
12:00 10 MARK GOODMAN
11 JEFFREY GRUBER
12 CRISTAL HINOJOSH CRUZ
13 PAUL KOSLUCHER
14 WILLIAM LISTON
12:00 15 FLORA MCCLINTON-MCFARLING
16 GERALD REID
17 DANIEL STACK
18 NOEL WELLMAN
19 WALTER ZUKOWSKI
12:00 20
21
22 Also present at the request of the Grand Jury:
23 Ashley Lacher, Deputy District Attorney
24
12:00 25

INDEX OF EXHIBITSGrand Jury ExhibitsIdentified

1A - AMENDED PROPOSED INDICTMENT

4

2A - INSTRUCTIONS

5

15 - TRANSCRIPT

5

12:00 1 LAS VEGAS, NEVADA, OCTOBER 16, 2019

2 * * * * *

3

4 DANETTE L. ANTONACCI,

12:00 5 having been first duly sworn to faithfully
6 and accurately transcribe the following
7 proceedings to the best of her ability.
8

9 MS. LACHER: Good morning ladies and
09:58 10 gentlemen of the Grand Jury. My name is deputy district
11 attorney Ashley Lacher. I'm covering this case for
12 deputy district attorney Nima Afshar who was here at the
13 first presentment back on October 9, 2019. This is the
14 continued presentation of case number 19BGJ020X. The
09:58 15 record will reflect that we have a marked copy of the
16 proposed Indictment as Grand Jury Exhibit 1A.
17 Previously you were given Grand Jury Exhibit Number 1
18 proposed Indictment. Grand Jury Exhibit 1A is what
19 we're going to ask you to deliberate on and it has a
09:58 20 total of eight counts that we're going to be asking to
21 deliberate on.

22 As a result of those additional charges
23 there is also updated Grand Jury instructions that I'm
24 going to ask you to review. Those are marked and
09:59 25 everybody has available for them as Grand Jury

09:59 1 Exhibit 2A. Additionally in the event that you need to
2 refresh your recollection of anything that was presented
3 on the October 9, 2019 presentment, a copy of that
4 transcript is also marked as Grand Jury Exhibit 3A.

10:00 5 We're going to renumber the Grand Jury
6 transcript from October 9, 2019. It's not going to be
7 3A, it's going to be the next in line marked as Grand
8 Jury Exhibit Number 15. That correction is going to be
9 made here. And so if any of the grand jurors need to
10:00 10 review that transcript, I believe some of you already
11 have prior, if you weren't here at the earlier
12 presentment and if you need to see it, that's available
13 to you.

14 The defendant in this case, the total
10:00 15 charges that we're going to ask you to deliberate on is
16 Count 1, battery resulting in substantial bodily harm
17 constituting domestic violence; Count 2, the same,
18 battery resulting in substantial bodily harm
19 constituting domestic violence; Count 3, first degree
10:01 20 kidnapping resulting in substantial bodily harm;
21 Count 4, battery with use of a deadly weapon resulting
22 in substantial bodily harm constituting domestic
23 violence; Count 5 and 6, the same; Count 7, battery with
24 use of a deadly weapon constituting domestic violence;
10:01 25 and Count 8, battery with intent to kill constituting

10:01 1 domestic violence.

2 Again the instructions that reflect those
3 updated charges are available for your review and if you
4 have any questions please let me know. I will be
10:01 5 waiting outside and I'll be happy to answer the
6 questions you might have.

7 With that the State has concluded its
8 presentation of evidence in this matter and it's
9 submitted for your deliberation. Thank you.

10:01 10 (At this time, all persons, other than
11 voting members of the Grand Jury, exit the room at 10:01
12 a.m. and return at 10:07 a.m.)

13 THE FOREPERSON: Mrs. District Attorney, by
14 a vote of 12 or more grand jurors a true bill has been
10:07 15 returned against defendant charging the crime of battery
16 resulting in substantial bodily harm constituting
17 domestic violence, first degree kidnapping resulting in
18 substantial bodily harm, battery with use of a deadly
19 weapon resulting in substantial bodily harm constituting
10:07 20 domestic violence, battery with use of deadly weapon
21 constituting domestic violence, and battery with intent
22 to kill constituting domestic violence. We instruct you
23 to prepare -- excuse me. Case number will be 19BGJ020X.
24 We instruct you to prepare an Indictment in conformance
10:07 25 with the proposed Indictment previously submitted to us.

10:07

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MS. LACHER: Thank you.

THE FOREPERSON: Thank you.

(Proceedings concluded.)

--oo0oo--

10:07

1

REPORTER'S CERTIFICATE

2

3

STATE OF NEVADA)

: ss

4

COUNTY OF CLARK)

10:07

5

6

I, Danette L. Antonacci, C.C.R. 222, do

7

hereby certify that I took down in Shorthand (Stenotype)

8

all of the proceedings had in the before-entitled matter

9

at the time and place indicated and thereafter said

10:07

10

shorthand notes were transcribed at and under my

11

direction and supervision and that the foregoing

12

transcript constitutes a full, true, and accurate record

13

of the proceedings had.

14

Dated at Las Vegas, Nevada,

10:07

15

October 17, 2019.

16

17

/s/ Danette L. Antonacci

18

19

Danette L. Antonacci, C.C.R. 222

10:07

20

21

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23

24

25

10:07

1

AFFIRMATION

2

Pursuant to NRS 239B.030

3

4

The undersigned does hereby affirm that the
preceding TRANSCRIPT filed in GRAND JURY CASE NUMBER
19BGJ020X:

10:07

5

6

7

8

X Does not contain the social security number of any
person,

9

10:07

10

-OR-

11

 Contains the social security number of a person as
required by:

12

13

A. A specific state or federal law, to-
wit: NRS 656.250.

14

-OR-

10:07

15

16

B. For the administration of a public program
or for an application for a federal or
state grant.

17

18

/s/ Danette L. Antonacci

19

Signature

10-17-19

Date

10:07

20

21

Danette L. Antonacci

Print Name

22

23

Official Court Reporter

Title

24

25

Felony/Gross Misdemeanor

COURT MINUTES

October 17, 2019

C-19-344112-3 State of Nevada
 vs
 Lequana Brown

October 17, 2019 11:00 AM Grand Jury Indictment

HEARD BY: Bell, Linda Marie COURTROOM: RJC Courtroom 17A

COURT CLERK: Estala, Kimberly

RECORDER: Vincent, Renee

REPORTER:

PARTIES PRESENT:

Peter I. Thunell Attorney for Plaintiff

State of Nevada Plaintiff

JOURNAL ENTRIES

Tiara Cosentino Grand Jury Foreperson, stated to the Court that at least twelve members had concurred in the return of the true bill during deliberation, but had been excused for presentation to the Court. State presented Grand Jury Case Number 19BGJ023C to the Court. COURT ORDERED, the Indictment may be filed and is assigned Case Number C-19-344112-3, Department XVII.

State requested a warrant, argued bail, and advised Deft is in custody. COURT ORDERED, \$75,000.00 BAIL; INDICTMENT WARRANT ISSUED, and matter SET for Arraignment.

Upon Court's inquiry, the State advised there are no material witness warrants to quash. COURT FURTHER ORDERED, Exhibits 1-13 to be lodged with the Clerk of the Court; Las Vegas Justice Court case no. 19F12727C, 19F13435X, and 19F13575A DISMISSED per the State's request. In addition, a Pre-Trial Risk Assessment will be prepared if one was not previously done.

I.W. (CUSTODY)

10/24/19 8:30 A.M. INITIAL ARRAIGNMENT (DEPT XVII)

ORIGINAL

1 **IND**

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 BRANDON ALBRIGHT
6 Deputy District Attorney
7 Nevada Bar #14158
8 STEPHANIE GETLER
9 Deputy District Attorney
10 Nevada Bar #14203
11 200 Lewis Avenue
12 Las Vegas, Nevada 89155-2212
13 (702) 671-2500
14 Attorney for Plaintiff

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

OCT 17 2019

BY 

KIMBERLY ESTALA, DEPUTY

9 DISTRICT COURT
10 CLARK COUNTY, NEVADA

11 THE STATE OF NEVADA,

12 Plaintiff,

CASE NO: C-19-344112-3

13 -vs-

DEPT NO: XVII

14 MARK ANTHONY FINK, aka,
15 Mark Anthony Finks, Jr. #7766797,
16 SARAH GONZALEZ #2864241,
17 LEQUANA BROWN, aka,
18 Lequana Leatrice Brown, #2651822

INDICTMENT

19 Defendant(s).

18 STATE OF NEVADA }
19 COUNTY OF CLARK } ss.

20 The Defendant(s) above named, MARK ANTHONY FINK, aka, Mark Anthony Finks,
21 Jr., SARAH GONZALEZ, LEQUANA BROWN, aka, Lequana Leatrice Brown, accused by
22 the Clark County Grand Jury of the crime(s) of CONSPIRACY TO COMMIT ROBBERY
23 (Category B Felony - NRS 200.380, 199.480 - NOC 50147); ROBBERY WITH USE OF A
24 DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138);
25 BURGLARY (Category B Felony - NRS 205.060 - NOC 50424); GRAND LARCENY
26 (Category C Felony - NRS 205.220.1, 205.222.2 - NOC 56004); OBTAINING AND USING
27 PERSONAL IDENTIFYING INFORMATION OF ANOTHER (Category C Felony - NRS
28 205.463 - NOC 50691) and CARRYING CONCEALED PNEUMATIC GUN (Category C

C - 19 - 344112 - 3
IND
Indictment
4870365



1 Felony - NRS 202.350 - NOC 51459), committed at and within the County of Clark, State of
2 Nevada, on or between June 4, 2019 and June 23, 2019, as follows:

3 COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

4 Defendant LEQUANA BROWN, aka, Lequana Leatrice Brown, did on or about June
5 4, 2019, willfully and unlawfully conspire with an unidentified individual, to commit a
6 robbery, by the defendant and/or unidentified co-conspirator committing the acts as set forth
7 in Count 2, said acts being incorporated by this reference as though fully set forth herein.

8 COUNT 2 - ROBBERY WITH USE OF A DEADLY WEAPON

9 Defendant LEQUANA BROWN, aka Lequana Leatrice Brown, and an unidentified
10 individual, on or about June 4, 2019, did willfully, unlawfully, and feloniously take personal
11 property, to wit: clothing, from the person of KELSEY TRISTRE, or in her presence, by means
12 of force or violence, or fear of injury to, and without the consent and against the will of
13 KELSEY TRISTRE, with use of a deadly weapon, to wit: a knife, Defendant using force or
14 fear to obtain or retain possession of the property, to prevent or overcome resistance to the
15 taking of the property, and/or to facilitate escape; the Defendant(s) and/or unidentified co-
16 conspirator being criminally liable under one or more of the following principles of criminal
17 liability, to wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the
18 commission of this crime, with the intent that this crime be committed, by counseling,
19 encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit
20 the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this
21 crime be committed, Defendants aiding or abetting and/or conspiring by Defendants acting in
22 concert throughout.

23 COUNT 3 - BURGLARY

24 Defendant LEQUANA BROWN, aka, Lequana Leatrice Brown, did on or about June
25 4, 2019 willfully, unlawfully, and feloniously enter a building, owned or occupied by
26 CHAMPS SPORTS STORE, located at 10975 Sage Park Drive, Las Vegas, Clark County,
27 Nevada, with intent to commit larceny and/or robbery and/or a felony; the Defendant(s) and/or
28 unidentified co-conspirator being criminally liable under one or more of the following

1 principles of criminal liability, to wit: (1) by directly committing this crime; and/or (2) by
2 aiding or abetting in the commission of this crime, with the intent that this crime be committed,
3 by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the
4 other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the
5 intent that this crime be committed, Defendants aiding or abetting and/or conspiring by
6 Defendants acting in concert throughout.

7 COUNT 4 - GRAND LARCENY

8 Defendant LEQUANA BROWN, aka, Lequana Leatrice Brown, did on or about June
9 4, 2019 then and there willfully, unlawfully, and feloniously with intent to deprive the owner
10 permanently thereof, steal, take and carry away, lead away or drive away property owned by
11 CHAMPS SPORTS STORE, having a value of \$650.00 or more, to wit: miscellaneous
12 merchandise including shirts and/or shorts and/or shoes; the Defendant(s) and/or unidentified
13 co-conspirator being criminally liable under one or more of the following principles of
14 criminal liability, to wit: (1) by directly committing this crime; and/or (2) by aiding or abetting
15 in the commission of this crime, with the intent that this crime be committed, by counseling,
16 encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit
17 the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this
18 crime be committed, Defendants aiding or abetting and/or conspiring by Defendants acting in
19 concert throughout.

20 COUNT 5 - CONSPIRACY TO COMMIT ROBBERY

21 Defendants MARK ANTHONY FINK, aka, Mark Anthony Finks, Jr. and SARAH
22 GONZALEZ, and LEQUANA BROWN, aka, Lequana Leatrice Brown, did on or about the
23 23rd of June, willfully, unlawfully, and feloniously conspire with each other, to commit a
24 robbery, by the defendants committing the acts as set forth in Count 6, said acts being
25 incorporated by this reference as though fully set forth herein.

26 COUNT 6 - ROBBERY WITH USE OF A DEADLY WEAPON

27 Defendants MARK ANTHONY FINK, aka, Mark Anthony Finks, Jr. and SARAH
28 GONZALEZ, and LEQUANA BROWN, aka, Lequana Leatrice Brown, did on or about the

1 23rd of June, willfully, unlawfully, and feloniously take personal property, to wit:
2 merchandise, from the person of BRIAN AKITA, or in his presence, by means of force or
3 violence, or fear of injury to, and without the consent and against the will of BRIAN AKITA,
4 with use of a deadly weapon, to wit: a firearm, Defendant using force or fear to obtain or retain
5 possession of the property, to prevent or overcome resistance to the taking of the property,
6 and/or to facilitate escape; the Defendant(s) being criminally liable under one or more of the
7 following principles of criminal liability, to wit: (1) by directly committing this crime; and/or
8 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be
9 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise
10 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this
11 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or
12 conspiring by Defendants acting in concert throughout.

13 COUNT 7 - BURGLARY

14 Defendants MARK ANTHONY FINK, aka, Mark Anthony Finks, Jr. and SARAH
15 GONZALEZ, and LEQUANA BROWN, aka, Lequana Leatrice Brown, did on or about the
16 23rd of June, willfully, unlawfully, and feloniously enter a building, owned or occupied by
17 BIG 5, located at 4275 East Charleston, Las Vegas, Clark County, Nevada, with intent to
18 commit larceny and/or robbery, and/or a felony; the Defendant(s) being criminally liable under
19 one or more of the following principles of criminal liability, to wit: (1) by directly committing
20 this crime; and/or (2) by aiding or abetting in the commission of this crime, with the intent that
21 this crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or
22 otherwise procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to
23 commit this crime, with the intent that this crime be committed, Defendants aiding or abetting
24 and/or conspiring by Defendants acting in concert throughout.

25 COUNT 8 - OBTAINING AND USING PERSONAL IDENTIFYING INFORMATION OF
26 ANOTHER

27 Defendant LEQUANA BROWN, aka, Lequana Leatrice Brown, did on or about the
28 23rd of June, there and there willfully, unlawfully, knowingly, and feloniously obtain personal

1 identifying information of another person, to wit: MIA JONES, and did use said identifying
2 information to avoid or delay being prosecuted for an unlawful act, in the following manner,
3 to wit: Giving officers the name, date of birth, and ID number of said, Mia Jones, and
4 representing that the information was her own.

5 COUNT 9 - CARRYING CONCEALED PNEUMATIC GUN

6 Defendant: SARAH GONZALEZ did on or about June 23, 2019 then and there
7 willfully, unlawfully and feloniously carry concealed upon her person a pneumatic gun.

8 DATED this ____ day of October, 2019.

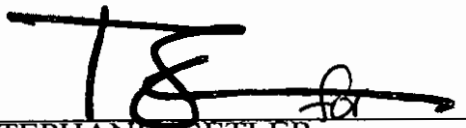
9 STEVEN B. WOLFSON
10 Clark County District Attorney
Nevada Bar #001565

11
12 BY


13 BRANDON ALBRIGHT
14 Deputy District Attorney
Nevada Bar #14158

15 STEVEN B. WOLFSON
16 Clark County District Attorney
Nevada Bar #001565

17
18 BY


19 STEPHANIE GETLER
20 Deputy District Attorney
Nevada Bar #14203

21 ENDORSEMENT: A True Bill


22
23 Foreperson, Clark County Grand Jury
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28

Names of Witnesses and testifying before the Grand Jury:

AKITA, BRIAN – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

KAMANLIWAI, JABON – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

MESTRE, KELSEY – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

PERKETT, ERICK - LVMPD

Additional Witnesses known to the District Attorney at time of filing the Indictment:

CUSTODIAN OF RECORDS - CCDC

CUSTODIAN OF RECORDS - LVMPD COMMUNICATIONS

CUSTODIAN OF RECORDS - LVMPD RECORDS

19BGJ023A-C/19F12727A-C/19F13435X/19F13575A-B/cl-GJ
LVMPD EV# 190600109274; 190600017813;
190499999757; 190499999400; 190499999359;
190699999764; 190699999624; 190699999602;
190699999354; 190600104412
(TK7)

Felony/Gross Misdemeanor

COURT MINUTES

October 24, 2019

C-19-344112-3 State of Nevada
 vs
 Lequana Brown

October 24, 2019 08:30 AM All Pending Motions

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

COURT CLERK: Black, Olivia

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

Carl E. Arnold Attorney for Defendant

Lequana Brown Defendant

Sarah Overly Attorney for Plaintiff

State of Nevada Plaintiff

JOURNAL ENTRIES

Adam Gill, Esq. present on behalf of Co- Defendant Fink and Co- Defendant Gonzalez for Martin Hart, Esq.

INDICTMENT WARRANT RETURN...INITIAL ARRAIGNMENT

DEFT. BROWN ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. Upon Court's inquiry, Defendant confirmed she was willing to waive three weeks for trial. COURT ORDERED, matter set for trial. COURT FURTHER ORDERED, pursuant to Statute, Counsel has 21 days from today for the filing of any Writs; if the Preliminary Hearing Transcript has not been filed as of today, Counsel has 21 days from the filing of the Transcript.

CUSTODY

12/10/19 8:30 AM CALENDAR CALL

01/06/20 9:00 AM JURY TRIAL



MOT
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
STEPHANIE GETLER
Deputy District Attorney
Nevada Bar #014203
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

LEQUANA BROWN, aka,
Lequana Leatrice Brown #2651822,

Defendant.

CASE NO: C-19-344112-3

DEPT NO: XVII

**STATE'S NOTICE OF MOTION
AND MOTION TO CONSOLIDATE CASE C-19-344268-1-2 INTO THE INSTANT
CASE**

DATE OF HEARING:
TIME OF HEARING: 8:30 A.M.

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through STEPHANIE GETLER, Deputy District Attorney, and files this Notice of Motion and Motion to Consolidate Case C-19-339903-1 into The Instant Case.

This Motion is made and based upon all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing, if deemed necessary by this Honorable Court.

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DATED this 8th day of November, 2019.

BY STEPHANIE GETLER
Deputy District Attorney

BY

MEMORANDUM OF POINTS AND AUTHORITIES

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A. C344268

On April 15, 2019, Brown entered a Victoria's Secret, located at 6543 S. Las Vegas Boulevard, wherein she grabbed approximately 30 pairs of leggings. Brown ran out of the store and got into a vehicle that was waiting for her. Brown took approximately \$1,948.50 worth of merchandise.

1 On April 23, 2019, Brown entered Victoria's Secret, located at 2035 Festival Plaza
2 Drive, wherein she grabbed approximately 10 pairs of leggings. When the store clerk asked
3 Brown if she needed a fitting room, she replied "no I fittin' to walk out with these. . .do you
4 want to get stabbed or killed?" The clerk then backed away from Brown. Brown exited the
5 store and got into a vehicle that was waiting for her. Brown took approximately \$699.50 worth
6 of merchandise.

7 On May 28, 2019, Brown entered Victoria's Secret, located at 6543 S. Las Vegas
8 Boulevard, wherein she grabbed approximately 85 pairs of leggings. Two unidentified people
9 were with Brown. A store clerk was attempting to assist them and Brown told the unidentified
10 accomplices that "if this white bitch tries to stop you, fuck her up." Brown and the other two
11 people exited the store and got into a vehicle that was waiting for them. Brown took
12 approximately \$5,520.75 worth of merchandise.

13 On May 30, 2019, Brown entered Victoria's Secret, located at 2035 Festival Plaza
14 Drive, wherein she grabbed approximately 57 pairs of leggings. Brown exited the store. Brown
15 took approximately \$3,856.85 worth of merchandise.

16 On June 10, 2019, Brown entered Victoria's Secret, located at 3680 South Maryland
17 Parkway, wherein she grabbed approximately 14 pairs of leggings, 8 tank tops, and 1 pair of
18 shorts. Brown exited the store. Brown took approximately \$738.85 worth of merchandise.

19 On June 16, 2019, Brown and Gonzalez entered Victoria's Secret, located at 6543 S.
20 Las Vegas Boulevard. Brown grabbed approximately 43 PINK brand items and Gonzalez
21 grabbed 1 item. Brown and Gonzalez entered the store together, walked around together, and
22 exited together. Brown and Gonzalez got into a vehicle that was waiting for them and fled the
23 scene. Brown and Gonzalez took approximately \$2,154.85 worth of merchandise.

24 On June 22, 2019, Brown entered Victoria's Secret, located at 3680 South Maryland
25 Parkway, wherein she grabbed approximately 12 pairs of leggings and 10 tank tops. As an
26 employee approached Brown, she said "touch me and I will stick you." Brown exited the store
27 and got into a vehicle that was waiting for her. Brown took approximately \$918.90 worth of
28 merchandise.

1 Brown is charged with several counts of Burglary, Grand Larceny, and Robbery.
2 Gonzalez is charged with Burglary and Grand Larceny. Trial is set for January 6, 2019.

3 **B. C344112**

4 On June 4, 2019, Brown and an unidentified person entered Champs Sports Store,
5 located at 10975 Sage Park Drive. Brown began looking at merchandise and told a store clerk
6 that she has just won big at the Red Rock Casino and wanted to spend her winnings. A store
7 clerk assisted her in matching outfits and shoes and select items. The clerk then brought the
8 merchandise over to the register to begin checking them out. During check out, the unknown
9 person carried about 6-8 bags of merchandise out of the store. Brown then attempted to leave
10 with additional merchandise, prior to paying. The clerk attempted to block her exit, at which
11 point, Brown pulled out a knife and said, "we're not going to do this" and attempted to stab
12 the clerk. Brown was able to leave the store and fled in a vehicle that was waiting for her.
13 Brown took approximately \$2,758.58 worth of merchandise.

14 On June 23, 2019, Brown and Gonzalez entered a Big 5, located at 4275 East
15 Charleston. They began looking at merchandise. Brown told a store clerk that she has just won
16 big at the Palace Station Casino and wanted to spend her winnings. A store clerk assisted them
17 in matching outfits and shoes and select items. The clerk then brought the merchandise over
18 to the register to begin checking them out. Prior to paying, Gonzalez took some of the
19 merchandise out of the store. Fink then entered the Big 5 and told them he wanted to buy a
20 pellet gun. Fink then began assisting Gonzalez in carrying bags of merchandise out of the
21 store. Brown threw a Citibank card at the store clerk, which did not have her name on it, and
22 told the clerks to use that to pay. As Brown, Gonzalez, and Fink were all out at the vehicle
23 attempting to leave with the merchandise, the store manager approached them and attempted
24 to recover it. Fink pulled a firearm on the victim.

25 On June 23, 2019, after the Big 5 incident, officers located a vehicle matching the
26 description of the vehicle from the Big 5 incident. Officers noticed a male matching the
27 description, later identified as Fink, and a female matching the description, later identified as
28 Gonzalez. A concealed weapon was located in Gonzalez's bra. Brown was located in a nearby

1 apartment but identified herself as Mia Jones. She was later discovered to be Brown. Brown
2 was interviewed, shown surveillance stills, and acknowledged her involvement in each event,
3 for both cases.

4 Brown was charged with Robbery with a Deadly Weapon, Burglary, Grand Larceny,
5 Conspiracy to Commit Robbery, and Obtaining and Using Personal Identifying Information
6 of Another. Gonzalez was charged with Robbery with Conspiracy to Commit Robbery,
7 Robbery with Use of a Deadly Weapon, Burglary, and Carrying Concealed Pneumatic Gun.
8 Fink was charged with Conspiracy to Commit Robbery, Robbery with Use of a Deadly
9 Weapon, and Burglary. Trial is set for January 6, 2019.

10 II. ARGUMENT

11 A. Legal Standard for Consolidation and Cross-Admissibility

12 1. *Standard for Consolidation*

13 NRS 174.155 addresses consolidation of charging documents. It states in pertinent part:

14 The court may order two or more indictments or information or
15 both to be tried together if the offenses...could have been joined
16 in a single indictment or information. The procedure shall be the
same as if the prosecution were under such single indictment or
information.

17 Additionally, Section 173.115 of the Nevada Revised Statutes
18 provides:

19 Two or more offenses may be charged in the same indictment or
20 information in a separate count for each offense if the offenses
charged, whether felonies or misdemeanors or both, are: (1) Based
21 on the same act or transaction; or (2) Based on two or more acts
or transactions connected or constituting parts of a common
scheme or plan.

22 In considering whether to allow consolidation, courts examine the conflicting policies
23 of economy and efficiency in judicial administration (looking to control courts' calendars in
24 avoidance of multiple trials), and any resulting prejudice to the defendant which might arise
25 from being prosecuted at trial by presentation of evidence of other crimes flowing from a
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1 common plan or scheme. United States v. Fletcher, 195 F. Supp. 634 (D. Conn. 1960), aff'd,
2 319 F.2d 604 (4th Cir. 1963).¹

3 Joinder of two or more Indictments or Informations is within discretion of the trial court
4 and its action will not be reversed absent abuse of discretion. Lovell v. State, 92 Nev. 128
5 (1976).

6 Eighth Judicial District Court Rule 3.10, and NRS 174.155, promote judicial economy.
7 EDCR 3.10 provides:

8 (a) When an indictment or information is filed against a defendant
9 who has other criminal cases pending in the court, the new case
10 may be assigned directly to the department wherein a case against
11 that defendant is already pending.

(b) Unless objected to by one of the judges concerned, criminal
cases, writs or motion may be consolidated or reassigned to any
department for trial, settlement or other resolution.

12 2. *Cross-Admissibility*

13 As this court is well aware, section 48.045(2) of the Nevada Revised Statutes provides:

14 Evidence of other crimes, wrongs, or acts is not admissible to
15 prove the character of a person in order to show that he acted in
16 conformity therewith. It may, however, be admissible for other
17 purposes, such as proof of motive, opportunity, intent, preparation,
plan, knowledge, identity, or absence of mistake or accident.

18 In applying NRS 48.045(2), courts must assess whether the probative value of the
19 evidence is substantially outweighed by a risk of prejudice. Significantly, however, courts
20 have recognized a distinction between evidence that is incriminating versus evidence that is
21 actually prejudicial. For instance, in United States v. Harrison, 679 F.2d 942 (D.C. Cir. 1982),
22 the prosecution presented evidence that the defendant had been engaged in drug dealing in the
23 past over a period of time in order to establish motive, intent, preparation, and absence of
24 mistake on his current drug charges. The court held that allowing the admission of the extrinsic
25 evidence was proper. It explained:

26 //

27 ¹ Since Nevada's consolidation statute, section 174.155 of the Nevada Revised Statutes, is the same as the federal
28 consolidation rule, Federal Rule of Criminal Procedure 8(B), Fletcher, which discusses the federal statute, is also
persuasive with regard to our state statute.

1 There is nothing "unfair" in admitting direct evidence of the
2 defendant's past acts by an eyewitness thereto that constituted
3 substantive proof of the relevant intent alleged in the indictment.
4 The intent with which a person commits an act on a given occasion
can many times be best proven by testimony or evidence of his
acts over a period of time prior thereto . . .

5 Id. at 948. Further, in People v. Johnson, 185 Cal.App.4th 520, 534 (2010), the court
6 held that:

7 "Prejudicial" is not synonymous with "damaging." **Rather,**
8 **evidence is unduly prejudicial...only if it "uniquely tends to**
9 **evoke an emotional bias against the defendant as an individual**
10 **and...has very little effect on the issues"** or if it invites the jury
to prejudge "a person or cause on the basis of extraneous factors."
11 **Painting a person faithfully is not, of itself, unfair.** (Emphasis
12 added.)

13 Therefore, while certain evidence may increase the likelihood of conviction and thus
14 be incriminating, such evidence may not unfairly cast the defendant in a bad light and therefore
15 would not be impermissibly prejudicial.

16 In Fields v. State, 125 Nev. 785, 220 P.3d 709 (2009), the Nevada Supreme Court
17 affirmed the District Court Judge's determination to admit evidence that the Defendant owed
18 debts to the victim and that he had previously engaged in a conversation about killing a man
19 to whom he owed money. The Nevada Supreme Court agreed with the District Court's
20 decision that such evidence was admissible as proof of motive, to disprove his contention that
21 he was just an innocent bystander to his wife's scheme, and to prove identity.

22 Likewise, in Gallego v. State, 101 Nev. 782, 711 P.2d 856 (1985), the Nevada Supreme
23 Court noted how a defendant's prior murders could be relevant in establishing a common plan,
24 intent, identity, and motive in a subsequent murder case. In Gallego, the defendant was
25 charged with kidnapping, assaulting, and killing two young women by bludgeoning them with
26 a hammer. The trial court permitted the State to introduce evidence that Gallego had previously
27 kidnapped two young women from a shopping mall and shot and killed them. Id. at 789, 711
28 P.2d at 861. On appeal, Gallego challenged the introduction of such evidence.

29 The Nevada Supreme Court affirmed the conviction and introduction of the evidence
30 on several grounds within NRS 48.045(2). The court noted that the evidence was relevant to
31 Gallego's intent and motive, because both instances were prompted by a "sex slave" fantasy

1 on the part of Gallego. The court also commented that the evidence was relevant because the
2 prior murders were “not remote in time from the killings here considered” and that “substantial
3 similarities” were shown to exist between the two events, suggesting that the evidence was
4 relevant to issues of identity as well as a common scheme or plan. See id.

5 Finally, it should be noted that the admissibility of prior bad acts is within the sound
6 discretion of the trial court and will not be overturned on appeal unless the decision is
7 manifestly wrong. Canada v. State, 104 Nev. 288, 291-293, 756 P.2d 552, 554 (1988).

8 **B. Consolidation is Appropriate**

9 Here, the Court should consolidate case C344268 into case C344112 because both cases
10 flow from a common plan or scheme. Brown committed a series of commercial burglaries
11 between April 3, 2019 and June 23, 2019. Gonzalez was involved in two of those events (one
12 in each case) and Fink was involved in one event. Brown acts in a similar manner in each
13 event.

14 There is little danger of unfair prejudice to Defendants. There is nothing unfairly
15 prejudicial regarding Defendants’ trial rights or potential trial strategies. There is also nothing
16 that would be confusing to the jury or distract them from the facts of one case by focusing on
17 the facts of the other, because they are events in one crime spree and presenting all events to
18 one jury would allow that one jury to hear the entire story. Instead, it would be less confusing
19 for the jury by showing the complete story related to both cases. The only true outcome of
20 consolidation would be a substantial savings on judicial resources.

21 Therefore, the cases are essentially a continuation of one another, because the facts that
22 apply to each would be cross-admissible, and because Defendants would not be unfairly
23 prejudiced, the Court should consolidate the cases and prevent the parties from having to
24 present the same evidence in front of two different juries.

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III. CONCLUSION

Accordingly, the State respectfully requests that the Motion be granted, and the Court consolidate case C344268 into case C344112.

DATED this 8th day of November, 2019.


STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

BY 
STEPHANIE GETLER
Deputy District Attorney
Nevada Bar #014203

CERTIFICATE OF ELECTRONIC MAIL

I hereby certify that service of Notice of Motion and Motion To Consolidate Case C-19-344268-2 Into The Instant Case, was made this 8th day of November, 2019, by e-mail to:

CARL ARNOLD, ESQ.
Lvcegal@yahoo.com

BY: 
R. JACKSON
Secretary for the District Attorney's Office

19F12727C/SG/rmj/L-3

Felony/Gross Misdemeanor

COURT MINUTES

November 19, 2019

C-19-344112-3 State of Nevada
 vs
 Lequana Brown

November 19, 2019 08:30 AM All Pending Motions

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

COURT CLERK: Black, Olivia; Jackson, Carolyn

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

Lequana Brown	Defendant
State of Nevada	Plaintiff
Stephanie M. Getler	Attorney for Plaintiff

JOURNAL ENTRIES

Martin Hart, Esq. present on behalf of Defendant for Carl Arnold, Esq.

STATE'S MOTION TO CONSOLIDATE CASE C-19-34428-1 INTO THE INSTANT CASE...STATE'S NOTICE OF MOTION AND MOTION TO RE-SET TRIAL DATE

Mr. Hart noted the State wanted time to respond in writing. Court noted Co- Defendant Gonzalez opposition came in yesterday evening and the Court did not have an opportunity to review it. Upon Court's inquiry, Ms. Getler requested to continue the motions to December 5, 2019. Mr. Hart had no objection. COURT ORDERED, Motions CONTINUED. Ms. Getler noted she extended an offer to Defendant Brown to plead to a Robbery with Use of a Deadly Weapon, one in each of the two cases and stipulate to a six to fifteen year sentence in the Nevada Department of Corrections. Ms. Getler advised the offer would expire on December 5, 2019. Upon Court's inquiry, Mr. Hart advised he was recently given additional video.

CUSTODY

12/05/19 8:30 AM STATE'S MOTION TO CONSOLIDATE CASE C-19-34428-1 INTO THE INSTANT CASE...STATE'S NOTICE OF MOTION AND MOTION TO RE-SET TRIAL DATE



MOT
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
STEPHANIE GETLER
Deputy District Attorney
Nevada Bar #014203
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

LEQUANA BROWN, aka,
Lequana Leatrice Brown #2651822,

Defendant.

CASE NO: C-19-344112-3

DEPT NO: XVII

**REPLY TO STATE'S MOTION TO CONSOLIDATE AND OPPOSITION TO
DEFENDANT GONZALEZ'S MOTION TO SEVER**

DATE OF HEARING: DECEMBER 5, 2019
TIME OF HEARING: 8:30 A.M.

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through STEPHANIE GETLER, Deputy District Attorney, and files this Reply to State's Motion to Consolidate and Opposition to Defendant Gonzalez's Motion to Sever.

This Motion is made and based upon all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing, if deemed necessary by this Honorable Court.

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1 **I. REPLY TO STATE'S MOTION TO CONSOLIDATE**

2 NRS 174.155 addresses consolidation of charging documents. It states in pertinent part:

3 The court may order two or more indictments or information or
4 both to be tried together if the offenses...could have been joined
5 in a single indictment or information. The procedure shall be the
6 same as if the prosecution were under such single indictment or
7 information.

8 Additionally, Section 173.115 of the Nevada Revised Statutes
9 provides:

10 Two or more offenses may be charged in the same indictment or
11 information in a separate count for each offense if the offenses
12 charged, whether felonies or misdemeanors or both, are: (1) Based
13 on the same act or transaction; or (2) Based on two or more acts
14 or transactions connected together or constituting parts of a
15 common scheme or plan.

16 In considering whether to allow consolidation, courts examine the conflicting policies
17 of economy and efficiency in judicial administration (looking to control courts' calendars in
18 avoidance of multiple trials), and any resulting prejudice to the defendant which might arise
19 from being prosecuted at trial by presentation of evidence of other crimes flowing from a
20 common plan or scheme. United States v. Fletcher, 195 F. Supp. 634 (D. Conn. 1960), aff'd,
21 319 F.2d 604 (4th Cir. 1963).¹

22 Joinder of two or more Indictments or Informations is within discretion of the trial court
23 and its action will not be reversed absent abuse of discretion. Lovell v. State, 92 Nev. 128
24 (1976).

25 Eighth Judicial District Court Rule 3.10, and NRS 174.155, promote judicial economy.
26 EDCR 3.10 provides:

- 27 (a) When an indictment or information is filed against a defendant
28 who has other criminal cases pending in the court, the new case
 may be assigned directly to the department wherein a case against
 that defendant is already pending.
 (b) Unless objected to by one of the judges concerned, criminal
 cases, writs or motion may be consolidated or reassigned to any
 department for trial, settlement or other resolution.

¹ Since Nevada's consolidation statute, section 174.155 of the Nevada Revised Statutes, is the same as the federal consolidation rule, Federal Rule of Criminal Procedure 8(B), Fletcher, which discusses the federal statute, is also persuasive with regard to our state statute.

1 It appears that Defendant Gonzalez argues that she will be prejudiced because Brown
2 is charged with more counts than she is, and the jury will hold that against Gonzalez. See
3 Opposition at 5 – 6. This is not prejudicial and will not confuse the jury. The Indictment and
4 evidence at trial will make clear that each Defendant is only charged with the respective counts
5 they are charged with. Based upon the fact that Gonzalez is not charged in all the counts, she
6 makes a ridiculous conclusion that she “will be required to defend against involvement in eight
7 different burglaries and three associated robberies that she is not charged for.” Opposition at
8 6. This is patently incorrect. Gonzalez will only be required to defend against the charges for
9 which she is charged. Further, as NRS 173.135 provides, “[t]wo or more defendants may be
10 charged in the same indictment or information. . . *and all of the defendants need not be*
11 *charged in each count.*” (emphasis added).

12 Rather, the Court should consolidate the cases because both cases flow from a common
13 plan or scheme. Brown committed a series of commercial burglaries between April 3, 2019
14 and June 23, 2019. Gonzalez was involved in two of those events (one in each case) and Fink
15 was involved in one event. Brown acts in a similar manner in each event. There is little danger
16 of unfair prejudice to Defendants. There is nothing unfairly prejudicial regarding Defendants’
17 trial rights or potential trial strategies. The only true outcome of consolidation would be a
18 substantial savings on judicial resources.

19 **II. DEFENDANT IS NOT LEGALLY ENTITLED TO A SEVERANCE**

20 **A. Defendant has not established mutually antagonistic defenses**

21 Defendant Gonzalez has filed a motion asking for severance from Defendants Brown
22 and Fink. The sole basis for his request is “antagonistic defenses.” The Defendants are
23 properly joined in the instant case.

24 NRS 173.135 provides for the joinder of defendants by stating:

25 Two or more defendants may be charged in the same indictment or
26 information if they are alleged to have participated in the same act or
27 transaction or in the same series of acts or transactions constituting an
28 offense or offenses. Such defendants may be charged in one or more counts
together or separately and all of the defendants need not be charged in each
count.

1 Additionally, case law in Nevada has held that persons who have been jointly indicted should
2 be tried jointly, absent compelling reasons to the contrary. Jones v. State, 111 Nev. 848, 853,
3 899 P.2d 544 (1995).

4 NRS 174.165 provides that “[i]f it appears that a defendant or the State of Nevada is
5 prejudiced by a joinder of offenses or of defendants in an indictment or information . . . the
6 court may . . . grant a severance of defendants or provide what other relief justice requires.”
7 In order to obtain a severance, a defendant must demonstrate that substantial prejudice would
8 result from a joint trial. The decision to sever is left to the discretion of the trial court and such
9 decision will not be reversed absent an abuse of discretion. Amen v. State, 106 Nev. 749, 801
10 P.2d 1354 (1990). Broad allegations of prejudice are not enough to require a trial court to grant
11 severance. United States v. Baker, 10 F.3d 1374, 1389 (9th Cir. 1993), cert. denied, 513 U.S.
12 934, 115 S. Ct. 330 (1994), overruled on other grounds by United States v. Nordby, 225 F.3d
13 1053 (9th Cir. 2000). Finally, even if prejudice is shown, the trial court is not required to sever;
14 rather, it must grant relief tailored to alleviate the prejudice. *See, e.g.,* Zafiro v. United States,
15 506 U.S. 534, 540-41, 113 S. Ct. 933 (1993).

16 The Ninth Circuit Court of Appeals has stated that the presumption is heavily in favor
17 of joint trials. “[C]o-defendants jointly charged, are, prima facie, to be jointly tried.” United
18 States v. Gay, 567 F.2d 916, 919 (9th Cir.), cert. denied, 435 U.S. 999, 98 S. Ct. 1655 (1978);
19 United States v. Silla, 555 F.2d 703, 707 (9th Cir. 1977) (“compelling circumstances” are
20 generally necessary to show need for separate trials). The trial court has the broad discretion
21 to join or sever trials and severance is not required unless a joint trial would be manifestly
22 prejudicial. *See* Gay, 567 F.2d at 919. Federal appellate courts review a denial of a motion to
23 sever for abuse of discretion and “[t]o satisfy this heavy burden, an appellant must show that
24 the joint trial was so prejudicial as to require the exercise of the district judge’s discretion in
25 only one way: by ordering a separate trial.” United States v. Ford, 632 F.2d 1354, 1373 (9th
26 Cir. 1980), cert. denied, 450 U.S. 934, 101 S. Ct. 1399 (1981), overruled on other grounds,
27 United States v. DeBright, 730 F.2d 1263 (9th Cir. 1984).

1 In both the state and federal system, the general rule favoring joinder has evolved for a
2 specific reason—there is a substantial public interest in joint trials of persons charged together
3 because of judicial economy. Jones, 111 Nev. at 854, 899 P.2d at 547. Joint trials of persons
4 charged with committing the same offense expedites the administration of justice, relieves trial
5 docket congestion, conserves judicial time, lessens the burden on citizens called to sacrifice
6 time and money while serving as jurors, and avoids the necessity of calling witnesses more
7 than one time. Id. at 853-54, 899 P.2d at 547, *see also* United States v. Brady, 579 F.2d 1121
8 (9th Cir. 1978), cert. denied, 439 U.S. 1074, 99 S. Ct. 849 (1979). Therefore, the legal
9 presumption is in favor of a joint trial among co-defendants.

10 The Nevada Supreme Court has commented that “while there are situations in which
11 inconsistent defenses may support a motion for severance, the doctrine is a very limited one.”
12 Jones v. State, 111 Nev. 848, 854, 899 P.2d 544, 547 (1995). The United States Supreme Court
13 has also stated that “mutually antagonistic defenses are not prejudicial *per se*.” See Zafiro v.
14 United States, 506 U.S. 534, 538, 113 S.Ct. 933 (1993). The Court in Zafiro rejected the
15 defendants’ claim noting that they did not “articulate any specific instances of prejudice.” See
16 id. at 539, 113 S.Ct. 933. While an important element of a fair trial is that a jury considers only
17 relevant and competent evidence bearing on the issue of guilt or innocence, a fair trial does
18 not include the right to exclude relevant and competent evidence. Id. at 540, 113 S.Ct. at 938.

19 Severance is not warranted or justified simply because each defendant seeks to blame
20 the other for the crime. Marshall v. State, 118 Nev. 642, 56 P.3d 376 (2002). In Marshall, co-
21 defendants Marshall and Currington were tried and convicted together of first degree murder,
22 robbery, and conspiracy to commit robbery. At trial, Marshall’s strategy was to exclusively
23 blame Currington; Currington’s strategy was to blame Marshall. Id. at 644-45, 56 P.3d at 377-
24 78.

25 On appeal, Marshall claimed that the district court erred in not severing his trial from
26 Currington’s. Id. at 645, 56 P.3d at 378. He maintained that he and Currington had
27 “antagonistic defenses” in that each argued that the other was responsible for the murder. Id.,
28 56 P.3d at 378. Marshall relied on the standard the Nevada Supreme Court articulated in

1 Rowland v. State, 118 Nev. 31, 39 P.3d 114 (2002). In Rowland, the Nevada Supreme Court
2 stated that “defenses must be antagonistic to the point that they are ‘mutually exclusive’ before
3 they are to be considered prejudicial” and necessitate severance. Id. at 45, 39 P.3d at 122. The
4 court further noted in Rowland that defenses are mutually exclusive when the core of the co-
5 defendant’s defense is so irreconcilable with the core of the defendant’s own defense that the
6 acceptance of the co-defendant’s theory by the jury precludes acquittal of the defendant. Id. at
7 45, 39 P.3d at 123.

8 Significantly, the Nevada Supreme Court specifically held that antagonistic defenses
9 are a factor, but not, in themselves, sufficient grounds upon which to grant severance. Indeed,
10 in Marshall, even though the defenses offered by Marshall and co-defendant Currington were
11 antagonistic and each one accused the other, the Nevada Supreme Court held that the joinder
12 of the defendants at trial was proper. Id. at 648, 56 P.3d at 378. Finding Marshall’s assertion
13 that his and Currington’s defenses were prejudicial by virtue of their antagonistic nature
14 unpersuasive, the court explained that to prevail on the ground that severance was warranted,
15 Marshall had to show that the “joint trial compromised a specific trial right or prevented the
16 jury from making a reliable judgment about guilt or innocence.” Id. at 648, 56 P.3d at 380.
17 The court also noted that the State’s case was not dependent on either defendant’s statement
18 and did not use joinder to unfairly bolster a marginal case. Id., 56 P.3d at 380. Moreover, the
19 State argued both defendants were guilty and presented evidence to establish their separate
20 guilt. Id., 56 P.3d at 380. The court affirmed Marshall’s conviction.

21 The United States Supreme Court conducted a similar analysis in Zafiro v. United
22 States, 506 U.S. 534, 113 S. Ct. 933 (1993). In that case, petitioners contended that a joint trial
23 was prejudicial whenever two defendants each claim innocence and accuse the other of the
24 crime. Id. at 538, 113 S. Ct at 938. The United States Supreme Court rejected this contention,
25 holding that “mutually antagonistic defenses are not prejudicial per se.” Id., 113 S. Ct. at 938.
26 The Court explained that severance should only be granted if there is a serious risk that a joint
27 trial would compromise a specific trial right of one of the defendants or prevent the jury from
28 making a reliable judgment about guilt or innocence. Id. at 539, 113 S. Ct. at 938. It is not

1 prejudicial for a co-defendant to introduce relevant, competent evidence that would be
2 admissible against defendant at a severed trial. Id. at 540, 113 S. Ct. at 938. The Court also
3 noted that the trial court can cure any potential prejudice by properly instructing the jury that
4 it must consider the case against each defendant separately. See id. at 540-41, 113 S. Ct. at
5 939.

6 As cited by the defense, the Nevada Supreme Court addressed antagonistic defenses
7 again in Chartier v. State, 191 P.3d 1182 (2008). However, the analysis dedicated to the case
8 in Defendant's motion fails to bring to light important parts of the holding, and the specific
9 reasons the Court found antagonistic defenses in that case merited severance. In Chartier, co-
10 defendants John Douglas Chartier and David Wilcox were tried together in the murders of
11 Rachel Bernat and her father, Carlos Aragon. See id. at 1184. The Nevada Supreme Court
12 reversed Chartier's conviction finding cumulative error on issues related to the joinder of the
13 defendants' trials. However, the facts of Chartier are distinguishable from the facts of the
14 instant case and severance is not required in the instant case.

15 In addressing the mutually antagonistic defense presented by Chartier and Wilcox, the
16 Court began by quoting its prior decision in Marshall v. State, 118 Nev. 642, 56 p.2d 376
17 (2002), where the Court stated, "Antagonistic defenses are a relevant consideration but are
18 not, in themselves, sufficient grounds for concluding that joinder of defendants is prejudicial."
19 See Chartier, 191 P.3d at 1186, quoting Marshall, 118 Nev. at 648, 56 P.2d at 379. The Court
20 described Chartier's defense as being that "he was not involved in the crime at any stage of
21 planning or execution and that Wilcox committed the murders of his own volition out of a
22 misguided desire to 'help' Chartier." See Chartier at 1186. In contrast, Wilcox's defense was
23 that "Chartier was not only the mastermind but that he was present at the scene and Wilcox
24 acted at Chartier's direction." See id. The Court went on to find that the defenses were
25 mutually antagonistic because "Wilcox claimed that Chartier was present at the scene and was
26 the attacker despite a lack of evidence to support this theory and despite [witness] Taylor's
27 testimony that the attacker she saw was definitively not Chartier." See id.

1 In distinguishing Chartier and Marshall, the Court relied on the fact that Wilcox's
2 defense was based on arguing that Chartier was at the scene when there was little to no
3 evidence to prove that he was at the scene. In Marshall, the Court had found that although the
4 defenses were mutually antagonistic, that the co-defendant "presented no evidence against [the
5 defendant] and the State's case was not in the least dependent on either defendant's
6 testimony." See Marshall at 648, 56 P.3d at 380.

7 The Nevada Supreme Court's ruling in Chartier does not change the fact that in order
8 to require severance, there must be a showing that a fundamental trial right was infringed. The
9 defense has failed to show that a fundamental trial right of his will be infringed. Therefore, the
10 Court should not sever the trial.

11 Here, the Defendant makes broad, unsupported claims that because Brown confessed
12 to the eight burglary events at the Victoria's Secret stores, their trials must be severed.
13 However, Defendant has not shown how the defenses are mutually antagonistic. This case is
14 different from Chartier because there IS evidence that places Defendant at the scene,
15 independent of Defendant Brown's statement. Specifically, regarding the Victoria's Secret
16 charge, there is video showing Defendant in the store. Regarding the Big 5 incident, several
17 employees were present and saw Defendant in the store. Moreover, Gonzalez made a statement
18 to officers, as well, and acknowledged her presence at both scenes.

19 It is Defendant's burden to demonstrate what prejudice she contends she will face by a
20 joint trial and in meeting the burden necessary to cause the Court to grant a severance. Here,
21 Defendant's argument for severance fails. Defenses only become "mutually exclusive" when
22 "the core of the codefendant's defense is so irreconcilable with the core of [the defendant's]
23 own defense that the acceptance of the codefendant's theory by the jury precludes acquittal of
24 the defendant." United States v. Throckmorton, 87 F.3d 1069, 1072 (9th Cir. 1996) (cited with
25 approval in Rowland v. State, 118 Nev. 31, 39 P.3d 114 (2002)). Defendant failed to even
26 explain what mutually antagonistic defenses are anticipated to be, and merely states that she
27 "anticipates antagonistic defenses. . ." See Opposition at 11. These are not mutually exclusive
28 defenses as set out in the applicable case law. Even if Defendants Fink and Brown were to

1 point the finger at Defendant Gonzalez, that alone is insufficient for severance as there is other
2 evidence placing Gonzalez at the scene.

3 **B. Bruton does not entitle Defendant to a severance**

4 Severance is required where the statement of one non-testifying defendant to be
5 admitted at trial directly inculcates a co-defendant. See Bruton v. United States, 391 U.S. 123,
6 137, 88 S.Ct. 1620, 20 L.Ed.2d 476 (1968). This is so, as Bruton and its progeny make clear,
7 because admitting such a statement violates the co-defendant's Sixth Amendment right to
8 confront and cross examine the non-testifying declarant. While Bruton made clear that
9 "facially incriminatory" statements must be excluded, it left open whether and what kind of
10 redactions of a statement might avoid a Sixth Amendment violation. Thus, the Supreme Court
11 revisited Bruton on two later occasions to determine the scope of the rule announced in that
12 case with regard to redactions.

13 In Richardson v. Marsh, 481 U.S. 200, 107 S.Ct. 1702, 95 L.Ed.2d 176 (1987), the
14 Supreme Court held that the admission of a defendant's confession, accompanied by a limiting
15 instruction, does not violate a co-defendant's confrontation right if "the confession is redacted
16 to eliminate not only the co-defendant's name, but any reference to his or her existence." Id.
17 at 211, 107 S.Ct. 1702. And this is so even when other evidence properly admitted at trial
18 otherwise links the co-defendant to the statement. See id. at 208-211, 107 S.Ct. 1702. **In other**
19 **words, under Richardson, a defendant's statement redacted to eliminate the co-**
20 **defendant's name and any reference to his or her existence does not run afoul of Bruton**
21 **even if there is other evidence in the case linking the co-defendant to the statement.**

22 Notably, Richardson raised, but did not resolve, another question left open in Bruton,
23 namely whether a statement redacted such that the co-defendant's name is replaced with a
24 neutral pronoun, such as "person," "individual," or "associate," may be admitted under Bruton.
25 See Richardson, 481 U.S. at 208-09, 107 S.Ct. 1702; Bruton, 391 U.S. at 134 n. 10, 88 S.Ct.
26 1620. One aspect of this question was addressed in Gray v. Maryland, 523 U.S. 185, 118 S.Ct.
27 1151 (1998). There, the Supreme Court concluded that it is not enough to replace the co-
28 defendant's name "with an obvious blank, the word 'delete,' a symbol, or similarly notify the

1 jury that a name has been deleted,” such that it is nonetheless “facially incriminatory” and
2 “directly accusatory”; such a redacted statement still falls within the Bruton rule and is
3 inadmissible. Id. at 193-95, 88 S.Ct. at 1620. Gray did not, however, address whether
4 redactions that replace the co-defendant's name with a neutral pronoun, instead of a deletion
5 or blank space, might, in some circumstances, be constitutionally permissible where other
6 independent evidence might permit the jury to conclude that the co-defendant is the person
7 referenced in the redacted statement.

8 Statements of defendants can be introduced in multiple defendant cases if properly
9 redacted. Richardson v. Marsh, 481 U.S. 200, 107 S.Ct. 1702 (1987). Nothing about proper
10 redactions would “facially incriminate” the defendant. The Nevada Supreme Court has
11 specifically embraced the rule of Bruton to permit the introduction of redacted statements that
12 do not “facially incriminate” a co-defendant. Ducksworth v. State, 114 Nev. 951, 954 (1998);
13 see also Lisle v. State, 113 Nev. 679, 692-93 (1997); Richardson v. Marsh, 481 U.S. 200, 208,
14 107 S.Ct. 1702 (1987); United States v. Enriquez-Estrada, 999 F.2d 1355, 1359 (9th Cir.
15 1993).

16 The vast majority of federal courts have approved the use of redacted statements that
17 are not facially incriminatory even though additional evidence is admitted that “links up” the
18 redacted statements to identify that person.

19 [T]he government may offer other independent evidence that may lead the jury
20 to conclude that the unnamed ‘individual’ is in fact [the defendant], but that does
21 not render the statement inadmissible; the Supreme Court has explicitly stated
22 that this possibility does not render an otherwise properly redacted statement
23 constitutionally inadmissible. Thus, the Fourth Circuit, like the majority of
24 circuits, has *explicitly extended the Bruton line of cases to permit admission of
redacted statements that replace a co-defendant's name with “a symbol or
neutral pronoun” such that the statement is not facially incriminatory, “even
though the statement's application to [the co-defendant] is linked up by other
evidence properly admitted against the defendant.”*

25 U.S. v. Reyes, 384 F.Supp.2d 926, 931 -932 (E.D.Va., 2005) (emphasis added).

26 As the United States Supreme Court has stated, “While an important element of a fair
27 trial is that a jury consider *only* relevant and competent evidence bearing on the issue of guilt
28

1 or innocence, a fair trial does not include the right to exclude relevant and competent
2 evidence.” Zafiro, 506 U.S. at 540, 113 S.Ct. at 938 (internal citations omitted).

3 Here, there is evidence linking each Defendant to the crime independent of the
4 Defendants’ statements. The State is aware of the need to redact any statement admitted so
5 that assertions which facially incriminate co-defendants are removed and intends to do so at
6 trial if necessary, thus eliminating the need for severance. Furthermore, Defendant Gonzalez
7 made statements placing herself at the events, so Defendant Brown’s admissions do not
8 implicate Gonzalez, only herself. Therefore, severance should not be granted upon this ground.

9 **CONCLUSION**

10 Accordingly, the State respectfully requests that the Motion to Consolidate be
11 GRANTED and Defendant Gonzalez’s Motion to Sever be DENIED.

12 DATED this 26th day of November, 2019.

13 STEVEN B. WOLFSON
14 Clark County District Attorney
Nevada Bar #001565

15 BY 


16 STEPHANIE GETLER
17 Deputy District Attorney
Nevada Bar #014203
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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of Reply to State's Motion to Consolidate and Opposition to Defendant Gonzalez's Motion to Sever, was made this 26th day of November 2019, by Electronic Filing to:

CARL ARNOLD, ESQ.
Lycegal@yahoo.com


Secretary for the District Attorney's Office

19F12727C/SG/rmj/L3

Felony/Gross Misdemeanor

COURT MINUTES

December 05, 2019

C-19-344112-3 State of Nevada
 vs
 Lequana Brown

December 05, 2019 08:30 AM All Pending Motions

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

COURT CLERK: Black, Olivia

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

Carl E. Arnold Attorney for Defendant

Lequana Brown Defendant

State of Nevada Plaintiff

Stephanie M. Getler Attorney for Plaintiff

JOURNAL ENTRIES

Martin Hart, Esq. present on behalf of Co- Defendant Gonzalez

STATE'S NOTICE OF MOTION AND MOTION TO CONSOLIDATE CASE C-19-344268-1-2
INTO THE INSTANT CASE...STATE'S NOTICE OF MOTION AND MOTION TO RE-SET
TRIAL DATEUpon Court's inquiry, Mr. Arnold advised he had not filed an opposition or joined in the Motion.
MATTER TRAILED.

MATTER RECALLED. All parties present as before. Mr. Hart now present. Court advised there was an error as it believed there was going to be an opposition filed. COURT ORDERED, matter CONTINUED. Ms. Getler advised at the previous hearing November 19th, the State placed the different offers on the record and noted the offer was going to be revoked today if they weren't accepted. Ms. Getler further advised Defendant Brown rejected the offer. Upon Court's inquiry, Defendant confirmed she was rejecting the offer. Ms. Getler advised all the offers were being revoked. Mr. Hart noted Defendant Gonzalez wanted the offer; however, Mr. Hart further noted it was a contingent offer. At the request of the Court, Mr. Hart placed the offer on the record.

CUSTODY

CONTINUED TO: 12/10/19 8:30 AM

Felony/Gross Misdemeanor

COURT MINUTES

December 10, 2019

C-19-344112-3 State of Nevada
 vs
 Lequana Brown

December 10, 2019 08:30 AM All Pending Motions

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

COURT CLERK: Black, Olivia; Reid, Shannon

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

Brandon B. Albright	Attorney for Plaintiff
Carl E. Arnold	Attorney for Defendant
Lequana Brown	Defendant
State of Nevada	Plaintiff

JOURNAL ENTRIES

Martin Hart, Esq. present on behalf of Co- Defendant Gonzalez, Adam Gill, Esq. present on behalf of Co- Defendant Fink

CALENDAR CALL...STATE'S NOTICE OF MOTION AND MOTION TO CONSOLIDATE CASE C-19-344268-1-2 INTO THE INSTANT CASE...STATE'S NOTICE OF MOTION AND MOTION TO RE-SET TRIAL DATE

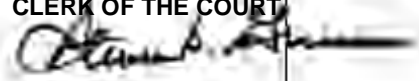
Mr. Gill advised he was joining the Motion to Consolidate. Court noted case number C344268 had Defendant Brown and Defendant Gonzalez and C344112 had all three Defendants. Mr. Albright concurred and stated the alleged facts of the case and argued the jury instructions would clarify what each Defendant was being accused of and what charges were pertinent to each Defendant. Mr. Albright further argued to have one jury trial it was judicial economy. Mr. Albright noted the reason there were two cases was the State prepared to go to Grand Jury and a single witness from Victoria Secret was not available and instead of not going to the Grand Jury the State presented what they could and got bound up and indicted on the charges they could at that time thereafter did the remainder when the victim witness was available. Mr. Albright further noted the State's intention was to do them together. Mr. Hart argued Defendant Gonzalez and Defendant Fink were accused of one event at Big Five and Defendant Gonzalez at one event at Victoria Secret. Mr. Hart further argued throughout all the events Defendant Brown was with other people and was not charged in the other events which made it more confusing. Mr. Hart argued the overwhelming number of cases coming in with Defendant Brown would be a problem. As to Defendant's Gonzalez Motion to Server, Mr. Hart argued there were eight incidents with multiple people involved in all of them and Defendant Gonzalez was involved in one. Mr. Albright cited NRS 173.135 and argued Counsel would be able to confer to the Jury that Defendants were only being charged with certain charges. Further argument by Mr. Hart. Mr. Gill argued the two Defendants were out of custody and one Defendant in custody and it didn't need to be three trials there could be two. Mr. Gill further argued there could be an appellate issue that could arise if Defendant Fink had to explain to a jury he had two counts out of sixteen. Mr. Gill argued it was prejudicial and there

was no way in getting around that this situation is what the Nevada Supreme Court tried to avoid. Mr. Gill further argued the unknown co- conspirator's language was alarming and that spillover effect parties were entitled to a severance. Further argument by Mr. Albright. Mr. Arnold argued he was opposed to the Motion to Server as Defendant Brown didn't commit the crimes alone. Court noted in C344268 there were eighteen counts and Defendant Gonzalez was involved in Counts 15 & 16. Court expressed concern regarding Defendant Fink as to C344112 case. COURT stated its FINDINGS and ORDERED, State's Motion to Consolidate DENIED. COURT FURTHER ORDERED, Defendant's Motion to Server DENIED. As to C344268, COURT ORDERED, Calendar Call CONTINUED. Mr. Albright noted this case was Overflow eligible. As to C344112, COURT FURTHER ORDERED, Trial date VACATED and RESET.

CUSTODY

03/24/20 8:30 AM CALENDAR CALL

03/30/20 9:00 AM JURY TRIAL



1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 THE STATE OF NEVADA,

7
8 Plaintiff,

9 vs.

10 MARK ANTHONY FINK, aka, Mark
11 Anthony Finks, Jr.
12 SARAH GONZALEZ
13 LEQUANA BROWN, aka, Lequana
14 Leatrice Brown,

15 Defendants.

CASE: C-19-344112-1
C-19-344112-2
C-19-344112-3

DEPT. XVII

16 BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE
17 FRIDAY, JANUARY 3, 2020

18 **RECORDER'S TRANSCRIPT OF HEARING:**
19 **ENTRY OF PLEA (ALL)**

20 APPEARANCES:

21 For the State:

BRANDON ALBRIGHT, ESQ.
STEPHANIE GETLER, ESQ.
Deputy District Attorneys

23 For Defendant Fink:

MARTIN HART, ESQ.

24
25 APPEARANCES CONTINUED ON PAGE 2

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For Defendant Brown: ROBERT BECKETT, ESQ.

For Defendant Gonzalez: MARTIN HART, ESQ.

RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

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Las Vegas, Nevada, Friday, January 3, 2020

[Hearing begins at 9:58 a.m.]

THE MARSHAL: Page 3, 4, and 5 and 7.

THE COURT: Fink, Gonzalez, and Brown.

MS. GETLER: It doesn't appear that any of the Defendants
are present yet.

THE COURT: All right. It's just 10:00 o'clock now. We'll wait a
few minutes.

MR. BECKETT: Okay.

[Pause in proceedings]

THE COURT: I'll just – call me, Marshal, when the people
show up.

THE MARSHAL: All rise.

[Matter trailed at 9:58 a.m.]

[Matter recalled at 10:12 a.m.]

THE COURT: All right, Counsel, we're on for Fink, Gonzalez,
and Brown. Is Ms. Brown here? Let's bring her in.

[Brief pause in proceedings]

THE COURT: Okay. Where did Mr. Hart go?

THE MARSHAL: He went to go get the other clients.

[Brief pause in proceedings]

THE COURT: All right, this is the time set for possible entry of
plea. Are the parties – where – Mr. Hart, I know you're here on behalf of
Mr. Gill and Mr. Arnold, Mr. Hart, what is the status of –

MR. HART: Your Honor, I thought we had a negotiation but its

1 contingent on everybody, so I guess we're waiting to find out. We'll start
2 with Ms. Brown and see where we're at.

3 THE COURT: All right, Ms. Brown, are you inclined to accept
4 the negotiations?

5 MR. BECKETT: Well, Judge, first of all, she would like to
6 make a motion to see if she can get on house arrest or electronic
7 monitoring pending sentencing so she can get her personal affairs in
8 order. I told her that the Court will probably require a written motion and
9 we can go from there. And then, with that said, I think she probably has
10 some representations she'd like to make. I'm appearing for Carl Arnold.

11 THE COURT: Okay. All right, thank you, Mr. Becker –

12 DEFENDANT BROWN: Well, um –

13 THE COURT: -- Mr. Beckett.

14 DEFENDANT BROWN: -- my son is 5 years old and my sister
15 has him and she has Lupus and she's up for the kidney transplant but I
16 don't live – I wasn't living out here and I moved out here – so she has to
17 be transported to the hospital. My mom can't do that 'cause she got –
18 she just got her leg amputated so its a lot going on. If I could get the
19 ankle monitor to get my affairs in order and pack up my house and put
20 stuff in storage and I'm willing to sign for the deal today and then come
21 back for sentencing, if that's not the case I feel like I'm losing everything
22 so I might as well just go to trial and just [indiscernible].

23 THE COURT: Okay, ma'am, [indiscernible] request for release
24 from custody, okay, --

25 DEFENDANT BROWN: It could be high level ankle

1 monitoring.

2 THE COURT: Hang on. Hang on. It's not my requirement. It's
3 the rules requirement that it must be in writing, okay, and the request is
4 not in writing; okay? And also, even if it was in writing, I don't know that
5 I would grant it. I mean I would have to read the motion, read any
6 opposition that the State would file, and then make a determination
7 because I don't make determinations on the fly. I want to make sure I
8 have all the information possible. I look at someone's criminal history if
9 they have one. I look at the negotiations. I look at the possible penalties
10 of the negotiations. And I take all that into consideration after I hear from
11 everybody and then I make a decision. I don't want anyone to enter
12 negotiations just to get out of custody because then people come back
13 and say, well, I only did it just to get out of custody. I didn't really mean
14 it. I didn't do it. I was pressured, coerced into entering the negotiations.
15 So, I don't allow that to occur. I mean if you're going to plead guilty, if
16 you're taking responsibility, that's fine. If you don't want to take
17 responsibility, then that's fine as well. Then we go to trial on all the
18 charges. So, I don't want you – like I said, it – I'm not going to have my
19 hands tied to say I'll only take a deal if you let me out today. That – I'm
20 not – I don't work that way.

21 DEFENDANT BROWN: Well, I been asking for it but um, he
22 said that he had asked for it or something but I didn't have proof that he
23 asked for it so I asked, I guess, the minute order of what they say in
24 court or whatever.

25 THE COURT: It has to be a motion.

1 DEFENDANT BROWN: So the motion was never filed?

2 THE COURT: I don't have one on calendar for today.

3 DEFENDANT BROWN: [Indiscernible].

4 MR. BECKETT: What do you want to do? You want to take
5 the deal today? You signed the plea agreement. Do you want to go
6 through -- forward with --

7 DEFENDANT BROWN: No.

8 MR. BECKETT: -- the plea or no? Tell the Judge.

9 DEFENDANT BROWN: No.

10 THE COURT: Okay. And its contingent on the other
11 Defendants?

12 MS. GETLER: Correct.

13 THE COURT: Okay. And it looks like we do have a -- now, we
14 --

15 MR. ALBRIGHT: I think this --

16 THE COURT: -- did not consolidate so we have --

17 UNKNOWN SPEAKER: March.

18 THE COURT: -- so for these -- so we just have Ms. Brown and
19 was it --

20 MS. GETLER: Ms. Gonzalez.

21 THE COURT: -- Gonzalez? Okay. And who is here on behalf
22 of Ms. Gonzalez?

23 MR. HART: I am, Your Honor.

24 THE COURT: Okay. And I'm assuming the parties were going
25 to be ready for today so -- and I know it's called of and so its not an issue

1 with that so – and the reason why I brought that up is I’m assuming the
2 parties were ready to go forward to trial so how much time do you
3 actually need to gear up again for trial and get new subpoenas out?

4 MR. ALBRIGHT: Did you want to do it Wednesday? When’s
5 the other case set, Your Honor?

6 THE COURT: That’s –

7 MS. GETLER: The other case is set –

8 MR. ALBRIGHT: In March?

9 THE COURT: March 30th.

10 MS. GETLER: -- March 30th.

11 [Colloquy between State Counsel]

12 MS. GETLER: Do you have something in the beginning of
13 February?

14 THE COURT: February 3rd; it will give you a month.

15 MR. HART: I have jury duty the last week of January, who
16 knows if I do or don’t.

17 MS. GETLER: And, Your Honor, just so my schedule is clear
18 to you, I do have several other trials set on February 3rd. I’m not sure at
19 this point if any of them are going forward or not.

20 THE COURT: Okay. We just try to go by the oldest case. Do
21 you know what – do you have the case numbers?

22 MS. GETLER: I don’t off the top of my head, but this one I
23 think is not the oldest.

24 THE COURT: We – and the next regular criminal stack would
25 be March 16th.

1 MR. ALBRIGHT: And that's when the other one is set?

2 MS. GETLER: The other one. March 30th, yeah.

3 THE COURT: Oh, the other one is; okay.

4 MR. ALBRIGHT: Oh, March 30. Okay, within that stack.

5 THE COURT: March 30th. That way you can sort of –

6 MR. ALBRIGHT: We can do them back to back.

7 THE COURT: Yeah.

8 MS. GETLER: Okay.

9 THE COURT: We're here.

10 MR. ALBRIGHT: That works.

11 THE COURT: Is that good, Mr. Hart? And Mr. Beckett is here

12 on Mr. Arnold's behalf; I understand.

13 MR. HART: What the heck's going on with my calendar?

14 MS. GETLER: While he is looking this up, Your Honor, I would

15 just like to make a brief record.

16 THE COURT: Sure.

17 MS. GETLER: The offers that are currently on the table today

18 have already been revoked previously. When Mr. Arnold told us that Ms.

19 Brown was interested in the offer, since I was going to be out of town

20 next week for my honeymoon, I decided to re-extend that offer just for

21 this instant based upon the circumstances, but if the offers aren't being

22 entered into today it will again be revoked.

23 THE COURT: I'm assuming, Ms. Brown, you understand that

24 and Mr. Hart will you communicate that to all the clients, please.

25 MR. HART: Yeah. Well, I've explained to them – we've played

1 this game back and forth about – we’ve always been ready to –

2 THE COURT: I understand.

3 MR. ALBRIGHT: And, Your Honor, as far as some
4 representations that Ms. Brown made, she wanted to know if Mr. Arnold
5 had requested the O.R., I don’t believe it was in writing but he certainly
6 came to Ms. Getler and I and asked as part of the negotiation, the 6 to
7 15 then an 8 to 20, that whatever it was going to be that there would be
8 an O.R. at entry of plea. We adamantly were opposed to that based on
9 obviously the case itself, the fact that she’s stippling to substantial time,
10 the fact that the case history shows that every time she’s out of custody
11 she picks up new cases, so we were not willing to agree to that, but Mr.
12 Arnold did ask us multiple times if we would agree to that.

13 THE COURT: And, Ms. Brown, normally when the
14 negotiations call for mandatory prison, which is robbery with use of a
15 deadly weapon is mandatory prison, I do not grant O.R.’s. There are
16 exceptions to the rule. I’m just telling you normally I would not, even if he
17 had filed a motion.

18 DEFENDANT BROWN: Okay, well, um, I never got in trouble
19 so I never caught any cases.

20 THE COURT: But, ma’am, that – I’m just telling you.

21 DEFENDANT BROWN: And I never – okay, I’m --

22 THE COURT: If you don’t wish –

23 DEFENDANT BROWN: -- I’m replying to what he said though,

24 --

25 THE COURT: Okay; it doesn’t --

1 DEFENDANT BROWN: -- so I'm speaking.

2 THE COURT: -- matter because we're going to -- we've got a
3 new trial date for you and we'll go to trial on all the original charges; all
4 right? And so, here's your calendar call date.

5 THE CLERK: March 24th, 2020.

6 THE COURT: And then -- so trial is March 30th then?

7 THE CLERK: Yes, Judge.

8 MR. ALBRIGHT: That's the same day as the other trial.

9 THE COURT: Oh. No, we were going to do this on the 16th.

10 THE CLERK: On the 16th?

11 THE COURT: For trial.

12 THE CLERK: Okay, so your calendar call will be March 10,
13 2020 and that would be at 8:30.

14 THE COURT: All right, we'll see you at calendar call. And for
15 the other Defendants, please -- you were not here yesterday at 8:30.
16 Okay, I don't know if there was a communication break down between
17 you and the attorneys, okay, I don't know if there was. I'm just saying
18 stay in touch. Do not miss any further court dates.

19 DEFENDANT GONZALEZ: Okay.

20 THE COURT: Okay?

21 DEFENDANT GONZALEZ: Thank you, Your Honor.

22 THE COURT: All right. Thank you.

23 DEFENDANT BROWN: Thank you, Your Honor.

24 THE COURT: All right, we've got a hearing at 11:00. I'll be
25 back on the bench at 11:00.

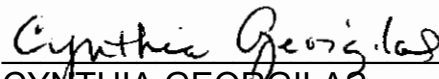
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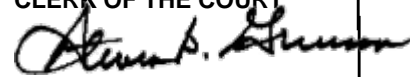
MR. ALBRIGHT: Thank you, Your Honor.

[Hearing concludes at 10:22 a.m.]

* * * * *

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


CYNTHIA GEORGILAS
Court Recorder/Transcriber
District Court Dept. XVII



1 **NOTC**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 STEPHANIE GETLER
6 Chief Deputy District Attorney
7 Nevada Bar #014203
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 LEQUANA BROWN, aka,
13 Leuana Leatrice Brown, #2651822
14 Defendant.

CASE NO: C-19-344268-2 /
C-19-344112-3

DEPT NO: XVII

14 **STATE'S NOTICE OF INTENT TO SEEK PUNISHMENT AS**
15 **A HABITUAL CRIMINAL**

16 TO: LEQUANA BROWN, aka, Leuana Leatrice Brown, Defendant; and

17 TO: CARL ARNOLD, ESQ., Counsel of Record:

18 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that pursuant to NRS
19 207.010, the STATE OF NEVADA will seek punishment of Defendant LEQUANA BROWN,
20 aka, Leuana Leatrice Brown, as a habitual criminal in the event of a felony conviction in the
21 above-entitled action.

22 That in the event of a felony conviction in the above-entitled action, the STATE OF
23 NEVADA will ask the court to sentence Defendant LEQUANA BROWN, aka, Leuana
24 Leatrice Brown as a habitual criminal based upon the following felony convictions, to-wit:

25 1. That on or about 2003, the Defendant was convicted in the State of
26 California, for the crime of Transport/Sell Narcotics (felony).

27 ///

28 ///

1 2. That on or about 2009, the Defendant was convicted in the State of
2 California, for the crime of Second Degree Robbery (felony).

3 STEVEN B. WOLFSON
4 Clark County District Attorney
5 Nevada Bar #001565

6 BY

7 STEPHANIE GETLER
8 Chief Deputy District Attorney
9 Nevada Bar #014203

10 CERTIFICATE OF SERVICE

11 I certify that on the 4th day of March, 2020, I mailed a copy of the foregoing Notice

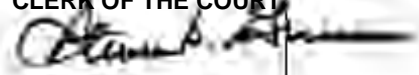
12 to:

13 CARL ARNOLD, ESQ.
14 Lvcegal@yahoo.com

15 BY

16 R. JACKSON
17 Secretary for the District Attorney's Office

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1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

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6 THE STATE OF NEVADA,

7
8 Plaintiff,

9 vs.

10 MARK ANTHONY FINK, aka, Mark
11 Anthony Finks, Jr.,
12 SARAH GONZALEZ
13 LEQUANA BROWN, aka, Lequana
14 Leatrice Brown,

15 Defendants.

CASE: C-19-344112-2
C-19-344112-3

DEPT. XVII

16 BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE
17 THURSDAY, MARCH 12, 2020

18 **RECORDER'S TRANSCRIPT OF HEARING:**
19 **ENTRY OF PLEA (GONZALEZ & BROWN ONLY)**

20 APPEARANCES:

21 For the State:

VIVIAN LONG, ESQ.
STEPHANIE GETLER, ESQ.
Deputy District Attorneys

22 For Defendant Brown:

CARL ARNOLD, ESQ.

23 For Defendant Gonzalez:

MARTIN HART, ESQ.

24 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER
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Las Vegas, Nevada, Thursday, March 12, 2020

[Hearing begins at 9:34 a.m.]

THE COURT: Sarah Gonzalez.

MR. HART: Good morning, Your Honor. Marty Hart appearing with Ms. Gonzalez.

MS. GETLER: Stephanie Getler for the State, Your Honor.

MR. HART: We're going to ask the Court if there's any availability this afternoon. The co-defendant, it is our understanding, – but he's gone – that -- from Mr. Arnold, wanted to enter a plea. It was set for trial on Monday and if she's entering that plea then the plea offered to my client would revert back to the original offers in negotiation.

MS. GETLER: That's correct.

MR. HART: But we'd have to get her transported.

THE COURT: Do you know when Mr. Arnold – was he assuming it was going to be this afternoon?

MS. GETLER: He – I let him know we would try and get it on this afternoon. He said he'd be around and would go talk to the client before then so I would just let him know what time Your Honor had available.

[Colloquy between Court and Law Clerk]

THE COURT: All right, let's come back at 1:30 this afternoon.

MS. GETLER: Thank you.

THE COURT: And what's the other Defendant's name?

MS. GETLER: Lequana Brown.

THE COURT: All right.

1 MS. GETLER: Do you need an ID number?
2 [Colloquy between Court and Law Clerk]
3 THE COURT: Do you have an ID number for the officer here?
4 MS. GETLER: Yes, its 2651822.
5 THE COURT: Officer, can we get her here at 1:30, Ms.
6 Brown?
7 THE CORRECTION OFFICER: Yes. She was here. I --
8 [Colloquy between Correction Officers]
9 THE COURT: All right, we'll have everybody back at 1:30.
10 MS. GETLER: Thank you so much.
11 MR. HART: Thank you, Your Honor.
12 THE COURT: Thank you.
13 [Hearing concludes at 9:36 a.m.]
14 [Hearing resumes at 1:47 p.m.]
15 THE COURT: Pages 2 and 3. Page 2 is Sarah Gonzalez.
16 Mr. Hart, is this matter resolved?
17 MR. HART: I certainly hope so, Your Honor.
18 MS. GETLER: I think it would be best if we went through the
19 other Defendants first.
20 THE COURT: All right, we'll go with Ms. Lequana Brown which
21 is page 3. Mr. Arnold, is this matter resolved?
22 MR. ARNOLD: Yes, Your Honor.
23 THE COURT: What's the resolution?
24 MR. ARNOLD: My client's going to plead guilty to robbery with
25 use of a deadly weapon, a category B felony in this case. In case

1 C-19-344112-3, she will also be pleading guilty to robbery with use of a
2 deadly weapon. The parties stipulate to a sentence of 4 to 10 years on
3 each count, to run consecutive to each other. The offer is contingent
4 upon Michael Fink and Sarah Gonzalez accepting their respective
5 negotiations.

6 THE COURT: Is that –

7 MR. ARNOLD: Are we doing restitution?

8 MS. GETLER: Yes, Your Honor.

9 MR. ARNOLD: The Defendant agrees to pay full restitution.

10 THE COURT: All right.

11 Ms. Brown, is that your understanding of the negotiations?

12 [Pause in proceedings - colloquy between Defense Counsel and
13 Defendant]

14 DEFENDANT BROWN: I need time to think about it.

15 THE COURT: All right, its set for jury trial Monday, 9 a.m.

16 That's how much time you have to think about it.

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

22 THE COURT: All right. And Mr. Hart's client, Ms. Gonzalez,
23 was contingent on Ms. Brown?

24 MS. GETLER: She had an offer contingent on Ms. Brown but
25 she had another offer to accept if Ms. Brown didn't accept her offer.

1 THE COURT: So, are we going forward on – I'm sorry, I didn't
2 understand that. Is Ms. Gonzalez – is she still allowed to take a
3 negotiation?

4 MS. GETLER: There's a separate negotiation that she can
5 take; yes.

6 MR. HART: Yeah.

7 MR. ARNOLD: She's going to take it, Your Honor.

8 THE COURT: All right, Ms. Brown, we've done this two or
9 three times, okay. I have all next week open, all week, and I'll try this
10 case and we'll –

11 DEFENDANT BROWN: Well, actually, I signed off on the
12 [indiscernible] 'cause I told you remember on whatever you all call this
13 loud, the speaker, that I needed time and they didn't bring me back. I
14 already signed off on it so I was trying to – since I signed off on it I
15 thought I'd come back and just put it on, [indiscernible] like said yeah,
16 that I wanted to say yeah but they never brought me back.

17 MS. GETLER: Your Honor, that's not what happened. We had
18 an entry of plea on January 3rd and a trial date set the next week and I
19 have reluctantly re-offered her the 6 to 15 on that date. When we came
20 in for the entry of plea she decided she didn't want it and the offer was
21 revoked at that point and was set for this trial date.

22 DEFENDANT BROWN: Well, that's not true because he said
23 –

24 THE COURT: Okay, wait. I don't care – ma'am, I don't care if
25 you accept it or not. I'm free next week.

1 DEFENDANT BROWN: Okay, but can I –
2 THE COURT: We'll go to trial –
3 DEFENDANT BROWN: -- say something?
4 THE COURT: -- on all the original charges and then if you're
5 not guilty then you walk out. If you're guilty, then I'll sentence you on it
6 looks like 10 or 12, 13 – or 17, 18 charges.
7 DEFENDANT BROWN: Okay, so –
8 THE COURT: Okay, you have the right to go to trial. I will not
9 rush you into any negotiations.
10 DEFENDANT BROWN: Well, when I was –
11 THE COURT: If you don't want them that's –
12 DEFENDANT BROWN: -- here last time and I said I needed
13 time you asked me, you asked me [emphasis added] --
14 THE COURT: Okay, do you want to accept this negotiation?
15 DEFENDANT BROWN: Yes.
16 THE COURT: Okay. Are you absolutely certain?
17 DEFENDANT BROWN: Yeah.
18 THE COURT: Is that a yes?
19 DEFENDANT BROWN: Yes.
20 THE COURT: Okay, here -- it says here that you're going to
21 plead in this case and you're going to plead in C344112; is that correct,
22 ma'am?
23 DEFENDANT BROWN: Yeah.
24 THE COURT: Yes?
25 DEFENDANT BROWN: Yes.

1 THE COURT: Okay, that's also a robbery with use of a deadly
2 weapon; correct?

3 DEFENDANT BROWN: Yes.

4 THE COURT: Okay. And for each case it's a total of 4 to 10
5 years for each case.

6 MS. GETLER: Consecutive; yes, Your Honor.

7 THE COURT: Okay. So, if I go along with the negotiation you
8 would get a 4 to 10 sentence in this case. You would get a 4 to 10
9 sentence in case number C344112. Is that your understanding, ma'am?

10 DEFENDANT BROWN: Yeah.

11 THE COURT: Are you sure?

12 DEFENDANT BROWN: Yeah, yeah.

13 THE COURT: Okay. And you understand that these two cases
14 are going to run consecutive? That means one after another. Is that your
15 understanding?

16 DEFENDANT BROWN: Yes.

17 THE COURT: Are you sure?

18 DEFENDANT BROWN: Yes.

19 THE COURT: Okay, do you want to go forward with the
20 negotiations?

21 DEFENDANT BROWN: Yes.

22 THE COURT: Okay, for the record what is your true name?

23 DEFENDANT BROWN: Lequana Brown.

24 THE COURT: How old are you?

25 DEFENDANT BROWN: 39.

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

2 DEFENDANT BROWN: I graduated high school.

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

5 DEFENDANT BROWN: Yes.

6 THE COURT: And, ma'am, are you pleading guilty in this case
7 to the charge of robbery with use of a deadly weapon?

8 DEFENDANT BROWN: Yes.

9 THE COURT: And are you also agreeing to plead guilty to
10 robbery with use of a deadly weapon in case number C344112?

11 DEFENDANT BROWN: Yes.

12 THE COURT: Before I can accept your plea of guilty in this
13 case I must make sure it is freely and voluntarily entered, is anyone
14 forcing you to plead guilty?

15 DEFENDANT BROWN: No.

16 THE COURT: Has anyone threatened you or anyone closely
17 associated with you in order to get you to plead guilty?

18 DEFENDANT BROWN: No.

19 THE COURT: Do you understand that the sentencing range of
20 robbery with use of a deadly weapon is its 2 to 15 years for the
21 underlying robbery charge and for the deadly weapon its 1 to 5 years in
22 the Nevada Department of Corrections and I must run the deadly
23 weapon sentence consecutive to the underlying robbery charge; do you
24 understand that?

25 /////

1 [Pause in proceedings - colloquy between Defense Counsel and
2 Defendant]

3 DEFENDANT BROWN: So each agreement it would have to
4 be like what you just said?

5 THE COURT: Well, the agreement in this case is that you
6 would receive a 4 to 10 year sentence, okay, here in my department.

7 DEFENDANT BROWN: Ah-ha.

8 THE COURT: I don't know where your other case is, which
9 department that is, but in that department –

10 MR. ARNOLD: It's in here too, Your Honor.

11 THE COURT: -- you would receive a 4 to 10 year sentence
12 and that sentence would have to run consecutive of this case.

13 MR. ARNOLD: Both cases are in here, Your Honor.

14 THE COURT: Okay.

15 DEFENDANT BROWN: So, on a 4 to 10 I would do 4 years?

16 MR. ARNOLD: Right.

17 THE COURT: Well, that's the minimum time that you would
18 do. We have to give you a minimum, maximum. The maximum is if I
19 sentence you to 4 to 10 is that I would sentence you to a maximum term
20 of 10 years and a minimum term of 4 years.

21 DEFENDANT BROWN: That's if I take it to trial?

22 THE COURT: If you take it to trial I'm going to sentence – if
23 you are found – I'm assuming you are innocent, okay, you have that
24 presumption, but I will – it looks like you have 19 charges. If you are
25 found guilty of all 19 charges I will sentence you on 19 separate

1 charges. I can run them all consecutive, all concurrent.

2 MS. GETLER: And, Your Honor, she's also small habitual
3 eligible and I did file that notice.

4 DEFENDANT BROWN: So if I was to take it to trial you would
5 try me on each, um –

6 THE COURT: All 19 charges.

7 DEFENDANT BROWN: -- separately?

8 THE COURT: Well, at the same time, not -- we're not 19 trials.
9 It would be all in one trial, 19 separate charges in front of a jury.

10 [Pause in proceedings - colloquy between Defense Counsel and
11 Defendant]

12 DEFENDANT BROWN: Yes.

13 THE COURT: Sorry?

14 MR. ARNOLD: She said yes she understood.

15 THE COURT: Okay, I'll go over it again. That the negotiations
16 are that the State is agreeing that you would receive 4 to 10 years in this
17 case. You're agreeing to that and Mr. Arnold is agreeing to that, okay?
18 The final decision is mine. And then when you plead guilty in the other
19 case you're agreeing to 4 to 10 in that case.

20 DEFENDANT BROWN: So if there's no weapon can they –
21 can I get – I'm lost because in one of them is supposed to be a weapon
22 and one is not supposed to be a weapon.

23 THE COURT: Counsel, because in this case, which is 268, I
24 don't see any of the charges with a weapon. Was there a weapon used
25 in this case?

1 MS. GETLER: No, Your Honor.

2 THE COURT: But she's pleading to a deadly weapon.

3 MS. GETLER: Correct.

4 MR. HART: Well, I thought -- wasn't there in one of these --
5 there was on one of these counts.

6 MS. LONG: That's the offer that we're offering. If she wants to
7 take the 8 to 20, then she will have to plead to these two charges. That's
8 the offer that we're offering. She doesn't have to take it if she doesn't
9 want to. We're ready for trial.

10 MR. ARNOLD: So bottom line, they're trying to say its
11 fictional in regards to the weapon in this case. And so, -- but to get the
12 amount of time that they're looking for that's the charge that she would
13 plead to.

14 MS. LONG: That's correct, Your Honor.

15 THE COURT: Would it be clean if this -- if all the parties want
16 a 4 to 10, would it be cleaner just to have a robbery case and you
17 stipulate to a 4 to 10?

18 MS. LONG: She can take this as it is and waive the defects or
19 we can go to trial. This is the third time for entry of plea, so this is what
20 we offered her.

21 THE COURT: Can I have Counsel approach, please?

22 [Bench conference recorded -- not transcribed]

23 THE COURT: All right, ma'am, what we're going to do is we're
24 going to get the other Guilty Plea Agreement for the other case so we
25 can just take care of it all today. And I understand that in this case

1 instead of robbery with use of a deadly weapon its just going to be a
2 robbery in this case, no deadly weapon, but you would still be stipulating
3 to 4 to 10. Do you understand that, ma'am? There won't be a deadly
4 weapon in this case.

5 MR. ARNOLD: Say yes.

6 DEFENDANT BROWN: Yes.

7 THE COURT: Are you sure?

8 DEFENDANT BROWN: Yes.

9 THE COURT: Okay. They're going to get the paperwork
10 straightened out. I don't want you to rush in any decision here. But if
11 you're saying there wasn't a deadly weapon here, they're going to strike
12 that language and just do a robbery but this deal is still 4 to 10. Do you –
13 are you inclined to take this negotiation?

14 DEFENDANT BROWN: Is it 4 to 10?

15 THE COURT: 4 to 10 on each case.

16 [Colloquy in courtroom]

17 DEFENDANT BROWN: So does that change the category?

18 THE COURT: No, it's still going to be a robbery, it would be a
19 category B.

20 MR. HART: They'll still be B felonies.

21 DEFENDANT BROWN: Okay. But, um, in one of them – well,
22 technically in both of them, one it wasn't a weapon. In the other one,
23 when he pulled the weapon, I was not in the car when he pulled it, the
24 BB gun.

25 MR. HART: That's --

1 THE COURT: Wait, where did Mr. Arnold go?

2 [Brief pause in proceedings]

3 THE COURT: All right, Counsel, in the other case, 344112,
4 was there a deadly weapon in that case?

5 MS. GETLER: Yes.

6 MR. HART: Your Honor, there were two events in that case.
7 One was a robbery of a Big 5 that my client is also charged in --

8 THE COURT: Okay.

9 MR. HART: -- as long as -- as well as Mr. Finks, who is Mr.
10 Gill's. In that, there was allegations of a gun that was pulled out by Mr.
11 Finks. When they went to the car to get away as they were trying to get
12 things with the credit cards that didn't work.

13 THE COURT: Was Ms. Brown part of that -- part of the case?

14 MR. HART: Yes, when they were grabbing Ms. Brown getting
15 in the car. There was another event at a different sporting goods store a
16 little earlier and that one it was alleged that a knife was pulled out. It was
17 not a gun.

18 MS. GETLER: That's correct.

19 DEFENDANT BROWN: It was no knife -- it was no weapon.

20 THE COURT: How about the first one, the gun?

21 DEFENDANT BROWN: Yes. When I -- when they left off the
22 store, --

23 MR. ARNOLD: [Indiscernible].

24 DEFENDANT BROWN: Oh, no. When they left out the store,
25 they was already in the car. As I'm outside with the manager and the --

1 and he pulled the BB gun. But I wasn't in the car when he pulled the BB
2 gun and I had [indiscernible] –

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

5 DEFENDANT BROWN: Yes.

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

10 DEFENDANT BROWN: Yeah.

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

16 DEFENDANT BROWN: Yes.

17 THE COURT: Do you want to go forward? It's not Mr. Arnold's
18 decision, its not mine, its yours.

19 DEFENDANT BROWN: Yes.

20 THE COURT: Are you sure?

21 DEFENDANT BROWN: Yes.

22 THE COURT: Okay. They're going to get the paperwork fixed
23 and then Mr. Arnold will go over those again with you. And if not, like I
24 said, I'm ready for trial Monday on 19 charges and if you're found guilty
25 I'll sentence you on 19. If you're found guilty on one, I'll sentence you on

1 one, or any combination thereof. If you're found not guilty, then you walk
2 out the door. Do you understand that?

3 DEFENDANT BROWN: Yeah.

4 [Matter trailed at 2:06 p.m.]

5 [Matter recalled at 3:15 p.m.]

6 THE MARSHAL: All rise, Department 17 is back in session.
7 Please be seated and come to order.

8 THE COURT: Mr. Arnold, are we ready?

9 MR. ARNOLD: Yes. Which one are we doing first, the robbery,
10 this case?

11 THE COURT: Sure.

12 MR. ARNOLD: Okay. In regards to C-19-344268-2, my client
13 will be pleading guilty to one count robbery. In case 344112-3, she'll be
14 pleading one count robbery with use of a deadly weapon. Parties
15 stipulate to a sentence of 4 to 10 years on each count to run consecutive
16 to each other. The offer is contingent upon Michael Fink and Sarah
17 Gonzalez accepting their respective negotiations. The Defendant agrees
18 to pay full restitution. And she agreed and signed a forfeiture as set forth
19 in a Stipulation for Compromise of Seized Property, which is attached as
20 Exhibit 2.

21 THE COURT: Is that correct, State?

22 MS. GETLER: Yes, Your Honor.

23 THE COURT: All right, Ms. Brown, your attorney set forth the
24 negotiations. Do you wish to accept these negotiations?

25 DEFENDANT BROWN: Yes.

1 THE COURT: I'm going to go over the case, C344268 first. Do
2 you have that document in front of you, ma'am?

3 DEFENDANT BROWN: Yes.

4 THE COURT: Okay. For the record, what is your true name?

5 DEFENDANT BROWN: Lequana Leatrice Brown.

6 THE COURT: How old are you?

7 DEFENDANT BROWN: 39.

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

9 DEFENDANT BROWN: 12th grade.

10 THE COURT: I'm sorry?

11 DEFENDANT BROWN: 12th grade.

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

14 DEFENDANT BROWN: Yes.

15 THE COURT: And, ma'am, are you pleading guilty to the
16 charge of robbery?

17 DEFENDANT BROWN: Yes.

18 THE COURT: Before I can accept your plea of guilty I must
19 make sure it is freely and voluntarily given, is anyone forcing you to
20 plead guilty?

21 DEFENDANT BROWN: No.

22 THE COURT: Has anyone threatened you or anyone closely
23 associated with you in order to get you to plead guilty?

24 DEFENDANT BROWN: No.

25 THE COURT: Do you understand that the sentencing range of

1 this robbery charge is that the Court could sentence you to a maximum
2 term of 15 years, minimum term of 2 years in the Nevada Department of
3 Corrections; do you understand that?

4 MR. ARNOLD: Yes.

5 DEFENDANT BROWN: Yes.

6 THE COURT: Are you – ma'am do you understand its – look
7 at page 2 of the Guilty Plea Agreement. You have that in front of you. Go
8 to line 18, 19, and 20. Did you read that, ma'am?

9 DEFENDANT BROWN: Yes.

10 THE COURT: And it says 2 to 15; right?

11 DEFENDANT BROWN: Mm-hmm. Yes.

12 THE COURT: Okay, so do you understand that the Court
13 could sentence you to no more than 15 years and no less than 2 years
14 in the Nevada Department of Corrections?

15 MR. ARNOLD: Yes.

16 DEFENDANT BROWN: Yes.

17 THE COURT: Ma'am, Mr. Arnold's assisted you with your
18 answers. I want to make sure they're coming from you. Do you
19 understand that is the potential sentencing range?

20 DEFENDANT BROWN: Yes.

21 THE COURT: Do you understand that sentencing is strictly up
22 to the Court, no one can promise you probation, leniency, or any special
23 treatment?

24 DEFENDANT BROWN: Yes.

25 THE COURT: Is one of the reasons you are pleading guilty to

1 this robbery count is in truth and fact you are guilty of this robbery
2 charge?

3 DEFENDANT BROWN: Yes.

4 THE COURT: I have a copy of the Guilty Plea Agreement in
5 front of me and you have one in front of you as well. Is that your
6 signature –

7 DEFENDANT BROWN: Yes.

8 THE COURT: -- on page 5?

9 DEFENDANT BROWN: Yes.

10 THE COURT: Did you read and understand everything
11 contained within this agreement?

12 DEFENDANT BROWN: Yes.

13 THE COURT: If you had any questions, were they answered
14 by Mr. Arnold?

15 DEFENDANT BROWN: Yes.

16 THE COURT: Based upon all the facts and circumstances of
17 your case, are you satisfied with the services of Mr. Arnold?

18 DEFENDANT BROWN: Yes.

19 THE COURT: Ma'am, are you a U.S. citizen?

20 DEFENDANT BROWN: Yes.

21 THE COURT: Okay, ma'am, if you go to the end of the
22 agreement there it has an amended indictment. Do you have that in front
23 of you, ma'am?

24 DEFENDANT BROWN: Mm-hmm.

25 THE COURT: Okay, I'm going to read the allegation against

1 you. You can follow along, please and then when I'm done reading I'm
2 going to ask you if you committed that offense, okay?

3 Did you on or between April 3rd, 2019, and June 22nd, 2019,
4 here in Clark County, Nevada, willfully, unlawfully, and feloniously take
5 personal property, to-wit: merchandise from the persons of Jamie Lyn
6 Woodworth, and/or Aspen Hammer, and/or Ross Nohara, or in their
7 presence, without the consent and against the will of Jamie Lyn
8 Woodworth, and/or Aspen Hammer, and/or Ross Nohara, by means of
9 force or violence or fear of injury, immediate of future, to their person,
10 the person of a member of his family or anyone in his company at the
11 time of the robbery, that you using force or fear to obtain or retain
12 possession of the property, to prevent or overcome resistance to the
13 taking of the property, and/or to facilitate escape. Did you do those
14 things, ma'am?

15 [Colloquy between Defense Counsel and Defendant]

16 THE COURT: Ma'am, did you do those things I just read to
17 you?

18 DEFENDANT BROWN: I took the stuff, but I – yes.

19 THE COURT: Okay, did you use – were the clerks afraid?

20 DEFENDANT BROWN: No.

21 THE COURT: They were happy to give you the stuff?

22 DEFENDANT BROWN: They –

23 MR. ARNOLD: There was one incident, Your Honor, we
24 watched the video yesterday where there was a clerk that she told her to
25 put the stuff down. She did have additional items in the bag. The clerk

1 was standing in front of the door to block her entry and my client used
2 her forearm to move her out of the way to get out the door. She would
3 agree with that.

4 THE COURT: Is that true, ma'am?

5 DEFENDANT BROWN: Yes.

6 THE COURT: Is that force? Did you use your forearm to push
7 the clerk to the side?

8 DEFENDANT BROWN: No, I didn't.

9 THE COURT: Did you use your forearm to force her to move
10 out of the way?

11 DEFENDANT BROWN: No, I didn't.

12 MR. HART: Okay.

13 THE COURT: Did she – did you just walk over her?

14 DEFENDANT BROWN: I – she was standing in front of the
15 door and I – she didn't try to stop me. She was like trying to get the bag.
16 She didn't try to stop me.

17 THE COURT: Did she – she grabbed the bag?

18 DEFENDANT BROWN: I set the bags down actually.

19 THE COURT: So you didn't take anything?

20 DEFENDANT BROWN: No.

21 THE COURT: Did any of the people you were with take
22 anything?

23 DEFENDANT BROWN: Yes.

24 THE COURT: You were with them?

25 DEFENDANT BROWN: Yes.

1 THE COURT: Did you arrive with those other people?
2 DEFENDANT BROWN: Yes.
3 THE COURT: Did you at least go into the store with one of
4 them?
5 DEFENDANT BROWN: Yes.
6 THE COURT: Did you leave with all of them or at least with
7 one of them?
8 DEFENDANT BROWN: No.
9 THE COURT: You didn't leave with any of them?
10 DEFENDANT BROWN: No.
11 THE COURT: Did you drive away in a car with them
12 DEFENDANT BROWN: I got a separate car and
13 [indiscernible].
14 THE COURT: Okay. Was there a plan to go in there and steal
15 some items?
16 DEFENDANT BROWN: Yes.
17 THE COURT: You planned with these other people?
18 DEFENDANT BROWN: I planned by myself to go in there.
19 THE COURT: And these people just happen to be there by
20 coincidence?
21 DEFENDANT BROWN: She gave me a ride.
22 MR. ARNOLD: But did they agree to go with you to do the
23 robbery?
24 DEFENDANT BROWN: Yes.
25 THE COURT: Did they know that you were going to steal

1 some items?

2 DEFENDANT BROWN: Yes.

3 THE COURT: Did you know that – did they steal any items?

4 DEFENDANT BROWN: Yes.

5 THE COURT: Did you know they were going to steal some
6 items?

7 DEFENDANT BROWN: Yes.

8 THE COURT: So let me make sure I understand correctly. So
9 the clerk is standing at the front door, she told you not to steal the items;
10 correct?

11 DEFENDANT BROWN: She came from behind the counter
12 and she told me it had to be paid for so I went back to swipe the credit
13 card and it said declined so she sprinted in front of me and told me I
14 couldn't take the bags. And she went to grab – she grabbed for the bags
15 and I told her – and she told me I couldn't leave with the bags and I told
16 her, well, I'm gonna set the bags down and I'm gonna walk out the store
17 and that's what happened.

18 THE COURT: What did the other people do at that time?

19 DEFENDANT BROWN: They were already gone out the store
20 a long time ago. It was one person.

21 THE COURT: And, again, I just want to make sure, did you all
22 go in there with the intent to steal some items?

23 DEFENDANT BROWN: Yes.

24 MS. LONG: And, Your Honor, just so the record is clear, the
25 incident she's talking about is for the other case, for the robbery with

1 deadly. For this case, in the robbery, the allegations are is that she
2 made a comment to the clerk, like, back off, or you know, I'll stab you, or
3 something like that, and that was the threat or force that was used in this
4 case.

5 THE COURT: Is that correct, ma'am?

6 DEFENDANT BROWN: No, that's not correct. I told her I'm
7 gonna set the bags down and I'm gonna walk the fuck out of –

8 MR. ARNOLD: No, she's saying in a different –

9 DEFENDANT BROWN: Oh.

10 MR. ARNOLD: -- in a different case, not – the video.

11 MS. LONG: These ones right here are the Victoria Secret
12 incidence of a robbery.

13 MR. HART: This is a Victoria Secret, not the sporting goods.

14 DEFENDANT BROWN: Oh, in the Victoria Secret they never
15 tried to stop me with the bags. I never came – encounter with no one.

16 MS. LONG: Okay, that's fine. We can just prove it at trial.

17 THE COURT: All right, 19 charges; we'll go to trial –

18 DEFENDANT BROWN: No.

19 THE COURT: -- Monday morning.

20 DEFENDANT BROWN: No.

21 MR. ARNOLD: You have to say that –

22 DEFENDANT BROWN: [Indiscernible].

23 MR. ARNOLD: -- you used –

24 MR. HART: Hey.

25 MR. ARNOLD: -- force to get –

1 DEFENDANT BROWN: [Indiscernible].
2 MR. ARNOLD: -- out of it.
3 THE MARSHAL: All rise.
4 MR. HART: Thank you.
5 DEFENDANT BROWN: I said yes.
6 THE MARSHAL: Court is adjourned.
7 THE COURT: If she's ready to take a plea, I'll be back,
8 otherwise I'm done.
9 [Hearing concludes at 3:25 p.m.]
10 [Case recalled at 3:29 p.m.]
11 THE COURT: Okay, where are we at, Mr. Arnold?
12 MR. ARNOLD: Your Honor, we were at a factual basis in
13 regard to what was the force or threat of force used to go ahead and
14 commit the robberies at the Victoria Secrets in the first plea agreement.
15 THE COURT: What did you do, ma'am?
16 [Colloquy between Defense Counsel and Defendant]
17 THE COURT: What did you do? Did you walk out, have a nice
18 day, hug your kids? Did you see the TV show last night? Was that the
19 conversation you had with this clerk?
20 [Colloquy between Defense Counsel and Defendant]
21 MR. ARNOLD: What force did you use --
22 THE COURT: Or fear?
23 MR. ARNOLD: -- to get out of there?
24 DEFENDANT BROWN: I used force.
25 THE COURT: How?

1 DEFENDANT BROWN: I told her if she touched me – I said if
2 she touched me when she come I'll beat her ass. That's what –

3 THE COURT: Okay, isn't that sort of scaring someone,
4 putting them in fear?

5 DEFENDANT BROWN: Yes.

6 THE COURT: Are you sure you did that?

7 DEFENDANT BROWN: Yes.

8 THE COURT: I'm going to read the allegation again. Did you
9 within Clark County, State of Nevada, between April 3rd and June 22nd,
10 2019, willfully, unlawfully, and feloniously take personal property, to-wit:
11 merchandise from the person of Jamie Lyn Woodworth, and/or Aspen
12 Hammer, and/or Ross Nohara, or in their presence without the consent
13 and against the will of Jamie Lyn Woodworth, and/or Aspen Hammer,
14 and/or Ross Nohara, by means of force or violence or fear of injury,
15 immediate or future, to the person or persons or a member of their family
16 or anyone in their company at the time of the robbery, you using force or
17 fear to obtain or retain possession of the property or to prevent or
18 overcome resistance to the taking of the property and to facilitate
19 escape, so when the clerk went to the front door you said something
20 along the lines of move or I'll beat your ass; is that correct? Is that what
21 you said something along those lines?

22 MR. HART: How about do you want to get stabbed or killed?

23 DEFENDANT BROWN: No.

24 [Colloquy between Defense Counsel and Defendant]

25 DEFENDANT BROWN: Yes. Yes.

1 THE COURT: What did you say, ma'am?

2 DEFENDANT BROWN: If she tried to stop me I'll beat her ass.

3 THE COURT: Okay. Do you think that might have scared her?

4 DEFENDANT BROWN: Yeah. Yes.

5 THE COURT: Are you entering your plea freely and

6 voluntarily?

7 DEFENDANT BROWN: Yes.

8 THE COURT: Okay.

9 Now, we're going to go to the other case which is C – you

10 have the paperwork in front you – 344112; and which stores are this

11 one?

12 MS. GETLER: This is a Champs Sports store and a Big 5.

13 THE COURT: Okay. Do you remember those, ma'am,

14 Champs Sports and Big 5?

15 DEFENDANT BROWN: Yes.

16 THE COURT: Hang on one second. Let's – Mr. Arnold, can

17 you go back to the 344268?

18 MR. ARNOLD: Yes, Your Honor.

19 THE COURT: Okay, ma'am, attached to that document is a

20 Stipulation for Compromise of Seized Property. Do you see that?

21 DEFENDANT BROWN: Yes.

22 THE COURT: Did you read that document or have it read to

23 you?

24 DEFENDANT BROWN: Yes.

25 THE COURT: And is that your signature on page 2 of the

1 document?

2 DEFENDANT BROWN: Yes.

3 THE COURT: Did you sign that document freely and
4 voluntarily?

5 DEFENDANT BROWN: Yes.

6 THE COURT: And you understood what's contained in that
7 document?

8 DEFENDANT BROWN: Yes.

9 THE COURT: And if you had any questions regarding the
10 document were they answered by Mr. Arnold?

11 DEFENDANT BROWN: Yes.

12 THE COURT: Okay.

13 So now we're going to go to 344112. And are you entering a
14 guilty – now, ma'am, I'm going to go over the allegations here as well
15 and this one is robbery with use; okay? I'm going to ask you what you
16 did. If you play games we're done. I'm not – I'm telling all Counsel here I
17 am not coming back. We'll go to trial on 19 counts on Monday. If you're
18 found not guilty then you walk out the door. If you're found guilty then
19 you stay in jail until we sentence you and I'll sentence you accordingly.
20 Do you understand that, ma'am?

21 DEFENDANT BROWN: Yes.

22 THE COURT: Okay, the deal is on 344112, robbery with use
23 of a deadly weapon, the parties stipulate to 4 to 10 years to run
24 consecutive to one another. And also you've signed a Stipulation for
25 Compromise of Seized Property which we will go over.

1 So, ma'am, are you entering, in this case, and you have the
2 paperwork in front of you, are you pleading guilty to robbery with use of
3 a deadly weapon?

4 DEFENDANT BROWN: Yes.

5 THE COURT: And for the record, in this case, what is your
6 true name?

7 DEFENDANT BROWN: Lequana Leatrice Brown.

8 THE COURT: How old are you?

9 DEFENDANT BROWN: 39.

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

11 DEFENDANT BROWN: 12th grade.

12 THE COURT: Do you read, write, and understand the English

13 —

14 DEFENDANT BROWN: Yes.

15 THE COURT: -- language? Is that a yes?

16 DEFENDANT BROWN: Yes.

17 THE COURT: And you're pleading guilty to the robbery with
18 use of a deadly weapon; correct?

19 DEFENDANT BROWN: Yes.

20 THE COURT: Before I can accept your plea of guilty I must
21 make sure it is freely and voluntarily given, is anyone forcing you to
22 plead guilty?

23 DEFENDANT BROWN: No.

24 THE COURT: Has anyone threatened you or anyone closely
25 associated with you to get you to plead guilty?

1 DEFENDANT BROWN: No.

2 THE COURT: You understand that the sentencing range of
3 the robbery with use of a deadly weapon is as follows: for the underlying
4 robbery charge – this is on page 2 – the Court could sentence you to a
5 maximum term of 15 years, a minimum term of 2 years in the Nevada
6 Department of Corrections. Do you understand that? That is for the
7 underlying robbery charge.

8 DEFENDANT BROWN: Yes.

9 THE COURT: And for the weapons enhancement, the Court
10 must sentence you to a consecutive term of no more than 15 years and
11 no less than 1 year in the Nevada Department of Correction; do you
12 understand that, ma'am?

13 DEFENDANT BROWN: Yes.

14 THE COURT: You understand that sentencing is strictly up to
15 the Court, no one can promise you probation, leniency, or any special
16 treatment?

17 DEFENDANT BROWN: Yes.

18 THE COURT: Is one of the reasons you are pleading guilty to
19 the robbery with use of a deadly weapon in this case is in truth and fact
20 you are guilty of that charge?

21 DEFENDANT BROWN: Yes.

22 THE COURT: Ma'am, I have a copy of the Guilty Plea
23 Agreement in this case. Is that your signature of page 5 of the
24 agreement?

25 DEFENDANT BROWN: Yes.

1 THE COURT: Did you read and understand everything
2 contained within the agreement?

3 DEFENDANT BROWN: Yes.

4 THE COURT: If you had any questions, were they answered
5 by your attorney?

6 DEFENDANT BROWN: Yes.

7 THE COURT: I'm sorry?

8 DEFENDANT BROWN: Yes.

9 THE COURT: Based upon all the facts and circumstances of
10 your case, are you satisfied with the services of your attorney?

11 DEFENDANT BROWN: Yes.

12 THE COURT: And, ma'am, are you a U.S. citizen?

13 DEFENDANT BROWN: Yes.

14 THE COURT: Okay, I'm going to go over the allegation
15 contained in the amended indictment. Mr. Arnold will flip to that page for
16 you.

17 All right, and again, the stores for this case?

18 MS. GETLER: Champs Sports store and Big 5.

19 THE COURT: You understand that, ma'am?

20 DEFENDANT BROWN: Yes.

21 THE COURT: Okay, did you – follow along. I'm on page 1. Did
22 you, here in Clark County, on or between June 4th and June 23rd, 2019,
23 willfully, unlawfully, and feloniously take personal property, to-wit:
24 merchandise and/or clothing from the person of Brian Akita and/or
25 Kelsey Tristre, or in their presence without the consent and against the

1 will of Brian Akita and/or Kelsey Tristre, by means of force, or violence,
2 or fear of injury, immediate or future, to their person, the person of a
3 member of their family, or anyone in their company at the time of the
4 robbery, you using force or fear to obtain or retain possession of the
5 property, to prevent or overcome resistance to the taking of the property,
6 and/or facilitate escape with use of a deadly weapon, to-wit: a firearm,
7 and/or a knife, Defendant being criminally liable under one or more of
8 the following principles of criminal liability, to-wit: by directly committing
9 the crime, and/or 2) by aiding or abetting in the commission of the crime,
10 with the intent that the crime be committed by counseling, encouraging,
11 hiring, commanding, inducing, and/or otherwise procuring the other to
12 commit the crime, and/or 3) pursuant to conspiracy to commit the crime
13 with the intent that this crime be committed, Defendants aiding or
14 abetting, and/or conspiring by Defendants acting in concert throughout.
15 Did you do those things, ma'am?

16 DEFENDANT BROWN: Yes.

17 THE COURT: Are you entering your plea in this case freely
18 and voluntarily?

19 DEFENDANT BROWN: Yes.

20 THE COURT: Mr. Arnold, if you can turn to the next couple of
21 pages, there's a document called Stipulation for Compromise of Seized
22 Property. Ma'am, did you read and understand that document?

23 DEFENDANT BROWN: Yes.

24 THE COURT: And is that your signature on page 2 –

25 DEFENDANT BROWN: Yes.

1 THE COURT: -- of the document?

2 DEFENDANT BROWN: Yes.

3 THE COURT: Did you sign this document freely and
4 voluntarily?

5 DEFENDANT BROWN: Yes.

6 THE COURT: And are you entering your plea to this case
7 freely and voluntarily?

8 DEFENDANT BROWN: Yes.

9 THE COURT: Court so finds, sets this matter for sentencing
10 on the following day.

11 THE CLERK: That will be April – oh, excuse me, that will be
12 May 14th, 8:30 a.m.

13 THE COURT: Okay, we'll turn now to Ms. Gonzalez. What are
14 the negotiations, Mr. Hart?

15 MR. HART: Today my client will be pleading guilty to one
16 count of conspiracy to commit robbery in case 344112-2 and one count
17 of grand larceny in C344268. The State will have no opposition to
18 probation but we'll both be stipulating to an underlying sentence of 24 to
19 60 in both cases.

20 THE COURT: Is that correct, State?

21 MR. HART: And that's consecutive.

22 MS. GETLER: That's correct, Your Honor.

23 MR. HART: Sorry, consec –

24 THE COURT: All right.

25 Ms. Gonzalez, is that your understanding on the negotiations

1 for case number 344268?

2 DEFENDANT GONZALEZ: Yes.

3 THE COURT: Is that also your understanding of the
4 negotiations in 344112?

5 DEFENDANT GONZALEZ: Yes, I do.

6 THE COURT: Okay, ma'am, I'm going to go over the first one
7 is 344268. Do you have that one in front of you, Mr. Hart?

8 MR. HART: I do, Your Honor.

9 THE COURT: Okay, can you hold that and show that to Ms.
10 Gonzalez as I go over it?

11 MR. HART: I'll give her a copy.

12 THE COURT: All right.

13 Ma'am, for the record, what is your true name?

14 DEFENDANT GONZALEZ: Sarah Gonzalez.

15 THE COURT: How old are you?

16 DEFENDANT GONZALEZ: 29.

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

18 DEFENDANT GONZALEZ: 12th grade.

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

21 DEFENDANT GONZALEZ: Yes, I do.

22 THE COURT: And in case number, its at the top part of the
23 page, 344268, are you entering a guilty plea to the charge of grand
24 larceny?

25 DEFENDANT GONZALEZ: Yes.

1 THE COURT: Before I can accept your plea of guilty I must
2 make sure it is freely and voluntarily given, is anyone forcing you to
3 plead guilty?

4 DEFENDANT GONZALEZ: No.

5 THE COURT: Has anyone threatened you or anyone closely
6 associated with you in order to get you to plead guilty?

7 DEFENDANT GONZALEZ: No.

8 THE COURT: You understand that the sentencing range of
9 the grand larceny charge is that the Court could sentence you to a
10 maximum term of 5 years, a minimum term of 1 year in the Nevada
11 Department of Corrections and you can also be fined up to \$5,000.00?

12 DEFENDANT GONZALEZ: Yes.

13 THE COURT: You understand that sentencing is strictly up to
14 the Court, no one can promise you probation, leniency, or any special
15 treatment?

16 DEFENDANT GONZALEZ: Yes.

17 THE COURT: Is that – you understand that?

18 DEFENDANT GONZALEZ: I understand that, yes.

19 THE COURT: Is one of the reasons you are pleading guilty is
20 in truth and fact you are guilty of this charge?

21 DEFENDANT GONZALEZ: Yes, it is.

22 THE COURT: Ma'am, I have a copy of the Guilty Plea
23 Agreement in front of me and you have one as well. Is that your
24 signature on page 5 of the agreement?

25 DEFENDANT GONZALEZ: Yes.

1 THE COURT: Did you read and understand everything
2 contained within the agreement?

3 DEFENDANT GONZALEZ: Yes, I do.

4 THE COURT: If you had any questions, were they answered
5 by your attorney?

6 DEFENDANT GONZALEZ: Yes.

7 THE COURT: Based upon all the facts and circumstances of
8 your case are you satisfied with the services of your attorney?

9 DEFENDANT GONZALEZ: Yes.

10 THE COURT: Ma'am, are you a U.S. citizen?

11 DEFENDANT GONZALEZ: Yes, I am.

12 THE COURT: Okay, ma'am, if you can turn to the page right
13 after page 6, look at page – all right, it says Amended Indictment. Do
14 you see that document, ma'am?

15 MR. HART: At the very end; yes.

16 DEFENDANT GONZALEZ: Over there? Yes.

17 MR. HART: Right there.

18 DEFENDANT GONZALEZ: Yes.

19 THE COURT: Okay, I'm going to read the allegation against
20 you and ask you if you committed this offense.

21 Did you on or between April 3rd and June 22nd, 2019, here in
22 Clark County, Nevada, willfully, unlawfully, and feloniously with the intent
23 to deprive the owner permanently thereof, steal, take, and carry away,
24 lead away, or drive away property owned by Jamie Lyn Woodworth,
25 and/or Aspen Hammer, and/or Ross Nohara, or in their presence without

1 the consent and against the will of Jamie Lyn Woodworth, and/or Aspen
2 Hammer, and/or Ross Nohara, having a value of \$650.00 or more, to-
3 wit: miscellaneous – to-wit: excuse me, merchandise and/or clothing; did
4 you do those things, ma'am?

5 DEFENDANT GONZALEZ: Yeah.

6 THE COURT: Are you entering your plea freely and
7 voluntarily?

8 DEFENDANT GONZALEZ: Mm-hmm, yes.

9 THE COURT: Okay, and if you can turn to the next page
10 there's a document called Stipulation for Compromise of Seized
11 Property. Do you see that, ma'am?

12 DEFENDANT GONZALEZ: Mm-hmm.

13 THE COURT: Is that a yes?

14 DEFENDANT GONZALEZ: Yes, sorry.

15 MR. HART: It's got to be yes and no.

16 DEFENDANT GONZALEZ: Sorry.

17 THE COURT: Okay, did you read and understand this
18 document?

19 DEFENDANT GONZALEZ: Yes.

20 THE COURT: And is that your signature on page 2 of the
21 document?

22 DEFENDANT GONZALEZ: Yes.

23 THE COURT: Did you sign that document freely and
24 voluntarily?

25 DEFENDANT GONZALEZ: Yes.

1 THE COURT: And you entered your plea here freely and
2 voluntarily; is that correct?
3 DEFENDANT GONZALEZ: Yes.
4 THE COURT: Court so finds.
5 All right, now I'm going to read – I'm going to go over the case
6 number, Mr. Hart will have that in front of you, 344112, do you have that
7 document, ma'am?
8 DEFENDANT GONZALEZ: Yes, I do.
9 MR. HART: Right here.
10 THE COURT: Okay. And I understand from Mr. Hart told me,
11 you are pleading guilty to conspiracy to commit robbery; is that correct?
12 DEFENDANT GONZALEZ: Yes.
13 THE COURT: For the record, what is your true name?
14 DEFENDANT GONZALEZ: Sarah Gonzalez.
15 THE COURT: And how old are you?
16 DEFENDANT GONZALEZ: 29.
17 THE COURT: How far did you go in school?
18 DEFENDANT GONZALEZ: 12th grade.
19 THE COURT: Do you read, write, and understand the English
20 language?
21 DEFENDANT GONZALEZ: Yes.
22 THE COURT: And are you pleading guilty to the charge of
23 conspiracy to commit robbery?
24 DEFENDANT GONZALEZ: Yes.
25 THE COURT: Before I can accept your plea of guilty, I must

1 make sure it is freely and voluntarily given.

2 DEFENDANT GONZALEZ: Yes.

3 THE COURT: Is anyone forcing you to plead guilty?

4 DEFENDANT GONZALEZ: No.

5 THE COURT: Has anyone threatened you or anyone closely
6 associated with you in order to get you to plead guilty?

7 DEFENDANT GONZALEZ: No.

8 THE COURT: Do you understand that the sentencing range of
9 the charge of conspiracy to commit robbery is that the Court could
10 sentence you to a maximum term of 6 years, a minimum term of 1 year
11 in the Nevada Department of Corrections and you can also be fined up
12 to \$5,000.00?

13 DEFENDANT GONZALEZ: Yes, I understand.

14 THE COURT: Okay. Do you understand that sentencing is
15 strictly up to the Court, no one can promise you probation, leniency or
16 any special treatment, do you understand that, ma'am?

17 DEFENDANT GONZALEZ: Yes.

18 THE COURT: Now, although the negotiations say that the
19 State has no opposition to probation, which means they're going to tell
20 me that at the time of sentencing, you are probably going to tell me you
21 want probation, and Mr. Hart's going to tell me you want probation, okay,
22 that you should get probation.

23 DEFENDANT GONZALEZ: Yes.

24 THE COURT: Final decision's mine; do you understand that?

25 DEFENDANT GONZALEZ: I understand that.

1 THE COURT: Okay. And ma'am, did you read the entire Guilty
2 Plea Agreement in this case?

3 DEFENDANT GONZALEZ: Yes.

4 THE COURT: Did you understand everything contained
5 therein?

6 DEFENDANT GONZALEZ: Yes.

7 THE COURT: If you had any questions were they answered
8 by Mr. Hart?

9 DEFENDANT GONZALEZ: Yes.

10 THE COURT: Based upon all the facts and circumstances of
11 your case are you satisfied with his services?

12 DEFENDANT GONZALEZ: Yes.

13 THE COURT: Are you a U.S. citizen?

14 DEFENDANT GONZALEZ: Yes.

15 THE COURT: Okay, ma'am, if you can turn to Exhibit 1 which
16 is at the back –

17 DEFENDANT GONZALEZ: Okay.

18 THE COURT: -- of the Guilty Plea Agreement and I'm going to
19 read the allegation that's been filed. Please follow along and I'm going to
20 ask you if you committed this offense.

21 DEFENDANT GONZALEZ: Okay.

22 THE COURT: All right. Did you within Clark County, State of
23 Nevada, on or about June 23rd, 2019, willfully, unlawfully, and feloniously
24 conspire with Mark Anthony Fink, aka Mark Anthony Fink, Jr. and
25 Lequana Brown, aka, Lequana Leatrice Brown, to commit a robbery; did

1 you do those things, ma'am?

2 DEFENDANT GONZALEZ: Yeah.

3 THE COURT: Are you entering your plea freely and
4 voluntarily?

5 DEFENDANT GONZALEZ: Yes, I am.

6 THE COURT: Court so finds. If you can turn to the next page
7 with is Stipulation for Compromise of Seized Property, did you read and
8 understand that document?

9 DEFENDANT GONZALEZ: Yes.

10 THE COURT: And is that your signature on page 2 of the
11 document?

12 DEFENDANT GONZALEZ: Yes.

13 THE COURT: Did you sign that document freely and
14 voluntarily?

15 DEFENDANT GONZALEZ: Yes.

16 THE COURT: Court so finds, sets this matter for sentencing
17 on the following day.

18 THE CLERK: Do you want the same day as –

19 THE COURT: Same day.

20 THE CLERK: Okay, that will be May 14th, 8:30.

21 THE COURT: All right, ma'am, its late in the day here. Either
22 go today or tomorrow to the Department of Parole and Probation and
23 sign up for your interview.

24 DEFENDANT GONZALEZ: Okay.

25 THE COURT: Okay?

1 DEFENDANT GONZALEZ: Okay. Thank you.

2 THE COURT: Now, just – you understand, ma'am, that the
3 State is going to recommend to me or have no opposition to you
4 receiving probation, but if you fail to go down to P&P today or tomorrow,
5 you fail to show up for sentencing, or if you go out there and commit new
6 crimes, then they're –

7 DEFENDANT GONZALEZ: I totally –

8 THE COURT: -- going to argue for prison. Do you understand
9 that?

10 DEFENDANT GONZALEZ: I totally understand all of this,
11 yeah.

12 THE COURT: Okay. See you back --

13 MR. HART: And, Your Honor, --

14 THE COURT: -- on that day.

15 DEFENDANT GONZALEZ: I understand.

16 MR. HART: -- for a housekeeping matter, Mr. Finks, although
17 not my client, he is currently in custody at CCDC with a trial set for two
18 weeks, so I'm thinking maybe that should happen on Tuesday.

19 MS. GETLER: I would agree with that if that's a possibility.

20 THE COURT: All right, so bring him back here on Tuesday?

21 MR. HART: Well, --

22 MS. GELTER: Yes.

23 MR. HART: -- I don't know that they have to bring everybody
24 back.

25 THE COURT: No, just him.

1 MS. GETLER: Just Mr. Fink for –
2 THE COURT: And who is his attorney again?
3 MS. GETLER: Adam Gill.
4 MR. HART: Adam Gill.
5 THE COURT: Okay.
6 MR. HART: I've been in – we've been in contact with Mr. Gill
7 about this –
8 THE COURT: If –
9 MR. HART: -- going down previously.
10 THE COURT: We will contact him as well, but if anyone
11 happens to see him can you please tell him that we're going to put his
12 client's –
13 MS. GETLER: Yes.
14 THE COURT: -- case on calendar –
15 MS. GETLER: I'll let him know.
16 THE COURT: -- for Tuesday.
17 MS. GETLER: Thank you –
18 THE COURT: Thank you.
19 MS. GETLER: -- so much, Your Honor.
20 /////
21 /////
22 /////
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25 /////

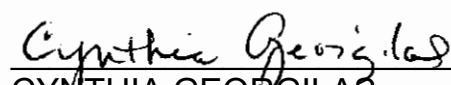
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THE COURT: Sure.

[Hearing concludes at 3:46 p.m.]

* * * * *

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


CYNTHIA GEORGILAS
Court Recorder/Transcriber
District Court Dept. XVII

1 **GPA**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 STEPHANIE GETLER
6 Deputy District Attorney
7 Nevada Bar #014203
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

ORIGINAL
FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

MAR 12 2020

BY, 
SHANNON REID, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

C-19-344112-3
GPA
Guilty Plea Agreement
4903411



9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 LEQUANA BROWN, aka,
13 Lequana Leatrice Brown, #2651822
14 Defendant.

CASE NO: C-19-344112-3

DEPT NO: XVII

15 **GUILTY PLEA AGREEMENT**

16 I hereby agree to plead guilty to: ROBBERY WITH USE OF A DEADLY WEAPON
17 (Category B Felony - NRS 200.380, 193.165 - NOC 50138), as more fully alleged in the
18 charging document attached hereto as Exhibit "1".

19 I hereby also agree to plead guilty to: ROBBERY (Category B Felony - NRS 200.380
20 - NOC 50137) in Case No. C-19-344268-1.

21 My decision to plead guilty is based upon the plea agreement in this case which is as
22 follows:

23 The parties stipulate to a sentence of four (4) to ten (10) years on each count to run
24 consecutive to each other. This offer is contingent upon Michael Fink and Sarah Gonzalez
25 accepting their respective negotiations. The Defendant agrees to pay full restitution. I agree to
26 the forfeiture as set forth in the Stipulation for Compromise of Seized Property which is
27 attached hereto and incorporated herein by reference as Exhibit "2".

28 I agree to the forfeiture of any and all weapons or any interest in any weapons seized

1 and/or impounded in connection with the instant case and/or any other case negotiated in
2 whole or in part in conjunction with this plea agreement.

3 I understand and agree that, if I fail to interview with the Department of Parole and
4 Probation, fail to appear at any subsequent hearings in this case, or an independent magistrate,
5 by affidavit review, confirms probable cause against me for new criminal charges including
6 reckless driving or DUI, but excluding minor traffic violations, the State will have the
7 unqualified right to argue for any legal sentence and term of confinement allowable for the
8 crime(s) to which I am pleading guilty, including the use of any prior convictions I may have
9 to increase my sentence as an habitual criminal to five (5) to twenty (20) years, life without
10 the possibility of parole, life with the possibility of parole after ten (10) years, or a definite
11 twenty-five (25) year term with the possibility of parole after ten (10) years.

12 Otherwise I am entitled to receive the benefits of these negotiations as stated in this
13 plea agreement.

14 CONSEQUENCES OF THE PLEA

15 I understand that by pleading guilty I admit the facts which support all the elements of
16 the offense(s) to which I now plead as set forth in Exhibit "1".

17 I understand that as a consequence of my plea of guilty the Court must sentence me to
18 imprisonment in the Nevada Department of Corrections for a minimum term of not less than
19 TWO (2) years and a maximum term of not more than FIFTEEN (15) years for the Robbery,
20 PLUS a consecutive ONE (1) to FIFTEEN (15) years for the Deadly Weapon enhancement.
21 The minimum term of imprisonment may not exceed forty percent (40%) of the maximum
22 term of imprisonment. I understand that the law requires me to pay an Administrative
23 Assessment Fee.

24 I understand that, if appropriate, I will be ordered to make restitution to the victim of
25 the offense(s) to which I am pleading guilty and to the victim of any related offense which is
26 being dismissed or not prosecuted pursuant to this agreement. I will also be ordered to
27 reimburse the State of Nevada for any expenses related to my extradition, if any.

28 I understand that I am not eligible for probation for the offense to which I am pleading

1 guilty.

2 I understand that I must submit to blood and/or saliva tests under the Direction of the
3 Division of Parole and Probation to determine genetic markers and/or secretor status.

4 I understand that if I am pleading guilty to charges of Burglary, Invasion of the Home,
5 Possession of a Controlled Substance with Intent to Sell, Sale of a Controlled Substance, or
6 Gaming Crimes, for which I have prior felony conviction(s), I will not be eligible for probation
7 and may receive a higher sentencing range.

8 I understand that if more than one sentence of imprisonment is imposed and I am
9 eligible to serve the sentences concurrently, the sentencing judge has the discretion to order
10 the sentences served concurrently or consecutively.

11 I understand that information regarding charges not filed, dismissed charges, or charges
12 to be dismissed pursuant to this agreement may be considered by the judge at sentencing.

13 I have not been promised or guaranteed any particular sentence by anyone. I know that
14 my sentence is to be determined by the Court within the limits prescribed by statute.

15 I understand that if my attorney or the State of Nevada or both recommend any specific
16 punishment to the Court, the Court is not obligated to accept the recommendation.

17 I understand that if the offense(s) to which I am pleading guilty was committed while I
18 was incarcerated on another charge or while I was on probation or parole that I am not eligible
19 for credit for time served toward the instant offense(s).

20 I understand that if I am not a United States citizen, any criminal conviction will likely
21 result in serious negative immigration consequences including but not limited to:

- 22 1. The removal from the United States through deportation;
- 23 2. An inability to reenter the United States;
- 24 3. The inability to gain United States citizenship or legal residency;
- 25 4. An inability to renew and/or retain any legal residency status; and/or
- 26 5. An indeterminate term of confinement, with the United States Federal
27 Government based on my conviction and immigration status.

1 Regardless of what I have been told by any attorney, no one can promise me that this
2 conviction will not result in negative immigration consequences and/or impact my ability to
3 become a United States citizen and/or a legal resident.

4 I understand that the Division of Parole and Probation will prepare a report for the
5 sentencing judge prior to sentencing. This report will include matters relevant to the issue of
6 sentencing, including my criminal history. This report may contain hearsay information
7 regarding my background and criminal history. My attorney and I will each have the
8 opportunity to comment on the information contained in the report at the time of sentencing.
9 Unless the District Attorney has specifically agreed otherwise, the District Attorney may also
10 comment on this report.

11 WAIVER OF RIGHTS

12 By entering my plea of guilty, I understand that I am waiving and forever giving up the
13 following rights and privileges:

- 14 1. The constitutional privilege against self-incrimination, including the right
15 to refuse to testify at trial, in which event the prosecution would not be
 allowed to comment to the jury about my refusal to testify.
- 16 2. The constitutional right to a speedy and public trial by an impartial jury,
17 free of excessive pretrial publicity prejudicial to the defense, at which
18 trial I would be entitled to the assistance of an attorney, either appointed
 or retained. At trial the State would bear the burden of proving beyond
 a reasonable doubt each element of the offense(s) charged.
- 19 3. The constitutional right to confront and cross-examine any witnesses who
20 would testify against me.
- 21 4. The constitutional right to subpoena witnesses to testify on my behalf.
- 22 5. The constitutional right to testify in my own defense.
- 23 6. The right to appeal the conviction with the assistance of an attorney,
24 either appointed or retained, unless specifically reserved in writing and
25 agreed upon as provided in NRS 174.035(3). I understand this means I
26 am unconditionally waiving my right to a direct appeal of this conviction,
 including any challenge based upon reasonable constitutional,
 jurisdictional or other grounds that challenge the legality of the
 proceedings as stated in NRS 177.015(4). However, I remain free to
 challenge my conviction through other post-conviction remedies
 including a habeas corpus petition pursuant to NRS Chapter 34.

27 //

28 //

1 VOLUNTARINESS OF PLEA

2 I have discussed the elements of all of the original charge(s) against me with my
3 attorney and I understand the nature of the charge(s) against me.

4 I understand that the State would have to prove each element of the charge(s) against
5 me at trial.

6 I have discussed with my attorney any possible defenses, defense strategies and
7 circumstances which might be in my favor.

8 All of the foregoing elements, consequences, rights, and waiver of rights have been
9 thoroughly explained to me by my attorney.

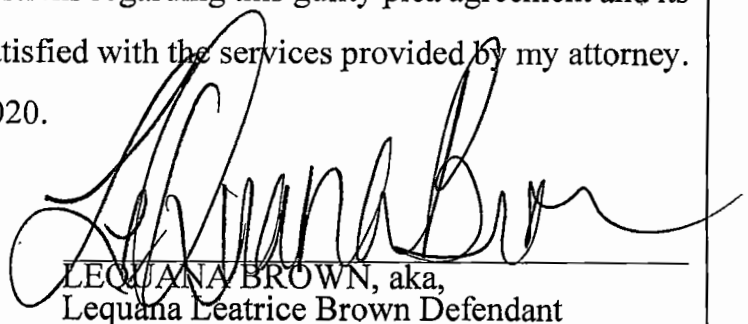
10 I believe that pleading guilty and accepting this plea bargain is in my best interest, and
11 that a trial would be contrary to my best interest.

12 I am signing this agreement voluntarily, after consultation with my attorney, and I am
13 not acting under duress or coercion or by virtue of any promises of leniency, except for those
14 set forth in this agreement.

15 I am not now under the influence of any intoxicating liquor, a controlled substance or
16 other drug which would in any manner impair my ability to comprehend or understand this
17 agreement or the proceedings surrounding my entry of this plea.

18 My attorney has answered all my questions regarding this guilty plea agreement and its
19 consequences to my satisfaction and I am satisfied with the services provided by my attorney.

20 DATED this 12 day of March, 2020.

21 
22 LEQUANA BROWN, aka,
23 Lequana Leatrice Brown Defendant

24 AGREED TO BY:
25 
26

27 STEPHANIE GETLER
28 Deputy District Attorney
Nevada Bar #014203

1 CERTIFICATE OF COUNSEL:

2 I, the undersigned, as the attorney for the Defendant named herein and as an officer of the court
3 hereby certify that:

- 4 1. I have fully explained to the Defendant the allegations contained in the
5 charge(s) to which guilty pleas are being entered.
- 6 2. I have advised the Defendant of the penalties for each charge and the restitution
7 that the Defendant may be ordered to pay.
- 8 3. I have inquired of Defendant facts concerning Defendant's immigration status
9 and explained to Defendant that if Defendant is not a United States citizen any
10 criminal conviction will most likely result in serious negative immigration
11 consequences including but not limited to:
- 12 a. The removal from the United States through deportation;
- 13 b. An inability to reenter the United States;
- 14 c. The inability to gain United States citizenship or legal residency;
- 15 d. An inability to renew and/or retain any legal residency status; and/or
- 16 e. An indeterminate term of confinement, by with United States Federal
17 Government based on the conviction and immigration status.
- 18 Moreover, I have explained that regardless of what Defendant may have been
19 told by any attorney, no one can promise Defendant that this conviction will not
20 result in negative immigration consequences and/or impact Defendant's ability
21 to become a United States citizen and/or legal resident.
- 22 4. All pleas of guilty offered by the Defendant pursuant to this agreement are
23 consistent with the facts known to me and are made with my advice to the
24 Defendant.
- 25 5. To the best of my knowledge and belief, the Defendant:
- 26 a. Is competent and understands the charges and the consequences of
27 pleading guilty as provided in this agreement,
- 28 b. Executed this agreement and will enter all guilty pleas pursuant hereto
voluntarily, and
- c. Was not under the influence of intoxicating liquor, a controlled
substance or other drug at the time I consulted with the Defendant as
certified in paragraphs 1 and 2 above.

Dated: This 12 day of March, 2020.


CARL ARNOLD, ESQ.

rmj/L3

1 AIND
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 STEPHANIE GETLER
6 Deputy District Attorney
7 Nevada Bar #014203
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

EXHIBIT " 1 "

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

CASE NO: C-19-344112-3

11 -vs-

DEPT NO: XVII

12 LEQUANA BROWN, aka,
13 Lequana Leatrice Brown, #2651822,

14 Defendant(s).

AMENDED
INDICTMENT

15 STATE OF NEVADA }
16 COUNTY OF CLARK } ss.

17 The Defendant(s) above named, LEQUANA BROWN, aka, Lequana Leatrice Brown,
18 accused by the Clark County Grand Jury of the crime(s) of ROBBERY WITH USE OF A
19 DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138); committed
20 at and within the County of Clark, State of Nevada, on or between June 4, 2019 and June 23,
21 2019, as follows: did willfully, unlawfully, and feloniously take personal property, to wit:
22 merchandise and/or clothing, from the person of BRIAN AKITA and/or KELSEY TRISTRE,
23 or in their presence, without the consent and against the will of BRIAN AKITA and/or
24 KELSEY TRISTRE, by means of force or violence or fear of injury, immediate or future, to
25 his person, the person of a member of his family, or of anyone in his company at the time of
26 the robbery, defendant using force or fear to obtain or retain possession of the property, to
27 prevent or overcome resistance to the taking of the property, and/or to facilitate escape, with
28 use of a deadly weapon, to wit: a firearm and/or a knife; the Defendant(s) being criminally

1 liable under one or more of the following principles of criminal liability, to wit: (1) by directly
2 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with
3 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,
4 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a
5 conspiracy to commit this crime, with the intent that this crime be committed, Defendants
6 aiding or abetting and/or conspiring by Defendants acting in concert throughout.

7 DATED this 12 day of March, 2020.

8 STEVEN B. WOLFSON
9 Clark County District Attorney
Nevada Bar #001565

10
11 BY 

12 STEPHANIE GETLER
13 Deputy District Attorney
14 Nevada Bar #014203

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25 19BGJ023A-C/19F12727A-C /19F13435X/19F13575A-B/rmj/L3
26 LVMPD EV# 190600109274; 190600017813;
27 190499999757; 190499999400; 190499999359;
28 190699999764; 190699999624; 190699999602;
190699999354; 190600104412
(TK7)

STIPULATION FOR COMPROMISE OF SEIZED PROPERTY

DEFENDANT LEQUANA BROWN, aka, ID# 2651822 CRIMINALCASE# C-19-344112-3
 Lequana Leatrice Brown,
Seizing Law Enforcement Agency Las Vegas Metropolitan Police Department
Seizure Event Number 190600109274; 190499999757; 190499999400; 190499999359; 190699999764; 190699999624;
 190699999602; 190699999354; 190600104412

IT IS HEREBY STIPULATED and AGREED by and between STEVEN B. WOLFSON, Clark County District Attorney through his undersigned Deputy, and the Defendant that a stipulation for compromise be entered into and resolved as part of the negotiations in the aforementioned criminal case(s) pertaining to property impounded or seized by the aforementioned law enforcement agency under the aforementioned event number(s), as follows:

1. PROSECUTOR CHECKS THE APPROPRIATE PARAGRAPHS:

- X a. TOTAL FORFEITURE: That Defendant agrees to release and waive any and all right, title and interest in said property as being forfeited to the seizing law enforcement agency and subject to disposition pursuant to Nevada Revised Statutes 179.1175, 179.118 and 179.1185.

Property To Be Forfeited: Any and all property and/or money seized under Las Vegas Metropolitan Police Department Event numbers 190600109274; 190499999757; 190499999400; 190499999359; 190699999764; 190699999624; 190699999602; 190699999354; 190600104412

- b. PARTIAL FORFEITURE: Within the guidelines and policies of the seizing law enforcement agency, the prosecution agrees to release to the Defendant or his designee the above-described property. That in exchange for release of the aforementioned property, Defendant agrees to release and waive any and all right, title and interest in the remainder of the seized property as being forfeited to the seizing law enforcement agency and subject to disposition pursuant to Nevada Revised Statutes 179.1175, 179.118 and 179.1185.

Property To Be Forfeited: _____

Property To Be Returned: _____

- c. VEHICLE FORFEITURE: Said property includes, but is not limited to, a motor vehicle whereby the Defendant agrees to release and waive any and all right, title and interest in said motor vehicle as being forfeited to the seizing law enforcement agency and subject to disposition pursuant to Nevada Revised Statutes 179.1175, 179.118 and 179.1185.

2. That the Defendant hereby authorizes the District Attorney's Office and the seizing law enforcement agency to take such action as is necessary, including, but not limited to, using this agreement to secure a judgment or an ex-parte order in any contemplated or pending companion forfeiture proceeding in order to give full force and effect to this agreement.
3. That the parties agree that this forfeiture, or any subsequent action taken to secure full force and effect of this agreement, does not and will not be considered as putting the Defendant in jeopardy of life, limb or property for the same offense under the Fifth Amendment of the United States Constitution and under Section Eight of Article One of the Nevada Constitution; and, that this forfeiture, or any subsequent action taken to secure full force and effect of this agreement, does not or will not constitute an excessive fine under the Eighth Amendment of the United States Constitution and under Section Six of Article One of the Nevada Constitution.
4. That the parties agree that any breach, withdrawal, repeal, rejection or any other abrogation of the negotiations in the aforementioned criminal case(s) shall not have any effect upon the finality of this stipulation; and, that any breach, withdrawal, repeal, rejection or any other abrogation of this stipulation shall not have any effect upon the finality of the negotiations in the aforementioned criminal case(s).

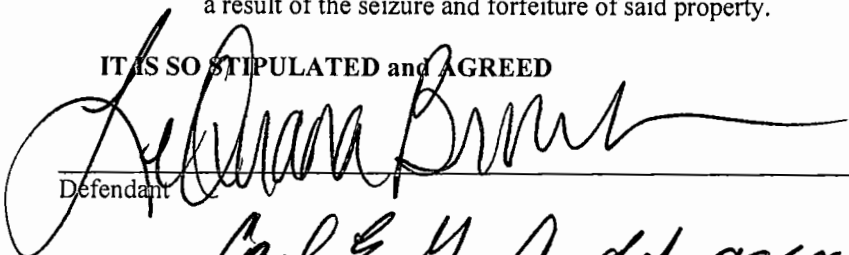
EXHIBIT "2"

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AA 0198

5. That this Stipulation for Compromise shall incorporate all of the protections attendant to such stipulations as contemplated under the provisions of NRS 48.105 as to all parties named herein; and, this Stipulation for Compromise shall not be construed in any fashion as an admission pertaining to any criminal charges, and shall not and does not constitute an admission of civil liability or fault on the part of any of the undersigned parties, or their present or former agents, servants, employees or others.
6. That the parties agree to accept these terms in full settlement and satisfaction of any and all civil claims and demands which each party or assignees may have against each other, agents and employees on account of the seizure or impoundment of said property.
7. That this Stipulation for Compromise shall forever, and completely bar any action or claim in any tribunal in any matter whatsoever, whether State, Federal or otherwise by the Defendant herein concerning the forfeiture of said property.
8. That the respective parties bear their own civil costs and attorney's fees which may have been occasioned and occurred as a result of the seizure and forfeiture of said property.

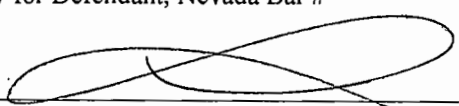
IT IS SO STIPULATED and AGREED


Defendant

3/12/2020
Date

Carl E. H. Arnold 8358
Attorney for Defendant, Nevada Bar #

3/12/2020
Date


Clark County Deputy District Attorney, Nevada-Bar #014203

3.12.20
Date

EXHIBIT "2"

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AA 0199

1 **AIND**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 STEPHANIE GETLER
6 Deputy District Attorney
7 Nevada Bar #014203
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

ORIGINAL
FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

MAR 12 2020

BY, 
SHANNON REID, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

C-19-344112-3
AIND
Amended Indictment
4903429



9 THE STATE OF NEVADA,
10 Plaintiff,

CASE NO: C-19-344112-3

11 -vs-

DEPT NO: XVII

12 LEQUANA BROWN, aka,
13 Lequana Leatrice Brown, #2651822,
14 Defendant(s).

AMENDED
INDICTMENT

15 STATE OF NEVADA }
16 COUNTY OF CLARK } ss.

17 The Defendant(s) above named, LEQUANA BROWN, aka, Lequana Leatrice Brown,
18 accused by the Clark County Grand Jury of the crime(s) of ROBBERY WITH USE OF A
19 DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138); committed
20 at and within the County of Clark, State of Nevada, on or between June 4, 2019 and June 23,
21 2019, as follows: did willfully, unlawfully, and feloniously take personal property, to wit:
22 merchandise and/or clothing, from the person of BRIAN AKITA and/or KELSEY TRISTRE,
23 or in their presence, without the consent and against the will of BRIAN AKITA and/or
24 KELSEY TRISTRE, by means of force or violence or fear of injury, immediate or future, to
25 his person, the person of a member of his family, or of anyone in his company at the time of
26 the robbery, defendant using force or fear to obtain or retain possession of the property, to
27 prevent or overcome resistance to the taking of the property, and/or to facilitate escape, with
28 use of a deadly weapon, to wit: a firearm and/or a knife; the Defendant(s) being criminally

1 liable under one or more of the following principles of criminal liability, to wit: (1) by directly
2 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with
3 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,
4 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a
5 conspiracy to commit this crime, with the intent that this crime be committed, Defendants
6 aiding or abetting and/or conspiring by Defendants acting in concert throughout.

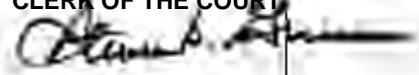
7 DATED this 12 day of March, 2020.

8 STEVEN B. WOLFSON
9 Clark County District Attorney
Nevada Bar #001565

10
11 BY 

12 STEPHANIE GETLER
13 Deputy District Attorney
14 Nevada Bar #014203
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25 19BGJ023A-C/19F12727A-C /19F13435X/19F13575A-B/rmj/L3
26 LVMPD EV# 190600109274; 190600017813;
27 190499999757; 190499999400; 190499999359;
28 190699999764; 190699999624; 190699999602;
190699999354; 190600104412
(TK7)



1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

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6 THE STATE OF NEVADA,

7
8 Plaintiff,

9 vs.

10 LEQUANA BROWN, aka, Lequana
11 Leatrice Brown

12 Defendant.

CASE: C-344112-3

DEPT. XVII

13
14 BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE
15 THURSDAY, APRIL 30, 2020

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **STATUS CHECK: MOTION TO WITHDRAW**

18
19 APPEARANCES:

20 For the State:

YU MENG, ESQ.
Deputy District Attorney

21
22 For the Defendant:

ROGER BAILEY, ESQ.

23
24
25 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

1 Las Vegas, Nevada, Thursday, April 30, 2020

2 [Hearing begins at 10:35 a.m.]

3 [Colloquy in courtroom]

4 THE MARSHAL: Page 3 and 15.

5 THE COURT: All right, Ms. Brown, you had filed a motion to
6 dismiss counsel. You do have a sentencing May 14th. So you're
7 requesting new counsel for your sentencing; is that correct, ma'am?

8 DEFENDANT BROWN: I been – I filed a motion at the
9 beginning of March. I don't know why it took so long to reach you.
10 Maybe the address I sent it to could have been wrong, I don't know, but
11 that's the address that I got from the Public Defender. And, yes, I've
12 been trying to fire him. I was under false and um – he gave me false
13 information about me going to – I was supposed to start trial basically
14 and then I had signed for a deal before this deal that I took. So I was
15 under the impression that I was coming to court to finish that deal cause
16 I had signed for it which that's not what I went to court for. I didn't know
17 about me taking – this going to – get the 8 years [indiscernible] –

18 THE COURT: Okay, ma'am, you didn't listen –

19 DEFENDANT BROWN: -- [indiscernible] –

20 THE COURT: Ma'am, listen to my question. Listen to my
21 question. Do you want another attorney for your sentencing or are you
22 seeking –

23 DEFENDANT BROWN: Yes.

24 THE COURT: -- to have your plea withdrawn?

25 DEFENDANT BROWN: Both.

1 THE COURT: Okay. Based upon the allegations in her motion,
2 we're going to have someone contact Drew's office. I think we've used
3 all the track attorneys and there's a conflict at the Public Defenders
4 Office, so we'll contact Drew's office and we'll come back next Thursday
5 with appointed counsel.

6 THE CLERK: May 7th –

7 THE COURT: Okay, go ahead – and I am going to direct my
8 court clerk [sic] to start preparing all of the transcripts for the hearings
9 that we've had on Ms. Brown on this particular matter.

10 DEFENDANT BROWN: Thank you.

11 THE COURT: All right?

12 DEFENDANT BROWN: Thank you.

13 THE COURT: You're welcome.

14 [Hearing concludes at 10:37 a.m.]

15 [Case recalled at 10:38 a.m.]

16 THE COURT: Mr. Bailey, are you here on behalf of Mr.
17 Arnold?

18 MR. BAILEY: I am, Your Honor.

19 THE MARSHAL: Page 4.

20 THE COURT: Well, let me just go – we'll do page 4 and then
21 we'll go back to page 3 after.

22 [Case trailed at 10:38 a.m.]

23 [Case recalled at 10:40 a.m.]

24 THE COURT: Mr. Bailey, on page 3, we had previously called
25 the Lequana Brown matter and based upon the allegations she has

1 made against Mr. Arnold I am granting her motion to have Mr. Arnold
2 withdraw from the case, and so your office is off the hook on this case
3 and we're going to contact Drew's office for appointed counsel.

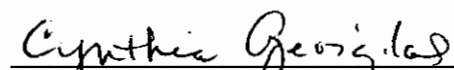
4 MR. BAILEY: Understood, Your Honor.

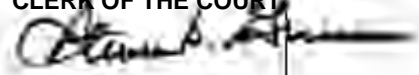
5 THE COURT: Okay. I just wanted to give you a heads up.

6 [Hearing concludes at 10:40 a.m.]

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

24 
25 CYNTHIA GEORGILAS
Court Recorder/Transcriber
District Court Dept. XVII



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
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8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 LEQUANA BROWN,

12 Defendant.

CASE NO. C-19-344112-3
C-19-344268-2

DEPT. NO. XVII

13
14 BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE
15 THURSDAY, MAY 7, 2020

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **CONFIRMATION OF COUNSEL**

18 APPEARANCES VIA VIDEO CONFERENCE:

19 For the State:

ROBERT B. TURNER, ESQ.
Chief Deputy District Attorney

20
21 For the Defendant:

D. MATTHEW LAY, ESQ.

22
23
24
25 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

1 Las Vegas, Nevada; Thursday, May 7, 2020

2
3 [Hearing commenced at 11:02 a.m.]

4 THE COURT: Page 17 and 18 is Lequana Brown. Do we
5 have Matt Lay appearing, Attorney Matt Lay?

6 MR. LAY: I'm here, Your Honor.

7 THE COURT: All right, great. Counsel, can you accept the
8 appointment on this -- on these two cases?

9 MR. LAY: I can, Your Honor.

10 THE COURT: All right. Ms. Brown is making certain
11 allegations against Mr. Arnold. Just for your information, we had
12 numerous court dates where negotiations were discussed that fell
13 through one day. Next day there was more questions, et cetera. At our
14 last court appearance I had my court recorder to go ahead and
15 transcribe various court appearances so you will be up to speed on this
16 case. How long will it take you to review the materials and determine
17 whether or not she has a legal basis to seek to withdraw her plea?

18 MR. LAY: Your Honor, the only issue -- I downloaded all of
19 the information from the Justice Court and District Court cases. I've
20 reached out to Mr. Arnold to try and get the file yesterday afternoon. My
21 only concern is getting the file at this point. If the Court would be willing,
22 if we can set it for a week or two, a status check for me to get the file
23 from Mr. Arnold and set a briefing schedule at that time.

24 THE COURT: All right. Have you had the opportunity to
25 speak with Ms. Brown?

1 MR. LAY: I have not, Your Honor. I found out about this case
2 yesterday and haven't had the opportunity to get her on the phone or
3 speak with her.

4 THE COURT: Well, why don't we do this, Mr. Lay? Let's
5 pass this three weeks. This way it will give you a little bit more time to
6 get the file and then go ahead and discuss so you have an opportunity
7 to discuss with Ms. Brown the basis of her seeking to withdraw her plea,
8 and then we will give you -- and if she still wishes to do that and you --
9 we'll give -- then we'll set a briefing schedule for you.

10 MR. LAY: Okay. That sounds good. Thank you, Your Honor.

11 THE COURT: Thank you.

12 THE COURT CLERK: That will be May 28th.

13 Judge, the sentencing for her and the co-defendants, if you
14 want to vacate those or --

15 THE COURT: Well, the sentencing for -- set for May 14th is
16 hereby vacated.

17 MR. LAY: Thank you, Your Honor.

18 THE DEFENDANT: Thank you.

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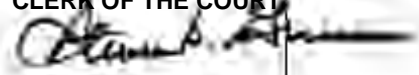
1 THE COURT: Thank you. All right. Thank you.

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3 [Hearing concluded at 11:04 a.m.]
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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
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23 ability.
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A handwritten signature in black ink, appearing to read 'Toshiana Pierson', written over a horizontal line.

Toshiana Pierson
Court Recorder/Transcriber



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 LEQUANA BROWN,

12 Defendant.

CASE NO. C-19-344112-3
C-19-344268-2

DEPT. NO. XVII

13
14 BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE
15 THURSDAY, MAY 28, 2020

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **STATUS OF CASE**

18 APPEARANCES VIA VIDEO CONFERENCE:

19 For the State:

YU MENG, ESQ.

Deputy District Attorney

20
21 For the Defendant:

ROCHELLE T. NGUYEN, ESQ.

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25 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

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Las Vegas, Nevada; Thursday, May 28, 2020

[Hearing commenced at 10:41 a.m.]

THE COURT: Page 13 and 14 is Lequana Brown.

MS. NGUYEN: Good Morning, Your Honor, Rochelle Nguyen appearing for Mr. Lay on behalf of the Defendant.

THE COURT: All right. This is status check on possibly filing a motion to withdraw a guilty plea.

MS. NGUYEN: Your Honor, and we need one more week. I know we obtained the file, I know there obviously were some difficulties with quarantine and COVID-19. So we do have the file, Mr. Lay just needs one week to be able to talk to her, the client about the possibility of filing that motion.

THE COURT: All right.

MS. NGUYEN: So, I'd just ask for one week.

THE COURT: All right. Here is your next date.

THE COURT CLERK: June 4th.

THE DEFENDANT: Tell him to answer the phone.

MS. NGUYEN: Thank you.

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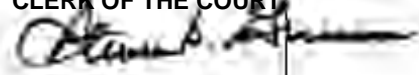
1 THE COURT: Thank you.

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3 [Hearing concluded at 10:42 a.m.]
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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
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A handwritten signature in black ink, appearing to read 'Toshiana Pierson', written over a horizontal line.

Toshiana Pierson
Court Recorder/Transcriber



1 **RTRAN**

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

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8 **THE STATE OF NEVADA,**
9 **Plaintiff,**

CASE NO. C-19-344112-1
C-19-344112-3
C-19-344268-2

10 **vs.**

DEPT. NO. XVII

11 **MARK ANTHONY FINK,**
12 **LEQUANA BROWN,**
13 **Defendant.**

14 **BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE**

15 **THURSDAY, JUNE 4, 2020**

16 ***RECORDER'S TRANSCRIPT OF HEARING:***
17 ***STATUS CHECK: PLEA WITHDRAWAL***

18 **APPEARANCES:**

19 **For the State:**

SHANON L. CLOWERS, ESQ.
Chief Deputy District Attorney

21 **For Defendant Mark Fink:**

ADAM L. GILL, ESQ.
[via video conference]

22 **For Defendant Lequana Brown:**

ROCHELLE T. NGUYEN, ESQ.
[via video conference]

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25 **RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER**

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Las Vegas, Nevada; Thursday, June 4, 2020

[Hearing commenced at 10:17 a.m.]

THE MARSHAL: 15 and 16.

THE COURT: 15 is Lequana Brown and 16 is also Lequana Brown.

MS. NGUYEN: Good morning, Your Honor, Rochelle Nguyen appearing for Matt Lay on behalf of Ms. Brown. It's my understanding she is in Henderson.

THE COURT: All right. Did you have an opportunity to speak with her regarding her desire to have her plea withdrawn?

MS. NGUYEN: I did and she's actually prepared to go forward with sentencing.

THE COURT: But she's not here today?

MS. NGUYEN: Yep.

THE COURT: Okay. We'll pass this next week.

THE COURT CLERK: June 11th.

[Speaking simultaneously]

THE COURT: Now we do have a PSI; is that correct?

MS. NGUYEN: That's fine. I think there were some other --

MS. CLOWERS: Yes, Judge.

THE COURT: Okay, we do have a PSI. Okay, we'll see you on next week. Thank you.

MS. NGUYEN: Thank you.

[Proceedings trailed at 10:18 a.m.]

[Proceedings recalled at 10:54 a.m.]

1 THE MARSHAL: 18.
2 THE COURT: 18 is Mark Fink. This is Mr. Gill, who I see on
3 camera.
4 DEFENDANT FINK: Hello, Your Honor.
5 THE COURT: Hello, sir.
6 And, Mr. Gill, you -- I don't think you were here at the 8:30
7 calendar. I think we were advised by Ms. Brown's -- is this the one with
8 Ms. Brown's a co-defendant?
9 MR. GILL: Yes, Your Honor.
10 THE COURT: Okay. Her new attorney said that she did want
11 to go forward on her sentencing. She was not seeking to withdraw her
12 plea and her sentencing date is.
13 THE COURT CLERK: June 11th, 10:15 a.m.
14 THE COURT: Okay, so we'll set this for same time, Mr. Gill.
15 MR. GILL: And is that just because to make sure that she
16 goes through with it, Judge, or --
17 THE COURT: No. We were advised that she is -- well.
18 THE COURT CLERK: She wasn't present.
19 THE COURT: She is not going to withdraw her plea. So, we'll
20 sentence her on --
21 MR. GILL: Okay.
22 THE COURT: -- that date.
23 MR. GILL: Okay.
24 THE COURT: Okay. We'll -- so we'll see you back on that
25 time.

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THE MARSHAL: 19.

MR. GILL: Thank you, Your Honor.

THE COURT: Thank you.

DEFENDANT FINK: What was the date?

MR. GILL: June 11th, Mark. One week.

THE COURT: June 11th.

DEFENDANT FINK: Do you think when you get a chance,
you could give me a call on the phone or video visit or something?


MR. GILL: Yes, sir. I'll see you before the 11th.

DEFENDANT FINK: Okay, thank you.

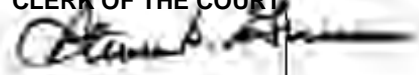
[Hearing concluded at 10:55 a.m.]

* * * * *

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



Angelica Michaux
Court Recorder/Transcriber



1 **RTRAN**

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

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8 **THE STATE OF NEVADA,**
9 **Plaintiff,**

CASE NO. C-19-344112-1
C-19-344112-3
C-19-344268-2

10 **vs.**

DEPT. NO. XVII

11 **MARK ANTHONY FINK,**
12 **LEQUANA BROWN,**

13 **Defendant.**

14 **BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE**

15 **THURSDAY, JUNE 11, 2020**

16 ***RECORDER'S TRANSCRIPT OF HEARING:***
17 ***SENTENCING***

18 **APPEARANCES:**

19 **For the State:**

ROBERT B. TURNER, ESQ.
Chief Deputy District Attorney

21 **For Defendant Mark Fink:**

ADAM L. GILL, ESQ.
[via video conference]

23 **For Defendant Lequana Brown: ROCHELLE T. NGUYEN, ESQ.**

24
25 **RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER**

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Las Vegas, Nevada; Thursday, June 11, 2020

[Hearing commenced at 10:56 a.m.]

THE COURT: Mark Fink. This is Mr. Gill's case.

MR. GILL: Good morning, Your Honor, present on BlueJeans.

THE COURT: Well actually we need to handle the Lequana Brown matter, which is pages 15 and 16 first, okay.

MR. GILL: Understood.

THE COURT: And do we have Mr. Lay present? Is Mr. Lay -- has has he checked in BlueJeans or in person?

THE MARSHAL: Not in person, Your Honor.

THE COURT: All right, Ms. Brown, we're going to -- maybe your attorney is just en route right now, but we're going to call him to see if he is --

DEFENDANT BROWN: Yeah.

THE COURT: -- in the building. All right, so hang on. Okay? We'll recall your case.

[Proceedings trailed at 10:56 a.m.]

[Proceedings resumed at 11:10 a.m.]

THE MARSHAL: Recall 15 and 16.

THE COURT: Lequana Brown.

THE CORRECTIONS OFFICER: Ms. Brown.

THE COURT: All right.

Counsel, are you here on Ms. Brown?

MS. NGUYEN: I am. I am here for Ms. Brown. Rochelle Nguyen for Matt Lay on behalf of Ms. Brown. This was passed last time

1 because she was out in Henderson and we were going to be prepared
2 to go forward with sentencing. However, I noticed that -- it's listed in the
3 PSI, it obviously is like an older case, but she was just brought to
4 Henderson on it and it -- it doesn't look like it's included as a part of this
5 global package negotiations. So I don't believe the State has any
6 objection to us like now looking into that to make sure and see if we can
7 get it dismissed as a part of this negotiation, so she doesn't get
8 sentenced on this case and then not have to come back and deal with
9 that other case.

10 THE COURT: Mr. Turner, are you aware of the history of this
11 case?

12 MR. TURNER: I am, Judge, and I just certainly don't oppose
13 counsel's -- I know this case got closer to trial before it ultimately
14 resolved.

15 DEFENDANT BROWN: Right.

16 MR. TURNER: And I -- but, I don't oppose counsel's efforts to
17 reach out to the deputy. I'll refer the file to the deputy who negotiated it
18 to see if they want to package that up.

19 MS. NGUYEN: And I did have the --

20 MR. GILL: Judge, if I can --

21 MS. NGUYEN: -- opportunity to speak with Ms. Brown. I
22 know Mr. Gill is also on the line here, too. I think he represented her at
23 one point on one of these cases.

24 DEFENDANT BROWN: Okay. Can I speak?

25 MR. GILL: I represent Mr. --

1 THE COURT: No, he has Mr. Fink.

2 MS. NGUYEN: Oh.

3 MR. GILL: Can I speak, please?

4 MS. NGUYEN: Yes.

5 THE COURT: Yes, go ahead, Mr. Gill.

6 DEFENDANT BROWN: Please, Adam.

7 MR. GILL: Judge, we passed Mr. Fink three times now if
8 you're going to pass it again. Just -- just because of this Ms. Brown
9 situation. I'd like to get him sentenced today or if we can come back
10 Monday, Judge. I mean, enough is enough with Ms. Brown --

11 DEFENDANT BROWN: Right.

12 MR. GILL: -- continuing and going back and forth. It's time for
13 Mr. Fink to at least be able to be sentenced. And I'll be quiet.

14 THE COURT: How soon --

15 DEFENDANT BROWN: Adam, I've been trying to get
16 sentenced.

17 MS. NGUYEN: I know Ms. Brown wants to be sentenced
18 today. I will put that out there. She wants to be sentenced. Last week,
19 we were prepared for her to go forward with sentencing. And at that
20 time that is when the State had her brought over on this older case from,
21 I think, January or July of 2019, that for some reason wasn't packaged in
22 here. I mean, it's -- it's like, I think it's like seven or eight charges that
23 are over there in Henderson that I just -- I can't not do. I'm fine passing
24 it 'til Monday. I will get in contact with the District Attorney to see if we
25 can resolve it.

1 DEFENDANT BROWN: Can I speak? Because they said that
2 -- when the -- I guess the last DA which was -- I can't see who it is right
3 now, but they talked about this. Because this was the last thing that she
4 didn't know that it was a -- in -- on this. She did not know that. So they
5 has said that they talked about this. I'm with Adam on this. This is
6 holding me up --

7 THE COURT: All right, Ms. --

8 DEFENDANT BROWN: -- like I'm ready to be sentenced.

9 THE COURT: All right, Ms. Brown, what we're going to do is
10 -- Counsel, is if we pass this Tuesday because, you know, all of us have
11 come back -- I mean, I'm here every day so it doesn't matter.

12 MS. NGUYEN: I know. I know.

13 THE COURT: But it's not fair to Mr. Fink, Mr. Gill and
14 everybody.

15 Can you get this done by Tuesday?

16 MS. NGUYEN: I believe I can. As long as that I know that in
17 talking with Mr. Turner he's going to refer that file, I will call again today.
18 It's something -- it should have been in there. I mean, it's in the PSI so I
19 think it was intended to be included in this. Like I said, Ms. Brown wants
20 to go forward with this today.

21 MR. TURNER: And I'll speak with my deputy after court and
22 inform her to expect a call on this case.

23 MS. NGUYEN: Do you have any other matters on calendar?
24 I can always call right now. I don't know if I can get a hold of someone.

25 DEFENDANT BROWN: Right.

1 THE COURT: I doubt we can get it wrapped up.

2 MS. NGUYEN: Yeah.

3 MR. TURNER: I doubt we can.

4 THE COURT: And I don't want -- especially with the history of
5 this case, I don't want anything rushed, okay.

6 And so we'll come back on Tuesday, Mr. Gill. Hopefully, we
7 can wrap this up. And also --

8 MR. GILL: Thank you, Your Honor.

9 THE COURT: -- Counsel, based upon some of the allegations
10 Ms. Brown made against Mr. Arnold regarding entering into the
11 negotiations.

12 MS. NGUYEN: I understand.

13 THE COURT: You need to talk to her because I'm going to
14 inquire as to whether or not those were -- those things actually
15 happened. Because then I'm concerned about going forward on the
16 sentencing that she comes back, you know, a year from now and say we
17 never addressed those allegations. If she comes and tells me on
18 Tuesday, perhaps that she was just lashing out and making those
19 allegations then that's a different story. But if she's saying -- if the
20 allegations that she made in her pro per motion are accurate, then we
21 need to have a full-blown hearing because I'm not going to relive this
22 case five years from now.

23 MS. NGUYEN: Well I'm gonna -- with all candor to the Court,
24 I have talked to Ms. Brown. I don't believe she is recanting any of the
25 representations that she had -- and allegations that she had made in

1 them. However, we've spent a great deal of time talking about even in
2 light of those like allegations, like her desire to withdraw her guilty plea
3 based on those. She would still want to take the same recommendation
4 and same negotiation after I thoroughly went over all of the like her
5 rights and her case and like the negotiation with that. So --

6 DEFENDANT BROWN: Absolutely.

7 MS. NGUYEN: -- you know -- you know, she doesn't want to
8 go through, you know, let's be careful what you ask for. Like she may
9 have -- still have those same concerns about the representations of Mr.
10 Arnold. However, after I have gone through and given her like the
11 concerns and addressed any of the issues that she had laid out against
12 her previous counsel, she still wants to go forward with the sentence.
13 So I'm not sure how you want to address that under these
14 circumstances.

15 THE COURT: What I'm going to do is --

16 DEFENDANT BROWN: Can I speak, Villani -- Mr. Villani --
17 Judge?

18 THE COURT: Ms. Brown, Ms. Brown? Please hang on.
19 Because of the history of this case, Mr. Turner, I'm going to ask you to
20 prepare two new GPAs with the same -- I'm assuming it's the same
21 deal, okay. I'm going to re-arraign her on these cases. I don't know if I
22 can -- I don't know what we're going to do on that third case, okay. But,
23 we're going to do -- we're going to do the arraignment completely over,
24 okay. And so you've represented, Counsel, that you've spoke to her
25 about this facts and circumstances of her case, possible defenses and

1 we'll go over that on Tuesday. Hopefully, we can get this matter
2 resolved but I'm going to re-arraign her on Tuesday based upon your
3 representations on behalf of Ms. Brown, okay?

4 MS. NGUYEN: Okay.

5 THE COURT: Because like I said I foresee --

6 MS. NGUYEN: I understand --

7 THE COURT: -- us coming back.

8 MS. NGUYEN: -- the Court's concern.

9 THE COURT: Okay?

10 MS. NGUYEN: But just for the record, you know, I know Ms.
11 Brown is frustrated and she was ready to go forward with this today.

12 Ms. Brown, give me a call. Can you give me a call tomorrow?

13 DEFENDANT BROWN: Okay, Rochelle.

14 MS. NGUYEN: Give me a call tomorrow morning because I
15 have a meeting today at 1, so give me a call tomorrow. Any time
16 tomorrow, really. Okay?

17 DEFENDANT BROWN: Okay.

18 MS. NGUYEN: Okay.

19 DEFENDANT BROWN: Adam, if I could just let me co-
20 defendants walk and take the time for all of this, I would. Sorry about
21 the hold up.

22 MR. GILL: You're fine. Take care, Lequana.

23 DEFENDANT FINK: Adam, can you just give me a call
24 maybe some time before Tuesday?

25 MR. GILL: Yes, sir.

1 DEFENDANT FINK: Okay, thank you.
2 DEFENDANT BROWN: Thank you, Mr. Gill.
3 MR. GILL: Yeah, we'll talk Monday, okay?
4 DEFENDANT FINK: Okay.
5 MS. NGUYEN: Thank you, Judge.
6 THE COURT: All right. We'll see you on Tuesday.
7 MS. NGUYEN: And I think that's probably the most --
8 THE COURT: And I'm going to go over --
9 MS. NGUYEN: -- cleanest record.
10 THE COURT: -- I'm going to have a very thorough canvass.
11 They're always thorough but it's going to be times five.
12 MS. NGUYEN: I think that's a wise decision. Thank you.
13 THE COURT: All right, thank you.
14 MR. TURNER: And I'm sorry. What was the date?
15 THE COURT: That's it.
16 THE CORRECTIONS OFFICER: That's it? Thank you, Your
17 Honor.
18 THE COURT: Thank you.
19 MR. TURNER: I missed it taking notes.
20 THE COURT CLERK: No, you didn't miss it. It's June 16th at
21 10:15 a.m.
22 MR. GILL: Did we get the 16th for that one, Brad?
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MR. TURNER: Yes, Adam, June 16th at 10:15.

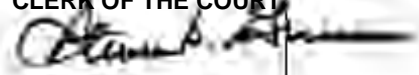
[Hearing concluded at 11:19 a.m.]

* * * * *

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



Angelica Michaux
Court Recorder/Transcriber



1 **RTRAN**

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

7
8 **THE STATE OF NEVADA,**
9 **Plaintiff,**

CASE NO. C-19-344112-1
C-19-344112-3
C-19-344268-2

10 **vs.**

DEPT. NO. XVII

11 **MARK ANTHONY FINK,**
12 **LEQUANA BROWN,**

13 **Defendant.**

14 **BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE**

15 **TUESDAY, JUNE 16, 2020**

16 ***RECORDER'S TRANSCRIPT OF HEARING:***
17 ***ARRAIGNMENT AND SENTENCING***

18 **APPEARANCES:**

19 **For the State:**

STEPHANIE M. GETLER, ESQ.
Chief Deputy District Attorney

20
21 **For Defendant Mark Fink:**

DANIELLE M. PETKOVICH, ESQ.

22
23 **For Defendant Lequana Brown: ROCHELLE T. NGUYEN, ESQ.**

24
25 **RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER**

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Las Vegas, Nevada; Tuesday, June 16, 2020

[Hearing commenced at 11:13 a.m.]

THE COURT: 22 is Lequana Brown. 23 is --

THE COURT CLERK: No, 24.

THE COURT: -- 24 is Mark Fink and 25 is Lequana Brown.

So we'll handle first page 22 and 25, which is two matters for Ms. Brown.

Counsel, is any reason we cannot go forward --

MS. NGUYEN: I do not believe so.

THE COURT: -- on Ms. Brown?

MS. NGUYEN: The last I spoke with Ms. Brown, she was prepared to go forward with these negotiations again. I filed brand new Guilty Plea Agreements and forfeiture actions. After going over those with Ms. Brown and they are -- were filed.

THE COURT: All right, we're going to print one out. We'll need it for both cases.

MS. NGUYEN: There was a Henderson case that was always contemplated that it would be dismissed pursuant to the negotiation in this case. And just out of an abundance of caution, we actually included that in the Guilty Plea Agreement this time for clarity and conformity with the record.

[Colloquy between the Court and the Clerk]

THE COURT: Is that correct, Ms. Brown?

DEFENDANT BROWN: Yeah. The Henderson case is the jury case is -- right, I guess, if I take time today then this get dismissed.

THE COURT: Okay, but you want to go forward with the

1 negotiations for these two cases; is that correct?

2 DEFENDANT BROWN: Yeah.

3 THE COURT: Okay. What I'm going to do, ma'am, because
4 of the history of this case. I'm going to --

5 THE COURT CLERK: There's nothing filed in Odyssey.

6 THE COURT: Oh, we don't have the GPA in Odyssey. Do
7 you have a copy of it? The two GPAs or I don't know if they --

8 MS. NGUYEN: I emailed it --

9 MS. GETLER: I didn't get them.

10 MS. NGUYEN: I emailed it to the State. I don't know if they
11 printed out a copy of the -- the two that I filed. I filed them yesterday
12 afternoon.

13 MS. GETLER: I have -- yes, I do have a copy of the GPA. I
14 don't have a copy of the signed, new forfeiture agreement so.

15 THE COURT: Well I can --

16 MS. NGUYEN: I've attached it. I don't know if you got the
17 email that I had sent with them, the fully executed ones?

18 MS. GETLER: I did. I just didn't print it again after that.

19 DEFENDANT BROWN: And she's not never ready, this is
20 crazy.

21 MS. GETLER: Can I approach with the GPAs?

22 THE COURT: Do you have -- through the email, a signed
23 copy of the GPA?

24 MS. GETLER: Yes.

25 THE COURT: Okay. And what you have here in court is not

1 signed; is that correct?

2 MS. GETLER: It's a signed GPA. It just doesn't have the
3 signed forfeiture attached.

4 THE COURT: Okay. And is it -- do we have two GPAs or just
5 the one?

6 MS. NGUYEN: There are two GPAs.

7 THE COURT: Okay.

8 MS. NGUYEN: I think I have the confirmation stuff about it
9 being filed. I don't know if the State has access to her emails on her --

10 MS. GETLER: I do.

11 MS. NGUYEN: -- phone and can maybe forward it to the
12 Court.

13 THE COURT: Okay. Well let me go over -- okay, Ms. Brown,
14 I am going to handle page 22, which is case number C344268 and that
15 charges you with robbery.

16 Counsel, I don't have a information or indictment attached to
17 either one of the GPAs.

18 MS. NGUYEN: There wasn't. It was my understanding that
19 the State had that indictment. It was previously --

20 MS. GETLER: It's the original.

21 THE COURT: No, I don't have anything attached.

22 MS. GETLER: Do you need me to give you a copy of that, as
23 well?

24 THE COURT: Yeah. I just --

25 DEFENDANT BROWN: Excuse me, Villani. I was in

1 Henderson a month ago and they contacted the District Attorney and let
2 them know about this case.

3 MS. NGUYEN: Oh, no, we're fine with that, Ms. Brown, it's
4 fine. That one's included. We're just --

5 DEFENDANT BROWN: I understand.

6 MS. NGUYEN: -- getting the paperwork.

7 THE COURT: Yeah, they're going to -- no, ma'am, it's in the -
8 - it's in the document that the Henderson case will be dismissed, okay?
9 Ms. Brown, did you hear me?

10 DEFENDANT BROWN: Yes, I know that.

11 THE COURT: Okay. I was just looking for a response from
12 you, ma'am. Do you understand that part of the negotiation or that the
13 Henderson case will be dismissed?

14 DEFENDANT BROWN: Yes.

15 THE COURT: Thank you.

16 [Colloquy between the Court and the Clerk]

17 DEFENDANT BROWN: He didn't know that.

18 [Colloquy between the Court and the Clerk]

19 MS. NGUYEN: I'm sorry. Are they in Odyssey now or?

20 THE COURT CLERK: Just the -- the one for 268 is in
21 Odyssey. The one for 112 is not in Odyssey.

22 MS. NGUYEN: Okay.

23 THE COURT: But I need the -- I don't have the amended
24 indictment attached.

25 DEFENDANT BROWN: This is crazy.

1 THE CORRECTIONS OFFICER: Ma'am, focus forward.

2 [Colloquy between the Court and the Clerk]

3 MS. GETLER: Do you need me to email the GPAs?

4 THE COURT: Okay, ma'am, I have both of those amended
5 indictments. The amended indictment for page 22 is case C344268 and
6 that references -- it says here that there was a grand larceny, 268. And
7 the calendar says robbery and this says grand larceny.

8 MS. GETLER: Is that the one for Sarah Gonzalez, maybe?

9 THE COURT: So is she pleading guilty to grand larceny --

10 MS. GETLER: No.

11 THE COURT: -- in 268

12 MS. GETLER: Court's indulgence.

13 THE COURT: You know what? Because of the tortured
14 history of this case, I need to have all the documents together and I
15 need to make sure that Ms. Brown has a complete set of the documents
16 and so --

17 DEFENDANT BROWN: Thank you.

18 THE COURT: Okay because, you know, ma'am, I want to
19 make sure you understand every single thing. I want you to have, you
20 know, every single document in front of you.

21 So, Counsel, if you can provide Ms. Brown by Thursday the
22 Guilty Plea Agreement with the amended indictment with anything
23 attached thereto. This Thursday -- do you have enough time if we
24 continue this until Thursday?

25 MS. NGUYEN: I will do that and I'm also emailing your clerk

1 the files, the sup that was filed. I think there's just a delay in the Clerk's
2 Office uploading.

3 THE COURT: All right, ma'am, so we're going to come back
4 on Thursday. And I know Mr. Gill, there's someone from his office here,
5 we've -- you've been continued numerous times, but I don't want to
6 come back because there's any claim that Ms. Brown was confused. So
7 -- so I --

8 DEFENDANT BROWN: Thank you, Judge.

9 THE COURT: You're welcome, Ms. Brown.

10 THE CLERK: June 18th.

11 THE MARSHAL: Thirteen.

12 THE COURT: Wait, hang on. Yes, Mr. Gill?

13 MS. PETKOVICH: No, I'm here for Mr. Gill, Your Honor.

14 THE COURT: Oh, I'm sorry. All right, so we'll come back on
15 Thursday. Hopefully, once and for all, get this set up. So, again, I want
16 Ms. Brown to have all the documents, everything attached to the GPA
17 for both cases.

18 [Colloquy between the Court and the Clerk]

19 THE COURT: And the date is?

20 THE COURT CLERK: Oh sorry, June 18th.

21 MS. NGUYEN: Thank you.

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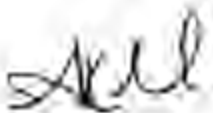
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THE COURT: Thank you.

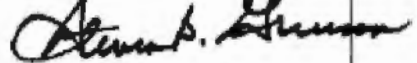
[Hearing concluded at 11:21 a.m.]

* * * * *

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



Angelica Michaux
Court Recorder/Transcriber



1 **GPA**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 STEPHANIE GETLER
6 Deputy District Attorney
7 Nevada Bar #014203
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 LEQUANA BROWN, aka,
13 Lequana Leatrice Brown, #2651822
14 Defendant.

CASE NO: C-19-344112-3

DEPT NO: XVII

15 AMENDED GUILTY PLEA AGREEMENT

16 I hereby agree to plead guilty to: ROBBERY WITH USE OF A DEADLY WEAPON
17 (Category B Felony - NRS 200.380, 193.165 - NOC 50138), as more fully alleged in the
18 charging document attached hereto as Exhibit "1".

19 I hereby also agree to plead guilty to: ROBBERY (Category B Felony - NRS 200.380
20 - NOC 50137) in Case No. C-19-344268-1.

21 My decision to plead guilty is based upon the plea agreement in this case which is as
22 follows:

23 The parties stipulate to a sentence of four (4) to ten (10) years on each count to run
24 consecutive to each other. This offer is contingent upon Michael Fink and Sarah Gonzalez
25 accepting their respective negotiations. The Defendant agrees to pay full restitution. The State
26 agrees to dismiss 19FH1954X after rendition of sentence. I agree to the forfeiture as set forth
27 in the Stipulation for Compromise of Seized Property which is attached hereto and
28 incorporated herein by reference as Exhibit "2".

1 I agree to the forfeiture of any and all weapons or any interest in any weapons seized
2 and/or impounded in connection with the instant case and/or any other case negotiated in
3 whole or in part in conjunction with this plea agreement.

4 I understand and agree that, if I fail to interview with the Department of Parole and
5 Probation, fail to appear at any subsequent hearings in this case, or an independent magistrate,
6 by affidavit review, confirms probable cause against me for new criminal charges including
7 reckless driving or DUI, but excluding minor traffic violations, the State will have the
8 unqualified right to argue for any legal sentence and term of confinement allowable for the
9 crime(s) to which I am pleading guilty, including the use of any prior convictions I may have
10 to increase my sentence as an habitual criminal to five (5) to twenty (20) years, life without
11 the possibility of parole, life with the possibility of parole after ten (10) years, or a definite
12 twenty-five (25) year term with the possibility of parole after ten (10) years.

13 Otherwise I am entitled to receive the benefits of these negotiations as stated in this
14 plea agreement.

15 CONSEQUENCES OF THE PLEA

16 I understand that by pleading guilty I admit the facts which support all the elements of
17 the offense(s) to which I now plead as set forth in Exhibit "1".

18 I understand that as a consequence of my plea of guilty the Court must sentence me to
19 imprisonment in the Nevada Department of Corrections for a minimum term of not less than
20 TWO (2) years and a maximum term of not more than FIFTEEN (15) years for the Robbery,
21 PLUS a consecutive ONE (1) to FIFTEEN (15) years for the Deadly Weapon enhancement.
22 The minimum term of imprisonment may not exceed forty percent (40%) of the maximum
23 term of imprisonment. I understand that the law requires me to pay an Administrative
24 Assessment Fee.

25 I understand that, if appropriate, I will be ordered to make restitution to the victim of
26 the offense(s) to which I am pleading guilty and to the victim of any related offense which is
27 being dismissed or not prosecuted pursuant to this agreement. I will also be ordered to
28 reimburse the State of Nevada for any expenses related to my extradition, if any.

1 I understand that I am not eligible for probation for the offense to which I am pleading
2 guilty.

3 I understand that I must submit to blood and/or saliva tests under the Direction of the
4 Division of Parole and Probation to determine genetic markers and/or secretor status.

5 I understand that if I am pleading guilty to charges of Burglary, Invasion of the Home,
6 Possession of a Controlled Substance with Intent to Sell, Sale of a Controlled Substance, or
7 Gaming Crimes, for which I have prior felony conviction(s), I will not be eligible for probation
8 and may receive a higher sentencing range.

9 I understand that if more than one sentence of imprisonment is imposed and I am
10 eligible to serve the sentences concurrently, the sentencing judge has the discretion to order
11 the sentences served concurrently or consecutively.

12 I understand that information regarding charges not filed, dismissed charges, or charges
13 to be dismissed pursuant to this agreement may be considered by the judge at sentencing.

14 I have not been promised or guaranteed any particular sentence by anyone. I know that
15 my sentence is to be determined by the Court within the limits prescribed by statute.

16 I understand that if my attorney or the State of Nevada or both recommend any specific
17 punishment to the Court, the Court is not obligated to accept the recommendation.

18 I understand that if the offense(s) to which I am pleading guilty was committed while I
19 was incarcerated on another charge or while I was on probation or parole that I am not eligible
20 for credit for time served toward the instant offense(s).

21 I understand that if I am not a United States citizen, any criminal conviction will likely
22 result in serious negative immigration consequences including but not limited to:

- 23 1. The removal from the United States through deportation;
- 24 2. An inability to reenter the United States;
- 25 3. The inability to gain United States citizenship or legal residency;
- 26 4. An inability to renew and/or retain any legal residency status; and/or
- 27 5. An indeterminate term of confinement, with the United States Federal
28 Government based on my conviction and immigration status.

Regardless of what I have been told by any attorney, no one can promise me that this conviction will not result in negative immigration consequences and/or impact my ability to become a United States citizen and/or a legal resident.

I understand that the Division of Parole and Probation will prepare a report for the sentencing judge prior to sentencing. This report will include matters relevant to the issue of sentencing, including my criminal history. This report may contain hearsay information regarding my background and criminal history. My attorney and I will each have the opportunity to comment on the information contained in the report at the time of sentencing. Unless the District Attorney has specifically agreed otherwise, the District Attorney may also comment on this report.

WAIVER OF RIGHTS

By entering my plea of guilty, I understand that I am waiving and forever giving up the following rights and privileges:

1. The constitutional privilege against self-incrimination, including the right to refuse to testify at trial, in which event the prosecution would not be allowed to comment to the jury about my refusal to testify.
2. The constitutional right to a speedy and public trial by an impartial jury, free of excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the assistance of an attorney, either appointed or retained. At trial the State would bear the burden of proving beyond a reasonable doubt each element of the offense(s) charged.
3. The constitutional right to confront and cross-examine any witnesses who would testify against me.
4. The constitutional right to subpoena witnesses to testify on my behalf.
5. The constitutional right to testify in my own defense.
6. The right to appeal the conviction with the assistance of an attorney, either appointed or retained, unless specifically reserved in writing and agreed upon as provided in NRS 174.035(3). I understand this means I am unconditionally waiving my right to a direct appeal of this conviction, including any challenge based upon reasonable constitutional, jurisdictional or other grounds that challenge the legality of the proceedings as stated in NRS 177.015(4). However, I remain free to challenge my conviction through other post-conviction remedies including a habeas corpus petition pursuant to NRS Chapter 34.

11

//

VOLUNTARINESS OF PLEA

I have discussed the elements of all of the original charge(s) against me with my attorney and I understand the nature of the charge(s) against me.

I understand that the State would have to prove each element of the charge(s) against me at trial.

I have discussed with my attorney any possible defenses, defense strategies and circumstances which might be in my favor.

All of the foregoing elements, consequences, rights, and waiver of rights have been thoroughly explained to me by my attorney.

I believe that pleading guilty and accepting this plea bargain is in my best interest, and that a trial would be contrary to my best interest.

I am signing this agreement voluntarily, after consultation with my attorney, and I am not acting under duress or coercion or by virtue of any promises of leniency, except for those set forth in this agreement.

I am not now under the influence of any intoxicating liquor, a controlled substance or other drug which would in any manner impair my ability to comprehend or understand this agreement or the proceedings surrounding my entry of this plea.

My attorney has answered all my questions regarding this guilty plea agreement and its consequences to my satisfaction and I am satisfied with the services provided by my attorney.

DATED this 10th day of June, 2020.

Lequana Brown
Signature affixed at direction of
Lequana Brown by Rochelle Nguyen 8205

LEQUANA BROWN, aka,
Lequana Leatrice Brown, Defendant

AGREED TO BY:



STEPHANIE GETLER
Deputy District Attorney
Nevada Bar #014203

1 CERTIFICATE OF COUNSEL:

2 I, the undersigned, as the attorney for the Defendant named herein and as an officer of the court
3 hereby certify that:

- 4 1. I have fully explained to the Defendant the allegations contained in the
5 charge(s) to which guilty pleas are being entered.
6 2. I have advised the Defendant of the penalties for each charge and the restitution
7 that the Defendant may be ordered to pay.
8 3. I have inquired of Defendant facts concerning Defendant's immigration status
9 and explained to Defendant that if Defendant is not a United States citizen any
10 criminal conviction will most likely result in serious negative immigration
11 consequences including but not limited to:
12 a. The removal from the United States through deportation;
13 b. An inability to reenter the United States;
14 c. The inability to gain United States citizenship or legal residency;
15 d. An inability to renew and/or retain any legal residency status; and/or
16 e. An indeterminate term of confinement, by with United States Federal
17 Government based on the conviction and immigration status.

18 Moreover, I have explained that regardless of what Defendant may have been
19 told by any attorney, no one can promise Defendant that this conviction will not
20 result in negative immigration consequences and/or impact Defendant's ability
21 to become a United States citizen and/or legal resident.

- 22 4. All pleas of guilty offered by the Defendant pursuant to this agreement are
23 consistent with the facts known to me and are made with my advice to the
24 Defendant.
25 5. To the best of my knowledge and belief, the Defendant:
26 a. Is competent and understands the charges and the consequences of
27 pleading guilty as provided in this agreement,
28 b. Executed this agreement and will enter all guilty pleas pursuant hereto
voluntarily, and
c. Was not under the influence of intoxicating liquor, a controlled
substance or other drug at the time I consulted with the Defendant as
certified in paragraphs 1 and 2 above.

29 Dated: This 16 day of June, 2020.

30 
ROCHELLE NGUYEN, ESQ.

31 rmj/L3

1 **AIND**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 STEPHANIE GETLER
6 Deputy District Attorney
7 Nevada Bar #014203
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

CASE NO: C-19-344112-3

11 -vs-

DEPT NO: XVII

12 LEQUANA BROWN, aka,
13 Lequana Leatrice Brown, #2651822,

14 Defendant(s).

AMENDED
INDICTMENT

15 STATE OF NEVADA }
16 COUNTY OF CLARK } ss.

17 The Defendant(s) above named, LEQUANA BROWN, aka, Lequana Leatrice Brown,
18 accused by the Clark County Grand Jury of the crime(s) of ROBBERY WITH USE OF A
19 DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138); committed
20 at and within the County of Clark, State of Nevada, on or between June 4, 2019 and June 23,
21 2019, as follows: did willfully, unlawfully, and feloniously take personal property, to wit:
22 merchandise and/or clothing, from the person of BRIAN AKITA and/or KELSEY TRISTRE,
23 or in their presence, without the consent and against the will of BRIAN AKITA and/or
24 KELSEY TRISTRE, by means of force or violence or fear of injury, immediate or future, to
25 his person, the person of a member of his family, or of anyone in his company at the time of
26 the robbery, defendant using force or fear to obtain or retain possession of the property, to
27 prevent or overcome resistance to the taking of the property, and/or to facilitate escape, with
28 use of a deadly weapon, to wit: a firearm and/or a knife; the Defendant(s) being criminally

1 liable under one or more of the following principles of criminal liability, to wit: (1) by directly
2 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with
3 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,
4 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a
5 conspiracy to commit this crime, with the intent that this crime be committed, Defendants
6 aiding or abetting and/or conspiring by Defendants acting in concert throughout.

7 DATED this 14th day of June, 2020.

8 STEVEN B. WOLFSON
9 Clark County District Attorney
Nevada Bar #001565

10
11 BY 

12 STEPHANIE GETLER
13 Deputy District Attorney
14 Nevada Bar #014203
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25 19BGJ023A-C/19F12727A-C /19F13435X/19F13575A-B/rmj/L3
26 LVMPD EV# 190600109274; 190600017813;
27 190499999757; 190499999400; 190499999359;
28 190699999764; 190699999624; 190699999602;
190699999354; 190600104412
(TK7)

STIPULATION FOR COMPROMISE OF SEIZED PROPERTY

DEFENDANT LEQUANA BROWN, aka, **ID#** 2651822 **CRIMINALCASE#** C-19-344112-3
 Lequana Leatrice Brown,

Seizing Law Enforcement Agency Las Vegas Metropolitan Police Department

Seizure Event Number 190600109274; 190499999757; 190499999400; 190499999359; 190699999764; 190699999624;
 190699999602; 190699999354; 190600104412

IT IS HEREBY STIPULATED and AGREED by and between STEVEN B. WOLFSON, Clark County District Attorney through his undersigned Deputy, and the Defendant that a stipulation for compromise be entered into and resolved as part of the negotiations in the aforementioned criminal case(s) pertaining to property impounded or seized by the aforementioned law enforcement agency under the aforementioned event number(s), as follows:

1. PROSECUTOR CHECKS THE APPROPRIATE PARAGRAPHS:

- X a. **TOTAL FORFEITURE:** That Defendant agrees to release and waive any and all right, title and interest in said property as being forfeited to the seizing law enforcement agency and subject to disposition pursuant to Nevada Revised Statutes 179.1175, 179.118 and 179.1185.

Property To Be Forfeited: Any and all property and/or money seized under Las Vegas Metropolitan Police Department Event numbers 190600109274; 190499999757; 190499999400; 190499999359; 190699999764; 190699999624; 190699999602; 190699999354; 190600104412

- b. **PARTIAL FORFEITURE:** Within the guidelines and policies of the seizing law enforcement agency, the prosecution agrees to release to the Defendant or his designee the above-described property. That in exchange for release of the aforementioned property, Defendant agrees to release and waive any and all right, title and interest in the remainder of the seized property as being forfeited to the seizing law enforcement agency and subject to disposition pursuant to Nevada Revised Statutes 179.1175, 179.118 and 179.1185.

Property To Be Forfeited: _____

Property To Be Returned: _____

- c. **VEHICLE FORFEITURE:** Said property includes, but is not limited to, a motor vehicle whereby the Defendant agrees to release and waive any and all right, title and interest in said motor vehicle as being forfeited to the seizing law enforcement agency and subject to disposition pursuant to Nevada Revised Statutes 179.1175, 179.118 and 179.1185.
2. That the Defendant hereby authorizes the District Attorney's Office and the seizing law enforcement agency to take such action as is necessary, including, but not limited to, using this agreement to secure a judgment or an ex-parte order in any contemplated or pending companion forfeiture proceeding in order to give full force and effect to this agreement.
3. That the parties agree that this forfeiture, or any subsequent action taken to secure full force and effect of this agreement, does not and will not be considered as putting the Defendant in jeopardy of life, limb or property for the same offense under the Fifth Amendment of the United States Constitution and under Section Eight of Article One of the Nevada Constitution; and, that this forfeiture, or any subsequent action taken to secure full force and effect of this agreement, does not or will not constitute an excessive fine under the Eighth Amendment of the United States Constitution and under Section Six of Article One of the Nevada Constitution.
4. That the parties agree that any breach, withdrawal, repeal, rejection or any other abrogation of the negotiations in the aforementioned criminal case(s) shall not have any effect upon the finality of this stipulation; and, that any breach, withdrawal, repeal, rejection or any other abrogation of this stipulation shall not have any effect upon the finality of the negotiations in the aforementioned criminal case(s).

EXHIBIT "2"

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AA 0243

5. That this Stipulation for Compromise shall incorporate all of the protections attendant to such stipulations as contemplated under the provisions of NRS 48.105 as to all parties named herein; and, this Stipulation for Compromise shall not be construed in any fashion as an admission pertaining to any criminal charges, and shall not and does not constitute an admission of civil liability or fault on the part of any of the undersigned parties, or their present or former agents, servants, employees or others.
6. That the parties agree to accept these terms in full settlement and satisfaction of any and all civil claims and demands which each party or assignees may have against each other, agents and employees on account of the seizure or impoundment of said property.
7. That this Stipulation for Compromise shall forever, and completely bar any action or claim in any tribunal in any matter whatsoever, whether State, Federal or otherwise by the Defendant herein concerning the forfeiture of said property.
8. That the respective parties bear their own civil costs and attorney's fees which may have been occasioned and occurred as a result of the seizure and forfeiture of said property.

IT IS SO STIPULATED and AGREED

*Lequana Brown - signature affixed at direction of
Lequana Brown by Rochelle Nguyen 6/15/20*

Defendant

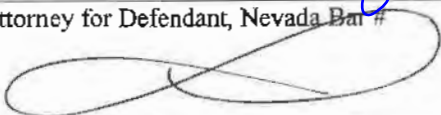
Date

Rochelle Nguyen 8205

6/15/20

Attorney for Defendant, Nevada Bar #

Date



6-16-2020

Clark County Deputy District Attorney, Nevada Bar #014203

Date

EXHIBIT "2"

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AA 0244

CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on February 3, 2022. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON FORD
Nevada Attorney General

ALEXANDER CHEN
Chief Deputy District Attorney

/s/ Steven S. Owens
STEVEN S. OWENS, ESQ.

IN THE SUPREME COURT OF THE STATE OF NEVADA

LEQUANA BROWN,

Appellant,

v.

STATE OF NEVADA,

Respondent.

CASE NO: 84042

APPELLANT'S APPENDIX

Volume 2

STEVEN S. OWENS, ESQ.
Nevada Bar #004352
Steven S. Owens, LLC
1000 N. Green Valley #440-529
Henderson, Nevada 89074
(702) 595-1171

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
200 Lewis Avenue
Post Office Box 552212
Las Vegas, Nevada 89155-2212
(702) 671-2500

AARON D. FORD
Nevada Attorney General
Nevada Bar #007704
100 North Carson Street
Carson City, Nevada 89701-4717
(775) 684-1265

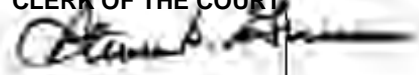
Counsel for Appellant

Counsel for Respondent

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1 RTRAN

2
3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,

8 Plaintiff,

9 vs.

10 MARK ANTHONY aka
MARK ANTHONY FINKS, JR.,

11 LEQUANA BROWN, aka
12 LEQUANA LEATRICE BROWN,

13 Defendants.

CASE NOS. C-19-344112-1
C-19-344112-3
C-19-344268-2

DEPT. NO. XVII

14 BEFORE THE HONORABLE MICHAEL VILLANI
15 DISTRICT COURT JUDGE

16 THURSDAY, JUNE 18, 2020

17 *RECORDER'S TRANSCRIPT OF HEARING:*
18 *ARRAIGNMENT AND SENTENCING*

19 APPEARANCES:

20 For the State:

STEPHANIE M. GETLER, ESQ.
Deputy District Attorney

21 For the Defendants:

22 LEQUANA BROWN

ROCHELLE T. NGUYEN, ESQ.

23 MARK FINK

ADAM L. GILL, ESQ

24
25 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

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Las Vegas, Nevada; Thursday, June 18, 2020

[Proceeding commenced at 10:49 a.m.]

THE MARSHAL: Sixteen, seventeen, and eighteen.

THE COURT: Sixteen is Mark Fink, Seventeen, Eighteen is Ms. Brown. We have --

[Staff talking to the Court]

THE COURT: Okay. We're going to handle Ms. Brown first, and it looks like we can hopefully get this wrapped up today. Okay. We're going to handle the page 17 matter first, and that is 344112. And I have a Guilty Plea Agreement in front of me on that case. Counsel, would you put on the record the negotiations, please.

MS. NGUYEN: I will, Your Honor. Today Ms. Brown in case C-19-344112-3, she will be pleading guilty to one count of robbery with use of a deadly weapon. She also agrees to plead guilty to robbery in case C-19-344268-1[sic]. Both parties stipulate to a sentence of 4 to 10 years on each count to run consecutive to each other. The offer is contingent upon Michael [sic] Fink and Sarah Gonzalez accepting their respective non negotiations, which they have done so far.

The Defendant also agrees to pay full restitution, and the State agrees to dismiss 19FH1954X after rendition of sentence. And she agrees to the forfeiture set forth and the stipulation of compromised seized property, which was attached as an exhibit. We did refile under an Amended Guilty Plea Agreement both in this case and the other one. I did sign that Guilty Plea Agreement as well as that forfeiture exhibit on behalf of my client at her direction.

1 THE COURT: State, is that a correct statement
2 DEFENDANT BROWN: I --
3 THE COURT: -- of the negotiations?
4 MS. GETLER: Yes, Your Honor.
5 THE COURT: Ms. Brown, is that a correct statement of the
6 negotiations for this particular case?
7 DEFENDANT BROWN: Yeah, but I didn't get the plea
8 agreement that Rochelle supposed to give to me, I guess, due to the
9 mail or whatever, I didn't get it. That's why you pushed it off the other
10 day.
11 THE COURT: Say that again, ma'am. I couldn't hear you.
12 DEFENDANT BROWN: I didn't get the plea agreement. I
13 guess, that's why you pushed off so I can have the proper paperwork,
14 but I didn't get it. She said she sent it --
15 THE COURT: You didn't get the plea agreement?
16 MS. NGUYEN: I will --
17 DEFENDANT BROWN: She said she sent it yesterday. I
18 talked to her I think yesterday.
19 MS. NGUYEN: I've talked to Ms. Brown everyday for the past
20 week, but --
21 DEFENDANT BROWN: Yes.
22 MS. NGUYEN: -- I will tell you that I did read it word for word.
23 I did --
24 THE DEFENDANT: That I'm understanding.
25 MS. NGUYEN: -- hand deliver and dropped it off at Post 10

1 the day of court. And then I again brought it and put it in the mail that
2 day, too, so it was to be received to her two times. I personally walked it
3 over to Post 10 at the Clark County Detention Center. But I will say as is
4 customary with all the other cases in light of COVID-19 an inability to
5 receive paperwork from them, I did read both of these agreements to her
6 line by line, in fact, yesterday as well as last week prior to her signing
7 that and an original one as well.

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

9 DEFENDANT BROWN: Yes.

10 THE COURT: She read everything to you?

11 DEFENDANT BROWN: Yes, she did.

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

13 DEFENDANT BROWN: Yes.

14 THE COURT: All right. So the negotiation is set forth by your
15 attorney, you wish you accept these negotiations?

16 DEFENDANT BROWN: Yes.

17 THE COURT: For the record what is your true name?

18 THE DEFENDANT: Lequana Leatrice Brown.

19 THE COURT: How old are you?

20 THE DEFENDANT: Thirty-nine.

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

22 DEFENDANT BROWN: Twelfth grade.

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

25 DEFENDANT BROWN: Yes.

1 THE COURT: And, ma'am, are you entering a guilty plea to
2 the charge of robbery with use of a deadly weapon, and again this is
3 case number C344112?

4 DEFENDANT BROWN: Yes.

5 THE COURT: Before I can accept your plea of guilty, I must
6 make sure it is freely and voluntarily given. Has anyone forced you to
7 plead guilty?

8 DEFENDANT BROWN: No.

9 THE COURT: Has anyone threatened you or anyone closely
10 associated with you in order to get you to plead guilty?

11 DEFENDANT BROWN: No.

12 THE COURT: You understand the sentencing range of this
13 particular charge is that the Court could sentence you to a maximum
14 term of 15 years, minimum term of two years in Nevada Department of
15 Corrections for the underlying robbery charge? Do you understand that,
16 ma'am?

17 DEFENDANT BROWN: Yes, I understand.

18 THE COURT: You understand that the Court must sentence
19 you to a consecutive term of no more than 15 years, no less than 1 year
20 in Nevada Department of Corrections for the weapons enhancement?
21 Do you understand that?

22 DEFENDANT BROWN: Yes.

23 THE COURT: You understand that sentencing is strictly up to
24 the Court? No one can promise you probation, leniency, or any special
25 treatment?

1 DEFENDANT BROWN: Yes.

2 THE COURT: Is one of the reasons you're pleading guilty to
3 the robbery with use of deadly weapon charge is in truth and fact you
4 are guilty of that charge?

5 DEFENDANT BROWN: Yes.

6 THE COURT: Ma'am, your attorney just advised me that after
7 she read the Guilty Plea Agreement to you that you authorized her to
8 sign on your behalf. Is that correct, ma'am?

9 DEFENDANT BROWN: Yes.

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

13 DEFENDANT BROWN: Yes.

14 THE COURT: Did she also read to you the Amended
15 Indictment?

16 DEFENDANT BROWN: Uh-huh, yes.

17 THE COURT: And also there was a Stipulation for
18 Compromise of Seized Property. Did she read that to you?

19 DEFENDANT BROWN: Yes.

20 THE COURT: And did you authorize her to sign your name?

21 DEFENDANT BROWN: Yes.

22 THE COURT: Ma'am, when she read to you the Guilty Plea
23 Agreement and the Stipulation for Compromise of Seized Property, did
24 you have any questions regarding those two documents?

25 DEFENDANT BROWN: No.

1 THE COURT: I was going to ask you if you did have any
2 questions were they answered for you. So you're saying you did not
3 have any questions; correct?

4 DEFENDANT BROWN: Right.

5 THE COURT: And you did you understand those two
6 documents?

7 DEFENDANT BROWN: Yes.

8 THE COURT: Ma'am, based upon all the facts and
9 circumstances of your case, are you satisfied with your new attorney's
10 representation of you?

11 DEFENDANT BROWN: Yes, I am.

12 THE COURT: All right. Ma'am, are you a US citizen?

13 DEFENDANT BROWN: Yes.

14 THE COURT: Okay, ma'am, I'm going to read to you the
15 allegation of the crime -- charged -- charged crime against you and ask
16 you if you committed this offense. Did you on or about or on or between
17 June 4th and June 23rd, 2019, here in Clark County, Nevada, willfully,
18 unlawfully, feloniously take personal property to wit: merchandise and/or
19 clothing, from a person of Brian Akita and/or Kelsey Tristre, or in their
20 presence, without their consent and against their will of Brian Akita
21 and/or Kelsey Tristre, by means of force or violence or fear of injury,
22 immediate or future, to their person -- to a person or a member of their
23 family, or anyone else in their company at time of the robbery?

24 That, you, using force or fear to obtain or retain possession of
25 the property, to prevent or overcome resistance with taking of the

1 property and/or to facilitate escape, with the use of a deadly weapon, to
2 wit: a firearm and/or a knife. Defendant being criminally liable under one
3 or more of the following principles of criminal liability to wit: 1, by directly
4 committing the crime; and/or 2, by aiding or abetting in the commission
5 of the crime with the intent that the crime be committed, by counseling,
6 encouraging, hiring, commanding, inducing, and/or otherwise procuring
7 the other to commit the crime; and/or 3, pursuant to conspiracy to
8 commit the crime, with the intent that the crime be committed, that the
9 Defendants aiding and abetting and/or conspiring with each other acting
10 in concert throughout. And, ma'am, that is a document your attorney
11 read to you; is that correct?

12 DEFENDANT BROWN: Yes.

13 THE COURT: Are you entering a guilty plea to that charge
14 freely and voluntarily?

15 DEFENDANT BROWN: Yes.

16 THE COURT: All right. The Court so finds. And, ma'am, I'm
17 going to -- we're going to go over the negotiations in case number
18 C344268.

19 MS. NGUYEN: Your Honor, would you like me to put that on
20 the record as well?

21 THE COURT: Yes, please.

22 MS. NGUYEN: Your Honor, in case C-19-344268-2, Ms.
23 Brown will be pleading guilty to one count of robbery. Pursuant to the
24 negotiations both parties stipulate to 4 to 10 years on each count to run
25 consecutive to each other. The offer is contingent upon Michael [sic]

1 Fink and Sarah Gonzalez accepting their respective -- receptive
2 negotiations -- respective, sorry.

3 The State also agrees to dismiss 19FH1954X after rendition of
4 sentence, and she agrees to pay full restitution in all cases and counts
5 including those to be dismissed and the forfeiture as set forth.

6 And, again, it sounds like she did not receive the physical
7 copy that I dropped off personally at the Clark County Detention Center
8 as well as the one I put in the mail. I did read this over along with the
9 other Guilty Plea Agreement word for word with her. And pursuant to
10 the orders in place regarding COVID-19 protections, I did sign that at her
11 direction, both the forfeiture as well as the Guilty Plea Agreement.

12 THE COURT: All right. Ma'am, do you wish to accept the
13 negotiations in this case?

14 DEFENDANT BROWN: Yes.

15 THE COURT: All right. Your attorney just stated to me that
16 she read the Guilty Plea Agreement to you, the Amended Indictment,
17 and the Stipulation for Compromise of Seized Property; is that correct?

18 DEFENDANT BROWN: Yes.

19 THE COURT: And did you also authorize her to sign both of
20 those documents on your behalf?

21 DEFENDANT BROWN: Yes.

22 THE COURT: All right. Thank you. And for the record in this
23 particular case, what is your true name?

24 DEFENDANT BROWN: Lequana Leatrice Brown.

25 THE COURT: How old are you?

1 DEFENDANT BROWN: Thirty-nine.

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

3 DEFENDANT BROWN: Twelfth grade.

4 THE COURT: Do you read, write, and understand the English

5 language?

6 DEFENDANT BROWN: Yes.

7 THE COURT: And are you entering a guilty plea to the charge

8 of robbery?

9 DEFENDANT BROWN: Yes.

10 THE COURT: Before I can accept your plea of guilty, I must

11 make sure it's freely and voluntarily given; has anyone forced you to

12 plead guilty?

13 DEFENDANT BROWN: No.

14 THE COURT: Has anyone threatened you or anyone closely

15 associated with you in order to get you to plead guilty?

16 DEFENDANT BROWN: No.

17 THE COURT: You understand that the sentencing range of a

18 robbery charge that the Court can sentence you to a maximum term of

19 15 years, a minimum term of 2 years in Nevada Department of

20 Corrections?

21 DEFENDANT BROWN: Yes.

22 THE COURT: You understand that sentencing is strictly up to

23 the Court? No one can promise you probation, leniency, or special

24 treatment?

25 DEFENDANT BROWN: Yes.

1 THE COURT: Is one of the reasons you're pleading guilty to
2 this charge is in truth and in fact you are guilty of this charge?

3 DEFENDANT BROWN: Yes.

4 THE COURT: And, ma'am, when your attorney read to you
5 the Amended Guilty Plea Agreement, did you have any questions for
6 her?

7 DEFENDANT BROWN: No. Whatever questions I had was
8 answered, so I understand everything.

9 THE COURT: Okay. Well, if you had any questions, were
10 they answered by your attorney?

11 DEFENDANT BROWN: Yes.

12 THE COURT: Okay. Based upon all the facts and
13 circumstances of your case, are you satisfied with the services of your
14 attorney?

15 DEFENDANT BROWN: Yes.

16 THE COURT: And, ma'am, are you a US citizen?

17 DEFENDANT BROWN: Yes.

18 THE COURT: And, ma'am, I'm going to read the allegations
19 against you and ask you if you committed this offense. Did you on or
20 between April 3rd, 2019, and June 22nd, 2019, here in Clark County,
21 Nevada, willfully, unlawfully, and feloniously take personal property to
22 wit: merchandise from the person of Jaime Lyn Woodworth, and/or
23 Aspen Hammer and/or Ross Nohara, or in their presence, without the
24 consent and against their will of Jaime Lyn Woodworth and/or Aspen
25 Hammer and/or Ross Nohara, by means of force or violence or fear of

1 injury, immediate or future, to their person, a person or a member of
2 their family or anyone else in the company at the time of the robbery.
3 That, you, using force or fear to obtain or retain possession of property,
4 or to prevent or overcome resistance to the taking of property, and/or
5 facilitate escape. Did you do those things, ma'am?

6 DEFENDANT BROWN: Yes.

7 THE COURT: Are you entering your pleas freely and -- your
8 plea freely and voluntarily?

9 DEFENDANT BROWN: Yes.

10 THE COURT: And also are you agreeing to the Stipulation for
11 Compromise of Seized Property freely and voluntarily?

12 THE DEFENDANT: Yes.

13 THE COURT: Court so finds. Ma'am, you wish to go -- let's
14 go ahead and get sentenced today, okay? All right. In case number
15 C344112 --

16 [Colloquy between Court and staff]

17 THE COURT: All right. The Court hereby adjudicates you
18 guilty of robbery with use of a deadly weapon? Any argument by the
19 State?

20 MS. GETLER: No, Your Honor, I'll submit it on the
21 negotiations.

22 THE COURT: All right. Ms. Brown, I am inclined to go along
23 with the negotiations. I'm more than happy to hear from you. Do you
24 have anything to say before I sentence you?

25 DEFENDANT BROWN: No.

1 THE COURT: All right, Counsel.

2 MS. NGUYEN: Your Honor, I will submit.

3 THE COURT: Okay. So the negotiations are that if she would
4 stipulate to sentence to 4 to 10, which means 2 to 5 on the underlying
5 robbery and 2 to 5 for the weapons enhancement; is that correct?

6 MS. GETLER: Yes, Your Honor.

7 MS. NGUYEN: Yes, and then that would run consecutive to
8 the 4 to 10 on the other case.

9 THE COURT: On the other case -- well, right, for this one
10 here.

11 All right. Ma'am, as I've said, I will go along with the
12 negotiations. This was a robbery in a business. Other people could
13 have been around and been injured. This was at a store, correct, if I
14 recall? It's a lingerie store or --

15 MS. GETLER: This case was a Champs Sports store --

16 THE COURT: Yes.

17 MS. GETLER: -- and a Big 5 Sports store.

18 THE COURT: Okay. All right. Ma'am, so I'm go along with
19 the negotiations on the underlying robbery charge. I sentence you to a
20 maximum of 5 years, minimum term 2 years in the Nevada Department
21 of Corrections.

22 For the weapons enhancement, which must run consecutive,
23 maximum term 5 years, minimum term of 2 years.

24 You are ordered to pay \$25 administrative assessment fee, \$3
25 DNA Collection Fee. Does she have any priors? \$150 DNA Fee, submit

1 to DNA Testing, 250 to the indigent defense fund. And do we have a
2 credit in this particular case, an updated credit?

3 MS. NGUYEN: Your Honor, I was just thinking about that. I'm
4 getting my date difference calculator out here, Your Honor.

5 [Colloquy between Counsel]

6 MS. NGUYEN: Your Honor, I can calculate that if you want to
7 sentence her on the next one.

8 THE COURT: No, I'll wait. We're good.

9 MS. GETLER: Is, Your Honor, ordering any restitution on this
10 case?

11 THE COURT: Yes, we did have restitution in the amount of --
12 I don't have that -- what was the amount of restitution? I have the other
13 PSI in front of me.

14 MS. NGUYEN: The date on the PSI, I think it was -- she was
15 scheduled to be sentenced here on May 14th; is that correct?

16 THE COURT: That is correct.

17 MS. NGUYEN: And so from May 14th until today's date that's
18 an additional 36 days on top of what is included in that PSI.

19 THE COURT: So it should be 342 days; is that correct?

20 MS. NGUYEN: Thirty-six.

21 THE COURT: Fifty-two?

22 MS. NGUYEN: You're asking me to do math. That's why I
23 went to law school.

24 DEFENDANT BROWN: It's 352.

25 [Colloquy between Counsel]

1 MS. NGUYEN: 394; is that right? 327 plus 31.
2 THE COURT: Oh, she had 316 on May 14th.
3 MS. GETLER: Your Honor, I'm asking --
4 MS. GETLER: Oh, I show 327 in the PSI for a total of 358.
5 THE COURT: All right. 358 days credit for time served.
6 MS. GETLER: And the restitution looks like \$1,769.66 to Big
7 5.
8 MS. NGUYEN: And, Your Honor, I'd ask that be --
9 THE COURT: Joint several.
10 MS. NGUYEN: -- joint several.
11 THE COURT: That is the order.
12 [Court colloquy with staff]
13 THE COURT: All right. Ready to go forward on the
14 sentencing for the second case?
15 MS. NGUYEN: Yes, Your Honor.
16 THE COURT: All right. She is adjudged guilty of just the
17 robbery.
18 MS. NGUYEN: I think they pulled her away. I think she needs
19 to come back.
20 THE COURT: All right. We do need Ms. Brown back for her
21 second case. And that -- on page 18. That's page 18.
22 All right. Ma'am, we just have -- ma'am, we need to go
23 through the sentencing for the second case. You are adjudged guilty of
24 just robbery.
25 MS. NGUYEN: That's correct.

1 THE COURT: Okay. Any argument by the State?

2 MS. GETLER: No, Your Honor.

3 THE COURT: Ma'am, do you have anything to say on this
4 robbery charge? And I am inclined to go along with the negotiations.

5 DEFENDANT BROWN: No.

6 THE COURT: Counsel?

7 MS. GETLER: Your Honor, I submit.

8 THE COURT: All right. Ma'am, I'm going to go along with the
9 negotiations on the underlying robbery charge and sentence you to a
10 maximum 5 years, minimum term 2 years, Nevada Department of
11 Corrections. Weapons enhancement maximum term of 5 years,
12 minimum term of 2 years, per statute must run consecutive. And this
13 case is to run consecutive to C344112.

14 MS. GETLER: And, Your Honor, I'm sorry. This case does
15 not have the weapon enhancement.

16 THE COURT: Oh, it did not. I apologize.

17 MS. GETLER: So it will just be the 4 to 10.

18 THE COURT: Right, 4 to 10. Maximum term of 10 years,
19 minimum term of 4 years.

20 MS. GETLER: Yeah, same credit.

21 THE COURT: Again, this case is running consecutive to the
22 other case. You are ordered to pay a \$25 Administrative Assessment
23 Fee, \$3 DNA Collection Fee, the 150 DNA Fee is waived, because I
24 ordered it in the other case, 250 to the Indigent Defense Fund. There's
25 restitution in the amount \$16,837.20 joint and severely, and who does

1 that go to?

2 MS. GETLER: Victoria Secret.

3 THE COURT: Victoria Secrets, okay. And do we have the
4 same credit for time served, or is there a different amount?

5 MS. NGUYEN: I believe it's the same, 353.

6 MS. GETLER: That is correct.

7 THE COURT: Okay. That's the order. All right. Thank you,
8 ma'am.

9 DEFENDANT BROWN: Uh-huh.

10 THE COURT: Okay. We're going to handle the Fink matter

11 MS. NGUYEN: Thanks, everyone.

12 THE COURT: Thank you. Mr. Gill, we're finally here.

13 MR. GILL: We're here, Judge. Thank you.

14 THE COURT: Okay. Mark Fink. Mr. Fink is --

15 MR. GILL: And he's present at the podium, Judge.

16 THE COURT: Okay. Mr. Fink, is hereby adjudged guilty to
17 conspiracy to commit robbery. Argument by the State?

18 MS. GETLER: No, Your Honor.

19 THE COURT: All right. Mr. Fink, do you have anything to say
20 before I sentence you?

21 DEFENDANT FINK: Yes, Your Honor. First, I just want to
22 own my mistake even though it was a -- it was a terrible one, drug-
23 induced one, but, it still is my mistake. And I just want to ask Your
24 Honor if, you know, I just had a little girl. She was born on the 12th. And
25 I just want to -- if I could get a shot at probation. Just one chance is all I

1 need to prove to everyone that I will make no mistakes like this again. I
2 just want to be out there for my daughter, Your Honor. I don't have no
3 interest in any kind of bad mistakes or decisions like I previously was on,
4 and I apologize to anyone that I affected by the mistakes I did make.
5 That's it.

6 THE COURT: All right. Thank you, Mr. Fink. Mr. Gill.

7 MR. GILL: Yes, Your Honor. And sometimes it does take
8 something like having a child to realize that you need to end -- end your
9 ways and end the people that you hang out with. And I think that, along
10 with the drug use at the time, is a combination of what -- what led Mark
11 down this path.

12 He is somebody, Judge, who has been incredibly remorsefully
13 and realizes what he has done, and what he could have done and what
14 could have happened and what he put these people through. And he
15 does have a job lined up for him at Marcos' detailing.

16 He'll also be living with his stepmother and brother at their
17 home, and they're willing to provide any financial support that he might
18 need above and beyond his car detailing job.

19 Now we are looking for a probationary grant here, Judge. And
20 I think with the 1 to 6, you know, make Mr. Fink true to his word. If he's
21 telling the Court today that he only needs one chance, give him that one
22 chance to spend the max. He's a -- he was borderline candidate for
23 probation. He has -- this will be his first felony conviction. He does
24 have, I think, a couple of misdemeanors. And the Henderson's case
25 was ultimately dismissed, or he did some time on it, and it was closed

1 and dismissed, Judge. So the misdemeanors that he -- he's got those
2 other two misdemeanor cases.

3 And then again, this is his first -- first felony, and it's going to
4 stick obviously as a felony. There's no drop down. There's no help in
5 that regard. So, again, Judge, make him be that man and stick to his
6 word. If he's serious, he does have the baby who was born a few days
7 early, six days ago. He would obviously like to get home take care of
8 mom, who is Ms. Gonzalez. I think she's set for sentencing on this case.
9 She's one of the co-Defendants on July 14th, if my memory serves. So
10 whatever order that the Court gives, I would ask that there be contact,
11 because they do have the child in common.

12 And again, Judge, I do think a probationary grant here is
13 appropriate with the max underlying and zero chances, just like Mr. Fink
14 said. He doesn't need but one, and he will take advantage of it.

15 THE COURT: All right. Thank you. Sir, particularly
16 concerning to me it's alleged here you're the one who pointed the BB
17 gun or the firearm at the clerk; is that correct?

18 DEFENDANT FINK: Yes, Your Honor.

19 THE COURT: Sir, are you going to comply with all the
20 conditions of probation if I take a chance on you? You understand P&P
21 recommending prison for you?

22 DEFENDANT FINK: I do, Your Honor. And I will comply with
23 everything.

24 THE COURT: Court's going to sentence you to confinement
25 in Nevada Department of Corrections for a maximum term of 72 months,

1 minimum term 28 months. I'm going to suspend that sentence and
2 place you on probation for a period not to exceed 3 years.

3 Besides all standard probation conditions, you have the
4 following special conditions: comply with the imposed curfew, provide
5 access to all your electronic devices, ordered to turn over the pass
6 codes to those devices, not to have any contact or association with your
7 co-Defendants in this matter.

8 Within 30 days from your release from custody, you're to
9 obtain a control substance evaluation and enter a counseling program
10 as deemed appropriate. If you're not working at least 30 hours per
11 week, enter and complete a job search program. And during that time
12 frame perform 15 hours of community service every month. You're not
13 to enter any of the premises -- the victim's premises during the term of
14 your probation, period. You're to pay restitution in amount of \$1,769.66
15 joint and severely. Who was that victim? Is that the Big 5?

16 MS. GETLER: Yes, Your Honor.

17 THE COURT: The Big 5. You are ordered to pay \$25
18 Administrative Assessment Fee, \$3 DNA Collection Fee, \$150 DNA Fee,
19 submit to DNA Testing, 250 to the Indigent Defense Fund.

20 Mr. Gill, how much credit does he have?

21 MR. GILL: I calculate 113 through today, Your Honor.

22 THE COURT: State, do you agree?

23 MS. GETLER: Yes, Your Honor.

24 THE COURT: All right. 113 days credit for time served. Sir,
25 within 24 hours of your release from custody, you're to go down to the

1 Department of Parole and Probation and sign up with your officer.

2 Sir, these are very serious charges. The Probation
3 Department recommended to me that I send you to prison, and usually
4 when someone is involving a firearm, you go to prison. But because of
5 your age or lack of record, I'm giving you a chance here. Don't make
6 your family look bad. Don't make me look bad, okay? Prove to
7 yourself --

8 DEFENDANT FINK: Thank you, Your Honor.

9 THE COURT: -- even for your child that you're going to be a
10 good productive citizen in our community. All right. If you have issues,
11 you call your attorney, Mr. Gill. You speak to your probation officer. You
12 probably heard other people getting revoked. Every single calendar
13 there's always someone getting revoked. I'm taking a real chance on
14 you, sir. Please comply, okay?

15 DEFENDANT FINK: I will. Thank you, Your Honor.

16 THE COURT: Good luck to you, sir.

17 MR. GILL: Thank you, Your Honor.

18 THE COURT: Thank you.

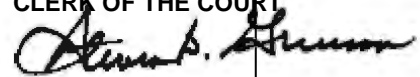
19 [Proceeding concluded at 11:15 a.m.]

20 * * * * *

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

24 

25 Deloris Scott
Court Recorder/Transcriber



JOCP

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

LEQUANA BROWN aka
Lequana Leatrice Brown
#2651822

Defendant.

CASE NO. C-19-344112-3

DEPT. NO. XVII

JUDGMENT OF CONVICTION

(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime of ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.380, 193.165; thereafter, on the 18th day of June, 2020, the Defendant was present in court for sentencing with counsel ROCHELLE NGUYEN, ESQ., and good cause appearing,

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

1 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense and, in addition
2 to the \$25.00 Administrative Assessment Fee, \$250.00 Indigent Defense Civil Assessment Fee,
3 \$1,769.66 Restitution payable to Big 5, jointly and severally with Co-Defendants Mark Fink
4 and Sarah Gonzalez and \$150.00 DNA Analysis Fee including testing to determine genetic
5 markers plus \$3.00 DNA Collection Fee, the Defendant is sentenced to the Nevada Department
6 of Corrections (NDC) as follows: a MAXIMUM of FIVE (5) YEARS with a MINIMUM
7 parole eligibility of TWO (2) YEARS plus a CONSECUTIVE term of a MAXIMUM of FIVE
8 (5) YEARS with a MINIMUM parole eligibility of TWO (2) YEARS for the Use of a Deadly
9 Weapon; with THREE HUNDRED FIFTY-EIGHT (358) DAYS credit for time served.
10
11

12 DATED this 19 day of June, 2020

13 

14 MICHAEL VILLANI
15 DISTRICT COURT JUDGE
16
17
18
19
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22
23
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25
26
27
28

FILED

OCT 29 2020

Ann L. Johnson
CLERK OF COURT

1
2 LEQUANA BROWN # 1235328
3 FLORENCE MCCLURE WOMENS CORRECTIONAL CENTER
4 4370 Smiley Road
5 Las Vegas, NV 89115

6
7
8 IN THE 8TH JUDICIAL DISTRICT COURT of the STATE OF NEVADA

9 In and for the COUNTY OF CLARK

10 LeQuana Brown

11 PLAINTIFF/PETITIONER

12 v.

Case No. C-19-344112-3

13 THE STATE OF NEVADA

14 DEFENDANT/RESPONDENT

15 PETITION FOR WRIT OF HABEAS CORPUS
16 (POST-CONVICTION)

A-20-823908-W
Dept.17

17 1. Name of the institution and county in which you are presently imprisoned or where and how you are
18 presently restrained of your liberty: FMWCC

19 2. Name and location of the court which entered the judgment of conviction under attack:

20 8TH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
21 IN THE COUNTY OF CLARK

22 3. Date of Judgment of Conviction: 7-17-2020

23 4. Case Number: C-19-344112-3

24 5. Length of sentence: 8 TO 20 YEARS

25 If sentence is death, state any date upon which execution is scheduled: _____

26 6. Are you presently serving a sentence for a conviction other than the conviction under attack in this

27 motion? YES LB NO X. If "YES", list the crime(s), case number(s) and sentence(s) being served at
this time: _____

7. Nature of offense involved in conviction being challenged: Robbery with use of
DEADLY WEAPON

AA 0268

8. What was your plea? (check one)

a) Not guilty ____ b) Guilty X c) Guilty but mentally ill ____ (d) Nolo contendere ____

9. If you entered a plea of guilty or guilty but mentally ill to one count of an indictment or information, and a plea of not guilty to another count of an indictment or information, or if a plea of guilty or guilty but mentally ill was negotiated, give details:

N/A

10. If you were found guilty after a plea of not guilty, was the finding made by (check one):

a) JURY ____ (b) JUDGE WITHOUT A JURY NO

11. Did you testify at the trial? YES ____ NO NO

12. Did you appeal from the judgment of conviction? YES ____ NO NO

13. If you do appeal, answer the following:

(a) Name of Court: N/A

(b) Case Number/Citation: _____

(c) Result: _____

(d) Date of Result: _____

**** ATTACH A COPY OF ORDER/REMITTITUR/DECISION, IF AVAILABLE ****

14. If you DID NOT appeal, explain briefly why: PLEA GUILTY

15. Other than a direct appeal from a judgment of conviction/ sentence, have you previously filed any petitions, applications or motions with respect to this judgment in state or federal court? YES ____ NO X

16. If you answered YES to question 15, provide the following information:

(a) Name of Court: N/A

(b) Type of proceeding: N/A

(c) Grounds raised: N/A

(d) Did you receive an evidentiary hearing? YES ____ NO ____

(e) Result of hearing: _____ Date of result: _____

(f) Citations of any written opinion, date of orders entered pursuant to result (if known): _____

17. **SECOND PETITION FILED/APPLICATION/MOTION** (if filed):

- (a) Name of Court: N/A
- (b) Type of proceeding: _____
- (c) Grounds raised: _____
- (d) Did you receive an evidentiary hearing? YES ___ NO ___
- (e) Result of hearing: _____ Date of result: _____
- (f) Citations of any written opinion, date of orders entered pursuant to result (if known):

18. **THIRD/SUBSEQUENT PETITIONS** – list same information as in # 17 on separate sheet and attach.

19. Did you appeal to the highest state or federal court having jurisdiction, the result or action taken on any petition, application or motion?

- 1) **First petition**, application, or motion? YES ___ NO ___ N/A
Citation or date of decision: _____
- 2) **Second petition**, application, or motion? YES ___ NO ___ N/A
Citation or date of decision: _____
- 3) **Third petition**, application or motion? YES ___ NO ___ N/A
Citation or date of decision: _____

- 4) **IF YOU DID NOT APPEAL** from the adverse action on any petition, application or motion, explain briefly why you did not. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 ½ x 11 inches, attached to this petition. **Your response may not exceed five (5) handwritten or typewritten pages in length.**)

PLEA GUILTY

20. Has any ground being raised in this petition been previously presented to this or any other court by way of petition for habeas corpus, motion, application or any other post-conviction proceeding? If so, identify:

- A. Which of the grounds is the same: N/A
- B. Proceedings in which these grounds were raised: N/A
- C. Briefly explain why you are raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 ½ x 11 inches, attached to this petition. **Your response may not exceed five (5) handwritten or typewritten pages in length.**)

21. If any of the grounds listed in this petition, OR listed on any additional pages you have attached, were NOT previously presented in any other state court or federal court, list briefly what ground/s were not so presented, and give your reasons for not presenting them. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 ½ x 11 inches, attached to this petition. Your response may not exceed five (5) handwritten or typewritten pages in length).

N/A

22. Are you filing this petition more than ONE (1) YEAR following the filing of the judgment of conviction or the filing of a decision on Direct Appeal? If so, state briefly the reasons for the delay. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 ½ x 11 inches, attached to this petition. Your response may not exceed five (5) handwritten or typewritten pages in length).

N/A

23. Do you have any petition or appeal now pending in any state court or federal court as to the judgment under attack? YES _____ NO X
IF YES, give both court and case number: _____

24. Give the name of EACH/EVERY attorney who represented you in the proceeding resulting in your conviction and on direct appeal:

CARL E. ARONALD
Ruchelle Nyugune

25. Do you have any future sentences to serve after you complete the sentence imposed by the judgment under attack? YES _____ NO X
IF YES, specify where and when the sentence is to be served (if you know): _____

26. State concisely EVERY ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating grounds and the facts supporting each ground.

A. GROUND ONE:

SEE ATT:

SUPPORTING FACTS: (Tell your story briefly, without citing cases or law)

B. GROUND TWO:

SEE ATTACHMENTS:

SUPPORTING FACTS: (Tell your story briefly, without citing cases or law)

C. GROUND THREE:

SEE ATTACHMENTS:

SUPPORTING FACTS: (Tell your story briefly, without citing cases or law)

D. GROUND FOUR:

SUPPORTING FACTS: (Tell your story briefly, without citing cases or law)

Petitioner asks that this court grant Petitioner relief to which s/he may be entitled in this proceeding.

Dated this 25 day of September 2020

Respectfully submitted,



Signature, Pro Se Litigant

LeQuana Brown

Print Name

1235328

GROUND 1
(continued)

I allege that my state court conviction and/or sentence are unconstitutional, in violation of my Amendment Right to INEFFECTIVE COUNSEL based on these facts:

FIRST OFF I WOULD LIKE TO SAY THAT
CARL ARONALD WAS INSUFFICIENT TO ME AND MY
CASE. SINCE MR ARONALD HAS BEEN MY LAWYER AND
BEEN APPUINET TO MY CASE IT BEEN HELL I HAVE
TIERED TO CALL HIM ON NUMORUS OCCA SION. WHICH
I HAVE NOT BEEN ABLE TO CONTACT HIM AT ALL. I WAS
CALLING COLLECT 3 DEBIT. WHEN I DID GET A HOLD OF HIM
HE WAS VERY RUDE. AND ASK ME WHY I WAS CALLING HIM
THAT WE HAVE NOTHING TO TALK ABOUT AND I TOLD HIM I WOULD
LIKE TO KNOW WHAT'S GOING ON WITH MY CASE AND
HAVE THERE BEEN ANY CHANGES. HE WAS LIKE NO AND HUNG
UP ON ME. SINCE THEN HE HAVE NOT ANSWER THERE IS NO
LINE OF COMMUNICATION. I WOULD HAVE TO CALL HIS
INVESTIGATOR. HE DOES NOT LET ME KNOW ANYTHING
HE HAS NOT CAME TO SEE ME AT ALL TO DISCUSS MY
CASE. I DIDN'T UNDERSTAND AND DIDN'T KNOW WHAT'S
GOING ON WITH MY CASE. I WOULD HAVE TO CALL HIS
INVESTIGATOR TO FIND THINGS OUT. I FEEL LIKE I AM AND
HAVE BEEN MISS LEAD AND HE IS VERY INSUFFICAT
TO ME AND MY CASE I ALSO FEEL THAT IF MR
ARONALD WAS MORE COMMUNITE WITH ME THIS
MATTER WOULD HAVE NEVER LEFT JUSTIC COURT

GROUND ~~CONTINUE~~
(continued) ↓

I allege that my state court conviction and/or sentence are unconstitutional, in violation of my Amendment Right to _____, based on these facts:

MR. ARONALD ~~WILMATE~~ HAS BEEN LATE TO EVERY COURT DATE. AND WHEN IT'S TIME FOR THE CASE TO BE HEAR HE DON'T NEVER TALK TO ME HE WALKS RIGHT OUT OF THE COURT ROOM. I HAVE ASK MR ARONALD TO ~~NOT~~ WRITE ~~AND~~ MOTION FOR ME FOR HOUSE ARREST NOTHING WAS NEVER ~~WRITTEN~~ PUT IN WRITTING NOR FOR BAIL Reducation. WHICH HE TOLD ME THAT HE DID BUT NEVER DID YES IT WAS TALK ABOUT WHICH HE HAD TO WRITE A MOTION FOR IT BUT NEVER DID. I ~~FEEL LIKE~~ HAVE ALSO REQUEST MY SUMMARY AND MINUTES AND WHICH I NEVER RECIVED THEM. I'VE TOLD MR ARONALD DUE D LACK OF COMMUNICATION THAT I DID NOT UNDERSTAND WHAT WAS GOING ON WITH MY CASE. ~~MR ARONALD~~ TOLD ME WHEN I DID TALK TO HIM I ASK HIM COULD HE SEND ME A BOOK WHICH HE SAID YES AND TOLD ME IF I COULD GO AROUND THE JAIL A HOUSE HIM ~~SOME~~ CHINTES THAT HE WOULD PUT ~~IT~~ ON MY BOOKS WHICH I DID HE ALSO SAID HE WOULD SEND ME PACKAGES. HE ALSO TOLD ME TO TAKE THE TIME AND HE WOULD TAKE CARE OF ME ALL OF EVERYTHING THAT I AM SAYING CALLS WAS BEING RECIVED. SO I SINGE OFF ON THE 6/10/15 →

GROUND CONTINUE
(continued)

I allege that my state court conviction and/or sentence are unconstitutional, in violation of my
Amendment Right to _____, based on these facts:

THAT I WOULD GO TO GO TO GET OUT AND HANDLE
MY BUSINESS. BUT WHEN I READ THE PLEA
AGREEMENT THAT WAS NOT PART OF THE ARRANGEMENT
SO I DID SIGN OFF ON THE COPIES BUT DIDNT
GO THROUGH WITH IT. THAT'S WHEN I NOTICED
MR ARONALD LIED TO ME ABOUT THE PLEA DEAL. I
TOLD HIM THAT I WAS NOT COMFORTABLE AND I WAS
GOING TO FIRE HIM AND HE TOLD ME THAT HE
WAS MAD AND FOR ME NOT TO CALL HIM
ANYMORE ALSO TOLD THE INVESTORS TO NOT TO
COME SEE ME. AND TOLD HIS INVESTATOR NOT
TO ACCEPT ANY OF MY CALLS BECAUSE I MADE HIM
LOOK STUPID BY NOT TAKING THE DEAL AT THAT
POINT I FELT LIKE I WAS BEING FORCED AND BRIBED
I ALSO FELT LIKE BY ME ADDRESSING THIS TO THE
COURT. IF MR ARONALD IS NOT OFF MY CASE HE WILL
NOT FIGHT FOR ME BEING THAT I AM LETTING THE COURT
KNOW WHAT'S GOING ON REMEMBER ALL CALLS
OF EVERYTHING WAS BEING RECORDED. I WAS SCARED WITH
NO UNDERSTANDING ABOUT MY CASE (I AM AND) WAS VERY
UNCOMFORTABLE WITH MR ARONALD AND LOST IN A LOOP
I ASK THAT THIS MATTER GET PUT ON HOLD LOOK'S AS WELL

GROUND Continue
(continued)

I allege that my state court conviction and/or sentence are unconstitutional, in violation of my
Amendment Right to _____, based on these facts:

AS HEARD ABOUT WHAT ~~EVERY~~ HAD WENT ON
UNTILL THE COURT APPOINTED NEW COUNSEL.
AND SHE ~~WAS~~ DID NOT HAVE TIME TO GO OVER
MY CASE THEY HOLD HER GET CAUGHT
UP and she told me to take the
Ple Deal AND I DID I WAS SCARED
AND BRIBE THIS MATTER NEEDS TO BE
LOOKED INTO

THANK YOU

⁶
Under VI Amendment Counsel Failed
my Rights Counsel become INEFFECTIVE
Counsel.

GROUND 2

Petitioner alleges violation of the 5 Amendment Rights with regard
to DUE PROCESS based on these facts:

According NRS 34.724 PERSON WHO MAY FILE petition
"CHALLENGE TO VALIDITY OF GUILTY PLEA"
THE SUPREME COURT WILL NO LONGER PERMIT A DEFENDANT TO
CHALLENGE THE VALIDITY OF A GUILTY PLEA ON DIRECT APPEAL
FROM THE JUDGMENT OF CONVICTION; INSTEAD A DEFENDANT
MUST RAISE A CHALLENGE TO THE VALIDITY OF HIS GUILTY
PLEA IN THE DISTRICT COURT IN THE INSTANCE, EITHER BY
BRINGING A MOTION TO WITHDRAW THE GUILTY PLEA,
OR BY INITIATING A POST CONVICTION PROCEEDING
UNDER NRS 34.360 OR THIS SECTION.

~~NOTED WITH MARK FINKS 3 BAKERS WERE WENT TO 1~~
~~MARK FINKS WERE FRIENDS~~
I HAD WENT TO GO CHILL WITH SARAH CONZALE AND
HER SON TOLD ME THAT SHE WAS GONE WITH
MARK FINKS SO I HAD CALLED HER PHONE AND SHE
TOLD ME WHERE SHE WAS AND TOLD ME TO PARK
MY CAR AT HER PLACE AND HER 3 FINKS WILL
COME AND PICK ME UP WHICH THEY DID AND
THEN WE WENT TO PICK MY BOYFRIEND UP
AND THEN WE WENT TO TACO BELL AS WE
WERE EATING WE WERE TALK ABOUT GOING
CAMPING WE HAD BEEN GETTING PREPARED
FOR 1 MONTH '12 SO THAT DAY WE WENT TO GO EAT
AT TACO BELL AND AFTER WE WERE DONE WE

Petitioner alleges violation of the V Amendment Rights with regard to DUE PROCESS

based on these facts:

WE NOTICE THAT IT WAS A BIG 5 SPORTING GOOD STORE
SO WE WENT THERE TO SHOP WE HAD NO INTENT TO STEAL
ANYTHING WE WERE IN THE STORE SHOPPING SEPARATELY
AFTER WE WERE DONE THEN WE BOTH WENT TO THE
CHECK OUT STAND AND SARAH CONZALES TOLD THE
STORE CLERK TO RING EVERYTHING UP TOGETHER
AS THE STORE CLERK WAS DOING THAT SARAH STARTED
TO TAKE EVERYTHING OUT TO THE CAR AS THE CLERK
TOLD HER NOT TO DO THAT UNTILL EVERYTHING WAS
PAID FOR SHE WENT OUT THE STORE AND WENT AND
GOT HER BOYFRIEND THEN THEY STARTED TAKING
BAGS OUT OF THE STORE THEN I WENT OUT OF
THE STORE AS I WAS TRYING TO GET IN THE CAR
THE MANAGER FROM THE STORE SLAMMED THE CAR
DOOR 3 PUSHED ME AND TOLD ME TO COME PAY
FOR THE MERCHDISE AT THE TIME WHEN THE MANAGER
PUSHED ME AND I FELL ON THE PAVED GROUND
THAT'S WHEN MARK FINK PULLED OUT THE BB GUN
AND TOLD THE MANAGER TO MOVE AWAY FROM
HIS CAR AND WHEN THE GUY MOVED AWAY I ~~WENT~~
THEN GOT IN AND WE LEFT I TOLD HIM TO GET
ME OUT AND HE SAID THAT HE WAS NOT STOPPING
THE CAR UN I AM ABOUT TO DROP YOU OFF TO
YOUR CAR.

GROUND 3

XIV

Petitioner alleges violation of the VIII Amendment Rights with regard to Conclusive Error based on these facts:

I firmly believes that the totality of errors as stated in my Habeas Corpus petition Due to the complexity of this case and the gravity of the sentence in the interest of judicial economy and fundamental fairness I Request an evidentiary hearing and Appointment of proper, zealous and competent counsel

CERTIFICATE OF MAILING

STATE OF NEVADA
COUNTY OF CLARK

I am the ☒ Plaintiff/Petitioner ☐ Defendant/Respondent
LeQuana Brown for Case No: C-19-34412-3

On this _____ day of _____, 20____, I mailed a copy of the

Following document(s):

1. MOTION TO WITHDRAW COUNSEL
2. MOTION APPOINTMENT OF COUNSEL
3. PETITION FOR WRIT OF HABEAS CORPUS
4. INFORMA PAUPERIS
5. FINANCIAL CERTIFICATE #5

By United States First Class Mail, to the following addresses:

- | | |
|------------------------------|------------------------------|
| 1. <u>CLERK OF COURT</u> | 2. <u>ATTORNEY General</u> |
| <u>8th Judicial District</u> | <u>100 N. CARSON ST</u> |
| <u>200 LEWIS AVE</u> | <u>CARSON CITY, NV 89701</u> |
| <u>LAS VEGAS NV 89155</u> | |

- | | |
|----------|----------|
| 3. _____ | 4. _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

Dated this 25 day of September, 2020.

Respectfully submitted,

LeQuana Brown
Signature

LeQuana Brown
Printed Name

RECEIVED

OCT 15 2020

Page 1 of 2

AA 0280

DECLARATION UNDER PENALTY OF PERJURY

I, the undersigned, understand that a false statement or answer to any question in this declaration will subject me to penalties of perjury.

I declare, under the penalty of perjury under the laws of the United States of America, that the above and/or foregoing information is accurate, correct and true to the best of my knowledge, executed within the terms of ¹NRS 171.102 and ²NRS 208.165. See ³28 U.S.C. 1746 and 18 U.S.C. 1621.

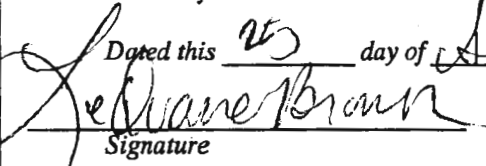
Dated this

25

day of

September

2026


Signature

#1235328

Nevada Department of Corrections ID #

¹ NRS 171.102

² NRS 208.165

³ 28 U.S.C.

§1746. Unsworn declarations under penalty of perjury

18 U.S.C.

§ 1621. Perjury generally

LEQUANA KROWN #1235328
4370 SMILEY Road
Las Vegas NV, 89115

53070 \$2
4/5 255

~~Confidential~~
Legal mail

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9163

Hasler

FIRST-CLASS MAIL

10/16/2020

US POSTAGE \$002.00⁰⁰



ZIP 89101
011E12660516

CLERK OF COURT
8th Judicial District
206 LEWIS AVE
LAS VEGAS NV, 89155

FILED

OCT 29 2020

John L. Brown
CLERK OF COURT

Florence McClure Women's Correctional Center
4370 Smiley Rd.
Las Vegas, NV 89115

In the 8 Judicial District Court of the State of Nevada

In and for the County of CLARK

In the matter of:

LEQUANA BROWN

Plaintiff/Petitioner

v. THE STATE OF NEVADA

Defendant/Respondent

Case No: C-19-344112-3

Dept No.: XVII

MOTION FOR APPOINTMENT OF COUNSEL

COMES NOW Petitioner, LeQuana Brown, In Proper

Person and hereby moves this Honorable Court for an order to Appoint Counsel in the above-entitled action, pursuant to NRS 34.720, with the Fundamental Provisions of Art. I., Sec.'s 8 and 10, of the Nevada Constitution, and the U.S. 1st Amendment (Right to Petition for the Redress of Constitutional Grievances), and the U.S. 14th Amendment (Right to Due Process Clause) in the Constitution of these United States.

This Motion is made and based upon all papers, pleadings, and exhibits within Court records, the Application to Proceed In Forma Pauperis and upon Oral Arguments, if this Court deems it proper and necessary for the disposition of the instant Motion.

Dated this 25 day of September, 2020

Respectfully submitted,

LeQuana Brown

Signature

LeQuana Brown

Print Name

RECEIVED

OCT 13 2020

CLERK OF THE COURT

AA 0284

DECLARATION UNDER PENALTY OF PERJURY

I, the undersigned, understand that a false statement or answer to any question in this declaration will subject me to penalties of perjury.

I declare, under the penalty of perjury under the laws of the United States of America, that the above and/or foregoing information is accurate, correct and true to the best of my knowledge, executed within the terms of ¹NRS 171.102 and ²NRS 208.165. See ³28 U.S.C. 1746 and 18 U.S.C. 1621.

Dated this 25 day of September, 2020

LeQuana Brown
Signature

1235328
Nevada Department of Corrections ID Number

LeQuana Brown
Print Name

¹ **NRS 171.102** Complaint defined; oath or declaration required. The complaint is a written statement of the essential facts constituting the public offense charged. It must be made upon:

1. Oath before a magistrate or a notary public; or
2. Declaration which is made subject to the penalty for perjury.
(Added to NRS by 1967, 1400; A 1969, 387; 1983, 446)

² **NRS 208.165** Execution of instrument by prisoner. A prisoner may execute any instrument by signing his or her name immediately following a declaration "under penalty of perjury" with the same legal effect as if he or she had acknowledged it or sworn to its truth before a person authorized to administer oaths. As used in this section, "prisoner" means a person confined in any jail or prison, or any facility for the detention of juvenile offenders, in this state.
(Added to NRS by 1985, 1643)

³ **28 U.S.C.**

§1746. Unsworn declarations under penalty of perjury

Wherever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form:

(1) If executed without the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)".

(2) If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)".
(Added Pub. L. 94-550, §1(a), Oct. 18, 1976, 90 Stat. 2534.)

PRIOR PROVISIONS

A prior section 1746 was renumbered section 1745 of this title.

§ 1621. Perjury generally

Whoever—

(1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true; is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

(June 25, 1948, ch. 645, 62 Stat. 773; Pub. L. 88-619, § 1, Oct. 3, 1964, 78 Stat. 995; Pub. L. 94-550, § 2, Oct. 18, 1976, 90 Stat. 2534; Pub. L. 103-322, title

XXXIII, § 330016(1)(I), Sept. 13, 1994, 108 Stat. 2147.)

Florence McClure Women's Correctional Center
4370 Smiley Rd.
Las Vegas, NV 89115

In The 8 Judicial District Court of the State of Nevada
In and for the County of CLARK

In the matter of:

LEQUANA BROWN

Plaintiff/Petitioner

v THE STATE OF NEVADA

Defendant/Respondent

Case No: C-19-344112-3

Dept No.: XVII

AFFIDAVIT

STATE OF NEVADA)

COUNTY OF CLARK)

1. I am the ☒ Plaintiff/Petitioner ☐ Defendant/Respondent in the above entitled action. I have personal knowledge of the facts contained in the above-entitled case and am competent to testify to these facts.
2. My personal knowledge or personal observations of the situation is/are as follows:

I HAVE BEEN CALLING MY LAWYER ROCHELLE AND I HAVE NOT GOT
GOT IN TOUCH WITH HER I EVEN HAD MY FAMILY REACH OUT TO
HER. I'VE ALSO SEND PAPER WORK THROUGH ~~THE COURT~~ FROM THE
LAW LIBRARY THROUGH THE PRISON SYSTEM. WELL LET ME TAKE YOU
BACK. I WAS AT FIRST APPOINTED TO CARLE ~~ARNOLD~~ ARNOLD
WHICH I PUT IN A MOTION TO DISMISS COUNSEL AND APPOINT
ALTERNATE COUNSEL. DUE TO A LOT OF FOUL PLAY I AM ALSO
ENCLOSING THE DOCUMENT SO YOU COULD READ WHAT'S BEEN FILED.
SO WHEN THEY APPOINTED ME NEW COUNSEL. ROCHELLE DIDNT GO OVER
THE EVIDENCE ~~AND~~ SHE HAD TO PICK UP WHERE HE LEFT OFF
WHICH I FEEL SHE DIDNT HAVE TIME TO ^{REALLY} LOOK AT MY CASE NOR
THE EVIDENCE AND TOLD ME TO TAKE ^{THE} TIME ~~WHICH~~ I FEEL LIKE
I WAS MISSEAD AS WELL REAL ROAD IT DUE TO THE TIME
AND SUCH SHORT NOTICE. I AM ASKING TO BE APPOINTED A
NEW COUNSEL. DUE TO THE FACT I HAVE BEEN REACHING OUT TO
ROCHELLE NYGUNE MORNING, NOON, NIGHT JUST AS MY FAMILY HAS
I HAVE YET RECIVED THE PAPER WORK THAT I'VE REQUESTED ~~AA-0280E~~ IS

1 INSUFFICIENT TO ME AND MY CASE. WHEN I DID TALK TO
2 HER SHE TOLD ME THAT SHE WOULD GET THE DOCUMENTS
3 TO ME THAT HAS BEEN OVER A MONTH NO DOCUMENTS
4 NO RESPON, NO DISCOVERY, NO COMMUNICATION, NO ANSWER.
5
6
7
8
9
10

11 Dated this 25 day of September, 20 20.

12 Respectfully submitted,

13 Lillian Brown
Signature

14 Lillian Brown
15 Printed Name

16 DECLARATION UNDER PENALTY OF PERJURY

17 I, the undersigned, understand that a false statement or answer to any question in this declaration will
18 subject me to penalties of perjury.

19 I declare, under the penalty of perjury under the laws of the United States of America,
20 that the above and/or foregoing information is accurate, correct and true to the best of my knowledge, executed
21 within the terms of ¹NRS 171.102 and ²NRS 208.165. See ³28 U.S.C. 1746 and 18 U.S.C. 1621.

22 Dated this 25 day of September, 20 20

23 Lillian Brown
24 Signature

25 1235329
26 Nevada Department of Corrections ID #

27 ¹ NRS 171.102

28 ² NRS 208.165

³ 28 U.S.C.

§1746. Unsworn declarations under penalty of perjury
18 U.S.C.

§ 1621. Perjury generally

FILED

OCT 29 2020

[Signature]
CLERK OF COURT

Florence McClure Women's Correctional Center
4370 Smiley Rd.
Las Vegas, NV 89115

In the 8 Judicial District Court of the State of Nevada

In and for the County of CLARK

In the matter of:

LEQUANA BROWN
Plaintiff/Petitioner

v. THE STATE OF NEVADA
Defendant/Respondent

Case No: C-19-344112-3

Dept No.: XVII

MOTION TO WITHDRAW COUNSEL

COMES NOW Defendant, LEQUANA BROWN, In Proper
Person and hereby moves this Honorable Court for an ORDER granting her
permission to withdraw her present counsel of record in the proceeding
action.

This Motion is made and based upon all papers, pleadings, and exhibits
on file with the Court which are hereby incorporated by this reference, the
Points and Authorities herein, and attached Affidavit of Defendant.

Dated this 25 day of September, 2020

Respectfully submitted,

[Signature]
Signature

LEQUANA BROWN
Print Name

RECEIVED

OCT 19 2020

CLERK OF THE COURT

1 POINTS AND AUTHORITIES

2 NRS 7.055 states in pertinent part:

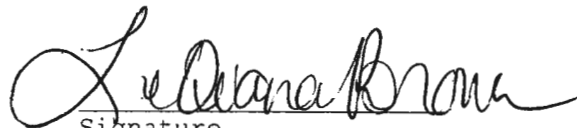
- 3 1. An attorney who has been discharged by his client shall
4 upon demand and payment of the fee due from the client,
5 immediately deliver to the client all papers, documents,
6 pleadings and items of tangible personal property which
7 belong to or were prepared for that client.
8 2. ...If the court finds that an attorney has, without just
9 cause, refused or neglected to obey its order given under
10 this section, the court may, after notice and fine or
11 imprison him until contempt purged. If the Court finds
12 that the attorney has, without just cause, withheld the
13 client's papers, documents, pleadings, or other property,
14 the attorney is liable for costs and attorney's fees.

15 Counsel in the above-entitled case was court-appointed due to
16 Defendant's indigence. Defendant does not owe counsel any fees.

17 WHEREFORE, Defendant prays this Honorable Court, **GRANT** her Motion to
18 Withdraw Counsel and that counsel deliver Defendant all papers, documents,
19 pleadings, discovery and any other tangible property which belong to or were
20 prepared for the Defendant to allow Defendant the proper assistance that is
21 needed to insure that justice is served.

22 Dated this 25 day of September, 2020

23 Respectfully submitted,

24 

25 Signature

26 LeQuana BROWN

27 Print Name

Florence McClure Women's Correctional Center
4370 Smiley Rd.
Las Vegas, NV 89115

In The 8th Judicial District Court of the State of Nevada
In and for the County of CLARK

In the matter of:

LEQUANA BROWN

Plaintiff/Petitioner

THE STATE OF NEVADA

Defendant/Respondent

Case No: C-19-344112-3

Dept No.: XVII

AFFIDAVIT

STATE OF NEVADA)

COUNTY OF CLARK)

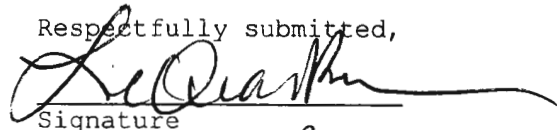
1. I am the ☒ Plaintiff/Petitioner ☐ Defendant/Respondent in the above entitled action. I have personal knowledge of the facts contained in the above-entitled case and am competent to testify to these facts.
2. My personal knowledge or personal observations of the situation is/are as follows:

I HAVE BEEN CALLING MY LAWYER ROCHELLE NYGMAE MORNING NOON AND NIGHT JUST AS WELL AS MY FAMILY I HAVE NOT YET TALK TO HER I'VE ALSO SEND DOCUMENTS TELL HER THAT I NEED MY DISCOVERY MINUTE ORDER AND TRANSCRIPTS AND ALL THE FOOTAGE WHICH THAT PUT MY CASE I THINK ON HOLD AND THAT MAKE HER INSUFFICIENT ROCHELLE TOOK MY CASE AFTER CAROL ARONALD WAS DISSMISSED AND HAD TO PICK UP WHERE HE LEFT OFF SO WE DID NOT GET CAUGHT UP ON THINGS. ~~NUM~~ I HAVE ONLY TALK TO ROCHELLE ONCE AND WHEN I DID TALK TO HER SHE TOLD ME THAT SHE WOULD GET EVERYTHING MAIL AT TO ME AND STILL HAVENT THERE IS NO COMMUNICATION LINE OPEN AT ALL.

1 Rachell told ME THAT SHE HAD TO PICK UP WERE
2 MY OLD LAWYER LEFT OFF YES SHE DID
3 explain things to me I felt like she didn't
4 have time to go over MY CASE AND DUE
5 TO COVID-19 LACK OF TIMING AS WELL COMMUNICATION.
6 I HAD FIRED MY LAST ATTORNEY AND Rachelle
7 WAS APPOINTED TO ME SHE DIDN'T GO OVER
8 EVIDENCE NOT ONLY THAT SHE HAD TO GET CAUGHT UP TO
9 SPEED WHICH I FEEL LIKE SHE SHOULD HAD TOOK HER
10 TIME AND PUSH THE DATE BACK I WAS NOT NEVER COMFORTABLE
11 with the deal due to the fact I never had a weapon

Dated this 25 day of September, 2020.

Respectfully submitted,



Signature

LeQuana BROWN

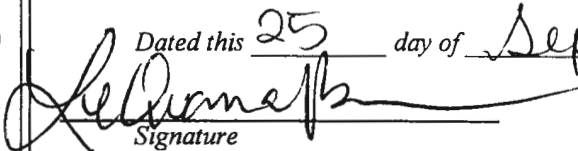
Printed Name

DECLARATION UNDER PENALTY OF PERJURY

I, the undersigned, understand that a false statement or answer to any question in this declaration will subject me to penalties of perjury.

I declare, under the penalty of perjury under the laws of the United States of America, that the above and/or foregoing information is accurate, correct and true to the best of my knowledge, executed within the terms of ¹NRS 171.102 and ²NRS 208.165. See ³28 U.S.C. 1746 and 18 U.S.C. 1621.

Dated this 25 day of September, 2020



Signature

1235328

Nevada Department of Corrections ID #

¹ NRS 171.102

² NRS 208.165

³ 28 U.S.C.

§1746. Unsworn declarations under penalty of perjury
18 U.S.C.

§ 1621. Perjury generally

1 PPOW
2

3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5 Lequana Brown,

6 Petitioner,

7 vs.

8 State of Nevada,

9 Respondent,
10

Case No: A-20-823908-W
Department 17

**ORDER FOR PETITION FOR
WRIT OF HABEAS CORPUS**

11 Petitioner filed a Petition for Writ of Habeas Corpus (Post-Conviction Relief) on
12 October 29, 2020. The Court has reviewed the Petition and has determined that a response would assist
13 the Court in determining whether Petitioner is illegally imprisoned and restrained of his/her liberty, and
14 good cause appearing therefore,

15 **IT IS HEREBY ORDERED** that Respondent shall, within 45 days after the date of this Order,
16 answer or otherwise respond to the Petition and file a return in accordance with the provisions of NRS
17 34.360 to 34.830, inclusive.

18 **IT IS HEREBY FURTHER ORDERED** that this matter shall be placed on this Court's
19 Calendar on the _____ day of _____, 20____, at the hour of
20 _____ o'clock for further proceedings.
21

22
23 Dated this 3rd day of November, 2020

24 

25 District Court Judge
26 8DA DB4 861E 83B6
27 Michael Villani
28 District Court Judge

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5
6 Lequana Brown, Plaintiff(s)

CASE NO: A-20-823908-W

7 vs.

DEPT. NO. Department 17

8 State of Nevada, Defendant(s)
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 Electronic service was attempted through the Eighth Judicial District Court's
12 electronic filing system, but there were no registered users on the case.

13
14 If indicated below, a copy of the above mentioned filings were also served by mail
15 via United States Postal Service, postage prepaid, to the parties listed below at their last
known addresses on 11/4/2020

16 Lequana Brown

#1235328

FMWCC

4370 Smiley Road

Las Vegas, NV, 89115
17
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21
22
23
24
25
26
27
28



RSPN
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JOHN NIMAN
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, aka,
Lequana Leatrice Brown, #2651822

Petitioner,

-vs-

THE STATE OF NEVADA,

Respondent.

CASE NO: A-20-823908-W

C-19-344112-3

DEPT NO: XVII

**STATE'S RESPONSE TO
PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)
and
MOTION FOR APPOINTMENT OF COUNSEL**

DATE OF HEARING: February 5, 2021

TIME OF HEARING: 10:00 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JOHN NIMAN, Deputy District Attorney, and hereby submits the attached Points and Authorities in Response to Petitioner's Petition for Writ of Habeas Corpus and the accompanying Motion for Appointment of Counsel.

This Response and Motion is made and based upon all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing, if deemed necessary by this Honorable Court.

///

///

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On October 17, 2019, LEQUANA BROWN, aka Lequana Leatrice Brown (hereinafter
4 "Petitioner") was charged by way of Indictment with two (2) counts of CONSPIRACY TO
5 COMMIT ROBBERY (Category B Felony – NRS 200.380, 199.480); two (2) counts of
6 ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony – NRS 200.380,
7 193.165); two (2) counts of BURGLARY (Category B Felony – NRS 205.060); one (1) count
8 of GRAND LARCENY (Category C Felony – NRS 205.220.1, 205.222.2); and one (1) count
9 of OBTAINING AND USING PERSONAL IDENTIFYING INFORMATION OF
10 ANOTHER (Category C Felony – NRS 205.463) for actions on or between June 4, 2019 and
11 June 23, 2019. On March 12, 2020, Petitioner pled guilty, pursuant to a Guilty Plea Agreement
12 ("GPA"), to one (1) count of ROBBERY WITH USE OF A DEADLY WEAPON.
13 Contemporaneous with the GPA, the State filed an Amended Indictment reflecting the single
14 count to which Petitioner pled guilty.

15 Pursuant to the GPA, Petitioner agreed to plead guilty to ROBBERY in a separate case,
16 and the parties stipulated that Petitioner would receive sentences of four (4) to ten (10) years
17 on each count, consecutive to each other.

18 On June 17, 2020, Petitioner executed an Amended GPA, with the amendment being
19 that the State agreed to dismiss a separate case against Petitioner after rendition of sentence in
20 the instant underlying case. On June 18, 2020, the Court canvassed Petitioner regarding the
21 Amended GPA and accepted Petitioner's guilty plea. The Court thereafter sentenced Petitioner
22 to two (2) to five (5) years in the Nevada Department of Corrections for Robbery, with a
23 consecutive two (2) to five (5) years for Use of a Deadly Weapon. Petitioner was given three
24 hundred fifty-eight (358) days of credit for time served. Petitioner's Judgment of Conviction
25 was filed on June 22, 2020.

26 Petitioner did not file a direct appeal. On October 29, 2020, Petitioner filed the instant
27 Petition for Writ of Habeas Corpus. Petitioner included in her filed Petition a Motion for
28 Appointment of Counsel.

STATEMENT OF FACTS

The Court relied on the following facts when sentencing Petitioner:

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

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

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

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

1 During the officer's investigation, the victim provided them with surveillance
2 and the PowerAde drink bottles that were left. One of the officers located the
3 vehicle used and noted Mr. Fink was in the driver's seat. A second male was
4 handing shoes to a child who was trying them on. They then saw Ms. Gonzalez
5 enter the passenger side. While they were arresting Ms. Gonzalez, she stated she
6 had a gun in her bra and that Ms. Brown was in apartment 311. Additionally,
7 officers observed Big 5 bags in the vehicle. The officers were able to recover
8 \$481.34 worth of merchandise.

9 Officers went up to the third floor to locate Ms. Brown who was in the apartment;
10 however, she was using an alias of Mia Jones. The stolen items record, 'ered
11 were returned to Big 5. After being transported to the Las Vegas Metropolitan
12 Police Department Headquarters, Ms. Brown was interviewed. She admitted she
13 was the person at Big 5 and knew the other defendants. She observed Ms.
14 Gonzalez and Mr. Finks nearby and entered the vehicle to go to Big 5 due to Ms.
15 Gonzalez stating she had coupons. Once in the store, Ms. Brown picked out
16 several shirts and handed them to Ms. Gonzalez who then began bagging up a
17 large amount of clothing, along with the other merchandise before proceeding
18 past all points of entry. Ms. Brown followed Mr. Finks out of the store and the
19 employees followed after them. Mr. Finks then pointed a handgun at the
20 employees. She admitted she never attempted to pay for the items she gave Ms.
21 Gonzalez, nor did she make any attempts to notify police of the crime.
22 Additionally, Ms. Brown admitted she was involved in another robbery of a
23 Champs store on June 4, 2019, after being shown surveillance of that incident.
24 When the officers interviewed Mr. Finks, he admitted he pointed a gun at the
25 victim and told him to get the fuck away from the car due to him pulling on Ms.
26 Brown. Ms. Gonzalez stated Ms. Brown told her she could pick out whatever
27 she wanted, and she would pay for it. She stated she had a feeling Ms. Brown
28 was going to use a fake check and a debit card that would not work to pay for
the items. When the commotion started at the car, Ms. Gonzalez stated that Ms.
Brown told Mr. Finks to just drive.

Presentence Investigation Report, at 8-9.

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1 ARGUMENT

2 I. THE INSTANT PETITION IS OUTSIDE THE SCOPE OF HABEAS
3 PROCEEDINGS

4 NRS 34.810(1) reads:

5 The court *shall* dismiss a petition if the court determines that:

6 (a) The petitioner's conviction was upon a plea of guilty or guilty but mentally
7 ill, and the petition is not based upon an allegation that the plea was involuntary
8 or unknowingly entered or that the plea was entered without effective assistance
9 of counsel.

10 (Emphasis added). The Nevada Supreme Court has held that "challenges to the validity of a
11 guilty plea and claims of ineffective assistance of trial and appellate counsel must first be
12 pursued in post-conviction proceedings...[A]ll other claims that are appropriate for a direct
13 appeal must be pursued on direct appeal, or they will be *considered waived in subsequent*
14 *proceedings.*" Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994) (emphasis
15 added) (disapproved on other grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222
16 (1999)).

17 Petitioner, in the instant Petition, includes a claim regarding her relationship with plea
18 counsel. Petition at 6-9 (erroneously labeled Pages 1-4 of 4). She also includes a vague "due
19 process" claim. Petition at 10-11 (erroneously labeled "Page 1 of 1" and "Page 1 of 2").
20 Petitioner concludes with a claim of cumulative error. Petition at 12 (erroneously labeled
21 "Page 1 of 1"). Because these claims are outside the scope of cognizable habeas review,
22 Petitioner's claims cannot entitle Petitioner to relief.

23 A. Petitioner was not Entitled to a Certain Relationship with Plea Counsel

24 The Sixth Amendment to the United States Constitution provides that, "[i]n all criminal
25 prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his
26 defense." The United States Supreme Court has long recognized that "the right to counsel is

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1 the right to the effective assistance of counsel.” Strickland v. Washington, 466 U.S. 668, 686,
2 104 S.Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323
3 (1993).

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

15 The U.S. Supreme Court has clarified that a defendant is not entitled to any particular
16 “relationship” with her attorney. Morris v. Slappy, 461 U.S. 1, 14, 103 S.Ct. 1610, 1617
17 (1983). There is no requirement for any specific amount of communication so long as counsel
18 is reasonably effective in his representation. See id.

19 The court begins with the presumption of effectiveness and then must determine
20 whether the defendant has demonstrated by a preponderance of the evidence that counsel was
21 ineffective. Means v. State, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004). “Effective counsel
22 does not mean errorless counsel, but rather counsel whose assistance is ‘[w]ithin the range of
23 competence demanded of attorneys in criminal cases.’” Jackson v. Warden, 91 Nev. 430, 432,
24 537 P.2d 473, 474 (1975).

25 Even if a defendant can demonstrate that his counsel's representation fell below an
26 objective standard of reasonableness, he must still demonstrate prejudice and show a
27 reasonable probability that, but for counsel's errors, the result of the trial would have been
28 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing

1 Strickland, 466 U.S. at 687, 104 S.Ct. at 2064). “A reasonable probability is a probability
2 sufficient to undermine confidence in the outcome.” Id. (citing Strickland, 466 U.S. at 687-89,
3 694, 104 S.Ct. at 2064-65, 2068). This portion of the test is slightly modified when the
4 convictions occurs due to a guilty plea. Hill v. Lockhart, 474 U.S. 52, 59, 106 S.Ct. 366, 370-
5 71 (1985); Kirksey v. State, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996). For a guilty plea,
6 a defendant “must show that there is a reasonable probability that, but for counsel’s errors, he
7 would not have pleaded guilty and would have insisted on going to trial.” Id. (quoting Hill,
8 474 U.S. at 59).

9 The Nevada Supreme Court has held “that a habeas corpus petitioner must prove the
10 disputed factual allegations underlying his ineffective-assistance claim by a preponderance of
11 the evidence.” Means v. State, 120 Nev. at 1012, 103 P.3d at 33. Furthermore, claims of
12 ineffective assistance of counsel asserted in a petition for post-conviction relief must be
13 supported with specific factual allegations, which if true, would entitle the petitioner to relief.
14 Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “Bare” and “naked”
15 allegations are not sufficient, nor are those belied and repelled by the record. Id. NRS
16 34.735(6) states in relevant part, “[Petitioner] *must* allege specific facts supporting the claims
17 in the petition[.]...Failure to allege specific facts rather than just conclusions may cause your
18 petition to be dismissed.” (emphasis added).

19 A review of Petitioner’s first claim shows that Petitioner takes umbrage with first plea
20 counsel, Mr. Carl Arnold, Esq.’s failure to respond to numerous phone calls, and his alleged
21 failure to speak with Petitioner at various court dates. See, e.g., Petition at 6 (“I also feel that
22 if Mr. Arnold was more commute [sic] with me this matter would have never left Justic[e]
23 Court”). However, this claim is squarely outside the scope of habeas review, as it does not
24 claim that Petitioner’s plea was not knowingly and voluntarily entered. NRS 34.810(1).

25 Furthermore, any allegation that Petitioner’s plea was entered absent effective
26 assistance of counsel is belied by the record. NRS 34.810(1); Hargrove, 100 Nev. at 502, 686
27 P.2d at 225. Petitioner, by executing her GPA, specifically affirmed:

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1 I have discussed with my attorney any possible defenses, defense strategies and
2 circumstances which might be in my favor.

3 All of the foregoing elements, consequences, rights, and waiver of rights have
4 been thoroughly explained to me by my attorney.

5 ...
6 I am signing this agreement voluntarily, after consultation with my attorney...

7 ...
8 My attorney has answered all my questions regarding this guilty plea agreement
9 and its consequences to my satisfaction *and I am satisfied with the services*
10 *provided by my attorney.*

11 GPA at 5 (emphasis added).

12 Further, when Petitioner was canvassed regarding her first GPA, Petitioner had the
13 following exchange with the Court:

14 THE COURT: If you had any questions, were they answered by Mr. Arnold?

15 DEFENDANT BROWN: Yes.

16 THE COURT: Based upon all the facts and circumstances of your case, are you
17 satisfied with the services of Mr. Arnold?

18 DEFENDANT BROWN: Yes.

19 Recorder's Transcript of Hearing: Entry of Plea, dated March 12, 2020 (filed May 5, 2020) at
20 18. Because Petitioner's claims regarding plea counsel are belied by the record, they cannot
21 entitle Petitioner to relief. Hargrove, 100 Nev. at 502, 686 P.2d at 225.

22 Moreover, Petitioner concedes that Mr. Arnold was not her counsel at the time she
23 entered her Amended GPA. See, Petition at 9 (explaining, "...the Court appointed new
24 counsel."). Therefore, anything related to Mr. Arnold, specifically, is rendered irrelevant, as
25 Petitioner's judgment of conviction is based on Petitioner's Amended GPA. Anything related
26 to Petitioner's "new counsel" is vague and unsubstantiated by any reference to relevant legal
27 authority or cogent legal analysis. Therefore, Petitioner cannot demonstrate that her reference
28 to "new counsel" should warrant relief. Hargrove, 100 Nev. at 502, 686 P.2d at 225.

29 Petitioner concludes her first claim with a conclusory statement that she was bribed.
30 Petition at 9. However, this claim is likewise belied by the record. See, GPA at 5 ("I am signing
31 this agreement voluntarily, after consultation with my attorney, and I am not acting under

1 duress or coercion..."); see also, Plea Transcript at 28 ("THE COURT: Before I can accept
2 your plea of guilty I must make sure it is freely and voluntarily given, is anyone forcing you
3 to plead guilty? DEFENDANT BROWN: No."), at 31 ("THE COURT: Are you entering your
4 plea in this case freely and voluntarily? DEFENDANT BROWN: Yes.").

5 Because Petitioner's claim is outside the scope of habeas review, and because any
6 inferred applicable habeas claims are belied by the record, the State respectfully requests that
7 this Court deny Petitioner's first ground for habeas relief.

8 **B. Petitioner's Vague "Due Process" Claim does not Entitle Petitioner to Relief**

9 Petitioner's second claim alleges a violation of "due process." Petition at 10. However,
10 Petitioner merely includes some language about moving to withdraw her guilty plea, then
11 proceeds to give her own recounting of the events leading up to her arrest in the underlying
12 case. Id. at 10-11. However, absent any cogent legal argument, Petitioner's claim does not
13 warrant review.

14 A review of Petitioner's claim shows that Petitioner raises nothing that appears to relate
15 to plea counsel's advice to plead guilty, nor to the voluntariness of Petitioner's entry of plea.
16 Therefore, Petitioner's claim does not fall within the limited scope of habeas review after a
17 guilty plea. Kirksey, 112 Nev. at 988, 923 P.2d at 1107. As such, Petitioner's claim is suitable
18 only for dismissal under NRS 34.810(1)(a).

19 In the event Petitioner seeks to raise an actual "due process" claim, such a claim was
20 appropriate for direct appeal; therefore, her claim is waived for her failure to raise it thus.
21 Franklin v. State, 110 Nev. at 752, 877 P.2d at 1059.

22 Finally, in the event Petitioner seeks to raise an ineffective-assistance claim, the
23 substance of her claim does not clarify what the actual ineffectiveness claim is, much less
24 demonstrate that her claim falls within the scope of the current habeas review. As such,
25 Petitioner has failed to plead "specific facts" sufficient to warrant review, much less relief.
26 NRS 34.735(6); Hargrove, 100 Nev. at 502, 686 P.2d at 225.

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1 Because Petitioner's claim is bare and naked, and lacking any cogent argument, the
2 State respectfully requests that Petitioner's claim be summarily dismissed. Hargrove, 100 Nev.
3 at 502, 686 P.2d at 225.

4 **C. Petitioner Fails to Show Cumulative Error**

5 Petitioner's final claim attempts to allege cumulative error warranting an evidentiary
6 hearing and appointment of counsel. Petition at 12. However, Petitioner fails to set forth the
7 analysis for cumulative error, much less the respective analyses for either an evidentiary
8 hearing or appointment of counsel. Further, even conducting the proper analysis, Petitioner's
9 claim of cumulative analysis fails.

10 As a preliminary issue, Petitioner cannot be entitled to relief on a claim of cumulative
11 error, as petitioner has failed to demonstrate any error, much less errors of a number or gravity
12 that would warrant relief. See, United States v. Rivera, 900 F.2d 1462, 1471 (10th Cir. 1990)
13 ("[A] cumulative-error analysis should evaluate only the effect of matters determined to be
14 error, not the cumulative effect of non-errors.").

15 Further, the Nevada Supreme Court has explained that "[r]elevant factors to consider
16 in evaluating a claim of cumulative error are (1) whether the issue of guilt is close, (2) the
17 quantity and character of the error, and (3) the gravity of the crime charged." Mulder v. State,
18 116 Nev. 1, 17, 992 P.2d 845, 855 (2000). In the instant case, the issue of guilt was *not* close,
19 as Petitioner solemnly admitted her guilt in open court. As stated above, Petitioner has failed
20 to demonstrate any error. Finally, while a felony committed with a deadly weapon is grave
21 indeed, Petitioner negotiated the consequences of her guilty plea, and received the favorable
22 sentence for which she bargained. Therefore, the Mulder factors weigh against finding that
23 Petitioner is entitled to relief.

24 Because Petitioner fails to demonstrate cumulative error warranting relief, the State
25 respectfully requests that this Court deny Petitioner's third claim.

26 **II. PETITIONER IS NOT ENTITLED TO APPOINTMENT OF COUNSEL**

27 Under the U.S. Constitution, the Sixth Amendment provides no right to counsel in post-
28 conviction proceedings. Coleman v. Thompson, 501 U.S. 722, 752, 111 S.Ct. 2546, 2566

1 (1991). In McKague v. Warden, 112 Nev. 159, 163, 912 P.2d 255, 258 (1996), the Nevada
2 Supreme Court similarly observed that “[t]he Nevada Constitution...does not guarantee a right
3 to counsel in post-conviction proceedings, as we interpret the Nevada Constitution’s right to
4 counsel provision as being coextensive with the Sixth Amendment to the United States
5 Constitution.” McKague specifically held that, with the exception of NRS 34.820(1)(a)
6 (entitling appointed counsel when petitioner is under a sentence of death), one does not have
7 “any constitutional or statutory right to counsel at all” in post-conviction proceedings. Id. at
8 164, 912 P.2d at 258.

9 However, the Nevada Legislature has given courts the discretion to appoint post-
10 conviction counsel in limited scenarios. Specifically, NRS 34.750 reads:

11 A petition may allege that the Defendant is unable to pay the costs of the
12 proceedings or employ counsel. If the court is satisfied that the allegation of
13 indigency is true and the petition is not dismissed summarily, the *court may*
14 *appoint counsel at the time the court orders the filing of an answer and a return.*

In making its determination, the court may consider whether:

- 15 (a) The issues are difficult;
- 16 (b) The defendant is unable to comprehend the proceedings; or
- 17 (c) Counsel is necessary to proceed with discovery.

18 (emphasis added). Under NRS 34.750, it is clear that the court has discretion in determining
19 whether to appoint counsel to assist in post-conviction proceedings.

20 In the instant case, the factors weigh against this Court’s discretionary appointment of
21 counsel. First, the issues raised by Petitioner are not difficult, and can easily be resolved,
22 because they are outside the scope of habeas review, or are belied by the record. Second,
23 Petitioner has demonstrated that she can comprehend the proceedings, as she has organized
24 and filed her own habeas petition. Finally, Petitioner fails to allege that any further discovery
25 is necessary, much less does she demonstrate that counsel is necessary to obtain such
26 discovery. See, Petition at 6-12.

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1 Because all of Petitioner's claims should be summarily denied, and because the factors
2 weigh against appointing counsel for Petitioner, the State respectfully requests that this Court
3 deny Petitioner's request for appointment of counsel.

4 **CONCLUSION**

5 For the foregoing reasons, the State respectfully requests that this Court summarily
6 DENY Petitioner's Petition for Writ of Habeas Corpus, and the accompanying Motion for
7 Appointment of Counsel.

8 DATED this 11 day of December, 2020.

9 Respectfully submitted,

10 STEVEN B. WOLFSON
11 Clark County District Attorney
12 Nevada Bar #001565

13 BY  for

14 JOHN NIMAN
15 Deputy District Attorney
16 Nevada Bar #14408

17 **CERTIFICATE OF MAILING**

18 I hereby certify that service of the above and foregoing was made this 11 day of
19 December, 2020, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

20 LEQUANA BROWN, NDC #1235328
21 FMWCC
22 4370 SMILEY ROAD
23 LAS VEGAS, NV, 89115

24 BY 

25 Secretary for the District Attorney's Office
26
27
28

19F12727C/jj/JN/ckb/L3

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: Albrecht, Samantha

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

David L. Stanton Attorney for Defendant

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)

Steven S. Hemin
CLERK OF THE COURT

Florence McClure Women's Correctional Center
4370 Smiley Rd.
Las Vegas, NV 89115

In the 8 Judicial District Court of the State of Nevada

In and for the County of CLARK

In the matter of:

LEQUANA BROWN

Plaintiff/Petitioner

THE STATE OF NEVADA

Defendant/Respondent

Case No: C-19-344112-3

Dept No.

A-20-823908-W
Dept.17

ORDER APPONTING COUNSEL

The Proper Person Motion of Petitioner, requesting an Order for the Appointment of Counsel to represent her in the above entitled action having moved the Court on this day, and in good cause appearing.

Now, therefore, **IT IS HEREBY ORDERED**, that Steve Owens, Esq. is appointed to represent the above-entitled Petitioner in said proceedings at the expense of the State of Nevada.

Dated this ____ day of _____, 20__

Dated this 4th day of March, 2021

Michael Villani

DISTRICT COURT JUDGE

D19 A3B 5EE8 7B6E
Michael Villani
District Court Judge

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 17
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 Order was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 3/4/2021

15 Department XVII Dept17LC@clarkcountycourts.us

16
17 If indicated below, a copy of the above mentioned filings were also served by mail
18 via United States Postal Service, postage prepaid, to the parties listed below at their last
known addresses on 3/5/2021

19 Lequana Brown #1235328
20 FMWCC
21 4370 Smiley Road
Las Vegas, NV, 89115

22 Steven Wolfson Clark County District Attorney
23 200 Lewis Avenue, 3rd Floor
Las Vegas, NV, 89155
24
25
26
27
28

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 08:30 AM All Pending Motions

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

COURT CLERK: Albrecht, Samantha

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

State of Nevada	Defendant
Steven S. Owens	Attorney for Plaintiff
Vivian Luong	Attorney for 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

Writ of Habeas Corpus

COURT MINUTES

April 13, 2021

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

April 13, 2021 08:30 AM Status Check: File/Set Briefing Schedule

HEARD BY: Ballou, Erika COURTROOM: RJC Courtroom 12C

COURT CLERK: Hurtado, Ro'Shell

RECORDER: Schofield, Susan

REPORTER:

PARTIES PRESENT:

David L. Stanton Attorney for Defendant

Steven S. Owens Attorney for Plaintiff

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

1 **SUPP**

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 FLORENCE McCLURE WOMEN'S
14 CORRECTIONAL CENTER, Warden.

15 Respondents.

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

16 **SUPPLEMENTAL BRIEF IN SUPPORT OF PETITION FOR WRIT OF HABEAS**
17 **CORPUS (POST-CONVICTION)**

18 COMES NOW, Petitioner, LEQUANA BROWN, by and through her counsel of record,
19 STEVEN S. OWENS, ESQ., and hereby submits her supplemental brief in support of Petition
20 for Writ of Habeas Corpus (Post-Conviction).
21

22 This Supplement is made and based upon the pleadings and papers on file herein, the
23 Points and Authorities attached hereto, and any oral arguments adduced at the time of hearing
24 this matter.

25 ///

26 ///

1 DATED this 14th day of June, 2021.

2 Respectfully submitted

3
4 /s/ Steven S. Owens, Esq.
5 STEVEN S. OWENS, ESQ.
6 Nevada Bar No. 4352
7 1000 N. Green Valley #440-529
8 Henderson, Nevada 89074
9 (702) 595-1171

10 Attorney for Petitioner
11 LEQUANA BROWN

12 **STATEMENT OF THE CASE**

13 On October 17, 2019, Lequana Brown was charged by way of grand jury indictment with
14 multiple counts of conspiracy, burglary, and armed robbery. Brown pleaded not guilty on
15 October 24, 2019 and received a speedy trial setting within 60 days for January 6, 2020. After a
16 motion for consolidation with other cases in the system was denied, Brown eventually pleaded
17 guilty on March 12, 2020. Shortly thereafter, Brown expressed a desire to withdraw her plea and
18 for appointment of alternate counsel which was granted. New counsel, Matthew Lay, confirmed
19 as counsel on May 7, 2020. Eventually, Brown proceeded with a new plea canvass and an
20 amended guilty plea agreement on June 18, 2020. She was sentenced on that same date and the
21 judgment of conviction was filed on June 22, 2020. No direct appeal was filed.

22 On October 29, 2020, Brown filed a pro se habeas petition and motion to appoint counsel
23 for post-conviction relief. The State responded on December 17, 2020, and the court then entered
24 a minute order on February 25, 2021, granting the appointment of counsel. Undersigned counsel
25 confirmed on March 9, 2021, and the instant supplemental petition now follows.

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1 124 Nev. 1032, 1039, 194 P.3d 1224 (2008). Manifest injustice may also be demonstrated by a
2 “failure to adequately inform a defendant of the consequences of his plea.” *Id.* Citing *Paine v.*
3 *State*, 110 Nev. 609, 619, 877 P.2d 1025, 1031 (1994) *overruled on other grounds by Leslie v.*
4 *Warden*, 118 Nev. 773, 780–81, 59 P.3d 445–46 (2002).

5 “[A] guilty plea is a grave and solemn act to be accepted only with care and
6 discernment.” *Brady v. United States*, 397 U.S. 742, 748, 90 S. Ct. 1463, 25 L.Ed. 2d 747
7 (1970); *Parker v. State*, 100 Nev. 264, 265, 679 P.2d 1271 (1984) (“Entry of a guilty plea is a
8 solemn process”). The longstanding test for determining the validity of a guilty plea has been
9 “whether the plea represents a voluntary and intelligent choice among the alternative courses of
10 action open to the defendant.” *North Carolina v. Alford*, 400 U.S. 25, 31, 91 S. Ct. 160, 27 L.
11 Ed. 2d 162 (1970); *Hill v. Lockhart*, 474 U.S. 52, 56, 106 S. Ct. 366, 88 L. Ed. 2d 203 (1985).
12 [A] Plea cannot support a judgment of guilt unless it [is] voluntary in a constitutional sense.”
13 “A plea of guilty is more than a confession which admits that the accused did various acts; it is
14 itself a conviction; nothing remains but to give judgment and determine punishment.” *Boykin v.*
15 *Alabama*, 395 U.S. 238, 242, 89 S. Ct. 1709, 23 L. Ed. 2d 274 (1969); *Kercheval v. United*
16 *States*, 274 U.S. 220, 223, 47 S. Ct. 582, 71 L. Ed. 1009 (1927).
17

18 The Court must set aside a guilty plea when the record does not disclose that the
19 defendant understood the elements of the offense and the defendant did not make a factual
20 statement constituting admission to the charge. *Tiger v. State*, 98 Nev. 555, 558, 654 P.2d 1031
21 (1982); *Love v. State*, 99 Nev. 147, 148, 659 P.2d 876 (1983); *Barlow v. State*, 99 Nev. 197,
22 198, 660 P.2d 1005 (1983). “In reviewing an attack on a guilty plea a court must consider
23 whether the plea was voluntarily entered as well as whether, considered as a whole, the process
24 by which the plea was obtained was fundamentally fair.” *Taylor v. Warden*, 96 Nev. 272, 274,
25
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27
28

1 607 P.2d 587 (1980). Further, the Nevada Supreme Court has held the court should consider the
2 “totality of the circumstances”. *Rubio*, 124 Nev. at 1046. *See also Little v. Warden*, 117 Nev.
3 845, 851, 34 P.3d 540, 544 (2001).

4 When viewed based upon the totality of the circumstances, Brown submits she is
5 entitled to withdraw her plea and proceed to trial due to a manifest injustice. The confusing and
6 protracted process by which the plea in this case was entered undermines any conclusion that it
7 was knowingly, intelligently, and voluntarily given. Initially, the record reflects that by
8 November 19, 2019, an offer was made by the State for Brown to plead guilty to two counts of
9 robbery with use of a deadly weapon, one count in this case and the other count in another
10 case¹, and stipulate to 6 to 15 years in prison. Additional offers were also made to co-
11 defendants, all contingent on one another, and all offers were eventually revoked on December
12 5, 2019. Yet, on January 3, 2020, there were additional negotiations with Brown agreeing to
13 plead guilty if she could get house arrest, but the court denied this request. Confusingly, the
14 offers that had been revoked on December 5, 2019, had apparently been re-offered before being
15 revoked yet again. To punish Brown for holding up the global plea negotiation and to apply
16 additional pressure to Brown, the State filed a notice of habitual criminal treatment, despite one
17 of the priors being for drugs. Then, on March 12, 2020, apparently another offer had been
18 extended and Brown said she needed time to think about it, but the prosecutor said she needed
19 to plead guilty, “right now, otherwise its going to be revoked and there won’t be any other
20 offers made.” In the midst of the plea canvass, Brown had questions about why there was a
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26 ¹ Presumably, the other case was C-19-344268-2 where Brown was charged with multiple counts of Burglary,
27 Grand Larceny, and Robbery along with a co-defendant.

1 deadly weapon enhancement when no weapon was used and the prosecutor revealed that part of
2 the plea deal was fictional. The paperwork then had to be “straightened out” so it would
3 instead be just a robbery in that case, no weapon, but still stipulating to four to ten years, and
4 pleas in both cases would be taken at the same time. When Brown tried to explain her
5 understanding of the weapon usage, the judge expressed frustration and said, “I don’t have time
6 to play games here.” The paperwork was then “fixed,” but during the plea colloquy on the
7 other case Brown got confused about which robbery incident was being discussed and she
8 insisted that she had not used any force in the taking of that property. After being pressured by
9 her attorney and the judge, Brown finally capitulated that she had used force in the other case.
10 Brown then pleaded guilty in the instant case.
11

12 Prior to sentencing, Brown sought to dismiss her counsel and was heard in court on
13 April 30, 2020, where she said she wanted to withdraw her plea because she had been misled by
14 counsel. On June 11, 2020, new counsel represented there was another case in Henderson that
15 was listed in the PSI, but which needed to be included in the negotiations so two new guilty
16 plea agreements were needed. On June 16, 2020, the paperwork still was not in order
17 necessitating yet another continuance. Without first withdrawing from the prior plea or
18 agreement, an amended guilty plea agreement was filed on June 17, 2020, which was signed by
19 counsel Nguyen rather than by Brown herself. Finally, the next day on June 18, 2020, Brown
20 pleaded guilty to one count of robbery with deadly weapon in the present case. Brown
21 represented at that time that she had not received a copy of the amended guilty plea agreement
22 which had already been signed by counsel for her and filed with the court without Brown ever
23 having seen it. But the plea proceeded, nonetheless.
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1 These facts and circumstances show that undue pressure and stress was placed upon
2 Brown over an extended period of time in order to induce her guilty plea. Multiple changes in
3 plea offers, continual revising of written plea agreements, incorrect paperwork, contingent
4 offers designed to turn and pressure co-defendants against each other, frivolous filing of
5 habitual charges, and the multiplicity of charges and cases combined to create a hopelessly
6 confusing situation such that Brown's will was overborne, and the plea was not freely and
7 voluntarily entered.
8

9 **II. INEFFECTIVE ASSISTANCE OF COUNSEL.**

10 Brown submits she received ineffective assistance of counsel before, during, and after
11 entry of plea. Defendants are entitled to effective assistance of counsel in the plea-bargaining
12 process, and in determining whether to accept or reject a plea offer. *Lafler v. Cooper*, 556 U.S.
13 156, 132 S. Ct. 1376 (2012); *see also McMann v. Richardson*, 397 U.S. 759, 771, 90 S. Ct.
14 1441, 1149 (1970) (Constitution guarantees effective counsel when accepting guilty plea).
15 Similarly, a "defendant has the right to make reasonably informed decision whether to accept a
16 plea offer." *Turner v. Calderon*, 281 F.3d 851, 880 (9th Cir. 2002) (quoting *United States v. Day*,
17 969 F.2d 39, 43 (3rd Cir. 1992)).
18

19 To state a claim of ineffective assistance of counsel that is sufficient to invalidate a
20 judgment of conviction, petitioner must demonstrate that: 1) counsel's performance fell below
21 an objective standard of reasonableness, and 2) counsel's errors were so severe that they
22 rendered the verdict unreliable. *Lozada v. State*, 110 Nev. 349, 353, 871 P. 2d 944, 946 (1994).
23 (Citing *Strickland v. Washington*, 466 U. S. 668, 104 S. Ct. 205, (1984)). In meeting the
24 prejudice requirement of ineffective assistance of counsel claim, a defendant must show a
25 reasonable probability that, but for counsel's errors, he would not have pled guilty. *See also*
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1 *Kirksey v. State*, 112 Nev. 980, 923 P.2d 1102 (1997).

2 This case is unique in that it contains not one, but two, entries of guilty pleas. Soon
3 after pleading guilty the first time, Brown sought to dismiss her counsel and was heard in court
4 on April 30, 2020, where she said she wanted to withdraw her plea because she had been misled
5 by counsel. Brown's attorney at the time, Carl Arnold, did not have sufficient contact with her
6 and was generally unavailable for communication to answer questions she had about her case.
7 He misrepresented that he had filed a motion for house arrest or bail reduction when he had not.
8 Most egregiously, he had created a conflict of interest by demanding that Brown solicit other
9 clients for him within the prison in exchange for putting money on her books. In response, the
10 court agreed to appoint new counsel and Matthew Lay confirmed as counsel on May 7, 2020.
11 Lay was given just three weeks to get Brown's files from prior counsel and to speak with
12 Brown in prison about withdrawing her plea. On May 28, 2020, Lay's associate Rochelle
13 Nguyen appeared and represented that their office had the files but needed one more week to
14 talk to Brown about filing a motion to withdraw plea. On June 4, 2020, Brown was not present
15 in court, but Nguyen represented that Brown would *not* be withdrawing her plea and was
16 prepared to go forward with sentencing instead. Given the complexity of the multiple plea
17 deals and cases as set forth above, this was inadequate time for new counsel to have reviewed
18 the entirety of all of the files of the several cases, to clear up any confusion, to explain the
19 consequences and undo the effects of the pressure and stress that had been placed upon Brown
20 throughout the history of the case. Instead of withdrawing the plea as Brown had requested,
21 new counsel compounded the problem by talking their client back into accepting basically the
22 same negotiation that Brown had already repeatedly rejected.
23

24 Had counsel not been deficient in the performance of their duties, the posture of the case
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1 would have been different and Brown would not have pleaded guilty. This case has a built-in
2 error of ineffective assistance of counsel that was not cured by discharging Carl Arnold and
3 then appointing Matthew Lay for a new plea and sentencing. Brown was denied her
4 opportunity to withdraw her guilty plea as she had demanded and was instead induced by
5 counsel to proceed with a guilty plea with which she continually expressed dissatisfaction and
6 confusion.
7

8 **III. EVIDENTIARY HEARING.**

9 The Court has long recognized a petitioner's right to a post-conviction evidentiary
10 hearing when the petitioner asserts claims supported by specific factual allegations not belied
11 by the record that, if true, would entitle him to relief." *Mann v. State*, 118 Nev. 351, 354, 46
12 P.3d 1228, 1230 (2002), citing *Hargrove v. State*, 100 Nev. 498, 503, 686 P.2d 222, 225 (1984).
13 Also, a petitioner is entitled to an evidentiary hearing where the petitioner raises a colorable
14 claim of ineffective assistance. *Smith v. McCormick*, 914 F.2d 1153, 1170 (9th Cir.1990);
15 *Hendricks v. Vasquez*, 974 F.2d 1099, 1103, 1109-10 (9th Cir.1992). *See also Morris v.*
16 *California*, 966 F.2d 448, 454 (9th Cir.1991) (remand for evidentiary hearing required where
17 allegations in petitioner's affidavit raise inference of deficient performance); *Harich v.*
18 *Wainwright*, 813 F.2d 1082, 1090 (11th Cir.1987) ("[W]here a petitioner raises a colorable
19 claim of ineffective assistance, and where there has not been a state or federal hearing on this
20 claim, we must remand to the district court for an evidentiary hearing."); *Porter v. Wainwright*,
21 805 F.2d 930 (11th Cir. 1986) (without the aid of an evidentiary hearing, the court cannot
22 conclude whether attorneys properly investigated a case or whether their decisions concerning
23 evidence were made for tactical reasons).
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1 In the instant case, Petitioner has raised specific factual allegations concerning the
2 validity of the entry of plea and ineffectiveness of counsel's actions which are not belied by the
3 record. An evidentiary hearing is necessary to expand the record concerning these claims.
4

5 **CONCLUSION**

6 Wherefore, Brown respectfully requests this Court grant her Petition due to the
7 ineffective assistance of counsel and invalid plea, or alternatively to hold an evidentiary hearing
8 to allow her an opportunity to establish her claims for relief.

9 Dated this 14th day of June, 2021.

10 Respectfully Submitted,
11

12 /s/ Steven S. Owens, Esq.
13 STEVEN S. OWENS, ESQ.
14 Nevada Bar No. 4352
15 1000 N. Green Valley #440-529
Henderson, Nevada 89074
(702) 595-1171

16 Attorney for Petitioner
17 LEQUANA BROWN
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CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of June, 2021, I served a true and correct copy of the foregoing document entitled **SUPPLEMENTAL BRIEF IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)** to the Clark County District Attorney's Office by sending a copy via electronic mail to:

CLARK COUNTY DISTRICT ATTORNEY'S OFFICE

Steve Wolfson

Motions@clarkcountyda.com

BY:

/s/ Steven S. Owens, Esq.
STEVEN S. OWENS, ESQ.
Nevada Bar No. 4352
1000 N. Green Valley #440-529
Henderson, Nevada 89074
(702) 595-1171

Attorney for Petitioner
LEQUANA BROWN



1 **RSPN**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **JOHN NIMAN**
6 **Deputy District Attorney**
7 **Nevada Bar #14408**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

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

9 **LEQUANA BROWN,**
10 **#2651822**

11 **Petitioner,**

CASE NO: A-20-823908-W

12 **-VS-**

13 **THE STATE OF NEVADA,**

DEPT NO: XVII

14 **Respondent.**

15 **STATE'S RESPONSE TO**
16 **SUPPLEMENTAL BRIEF IN SUPPORT OF PETITION FOR WRIT OF HABEAS**
17 **CORPUS (POST-CONVICTION)**

18 **DATE OF HEARING: August 24, 2021**
19 **TIME OF HEARING: 10:00 AM**

20 **COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County**
21 **District Attorney, through JOHN NIMAN, Deputy District Attorney, and hereby submits the**
22 **attached Points and Authorities in Response to Petitioner's Supplemental Brief in Support of**
23 **Petition for Writ of Habeas Corpus.**

24 **This Response is made and based upon all the papers and pleadings on file herein, the**
25 **attached points and authorities in support hereof, and oral argument at the time of hearing, if**
26 **deemed necessary by this Honorable Court.**

27 **///**

28 **///**

///

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On October 17, 2019, LEQUANA BROWN, aka Lequana Leatrice Brown (hereinafter
4 "Petitioner") was charged by way of Indictment with two (2) counts of CONSPIRACY TO
5 COMMIT ROBBERY (Category B Felony – NRS 200.380, 199.480); two (2) counts of
6 ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony – NRS 200.380,
7 193.165); two (2) counts of BURGLARY (Category B Felony – NRS 205.060); one (1) count
8 of GRAND LARCENY (Category C Felony – NRS 205.220.1, 205.222.2); and one (1) count
9 of OBTAINING AND USING PERSONAL IDENTIFYING INFORMATION OF
10 ANOTHER (Category C Felony – NRS 205.463) for actions on or between June 4, 2019 and
11 June 23, 2019. On March 12, 2020, Petitioner pled guilty, pursuant to a Guilty Plea Agreement
12 ("GPA"), to one (1) count of ROBBERY WITH USE OF A DEADLY WEAPON.
13 Contemporaneous with the GPA, the State filed an Amended Indictment reflecting the single
14 count to which Petitioner pled guilty.

15 Pursuant to the GPA, Petitioner agreed to plead guilty to ROBBERY in a separate case,
16 and the parties stipulated that Petitioner would receive sentences of four (4) to ten (10) years
17 on each count, consecutive to each other.

18 On June 17, 2020, Petitioner executed an Amended GPA, with the amendment being
19 that the State agreed to dismiss a separate case against Petitioner after rendition of sentence in
20 the instant underlying case. On June 18, 2020, the Court canvassed Petitioner regarding the
21 Amended GPA and accepted Petitioner's guilty plea. The Court thereafter sentenced Petitioner
22 to two (2) to five (5) years in the Nevada Department of Corrections for Robbery, with a
23 consecutive two (2) to five (5) years for Use of a Deadly Weapon. Petitioner was given three
24 hundred fifty-eight (358) days of credit for time served. Petitioner's Judgment of Conviction
25 was filed on June 22, 2020.

26 Petitioner did not file a direct appeal. On October 29, 2020, Petitioner filed her Petition
27 for Writ of Habeas Corpus. Petitioner included in her filed Petition a Motion for Appointment
28 of Counsel. The State filed its Response to Petitioner's Petition and Motion on December 17,

1 2020. On February 25, 2021, the Court granted Petitioner's Motion for Appointment of
2 Counsel.

3 On June 14, 2021, Petitioner – through counsel – filed the instant Supplemental Brief
4 in Support of Petition for Writ of Habeas Corpus (Post-Conviction).

5 **STATEMENT OF FACTS**

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

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

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

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

26 Once at the register, Mr. Finks and Ms. Gonzalez gathered a few items that were
27 rung up and exited the store, without paying, with Ms. Brown following behind
them. The victim yelled at the defendant to stop; however, Ms. Brown threw a
28 debit card, that was not in her name, at him saying "here take this. [sic] The
victim saw the defendants in a vehicle along with a fourth person. The victim

1 attempted to retrieve one of the bags of property from Ms. Brown who was in
2 the driver's side rear passenger. Mr. Finks pulled a gun on the victim which
3 caused him to let go and the vehicle fled. Employee #1 noted the license plate
4 while the victim called emergency services. The officers were informed a total
5 \$2,251.91 worth of merchandise was stolen.

6 During the officer's investigation, the victim provided them with surveillance
7 and the PowerAde drink bottles that were left. One of the officers located the
8 vehicle used and noted Mr. Fink was in the driver's seat. A second male was
9 handing shoes to a child who was trying them on. They then saw Ms. Gonzalez
10 enter the passenger side. While they were arresting Ms. Gonzalez, she stated she
11 had a gun in her bra and that Ms. Brown was in apartment 311. Additionally,
12 officers observed Big 5 bags in the vehicle. The officers were able to recover
13 \$481.34 worth of merchandise.

14 Officers went up to the third floor to locate Ms. Brorvn who was in the
15 apartment; however, she was using an alias of Mia Jones. The stolen items
16 recovered were returned to Big 5. After being transported to the Las Vegas
17 Metropolitan Police Department Headquarters, Ms. Brown was interviewed. She
18 admitted she was the person at Big 5 and knew the other defendants. She
19 observed Ms. Gonzalez and Mr. Finks nearby and entered the vehicle to go to
20 Big 5 due to Ms. Gonzalez stating she had coupons. Once in the store, Ms.
21 Brown picked out several shirts and handed them to Ms. Gonzalez who then
22 began bagging up a large amount of clothing, along with the other merchandise
23 before proceeding past all points of entry. Ms. Brown followed Mr. Finks out of
24 the store and the employees followed after them. Mr. Finks then pointed a
25 handgun at the employees. She admitted she never attempted to pay for the items
26 she gave Ms. Gonzalez, nor did she make any attempts to notify police of the
27 crime. Additionally, Ms. Brown admitted she was involved in another robbery
28 of a Champs store on June 4, 2019, after being shown surveillance of that
incident. When the officers interviewed Mr. Finks, he admitted he pointed a gun
at the victim and told him to get the fuck away from the car due to him pulling
on Ms. Brown. Ms. Gonzalez stated Ms. Brown told her she could pick out
whatever she wanted, and she would pay for it. She stated she had a feeling Ms.
Brown was going to use a fake check and a debit card that would not work to
pay for the items. When the commotion started at the car, Ms. Gonzalez stated
that Ms. Brown told Mr. Finks to just drive.

Presentence Investigation Report, at 8-9.

ARGUMENT

I. PETITIONER FAILS TO DEMONSTRATE MANIFEST INJUSTICE

Pursuant to NRS 176.165, once a defendant has been sentenced, She may only
withdraw a guilty plea "[t]o correct manifest injustice." See also, Baal v. State, 106 Nev. 69,

1 72, 787 P.2d 391, 394 (1990). Reviewing courts must view a guilty plea as presumptively
2 valid, and the burden rests with the defendant to establish that her plea was not entered
3 knowingly and intelligently. Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986)
4 (superseded by statute on other grounds as stated in Hart v. State, 116 Nev. 558, 1 P.3d 969
5 (2000)). Manifest injustice does not exist if the defendant entered her plea voluntarily. Baal,
6 106 Nev. at 72, 787 P.2d at 394 (given district court's canvassing and defendant's assertions
7 of voluntariness, the district court did not abuse its discretion in denying defendant's motion
8 to withdraw guilty plea).

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

12 [T]he defendant knowingly waived his privilege against self-incrimination, the
13 right to trial by jury, and the right to confront his accusers; (2) the plea was
14 voluntary, was not coerced, and was not the result of a promise of leniency; (3)
15 the defendant understood the consequences of his plea and the range of
16 punishments; and (4) the defendant understood the nature of the charge, i.e., the
elements of the crime.

17 Wilson v. State, 99 Nev. 362, 367, 664 P.2d 328, 331 (1983) (citing Higby v. Sheriff, 86 Nev.
18 774 476 P.2d 950 (1970)). The presence and advice of counsel is a significant factor in
19 determining the voluntariness of a plea of guilty. Patton v. Warden, 91 Nev. 1, 2, 530 P.2d
20 107, 107 (1975).

21 Therefore, the court accepting a guilty plea must personally address the defendant at
22 the time she enters her plea in order to determine whether she understands the nature of the
23 charges to which she is pleading. Bryant, 102 Nev. at 271, 721 P.2d at 367. A written plea
24 agreement, without some verbal interaction with the defendant, is insufficient. Id. However,
25 the court need not conduct a ritualistic oral canvass. State v. Freese, 116 Nev. 1097, 13 P.3d
26 442 (2000). A guilty plea canvass does not "require the articulation of talismanic phrases."
27 Heffley v. Warden, 89 Nev. 573, 575, 516 P.2d 1403, 1404 (1973). Instead, the record must

1 simply demonstrate that the defendant entered his guilty plea understandingly and voluntarily.
2 Id.; see also, Brady v. United States, 397 U.S. 742, 747-48, 90 S.Ct. 1463, 1470 (1970).

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

11 As a preliminary issue, the State would note that Petitioner’s recounting of (and
12 commentary on) the plea bargaining process is completely devoid of any citation to the record.
13 See generally Supplement. Indeed, the record supports the presumption that Petitioner’s
14 negotiation process, and the resulting Amended GPA, were valid. Bryant, 102 Nev. at 272,
15 721 P.2d at 368.

16 Petitioner fails to provide any relevant legal authority to suggest that Petitioner was
17 entitled to plea negotiations. See generally Supplement. Indeed, Petitioner could not, as the
18 statute on point, NRS 174.035, is *permissive*, rather than compulsory. See NRS 174.035(2)
19 (“If a plea of guilty...is made in a written plea agreement...” (emphasis added)). Therefore,
20 whether the State extended *any* offer, or included *any* limitations on its offer, much less
21 whether the State determined appropriate to revoke its offer, was permissible.

22 Moreover, each of Petitioner’s proposed qualms with her underlying case are expressly
23 belied by the record, and cannot entitle Petitioner to relief. See Hargrove v. State, 100 Nev.
24 498, 502, 686 P.2d 222, 225 (1984) (“bare” and “naked” allegations are not sufficient for
25 relief, nor are allegations belied and repelled by the record). While Petitioner represents simply
26 that the initial offer in Petitioner’s case “were eventually revoked on December 5, 2019,” the
27 record demonstrates clearly that on November 19, 2019, the State placed the offer on the
28 record, and advised all parties that the offer would expire on December 5, 2019. See Court

1 Minutes (Case No. C344112-3), dated November 19, 2019. Petitioner *rejected* that offer, and
2 therefore the State withdrew it. Compare Supplement at 5:11-14 with Court Minutes (Case
3 No. C344112-3), dated December 5, 2019. Thereafter, on January 3, 2020, Petitioner rejected
4 negotiations *yet again*; however, the transcript of that proceeding provides context, which is
5 not at all “confusing,” as Petitioner entreats this Court to believe. See Recorder’s Transcript
6 of Proceedings, dated January 3, 2020 (filed May 5, 2020) (“RT 1.03.20”). To begin,
7 Petitioner’s claim that contingent negotiations, based on Petitioner’s procurement of house
8 arrest, occurred is patently false. At the January 3, 2020, hearing, Petitioner made an oral
9 request for release on house arrest or electronic monitoring, providing the following
10 explanation:

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

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

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

25 Id. at 5:11-20. Having been unsuccessful in her attempt, Petitioner reneged on the agreed-upon
26 plea agreement. Id. at 6:4-9 (Petitioner had already signed the plea agreement, but told the
27 Court she did not want to go through with it). Therefore, the record demonstrates that release
28 from custody was *Petitioner’s* condition – not a term of negotiations – and therefore is
completely irrelevant to Petitioner’s claim of manifest injustice.

While Petitioner attempts to frame the re-opening of plea negotiations as “confusing,”
the circumstances of those negotiations were placed on the record at the January 3, 2020,
hearing:

1 [STATE]: The offers that are currently on the table today have already been
2 revoked previously. When *Mr. Arnold told us that Ms. Brown was interested in*
3 *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.

4 RT 1.03.20 at 8:17-22 (emphasis added). Therefore, the record makes clear that *Petitioner*
5 came back to the negotiating table and initiated discussions; as such, there is nothing
6 "manifestly unjust" about the State being willing to engage with *Petitioner's request*.

7 Petitioner also attempts to frame the State's filing of a Notice of Intent to Seek
8 Punishment as a Habitual Criminal as intended "[t]o punish Brown." Supplement at 5:17.
9 However, Petitioner points to nothing in the record to support her claim of some nefarious
10 purpose. See id. Rather, a review of that Notice shows that the convictions to which the State
11 referred were from California.¹ See Notice at 1-2. Thus, it is more likely that the State was
12 simply waiting for those certified judgments, and confirming the status of potential
13 negotiations, before proceeding with filing such a notice because it appeared the case was
14 proceeding to trial.

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

23 ...Your Honor, at this point, the State's going to revoke the offer. We have a
24 pre-trial at 2:00 o'clock, We've already pre-trialed several people. If she wants
25 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.

26 ¹ Petitioner also puzzlingly submits that the State filed its Notice "despite one of the priors
27 being for drugs." Supplement at 5:18-20. However, Petitioner does not challenge the habitual
28 criminal statute, nor does she suggest that her drug conviction did not expressly qualify under
that statute. See id.; see also NRS 207.010(1)(a) (including "[a]ny felony"). Therefore, again,
this aside is irrelevant to Petitioner's claim of manifest injustice.

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

6 Thereafter, Petitioner changed her decision and decided to proceed with the guilty plea.
7 RT 3.12.20 at 6:14-19. During that March 12, 2020, plea canvass, the issue regarding the
8 "deadly weapon" charge arose. See id. at 10:23-11:14; see also Supplement at 5:23-6:2.
9 However, the parties agreed to modify negotiations so that Petitioner would only be pleading
10 to the use of a deadly weapon in a single case. Id. at 11:23-12:4. After the parties had agreed
11 to modify negotiations, the Court had proceeded, yet again, with a plea canvass, Petitioner
12 began to quibble about the *second* deadly weapon charge. Id. at 13:19-14:2. However, the
13 Court explained to Petitioner how that charge could apply to her:

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

15 DEFENDANT BROWN: Yes.

16 THE COURT: Okay. Do you – because as an aider and abettor, you
17 understand that you're liable for everything they do and they're liable for what
18 you do as well as part of the conspiracy to commit this crime? Do you understand
19 that?

20 DEFENDANT BROWN: Yeah.

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

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

27 DEFENDANT BROWN: Yes.

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

 DEFENDANT BROWN: Yes.

 THE COURT: Are you sure?

1 DEFENDANT BROWN: Yes.

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

8 DEFENDANT BROWN: Yeah.

9 Id. at 14:11-15:3. Therefore, the Court did *not* "express frustration" as Petitioner seeks now to
10 present – instead, the Court was making sure the situation was clear, so that the matter could
11 progress (whether to trial or to a guilty plea). As such, there was nothing "manifestly unjust"
12 about this exchange.

13 Petitioner concludes her analysis of the March 12, 2020, hearing by asserting that she
14 was "pressured by her attorney and the judge." Supplement at 6:9-11. This assertion is belied
15 by the transcript of the plea canvass. When the Court asked Petitioner to confirm the factual
16 basis for her plea, Petitioner equivocated. RT 3.12.20 at 19:3-22. Petitioner's attorney then
17 submitted that there was video evidence that Petitioner had "used her forearm to move [a clerk]
18 out of the way to get out the door." Id. at 19:23-20:3. When asked to confirm that submission,
19 Petitioner agreed. Id. at 20:5. However, Petitioner disagreed that her action constituted force.
20 Id. at 20:6-16. The Court then attempted to clarify the situation, and specify which facts
21 Petitioner would admit. Id. at 20:13-22:23. The State then offered that Petitioner had told the
22 clerk to "back off, or you know, I'll stab you, or something like that, and that was the threat
23 or force that was used in this case..." Id. at 22:24-23:4. After Petitioner again equivocated, the
24 Court ended its canvass and intended to proceed to trial. See id. at 23:24:8. Again, *Petitioner's*
25 *counsel* called the Court back to proceed with the plea. Id. at 24:11-14. Rather than tell
26 Petitioner what it wanted to hear, the Court simply asked, "What did you do, ma'am?" Id. at
27 24:15. Petitioner's counsel then clarified, "What force did you use...to get out of there?" Id.
28 at 24:21-23. Petitioner then volunteered: "I told [the clerk] if she touched me – I said if she
touched me when she come I'll beat her ass." Id. at 25:1-2. While *co-defendant's counsel* may

1 have interjected something to which Petitioner did not agree,² the transcript shows that
2 Petitioner volunteered this element of robbery, without any coercion whatsoever. See id. at
3 26:1-7. Because the context shows that the Court and Petitioner's counsel each *clarified* the
4 elements of the crime with which Petitioner was charged, and because Petitioner fails to offer
5 any specific instance of pressure or coercion, this assertion likewise fails to meet Petitioner's
6 burden.

7 Petitioner next makes much ado about the Amended GPA, asserting that it was filed
8 "without first withdrawing from the prior plea or agreement" and that it was "signed by
9 counsel Nguyen rather than by Brown herself." Supplement at 6:18-21. Petitioner also raises
10 her representation at her entry of plea that "she had not received a copy of the amended guilty
11 plea agreement." Id. at 16:22-23. However, these claims are easily dispensed with, as the
12 record debunks each. First, the transcript of the June 16, 2020, hearing shows that that the
13 extraneous Henderson case had been contemplated as part of the original plea agreement, and
14 that the GPA was amended simply "for clarity and conformity." RT 6.16.20 at 2:16-20.
15 Petitioner affirmed her understanding of the clerical change. Id. at 5:7-14. Thus, because the
16 GPA was amended for a *clerical* change, and did not substantively change the negotiations,
17 there was no "manifest injustice" in the Court proceeding with the Amended GPA.

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

26
27
28 ² 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 Finally, there was no “manifest injustice” from Petitioner’s lack of possession of a
2 physical copy of her Amended GPA prior to her plea canvass. Out of an abundance of caution
3 (“[b]ecause of the tortured history of this case”) the Court wanted to have all of the documents
4 together, and wanted Petitioner to have every document “in front of [her]” before proceeding.
5 Id. at 6:13-20. When Petitioner indicated that she had not yet received such a copy, counsel
6 indicated that she had left one with CCDC, but that the COVID-19 protocols were making it
7 difficult for physical copies to get to inmates. Id. at 3:25-4:7. Counsel also made clear that she
8 had reviewed the Amended GPA “word for word” with Petitioner. Id. at 3:22. The Court
9 verified that with Petitioner:

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

11 DEFENDANT BROWN: Yes.

12 THE COURT: She read everything to you?

13 DEFENDANT BROWN: Yes, she did.

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

15 DEFENDANT BROWN: Yes.

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

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

19 DEFENDANT BROWN: Yes.

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

24 In sum, Petitioner offers only conspiratorial vagaries regarding the procedural history
25 of her guilty plea, lacking any citation to the record or legal substantiation for her inferred
26 deficiencies therein. See Supplement at 3-7. Therefore, Petitioner has failed to demonstrate
27 “manifest injustice” warranting relief.
28

II. PETITIONER FAILS TO DEMONSTRATE INEFFECTIVE ASSISTANCE OF COUNSEL

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

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

Even if a defendant can demonstrate that her counsel's representation fell below an objective standard of reasonableness, she must still demonstrate prejudice and show a reasonable probability that, but for counsel's errors, the result of the trial would have been different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing Strickland, 466 U.S. at 687, 104 S.Ct. at 2064). “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” Id. (citing Strickland, 466 U.S. at 687-89, 694, 104 S.Ct. at 2064-65, 2068). This portion of the test is slightly modified when the convictions occurs due to a guilty plea. Hill v. Lockhart, 474 U.S. 52, 59, 106 S.Ct. 366, 370 (1985); Kirksey v. State, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996). For a guilty plea, a

1 defendant “must show that there is a reasonable probability that, but for counsel’s errors, he
2 would not have pleaded guilty and would have insisted on going to trial.” Kirksey, 112 Nev.
3 at 998, 923 P.2d at 1107 (quoting Hill, 474 U.S. at 59, 106 S.Ct. at 370).

4 The court begins with the presumption of effectiveness and then must determine
5 whether the defendant has demonstrated by a preponderance of the evidence that counsel was
6 ineffective. Means v. State, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004). “Effective counsel
7 does not mean errorless counsel, but rather counsel whose assistance is ‘[w]ithin the range of
8 competence demanded of attorneys in criminal cases.’” Jackson v. Warden, 91 Nev. 430, 432,
9 537 P.2d 473, 474 (1975).

10 Here, Petitioner initially pled guilty, but then requested new counsel be appointed to
11 look into withdrawing Petitioner’s plea. See Court Minutes dated April 30, 2020. New counsel
12 was confirmed on May 7, 2020. See Court Minutes dated May 7, 2020. However, at the status
13 check on Petitioner’s plea withdrawal, new counsel represented that she had spoken with
14 Petitioner, and that Petitioner was instead “prepared to go forward with sentencing.” RT
15 6.04.20 at 2:9-12. Indeed, on June 16, 2020, the Court confirmed with Petitioner that she no
16 longer wished to withdraw her plea, but wished “to go forward with the negotiations for [her]
17 two cases.” RT 6.16.20 at 2:10-3:2 (Petitioner affirming that she wished to proceed).
18 Therefore, because Petitioner affirmed that *she* wished to forego her efforts to withdraw her
19 guilty plea, Petitioner cannot demonstrate prejudice. Kirksey, 112 Nev. at 998, 923 P.2d at
20 1107. Furthermore, Petitioner’s decision to proceed with sentencing precludes her plea for a
21 finding of ineffectiveness here, as nothing in the record indicates that counsel had made a
22 value judgment on the likelihood of success of a motion to withdraw, and Petitioner fails to
23 provide any citations that support a finding of ineffectiveness.³ See Supplement at 7-9.

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27 ³ Indeed, Petitioner’s assertion that she was “induced by counsel to proceed with [her] guilty
28 plea” is bare and naked, as it is unsupported by any specific citation to the record, and is
therefore insufficient to overcome the presumption of counsel’s effectiveness. Hargrove, 100
Nev. at 502, 686 P.2d at 225; Means, 120 Nev. at 1011, 103 P.3d at 32.

1 Because the record supports only the finding that Petitioner voluntarily abandoned her
2 attempt to withdraw her plea, counsel's performance is not in question, and Petitioner is not
3 entitled to relief.

4 **III. AN EVIDENTIARY HEARING IS NOT NECESSARY**

5 NRS 34.770 determines when a defendant is entitled to an evidentiary hearing. It reads:

- 6 1. The judge or justice, upon review of the return, answer and all supporting
7 documents which are filed, shall determine whether an evidentiary hearing
8 is required. A petitioner must not be discharged or committed to the custody
9 of a person other than the respondent *unless an evidentiary hearing is held*.
10 2. If the judge or justice determines that the petitioner is not entitled to relief
and an evidentiary hearing is not required, he shall dismiss the petition
without a hearing.
3. If the judge or justice determines that an evidentiary hearing is required, he
shall grant the writ and shall set a date for the hearing.

11 (Emphasis added).

12 The Nevada Supreme Court has held that if a petition can be resolved without
13 expanding the record, then no evidentiary hearing is necessary. Marshall v. State, 110 Nev.
14 1328, 885 P.2d 603 (1994); Mann v. State, 118 Nev. 351, 356, 46 P.3d 1228, 1231 (2002). A
15 defendant is entitled to an evidentiary hearing if his petition is supported by specific factual
16 allegations, which, if true, would entitle him to relief unless the factual allegations are repelled
17 by the record. Marshall, 110 Nev. at 1331, 885 P.2d at 605; see also Hargrove, 100 Nev. at
18 503, 686 P.2d at 225 (holding that "[a] defendant seeking post-conviction relief is not entitled
19 to an evidentiary hearing on factual allegations belied or repelled by the record"). "A claim is
20 'belied' when it is contradicted or proven to be false by the record as it existed at the time the
21 claim was made." Mann, 118 Nev. at 354, 46 P.3d at 1230 (2002). Indeed, it is improper to
22 hold an evidentiary hearing simply to make a complete record. See State v. Eighth Judicial
23 Dist. Court, 121 Nev. 225, 234, 112 P.3d 1070, 1076 (2005) ("The district court considered
24 itself the 'equivalent of . . . the trial judge' and consequently wanted 'to make as complete a
25 record as possible.' This is an incorrect basis for an evidentiary hearing.").

26 As set forth at length, *supra*, Petitioner's claims lack any citation to the record, and are
27 instead belied by the record in this case. See Sections I-II, supra; Hargrove, 100 Nev. at 502,
28 686 P.2d at 225. Therefore, Petitioner's claims are suitable only for summary denial, and no

1 expansion of the record is necessary. Marshall, 110 Nev. 1328, 885 P.2d 603. Indeed,
2 Petitioner includes only a generic assertion that “[a]n evidentiary hearing is necessary to
3 expand the record concerning these claims,” but does not specify *what* needs to be expanded
4 upon at such a hearing, or how that would alter Petitioner’s belied claims. See Supplement at
5 9-10.

6 Because Petitioner fails to set forth any reasoning to support expanding the record, and
7 because the instant Petition and Supplement may be resolved without any such expansion, the
8 State respectfully requests that this Court deny Petitioner’s request for an evidentiary hearing.

9 **CONCLUSION**

10 For the foregoing reasons, the State respectfully requests that this Court summarily
11 DENY Petitioner’s Petition for Writ of Habeas Corpus, and his Supplement thereto.

12
13 DATED this 24th day of July, 2021.

14 Respectfully submitted,

15 STEVEN B. WOLFSON
16 Clark County District Attorney
17 Nevada Bar #001565

18 BY: 
19 JOHN NIMAN
20 Deputy District Attorney
21 Nevada Bar #14408

22 **CERTIFICATE OF SERVICE**

23 I certify that on the 24th day of July, 2021, I e-mailed a copy of the foregoing to:

24 NAME STEVEN OWENS, ESQ.
25 E-Mail: owenscrimlaw@gmail.com

26 BY: 
27 Secretary for the District Attorney’s Office

28 JN/mah/L3

RPLY

STEVEN S. OWENS, ESQ
Nevada Bar No. 4352
1000 N. Green Valley #440-529
Henderson, Nevada 89074
Telephone: (702) 595-1171
owenscrimlaw@gmail.com
Attorney for Petitioner Lequana Brown

**DISTRICT COURT
CLARK COUNTY, NEVADA**

LEQUANA BROWN,

Petitioner,

vs.

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

Respondents.

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

**REPLY TO STATE'S RESPONSE TO SUPPLEMENTAL BRIEF IN SUPPORT OF
PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)**

COMES NOW, Petitioner, LEQUANA BROWN, by and through her counsel of record,
STEVEN S. OWENS, ESQ., and hereby submits her Reply to State's Response to Supplemental
Brief in Support of Petition for Writ of Habeas Corpus (Post-Conviction).

This Reply is made and based upon the pleadings and papers on file herein, the Points
and Authorities attached hereto, and any oral arguments adduced at the time of hearing this matter.

///

///

///

1 DATED this 16th day of August, 2021.

2 Respectfully submitted

3
4 /s/ Steven S. Owens, Esq.
5 STEVEN S. OWENS, ESQ.
6 Nevada Bar No. 4352
7 1000 N. Green Valley #440-529
8 Henderson, Nevada 89074
9 (702) 595-1171

10 Attorney for Petitioner
11 LEQUANA BROWN

12 **ARGUMENT**

13 **I. MANIFEST INJUSTICE.**

14 The State first complains that the supplemental brief is “completely devoid of any
15 citation to the record.” State’s Response, p. 6. While citations to the record may be required
16 for an appeal, no such requirement is found for supplemental briefs in support of habeas
17 petitions. See NRS 34.735, 34.750. Nonetheless, where appropriate, the supplemental brief
18 generally references dates, transcripts, and hearings in support of the specific facts alleged.

19 Next, Petitioner does not claim that she was “entitled” to plea negotiations or that the
20 State may never revoke an offer. The authority of the State is a non-issue. While the State is
21 not required to extend any offer of negotiations, if it does so by repeatedly extending but then
22 revoking multiple offers over time the effect can be coercive and confusing on the defendant as
23 in the present case. The repeated extending and revoking of plea offers was a tactic designed to
24 coerce Petitioner’s plea.
25
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Petitioner agrees that she made an oral request for release on house arrest prior to pleading guilty on January 3, 2020, and that such was not included as a term of the negotiations. The point is that it should have been and that was her understanding. Petitioner's confusion is apparent at that hearing where she was represented not by her attorney of record, but by some stand-in counsel who left her alone to make the oral request for release from custody. Petitioner represented to the court that her counsel of record had assured her that such a written motion for release had been filed, but she was surprised to learn that it had not been filed. This is also part of the claim of ineffective assistance of counsel claim below. The State responded to Petitioner's misunderstanding and lack of adequate legal representation by revoking the offer for the second time ("but if the offers aren't being entered into today it will again be revoked"). Transcript 1/3/20, p. 8. This was a false threat designed to coerce and rush Petitioner. True to form, the previously revoked offer was re-extended for a third time when the prosecutor almost immediately revoked it for a third time:

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

Transcript 3/12/20, p. 4. Certainly, the State has authority to extend and revoke offers, but in this case it was a game and the State abused its power by strategically maneuvering and threatening Petitioner into pleading guilty.

In regard to the filing of habitual notice to punish Petitioner for not previously going through with negotiations, Petitioner does not dispute that only two prior convictions for “any felony” in theory can support habitual adjudication. *Arajakis v. State*, 108 Nev. 976, 983, 843 P.2d 800, 805 (1992) (“NRS 207.010 makes no special allowance for non-violent crimes or for the remoteness of convictions; instead, these are considerations within the discretion of the

1 district court.”). However, when one of those prior convictions is for drugs and is 17 years old,
2 the State knew it stood no realistic chance of obtaining a habitual adjudication that would stand
3 up on appeal, which implies it was only filed to apply further pressure or coercion to get
4 Petitioner to plead guilty.

5 As to the deadly weapon confusion, the State’s argument highlights how the court
6 misled Petitioner when it told her, “as an aider and abettor, you understand that you’re liable for
7 everything they do and they’re liable for what you do as well as part of the conspiracy to
8 commit this crime?” Transcript 3/12/20, p. 9. Actually, the law in Nevada is that a defendant
9 must have 1) knowledge of the firearm, and 2) benefit from its use before there is aiding and
10 abetting liability of an armed defendant. *Nelson v. State*, 123 Nev. 534, 170 P.3d 517 (2007).
11 It is no wonder Petitioner did not understand the plea as the information given to her was
12 inaccurate.
13

14 Finally, it remains fact that there are not one, but two, plea canvasses and guilty plea
15 agreements filed in this case. Which one controls? Is it the first? The second? Both? Or
16 neither? The State simply explains the sequence of events that led to this anomaly, but it
17 remains that there is no legal authority or precedent for having two plea canvasses and two plea
18 agreements in the record.
19

20 **II. INEFFECTIVE ASSISTANCE OF COUNSEL.**

21 Petitioner disagrees that new counsel was appointed to simply “look into withdrawing
22 Petitioner’s plea.” State’s Response, p. 14. Rather, Petitioner unequivocally expressed her
23 need and desire for alternate counsel specifically to withdraw her plea because it had been
24 falsely induced:
25

26 I was under false and um – he gave me false information about me going to – I
27 was supposed to start trial basically and then I had signed for a deal before this
28

1 deal that I took. So I was under the impression that I was coming to court to
2 finish that deal cause I had signed for it which that's not what I went to court for.
3 I didn't know about me taking – this going to – get the 8 years –

4 Transcript 4/30/20, p. 2. Prior counsel's derelictions are set forth in much more detail in the
5 pro se habeas petition filed on October 29, 2020.

6 Although new counsel represented on June 4, 2020, that Petitioner was prepared to go
7 forward with "sentencing," Petitioner herself was not present and was never actually asked
8 whether she had changed her mind about wanting to withdraw her guilty plea. Instead, at the
9 next court hearing on June 16, 2020, the court simply asked Petitioner if she was prepared to go
10 forward with "negotiations." Transcript 6/16/20, p. 2-3. After appointment of new counsel,
11 Petitioner's expressed desire to withdraw from her guilty plea was simply not addressed again
12 on the record.
13

14 **III. EVIDENTIARY HEARING.**

15 Petitioner agrees that a claim is "belied" when it is "contradicted or proven to be false
16 by the record as it existed at the time the claim was made." State's Response, p. 15, *quoting*
17 *Mann v. State*, 118 Nev. 351, 354, 46 P.3d 1228, 1230 (2002). However, Petitioner disagrees
18 that the claims made in this case are proven wrong by the existing record. Rather, the record is
19 wholly silent or conflicting as to whether and how new counsel talked Petitioner out of
20 withdrawing her guilty plea. The existing record actually supports Petitioner's claim that her
21 will was overborne by bad advice of counsel, multiple changes in plea offers, continual revising
22 of written plea agreements, incorrect paperwork, contingent plea offers, frivolous habitual
23 charges, and a multiplicity of cases.
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1 Wherefore, Brown respectfully requests this Court grant her Petition due to the
2 ineffective assistance of counsel and invalid plea, or alternatively to hold an evidentiary hearing
3 to allow her an opportunity to establish her claims for relief.

4 Dated this 16th day of August, 2021.

6 Respectfully Submitted,

7 /s/ Steven S. Owens, Esq.
8 STEVEN S. OWENS, ESQ.
9 Nevada Bar No. 4352
10 1000 N. Green Valley #440-529
11 Henderson, Nevada 89074
12 (702) 595-1171

13 Attorney for Petitioner
14 LEQUANA BROWN
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CLARK COUNTY DISTRICT ATTORNEY'S OFFICE
Steve Wolfson
Motions@clarkcountyda.com

/s/ Steven S. Owens, Esq.
STEVEN S. OWENS, ESQ.
Nevada Bar No. 4352
1000 N. Green Valley #440-529
Henderson, Nevada 89074
(702) 595-1171

7

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: Albrecht, Samantha

RECORDER: Santi, Kristine

REPORTER:

PARTIES PRESENT:

Seleste A Wyse Attorney for Defendant

State of Nevada Defendant

Steven S. Owens Attorney for Plaintiff

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

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 08:30 AM Status Check: Scheduling Evidentiary Hearing

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

COURT CLERK: Albrecht, Samantha

RECORDER: Santi, Kristine

REPORTER:

PARTIES PRESENT:

John T. Niman Attorney for Defendant

State of Nevada Defendant

Steven S. Owens Attorney for Plaintiff

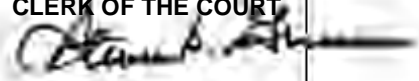
JOURNAL ENTRIES

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



1 NOCH

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5 *****

6 Lequana Brown, Plaintiff(s)

Case No.: A-20-823908-W

7 vs.

Department 19

8 State of Nevada, Defendant(s)

9
10 **NOTICE OF CHANGE OF HEARING**

11 The hearing on the Status Check presently set for September 09, 2021, at 8:30 AM has been
12 moved to the 9th day of September, 2021, at 8:30 AM and will be heard by Judge Crystal
13 Eller.

14
15 STEVEN D. GRIERSON, CEO/Clerk of the Court

16 By: /s/ Tangel Stowe

17 Tangel Stowe

18 Deputy Clerk of the Court
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CERTIFICATE OF SERVICE

I hereby certify that this 4th day of September, 2021

☐ The foregoing Notice of Change of Hearing was electronically served to all registered parties for case number A-20-823908-W.

☐ I mailed, via first-class, postage fully prepaid, the foregoing Clerk of the Court, Notice of Change of Hearing to:

Steven S Owens
PO Box 552212
Las Vegas NV 89155-221

☐ I placed a copy of the foregoing Notice of Change of Hearing in the appropriate attorney folder located in the Clerk of the Court's Office:

Steven S. Owens
David L. Stanton
Agnes M Botelho
Steven B Wolfson
Vivian Luong
Seleste A Wyse

/s/ Tanjel Stowe

Tanjel Stowe
Deputy Clerk of the Court

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: Scheduling Evidentiary Hearing

HEARD BY: Eller, Crystal

COURTROOM: RJC Courtroom 03E

COURT CLERK: Moleres, Cynthia

RECORDER: Amoroso, Brittany

REPORTER:

PARTIES PRESENT:

John T. Niman

Attorney for Defendant

Steven S. Owens

Attorney for Plaintiff

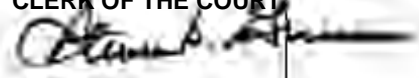
JOURNAL ENTRIES

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



1 RTRAN

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4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8 LEQUANA BROWN,) CASE NO.: A-20-823908-W
9 Plaintiff,) DEPT. XIX
10 vs.)
11 STATE OF NEVADA,)
12 Defendant.)

13
14 BEFORE THE HONORABLE CRYSTAL ELLER, DISTRICT COURT JUDGE
15 THURSDAY, NOVEMBER 4, 2021

16 **RECORDER'S TRANSCRIPT OF HEARING RE:**
17 **EVIDENTIARY HEARING**

18 APPEARANCES:

19 For the Plaintiff: STEVEN S. OWENS, ESQ.
20 [Via Bluejeans]

21 For the Defendant: JOHN T. NIMAN, ESQ.
22 Deputy District Attorney

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25 RECORDED BY: BRITTANY AMOROSO, COURT RECORDER

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Las Vegas, Nevada; Thursday, November 4, 2021

[Hearing commenced at 1:49 p.m.]

THE COURT CLERK: Lequana Brown versus State of Nevada.

MR. OWENS: Steve Owens present for Ms. Brown.

MR. NIMAN: And John Niman on behalf of the State.

MR. OWENS: And Ms. Brown is appearing via Bluejeans as am I.

THE COURT: Ms. Brown?

THE WITNESS: Ms. Brown right here. Yes.

THE COURT: Okay. I see you.

All right. This is the time we have set for Evidentiary Hearing with regard to writ of habeas corpus to withdraw a plea.

I guess, Mr. Owens, do you want to begin?

MR. OWENS: Certainly. Judge, we argued this -- briefed it and argued it previously to Judge Villani who ordered an Evidentiary Hearing so I've got two witnesses hear today, Rochelle Nguyen who was counsel for the plea and then Ms. Brown will testify.

I'd like to start by calling Rochelle Nguyen.

THE COURT: Thank you.

THE COURT CLERK: Ms. Nguyen, can you raise your right hand for me?

ROCHELLE NGUYEN

[having been called as a witness and being first duly sworn testified as

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follows:]

THE COURT CLERK: You're muted.

THE WITNESS: Am I still muted?

THE COURT CLERK: There you go. Thank you. Please state and spell your name --

THE WITNESS: I do.

THE COURT CLERK: -- for the record.

THE WITNESS: Rochelle Nguyen, R-O-C-H-E-L-L-E, last name is N as in Nancy, G-U-Y-E-N.

DIRECT EXAMINATION

BY MR. OWENS:

Q Ms. Nguyen, you're partnered in a legal practice with attorney Matthew Lay; is that correct?

A That's correct.

Q And your office received the appointment to represent Lequana Brown in the underlying criminal case that's before the Court today; is that right?

A That's correct. I believe we were appointed and confirmed as counsel on May 7th, 2020.

Q And between you and Matthew Lay, you were the one that predominantly made the court appearances and had interactions with Ms. Brown; is that right?

A That's correct.

Q So, on the date of your appointment, which you said was May 7th of 2020, do you recall the status of the case and what had gone on

1 before then?

2 A We did have the opportunity to look at it. Usually we will get a
3 little bit of advanced notice that we're being appointed to a case. And
4 even when we don't have the file, it's my practice to kind of look through
5 Odyssey and pull down the documents to kind of see what the
6 procedural history of the case was.

7 So, it was my understanding that she had entered a plea
8 previously with Mr. Arnold and was seeking to withdraw that plea.

9 Q Very good. Do you remember anything about her interactions
10 with Mr. Arnold that caused him to be withdrawn as counsel?

11 A Prior to my appointment and prior to speaking with her, you
12 could tell from the court records that she had questions even during the
13 plea, just from the minutes. I saw some minutes that indicated that she
14 would only take a deal if there was house arrest and the Judge, even in
15 the minutes, said something about how he wasn't going to let her take a
16 deal just to get out of custody.

17 So, I saw some of that and then it wasn't until I spoke with her
18 that I realized what the issues were with Mr. Arnold.

19 Q Okay. And you're aware that she asked to withdraw Carl
20 Arnold and wanted to withdraw her guilty plea when she appeared in
21 court on May 30th? I guess that's just a week before your office was
22 appointed. She had expressed to the judge she wanted to withdraw
23 from that plea with Carl Arnold; is that right?

24 A Yes, that's correct. I knew that was her intention. She had
25 made it very clear with the Court and so when I spoke with her, we

1 discussed that.

2 Q You never filed a motion to withdraw her plea; is that right?

3 A I did not.

4 Q And why is that?

5 A After speaking with her I had talked to her -- I'm sorry, just for
6 clarification, Your Honor, has she -- I know that typically she's
7 canvassed as a part of entering her petition, but I just wanted to make
8 sure it was okay for me to speak about things that were client -- attorney
9 client privilege before moving on to our -- talking about our
10 conversations.

11 MR. NIMAN: That's a good point, Your Honor. As a part of a
12 petition the Defendant needs to waive their attorney client privilege as to
13 their previous counsel so that Counsel can testify as to any interactions
14 that they had with their client because they're raising ineffective
15 assistance of counsel claims.

16 MR. OWENS: And I certainly don't disagree with that. It's
17 waived to the extent necessary so that she can -- challenge her plea
18 here.

19 THE COURT: Thank you.

20 BY MR. OWENS:

21 A Thank you, Your Honor. I'm sorry. I will try not to ramble on.
22 I had spoke with Ms. Brown over the phone. I know that at the time she
23 had indicated to me that it was her understanding that Carl Arnold's
24 father had recently passed away. And after that happened, Mr. Arnold
25 just stopped communicating with Ms. Brown and that he didn't answer

1 her telephone calls and he didn't talk to her, except for like in the
2 minutes prior to court.

3 Q Okay.

4 A And she had also indicated to me that she had always
5 believed that the offer being extended in her case was 6 to 15 years and
6 she didn't understand the negotiation that she had entered into because
7 Mr. Arnold had told her all of that.

8 Q All right. So are you aware that there was -- prior to the plea
9 with Carl Arnold, there was an offer originally in this case that involved a
10 6 to 15 year exposure?

11 A It's my understanding in looking at the record and also talking
12 with Ms. Brown that there had been.

13 Q Okay. And yet, what she entered with Carl Arnold was
14 between two cases was amounting to an 8 to 20. Does that sound
15 right?

16 A That sounds correct.

17 Q Okay. So, I'm showing that by June 4th, you came to the
18 Court. The Defendant wasn't -- wasn't present in court at that time, she
19 was out in Henderson. But you told the Judge that you had spoken with
20 Defendant and that she was ready to proceed to sentencing. Can you
21 tell me what predated that between the date of your appointment and
22 this June 4th announcement that you're now ready to go forward with
23 sentencing that caused you to not file the motion to withdraw a plea, but
24 now proceed on the prior plea agreement that she had rejected?

25 A I spoke with Ms. Brown on several occasions. In fact, I

1 remember Ms. Brown just because she has a very unique personality
2 and I like -- I remember her story about her life and I tend to get to know
3 my clients even during the short period of time that I am in their lives.

4 So, I did talk to her several times over the telephone.
5 Probably multiple hours, honestly, if I'm being honest. I obviously got
6 some information about her communication with Mr. Arnold. My first
7 intent when I talked to her was -- how could we seek to withdraw her
8 plea? What kind of ineffective assistance of counsel claims did we have
9 against Mr. Arnold? Which I honestly believe that they did exist. And I
10 was prepared to go forward filing that motion to withdraw a plea.

11 I did talk to her about what it meant to withdraw her plea
12 because I thought it was very important for her to have that full
13 understanding that withdrawing her plea and if she was successful, she
14 would have to go to trial on all of the pending charges which were quite
15 voluminous. And so, while she may not have received effective
16 assistance of counsel from her prior attorney, I wanted to make sure that
17 we went over all of her facts and details surrounding her case.

18 Going forward, if she was successful in withdrawing her plea,
19 to see in fact if she wanted to withdraw her plea. So, we did have those
20 conversations. And at the end of those conversations, it was clear that
21 while she may not have had her questions answered by her prior
22 attorney, that I had answered all of her questions going forward and that
23 she still wanted to accept a negotiation because it was still in her best
24 interest to go forward with the plea negotiation now that she understood
25 all the facts and circumstances, if that makes sense.

1 Q And it's fair to say there was a lot of incidents in several cases
2 that were involved in this global negotiation; is that right?

3 A That's correct.

4 Q And so this case dealt with an offense at Champs Sporting
5 Goods and at Big 5. Also, there was another case that dealt with
6 Victoria's Secret and then you had the Henderson case; is that right?

7 A That's correct.

8 Q And there was in fact two co-defendants where the
9 negotiations were contingent on everyone taking a deal; is that right?

10 A That's correct.

11 Q And there was multiple plea agreements in this case. The 6 to
12 15 which we already referenced, the 8 to 20 aggregate sentence that
13 she entered with Carl Arnold, and then a second plea agreement that
14 you negotiated that was basically the same thing in terms of 8 to 20
15 years; is that right?

16 A It was slightly different. It included the Henderson case that
17 had either inadvertently been left out or Mr. Arnold wasn't aware of it.
18 So, it was a slightly better negotiation.

19 As far as the -- 6 to 15 negotiation, I don't believe that was
20 ever entered into.

21 Q Okay, but there was -- you're aware that that type of
22 negotiation was bounced around, in fact, there was a plea agreement,
23 perhaps it was signed but never filed?

24 A That's my understanding, yes.

25 Q Okay. So, as attorneys we deal with these things all the time

1 but a lay individual might have some confusion over this number of
2 counts and cases and guilty plea agreements and I don't know if we
3 want to call it tortured history, but the case being on calendar several
4 times for entry of plea and kept getting pushed back and put off to
5 change things; is that right?

6 A That's correct. Although, I wouldn't say that was unusual.

7 Q Okay. And the prosecutor extended offers and then revoked
8 offers. Does that sound familiar?

9 A It was but that's prior to my representation of Ms. Brown.

10 Q Okay, but in your experience does that put some pressure on
11 the client when the prosecutor extends and then revokes offers
12 repeatedly?

13 A I don't know. I'm assuming all of the -- I think being a part of
14 the criminal process is probably a pressure filled thing. I can't speculate
15 as to, you know, what Ms. Brown was feeling at that time.

16 Q Okay.

17 A And like I said, I did not represent her at that time.

18 Q Considering the size of the cases involved, the number of
19 counts and different incidents involved, do you feel like you had enough
20 time to really get up to speed with the case before you talked to her out
21 of withdrawing the plea and proceeding with basically the same plea
22 agreement again?

23 A Well, I didn't talk her out of withdrawing her plea. I just
24 explained to her her options. I wanted to make sure that she was having
25 all of the information before her before making a decision.

1 In talking with her it was super clear the Mr. Arnold had not
2 had that level of communication prior to my appointment, either when
3 the initial offer was accepted -- or rejected, that the 6 to 15 that you
4 referenced. You know, I did see from the history with Mr. Arnold that it
5 had gone back and forth and the offer had gotten worse as they had
6 proceeded through the process.

7 By the time I was, you know, appointed to represent Ms.
8 Brown -- habitual notice had already been filed. The offer had
9 previously been rejected. Her plea was there and I wanted to make sure
10 she had all of that information.

11 As you are aware, Mr. Owens, majority of our cases resolve in
12 that two weeks between arraignment and preliminary hearing. I think I
13 heard last from the District Court that 95 percent of the cases are
14 resolved in that fashion. So, in this case I actually had even more time
15 to prepare than I previously had to prepare.

16 Q You mention that the State filed a habitual notice. That
17 included just two prior convictions, one of which was for drugs and was
18 17 years old. How did that factor into your assessment of the merits of
19 the plea agreement?

20 A Even despite the habitual criminal, like seeking habitual
21 criminal, unfortunately I think in 2020 the new habitual statute had not
22 taken place. It did not go into effect as a part of Assembly Bill 236 until
23 July of 2020. But at that time, it was not in effect so it was an eligible
24 felony conviction for purposes of habitual.

25 But I will tell you the sheer number of charges that she had

1 arising out of these three separate cases, which gave me greater
2 concern for her. And so the negotiation in this case, while the habitual
3 was one of the aspects that I took into consideration in advising her of
4 this negotiation, there was also the sheer number of exposure that she
5 had. I mean, it would be decades of time if she was convicted at trial on
6 any one of these cases. So, it was one of the factors, but not just one of
7 them, many of them.

8 Q Would you agree with me that although she was eligible
9 technically for habitual, that was an unlikely scenario?

10 A I believed that it was a possibility just -- not habitual, but
11 maybe unlikely. It was discretionary obviously and it went before Judge
12 Villani. So, it was something that -- to be considered. I mean, anytime
13 you have that habitual notice I think it's dependent on Counsel to advise
14 them as the potential consequences.

15 But I -- like I said before, I think the bigger risk for Ms. Brown
16 was the sheer number of counts involved in all of the three cases that
17 she had pending before the Courts.

18 Q Now the guilty plea agreement that you entered into with Ms.
19 Brown, do you recall from the plea time that she said that she did not
20 actually ever get a physical copy of the plea agreement?

21 A Yes. I believe this was like, at the -- like the very onset of
22 some of the, I guess, functions of our society shutting down because of
23 Covid-19. We had protocol to sign things on her behalf. There wasn't a
24 transfer of physical documents that was taking place in the courtrooms.
25 So, it was definitely one of those things I did hand deliver to the Clark

1 County Detention Center during that time, a copy of it as well as put a
2 copy in the mail.

3 And -- but furthermore, I remember going specifically line for
4 line with Ms. Brown. I know that she was coming from a position where
5 she had poor representation or inadequate representation and
6 communication from Mr. Arnold, so I wanted to make sure that I went
7 over everything extremely, like thoroughly with her.

8 And so, if there was any error in the guilty plea agreement, I
9 asked for it to be corrected, not just by interlineation in court like
10 sometimes happens, which I think is acceptable that under these
11 circumstances I wanted to make sure everything was in writing so it was
12 very clear.

13 Q Would you agree with me that hearing a lengthy plea
14 agreement read to you over the telephone is not as conducive to a full
15 understanding as having the written document actually in front of you
16 that you can peruse at your own speed and pace?

17 A I think it depends on people's literacy and whether or not
18 they're audible learners or they need to see something in writing, so I
19 think that would be a question probably best answered by Ms. Brown.

20 MR. OWENS: Thank you. I don't have any further questions.

21 MR. NIMAN: Thank you.

22 CROSS EXAMINATION

23 BY MR. NIMAN:

24 Q Ms. Nguyen, how long have you been an attorney?

25 A I've been licensed since 2002.

1 Q And could you ballpark maybe how many cases, roughly,
2 you've handled?

3 A I would a Clark County Public Defender for 3 years and I've
4 held a contract as a court appointed attorney -- track attorney for, I don't
5 know, since I think 2008, 2007. So, I don't know, hundreds.

6 Q And would it be fair to say that in those hundreds of cases the
7 majority of the clients decide to accept the lesser -- charges and decide
8 to plead guilty?

9 A Yes, that's the case within the Eighth Judicial District Court.

10 Q Sure. And then for the most part would you say that they end
11 up with outcomes that are better than you think they would get at trial as
12 one of the reasons they accept guilty pleas?

13 A That's one of the things I focus on in the guilty plea
14 agreement. It's usually on the last page -- the voluntariness of the plea.
15 It says you're accepting this plea bargain because you believe accepting
16 this negotiation is better than going to trial on all the original charges, so
17 yes, I do think so.

18 Q Okay, and so having so many clients and having so many of
19 them enter into guilty pleas, you're aware of the importance of these
20 pleas being fairly and voluntarily entered into?

21 A Yes, of course.

22 Q And it's -- well, strike that. Hang on.

23 So, you had mentioned that one of the things that you were
24 concerned about in this particular case was the exposure; is that right?

25 A That's correct.

1 Q And so, this case, the criminal case number was C344112.
2 She was a co-defendant so it was -3. There were 9 felony counts; is
3 that right?

4 A That's correct.

5 Q And at least two of those were robbery with use, which would
6 entail a -- a mandatory consecutive sentence as well; is that right?

7 A That's correct.

8 Q Okay. Do you remember if at some point you tallied up the
9 amount of possible exposure in this case?

10 A I typically do that and then I will go over and explain the
11 potential exposure that a client may have if they are convicted of the
12 charges that they are looking at.

13 Q Okay. So, if I said that the potential top end on this if
14 everything was run consecutive with something like a 177 years, would
15 that sound about right?

16 A That sounds about right. Probably unlikely, but yes, that
17 would be the maximum number.

18 Q Sure. I mean, I would not be likely that all of that would be run
19 consecutive, but it's not impossible under the law; right?

20 A No, it is not.

21 Q Okay. And then there was another case, that one was
22 C344268 and again, she was a co-defendant so it was -2, there was
23 also part of these negotiations; is that correct?

24 A That's correct.

25 Q And that case, I believe as Mr. Owens had said, in both

1 Victoria's Secret and some other retail thefts, do you remember that that
2 case had 19 felonies attached to it?

3 A Yes.

4 Q Okay. Did you talk about that other case since this was a
5 combined plea agreement with her when you were discussing the
6 potential of whether she should accept this plea or not?

7 A I did.

8 Q And do you recall if the exposure in that case was roughly the
9 same as it was in this case?

10 A That's correct.

11 Q And it's also possible, although perhaps unlikely, that both of
12 the cases could have been run consecutive to each other; is that right?

13 A That's correct.

14 Q Okay. You -- we had mentioned that there had been a prior
15 offer. This was before you were involved. Did you talk with her or how
16 did you find out that there had been 6 to 15 offer when Mr. Arnold was
17 representing her?

18 A Looking at my notes prior to today's testimony, I saw that she
19 had told me around like June 2nd, when we had talked on the phone
20 about Mr. Arnold's prior representation of her. And so I was aware of it
21 then and I believe there was some reference to it in some of the Court
22 minutes as well.

23 Q Okay. But you had seen the minutes and you got the
24 information from there and also in your conversations with her?

25 A That's correct. And I did reach out to the District Attorney to

1 renegotiate to that original plea agreement and the State at that time
2 was not willing to do so.

3 Q Okay and --

4 A They waited to hear that Henderson case, but they were not
5 willing to go back to the original offer that had been made.

6 Q And you, as counsel for Defendant, don't have any ability to
7 force the prosecutor to re-extend that deal; do you?

8 A Unfortunately, no.

9 Q Unfortunately, no. Now, your understanding was that Ms.
10 Brown had actually entered into a written plea agreement with Mr.
11 Arnold prior to your representation; is that right?

12 A That's correct. She had.

13 Q And that was the 4 to 10 and 4 to 10 on each case, so a total
14 of 8 to 10 similar to the deal that she ultimately entered in with you; is
15 that right?

16 A That's correct.

17 Q Do you recall that she entered into that approximately March
18 of 2020 -- March 12th of 2020?

19 A That sounds familiar.

20 Q Okay. And then Mr. Lay was appointed after Mr. Arnold was
21 taken off the case and that was about the beginning of May of 2020; is
22 that right?

23 A That is correct.

24 Q Okay. You appeared in court on May 7th of 2020 on Mr. Lay's
25 behalf in representing your client; is that right? Oh, I'm sorry. I take that

1 back. Mr. --

2 A So, I don't believe I did on that first court appearance. I
3 believe Mr. Lay did.

4 Q And was it your understanding that although, I believe you
5 testified that typically you get all of the files from Odyssey. You wanted
6 to get the file itself from Mr. Arnold at that time?

7 A That's correct.

8 Q Okay. And that was so that you could familiarize yourself with
9 all of the records that Mr. Arnold had prepared and you could speak with
10 your client about this offer?

11 A Yes. If he had any notes, which I don't believe he did.

12 Q Okay. But you wanted to know what was there regardless
13 either way.

14 A That's correct.

15 Q Okay. So, you appeared in court again on June 4th of 2020; is
16 that correct?

17 A That's correct.

18 Q And at that time, Ms. Brown was not with you but you had
19 testified previously you had had some conversations and at that time
20 she wanted to accept the negotiation and no longer wanted to withdraw
21 her plea; is that right?

22 A That was my understanding on the -- based on the
23 conversations that I had with her.

24 Q Okay. And you made that representation to the Court as well?

25 A I did. But Ms. Brown, I believe, was in Henderson on that day.

1 Q Right. You appeared in court again on June 11th of 2020; is
2 that right?

3 A Sounds familiar.

4 Q Okay. And at that time, after you had had those
5 conversations with Ms. Brown, was Ms. Brown prepared to be
6 sentenced on June 11th?

7 A I don't remember. I remember we had some problems with
8 the guilty plea agreement, either not including like a Henderson case or
9 not being clear, so I think it was passed again. I don't believe she was
10 sentenced at that time. We wanted to make sure.

11 Q Do you --

12 A Like, I remember -- I think -- I don't know if it was that date but
13 there was one date where Judge Villani was very clear that he had
14 asked if we were going to withdraw the plea and I said no. But he said
15 are -- is Ms. Brown recanting her allegations about ineffective assistance
16 of counsel? And I said no, we are not doing that either. And that's when
17 he indicated that he wanted to make sure out of an abundance of
18 caution that she entered into the -- a new plea agreement. And so, I
19 think we had to prepare like a new guilty --- new guilty plea agreement.

20 Q Okay. And you said that you believed it was --

21 A I don't know if it was on that date. I'll be honest with you, I
22 don't know if it was on that date. So, I think you guys would probably
23 have those records in front of you.

24 Q If the record reflected it was on that date, you wouldn't have
25 any reason to dispute it?

1 A No.

2 Q Okay. So, about five days later on June 16th, 2020 you
3 appeared in court again with Ms. Brown; is that right?

4 A That sounds about right.

5 Q And this time, you had negotiated with the Deputy District
6 Attorney to include the Henderson case; is that right?

7 A That sounds correct.

8 Q Okay. And the Henderson case, that had seven or eight
9 additional felony counts on top of all of the felony counts that were in
10 these two cases; is that right?

11 A That's correct. And I knew she had been in Henderson and
12 that when this court date in early June, and so I wanted to make sure
13 that she didn't accept a negotiation that didn't include that.

14 Q Okay. And so, with respect to the guilty plea at this point, it
15 was exactly the same deal that she had been extended with Mr. Arnold,
16 except it included the additional benefit of the dismissal of the
17 Henderson charges; is that right?

18 A That's correct.

19 Q Okay. And do you recall if the Court -- well I guess not on that
20 date -- pardon me, one second here.

21 At that time, I think, as Mr. Owens had said, Ms. Brown didn't
22 have the documents in front of her despite the fact that you had handed
23 it to CCDC and I -- do you recall that you -- stated to the Court that you
24 mailed it to her twice as well?

25 A I did.

1 Q Okay. But you also called her?

2 A She did not have them physically.

3 Q Right. But you had sent it twice and also walked it down to
4 CCDC; is that right?

5 A That's correct. And I recall -- I recall something about how
6 she received it, she just didn't bring it to court with her. Maybe that was
7 it because they wouldn't let her bring the documents from the jail to
8 court. So, I think she did have it she just didn't bring it to the physical
9 courtroom.

10 Q Okay. And you also had a phone conversation with Ms.
11 Brown about the GPA; is that right?

12 A I did. I did go through that with her.

13 Q In fact, you represented to the Court that you went through it
14 line by line with her; is that correct?

15 A That's correct.

16 Q And based on that conversation that you had with Ms. Brown,
17 by the time you had gone through the guilty plea agreement with her, did
18 you believe that she had any further questions or was confused in any
19 way about the negotiation?

20 A I don't believe so. In fact, the phone hung up like many time
21 because we're on like, timers. So, I know she had to call back, like
22 numerous times -- you have to call back every 15 minutes because the
23 phone will cut off at the jail for attorney calls.

24 Q Do you recall if she had some questions about the negotiation
25 in that conversation with you?

1 A She did. All clients have questions about the negotiations and
2 so I went through and I answered any of those questions she had.

3 Q Okay. And then, again on June 18th of 2020, finally you had
4 that guilty plea agreement that included the Henderson case and you
5 appeared in court with Ms. Brown; is that right?

6 A That sounds about right, that date.

7 Q And the Court at that time, do you recall, canvassed Ms.
8 Brown as to this case which was the C344112 case?

9 A That sounds about right. I think they were done on the same
10 days.

11 Q Okay. And by that, you mean she was actually canvassed on
12 each case; is that right?

13 A Yes.

14 Q And then she was also sentenced on that day in each case; is
15 that right?

16 A That's correct.

17 Q Okay. And on that day, Ms. Brown was present in court or
18 was she present via Bluejeans, do you recall?

19 A I don't recall.

20 Q Okay. When you appeared on that day or when you left on
21 that day, did you have any belief that she had any additional questions
22 outstanding that you hadn't answered?

23 A No.

24 Q And so when she represented to the Court the plea was freely
25 and voluntarily entered into and entered into without coercion you

1 believed that to be the case?

2 A Yes, and I wouldn't have signed the guilty plea agreement if I
3 didn't think so.

4 MR. NIMAN: Okay. I don't have any further questions, Your
5 Honor.

6 THE COURT: Thank you. Any follow up?

7 MR. OWENS: I've got just a couple follow up.

8 THE COURT: Okay.

9 **REDIRECT EXAMINATION**

10 BY MR. OWENS:

11 Q Ms. Nguyen, just to put some context to this 177 years that
12 Mr. Niman came up with, all of these cases of the Defendant's that we're
13 talking about here, they're all retail shoplifting; is that right?

14 A That's correct.

15 Q There's a group of individuals of which Ms. Brown was alleged
16 to be one who'd go into a retail establishment and shoplift some
17 merchandise; right?

18 A That's correct.

19 Q And in many situations that's charged as a petty larceny. You
20 ever had those kinds of cases before?

21 A I have. But I believe there was like an allegation of a BB gun
22 and like a knife in these cases.

23 Q Yeah, so there's two counts involving a deadly weapon. As
24 you said, one was a BB gun and that was in the possession of not Ms.
25 Nguyen, allegedly, but a co-defendant. Does that sound right?

1 A Well, hopefully it wasn't me, but I think you were referring to
2 Ms. Brown.

3 Q I'm sorry. I get the names confused. The BB gun was in a co-
4 defendant's possession, not Ms. Brown's possession?

5 A That's correct, but as you know it was charged under the three
6 theories of liability, either she directly committed the crime, aided and
7 abetted, or pursuant to conspiracy.

8 Q Yeah, I'm familiar with those theories, but specifically when it
9 comes to use of a deadly weapon, the State has to show that she knew
10 the co-defendant had a weapon and would be using it in the incident,
11 just by curious viability is not enough unless they can show knowledge
12 of the weapon. So would you agree that that deadly weapon count at
13 least was potentially defensible?

14 A Potentially.

15 Q And you mentioned the other deadly weapon was a -- an
16 alleged knife that Ms. Brown had; right?

17 A I believe it was a knife, I can't remember exactly but I
18 remember it being a knife or a box cutter or something like that.

19 Q And are you aware that there was a videotape of that incident
20 and it did not show her brandishing any type of knife?

21 A And that was a potential defense that we had talked about.

22 Q So, despite the 177 years, these were at assets shoplifting
23 charges that did carry some serious allegations here, but there were
24 possible defenses to them; is that right?

25 A That's correct.

1 MR. OWENS: That's all I have.
2 MR. NIMAN: I have no follow up, thank you.
3 THE COURT: Nothing else?
4 MR. NIMAN: Nothing else.
5 THE COURT: All right. Thank you, Ms. Nguyen. I believe
6 you're excused.
7 THE WITNESS: Thank you -- are there any other questions?
8 THE COURT: Nope.
9 MR. NIMAN: Nope.
10 THE WITNESS: Okay, thank you.
11 THE COURT: Thank you.
12 MR. NIMAN: Thank you.
13 MR. OWENS: Thanks.
14 THE COURT: Thank you for being here.
15 MR. OWENS: Judge, I would next call my client, Ms. Brown,
16 the Defendant.
17 THE COURT: Okay. Ms. Brown, can you hear us?
18 THE WITNESS: Yes, I can hear you.
19 THE COURT: All right. My clerk's going to swear you in.
20 THE COURT CLERK: Can you raise your right hand? The
21 best you can. Thank you.
22 **LEQUANA BROWN**
23 [having been called as a witness and being first duly sworn testified as
24 follows:]
25 THE COURT CLERK: Please state and spell your name for

1 the record.

2 THE WITNESS: Lequana Brown. L-E-Q-U-A-N-A, Brown, B-
3 R-O-W-N.

4 **DIRECT EXAMINATION**

5 BY MR. OWENS:

6 Q All right. Ms. Brown, you recognize the witness that testified
7 just before you, Rochelle Nguyen?

8 A Yes.

9 Q And she was your counsel after Mr. Carl Arnold; is that
10 correct?

11 A Yes.

12 Q Can you tell me some of the concerns you had with Carl
13 Arnold that caused you to ask that he be removed from the case?

14 A Okay. So, when I was -- when Carl Arnold was appointed to
15 me, for one, he always showed up to court late. I never talked to him,
16 not one time over the phone. So we never talked over -- to discuss my
17 case. It was always inside the courtroom and right before court started.

18 And I never talked to him and then once -- once I seen his
19 investigator and she showed me the audio that was -- would be
20 presented to the judge and the DA and everyone else. I kept telling him,
21 which he was telling me to take the time, take the time. I was like, well
22 why would I take the time when there was no weapon in no case. I
23 never had a weapon.

24 So, once I seen the DVD and I assumed that everyone else
25 would see the DVD , because that's what they pass out to everyone in

1 the courtroom that day, I was wondering -- I told him, well you supposed
2 to be my lawyer and you're not fighting for me.

3 And not only that, I was getting upset because I was -- would
4 call him and he would never answer the phone. It was -- I never had
5 contact with him, it was only the investigator. And then on top of that, he
6 has to list -- told me to find people in custody and he will put money on
7 my books. He had -- and he said that he put money on the books and to
8 find people in court. I just felt like, that what I was up against and what I
9 knew that had happened and what was presented and what everyone
10 would see -- the Judge, the DA, and everyone else in the courtroom that
11 I was not comfortable with it -- what was going on. And I was not -- I've
12 never understood anything with him. It was just --

13 Q And it was also something about a bail motion that he said he
14 filed but you later found out there was none?

15 A Okay. So I asked him about the bail motion and the house
16 arrest and he said that he filed it but they told him no. But through the
17 process of it, I found out that he never filed for bail motion or ankle
18 monitor.

19 Q All right. Now tell me about this offer that's in the record -- it's
20 in the court minutes at November 19th of 2019, that there was an offer
21 supposedly for 6 to 15 years. Do you remember that, Ms. Brown?

22 A Yeah, so we were at court and he had the DA -- the lady that
23 told him it was a offer in the courtroom for 6 to 15 and he asked me did I
24 want -- he has to come talk to me to see if I want to take the time. And
25 at that time after he talked to me, I agreed to take the time. I want to

1 take the time, so I signed off on it.

2 But when -- after I signed off on it, the judge had walked off
3 and then we come -- we came back and when I was supposed to finish,
4 I told him I needed more time to think about it. So, it was no more court
5 and then I didn't see him for a while and I thought my next court date,
6 that would be the 6 to 15 -- that we were finishing the deal for a 6 to 15.
7 Then, that I've never been in this situation before, I'm thinking that my
8 lawyer -- it's for my best interest. So -- I didn't read over the plea
9 agreement. I just assumed that there was a 6 to 15. So -- and that's
10 why --

11 Q I'm sorry to interrupt. So you signed a guilty plea agreement
12 for 6 to 15 but that was just never filed in court; is that right?

13 A Right. And before they brought me out to court, something
14 just told me to go through my paperwork. I actually found the plea
15 agreement for the 6 to 15. Whether they put it on record or not, I have --
16 you can't bring stuff with you to court, so they didn't let me bring it. But
17 you guys, I'm assuming if I have that paperwork, they should have it too,
18 whether it was filed or not.

19 Q And you never got the plea agreement that you entered into
20 with Ms. Nguyen on -- let me get the dates right here. On June 17th you
21 pled guilty but you said in court that you didn't have that physically, the
22 paperwork in front of you, that it was just read to you over the phone,
23 that you authorized your attorney to sign it but you never signed it
24 yourself in person; is that right?

25 A That's right. In court, when they asked me did I have it, I told

1 them that I didn't have it and I wanted to see it. She knew I didn't have it
2 because that's when she said that she had delivered it -- hand delivered
3 it to CCDC and that's when someone said, due to the Corona virus, I
4 probably didn't receive it. And I said that I didn't receive it and I want to
5 see it to understand.

6 There was so much going on with the case and one in
7 Henderson, and back and forth. Not just with Carl but with another --
8 someone else that took the case named Roger Bradley or Bailey.
9 Before when it took the case, I was looking at my paperwork, I seen that
10 too. So, it was just -- it was all confusing.

11 And the Henderson case was always a part of it because they
12 kept telling me when I went to Henderson that I couldn't go and plead
13 guilty on the Henderson case because it was a part of the other case.
14 So, for them to say that they didn't have the paperwork, I don't
15 understand that -- how I didn't have it in the Henderson case if they all
16 knew what was going on, so I don't understand that.

17 Q The dismissal in Henderson case was always contemplated
18 by the negotiations, it just didn't make it into the written plea agreement
19 and had to be -- the case continued for that purpose; is that right?

20 A Right.

21 Q In fact, there was -- you came to court many times to plead
22 guilty and the offers kept getting extended to you and then revoked. Do
23 you remember that happening?

24 A The offer was extended to me. I got the 6 to 15 and then I
25 went back and I talked -- I tried to reach Carl and I couldn't reach him.

1 So, his investigator came and said that I was supposed to get the 6 to
2 15 on the next court date.

3 So, even though I had asked for the ankle monitor, I told him I
4 would sign for the -- because it was the -- I knew what -- I can be
5 accountable for what I did. So, I knew that I had took the stuff out of
6 Victoria's Secret, so I was like, okay I'll sign for the 6 to 15. That was
7 feasible for what I did. Then out of nowhere they came with the 8 to 20
8 and I didn't understand. I kept thinking that I didn't understand because
9 it just came out of nowhere.

10 At the actual date that they offered the 8 to 20, that was not
11 even my court date. They just pulled me that day into court and told me
12 in the waiting area that that's what I was going to court for was the 8 to
13 20.

14 Q So, were you confused as to whether the deal was for 6 to 15
15 or 8 to 20?

16 A I was very confused, very stressed, and I didn't understand.
17 And I stated that, with Carl, with his investigator, with Rochelle
18 numerous of times. Rochelle had also told me when I talked to her, I
19 don't understand how when she got the case -- well, let me back it up.

20 So, by me going to court in Henderson, I would always get
21 back late. So when I would come back, there would be a sticker on the
22 door, said to call my attorney. I would reach out to Rochelle. I hadn't
23 talked to Rochelle for -- first it was a guy. It said Matthew Lay, call him.
24 So I called him and I couldn't get to him. So then it was just a sticker,
25 said just call this number. So, it was a different number. So when she

1 answered it, she told me she was my attorney. I did not talk to her
2 numerous of times. I talked to her two times and one time it was a long
3 extent of a time because I was expressing to her that I didn't understand
4 and she told me that I needed to go on with the deal and to sign for it
5 because it was not going to get no better than that.

6 I always -- told her that I was not comfortable with the deal
7 and it was not understood. I didn't understand it and I asked for
8 paperwork.

9 Q You told the Court you didn't want to -- to go forward with the
10 deal. You wanted to withdraw it and that's when Carl Arnold was
11 removed as counsel; is that right?

12 A Right. Which I don't --

13 Q But with Rochelle Nguyen, you did go forward with an 8 to 20.
14 Can you explain that to me and why you went forward with that
15 negotiation or whether you were still confused or what?

16 A I was still confused. And when I talked to Rochelle, I told her
17 about the 6 to 15. That that's what I thought I signed for, like I said.
18 Now today I know that being in the system, you have to read your own
19 documents and not just go off what someone tells you because I thought
20 that that was my lawyer and he had my best interest. So, the 6 to 15 I
21 thought -- what I thought I was -- I never read over the plea agreement
22 or whatever.

23 And I specifically told Rochelle that I thought I was getting 6 to
24 15 even when I started talking to her. And she said she was going to talk
25 to the District Attorney about the 6 to 15. She never came back to me

1 and told me, oh the offer was rejected or refused or anything. I pressed
2 and pressed and pressed about the issue.

3 It was all confusing and that being confusing, I would rather
4 have the paper in my face to read it for myself. I never said that I got the
5 paperwork. If you look on your records in the minute orders, I always
6 said that I didn't get the paperwork. I said that -- in court. So, I'm
7 assuming that's your minute order. So, I told them that I didn't receive
8 the paper.

9 Q And you don't feel like you had adequate conversations with
10 Rochelle Nguyen to really understand what all was involved in this plea
11 agreement and how it was changing and evolving over time?

12 A Right. I feel like I didn't have adequate communication with
13 Rochelle. I felt that every day I was at the court at least two or three
14 times at Henderson, sometimes -- at least three times that week. So,
15 when I did get a chance to talk to Rochelle, I told her I was not
16 comfortable with it. And I wanted -- I asked Rochelle, well how can you -
17 - I asked -- because I ask questions a lot if I don't understand. So I
18 asked her, well why would you tell me to go ahead with the deal and that
19 I need to sign it? If you're my lawyer I want you to see the DVD
20 because I'm not comfortable with it because there was no weapon. I
21 never had a weapon. And she told me that the deal -- I had already
22 signed it and we need to proceed and go forward.

23 I always kept telling her I didn't understand, I didn't
24 understand.

25 Q All right. Is there anything else we haven't covered that you

1 think impaired your ability to really understand the nature of this plea
2 agreement? Or have we covered everything?

3 A Covered everything.

4 MR. OWENS: Yeah, I think that's all I have in my notes, so I
5 will pass the witness.

6 THE COURT: Thank you.

7 **CROSS EXAMINATION**

8 BY MR. NIMAN:

9 Q Ms. Brown, you appeared in court November 19th of 2019 and
10 with Mr. Arnold; is that correct?

11 A Yes.

12 Q And that was when you say the 6 to 15 offer was made; is that
13 right?

14 A Yes.

15 Q Okay. And you said that that was a written agreement that
16 you signed. Is that what you testified to?

17 A I had the paperwork. Yes.

18 Q Okay. Did you attach that paperwork to your petition at all?

19 A They never told me to attach it. They -- when I -- prior counsel

20 --

21 Q Okay. That's all right. Thank you.

22 Now, you appeared again December 5th of 2019; is that right?

23 A Right.

24 Q And at that time, did you tell the Court that you did not want
25 that 6 to 15 order -- or 6 to 15 offer?

1 A I told him I needed time to think about it.

2 Q Okay. So, if the court minutes indicate that you rejected the
3 offer and that the Court confirm that with you and that you told the Court
4 you didn't want the offer, would that surprise you?

5 A No, because when I said I needed to think about it they told
6 me that it will be off the table. And I specifically said again that I needed
7 time to think about it.

8 Q Okay. You appeared in court again on January 3rd of 2020; is
9 that right?

10 A Right.

11 Q And at that point you insisted that you were only going to --
12 enter into the negotiations if you were able to get out of custody; is that
13 right?

14 A Well, it was not about just getting out of custody. I felt like the
15 time was feasible. And by me moving from California to here, I need to
16 get my affairs order. So, yes.

17 Q Okay.

18 A It was about the time and about me getting my affairs order.

19 Q Okay. And so, when the Court said that it wasn't inclined to
20 allow you to plead guilty just so you could get out of custody, and then
21 you were asked if you wanted to take the deal today, you said no; is that
22 right?

23 A If that's what the record says.

24 Q Okay.

25 A No.

1 Q You appeared in court again a few months later on March 12th
2 of 2020; is that right?

3 A Right.

4 Q And at that time, did you enter into a plea agreement for a 4 to
5 10 in this case and a 4 to 10 in the other case, so for a total of 8 to 10?

6 A I always thought it was the 6 to 15.

7 Q Okay --

8 A I never -- okay.

9 Q What I'm asking is, is the agreement that you entered into on
10 that day, an agreement for 8 to 10 -- or excuse me, for a -- yeah -- sorry.
11 I'm getting my numbers confused here. We'll strike that for a second.

12 So, Mr. Arnold put on the record that you were going to -- this
13 is at page 3 of the transcript on March 12th of 2020.

14 My client's going to plead guilty to robbery with use of a
15 deadly weapon, a category B felony in this case. In case C344112, she
16 will be pleading guilty to robbery with use. The parties stipulate to a
17 sentence of 4 to 10 years on each count to run consecutive to each
18 other and the offer is contingent. Is that the offer that you were -- that
19 was made to you on that day?

20 A I don't remember --

21 Q Okay.

22 A -- the exact --

23 Q And so, on that date, did you accept that offer or did you say
24 that you needed time to think about it?

25 A I don't remember.

1 Q Okay. So if the record reflects on page 4 that you said that
2 you needed time to think about it, do you have any reason to dispute
3 that?

4 A If that's what the record is [indiscernible], but I don't
5 remember.

6 Q Okay. And so, right afterwards, the Court said that the matter
7 was going to get set for jury trial on Monday at 9 a.m. Does that sound
8 right?

9 A I'm trying to remember. Right.

10 Q Okay. So you had a jury trial set up to go that Monday and
11 the State revoked the offer at that point; is that right?

12 A Well, while I was in the courtroom, I -- that's when I was telling
13 him that -- if you have the minute order about the 6 to 15 and that's what
14 I thought I was there for and that I didn't understand where did the --
15 where did that deal went? And that's when the judge was getting upset.

16 He -- we were -- I was the last person to be heard. And he
17 actually got off the bench and said, well you got the minute order of
18 everything he said.

19 Q You were set for jury trial at that point; is that right?

20 A Right.

21 Q Okay. Now, later the Court indicated that you could enter the
22 plea. This is at page 14 and it asks if you're going to enter into the plea
23 and you say yes. So, after the matter was set for trial, you decided that
24 you wanted to enter into the plea; is that right?

25 A Is that when Carl was still my attorney? Yes.

1 Q Yes, it's on the same day.

2 A Okay because that's when he told me that they went through
3 a break and he told me that he was talking about the 6 to 15. I never
4 knew -- yes.

5 Q Okay, so -- if -- when the Court informed you and said they're
6 only going to allege a robbery here. Robbery with use in the other case,
7 4 to 10 on each case consecutive, do you understand that? And you
8 said yes. You understood it at that point; is that right?

9 A No, I didn't understand it. And I kept explaining to them when
10 he addressed that to me that it would be a robbery and that's when I told
11 him that, why would it be a robbery with a weapon if it was no weapon?
12 I didn't understand where did the -- the time came in because Arnold
13 told me the weapon was carrying the time.

14 Q Okay, so Mr. Arnold and the Court both were saying 4 to 10
15 and somehow you didn't understand 4 to 10; is that right?

16 A Well, the judge tried to explain to me about the weapon but --

17 Q Okay.

18 So, on page 16, you begin -- getting canvassed by the Court
19 to enter into this guilty plea. And the Court asks, ma'am are you
20 pleading -- this is on page 16 of that same transcript. Ma'am are you
21 pleading guilty to the charge of robbery and you say yes. Does that
22 sound familiar?

23 A I never understood exactly. So, I kept telling them that on
24 audio.

25 Q Okay.

1 A And I felt pressured.

2 Q So, do you have any reason to object to the fact that the
3 transcripts says that you said yes at that point?

4 A Well, with everything going on and the matters in the time and
5 the Court system, I feel like I didn't have a choice but to say yes. I was
6 pressured, it was so many court dates, and so many different pleas and
7 so many different people that I was talking to. I didn't understand.

8 Q Okay.

9 A And they didn't want to hear --

10 Q Okay, so immediately after that when the Court says -- this is
11 still at page 16, same transcript. Before I can accept your plea of guilty,
12 I must make sure it is freely and voluntarily given. Is anyone forcing you
13 to plead guilty?

14 A I still didn't understand.

15 Q And -- and you --

16 A I didn't --

17 Q Okay.

18 A -- understand.

19 Q You said that nobody was forcing you to plead guilty at that
20 time. Were you lying to the Court at that point?

21 A Oh, no one was forcing me to plead guilty. I just didn't
22 understand.

23 Q Okay. So, when the -- this is at page --

24 A And not just --

25 Q -- 16 to 17.

1 A -- and not just to the Judge -- I mean, not just to my attorney, I
2 always spoke out and spoke loud that I didn't understand. And if you
3 have the minute order, it was like -- it was pressure basically. Not just
4 from my attorney, just from the judge too. He wasn't trying to hear that I
5 felt pressured.

6 Q Ma'am, there's not a question pending.

7 THE COURT: Okay. Hold on. Ms. Brown, I need you to let
8 the attorney finish the question before you answer it.

9 THE WITNESS: Okay.

10 THE COURT: Okay. I know that it's getting a little
11 argumentative, so you're getting a little excited, but just try to take a
12 breath, let him finish the question, think about what he's asking you, and
13 then answer that.

14 THE WITNESS: Okay.

15 THE COURT: Okay. And then, Mr. Owens [sic], you're
16 getting a little argumentative. So, please try to keep your questions
17 neutral and professional.

18 MR. NIMAN: Just to be clear, you mean Mr. Niman.

19 THE COURT: I'm sorry.

20 MR. NIMAN: That's fair.

21 THE COURT: Yes. Looking at my notes wrong.

22 MR. OWENS: I'm just sitting here not saying anything.

23 THE COURT: Wrong Mr. Owens.

24 MR. NIMAN: Okay, so --

25 THE WITNESS: Am I -- Judge, am I able to talk to my

1 attorney right now?

2 THE COURT: We have to finish the hearing first.

3 THE WITNESS: Okay.

4 BY MR. NIMAN:

5 Q So this is on page 16 to 17 of that same transcript. The Court
6 says, do you understand that the sentencing range of the robbery
7 charge is that the -- the Court can sentence you to a maximum term of
8 15 years, a minimum term of 2 years in the Nevada Department of
9 Corrections. Do you understand that? And you said yes; is that right?

10 A Yes.

11 Q Okay. Now, the Court -- this is on page 18, is asking you
12 about the guilty plea agreement itself. It said, did you read and
13 understand everything contained within this agreement, meaning the
14 guilty plea agreement, and you said yes; is that right?

15 A I said no. I always said no.

16 Q Okay. So if the transcript --

17 A But --

18 Q -- says that you said, yes, you would disagree with the
19 transcript?

20 A After they -- after I said no and expressed how I felt, he kept
21 getting off the bench. He left the bench four or five times.

22 Q Okay. So then the Court asks -- this is still at page 18, if you
23 had any questions were they answered by Mr. Arnold and you said yes;
24 would you disagree with that as well?

25 A I did say that.

1 Q Okay.

2 A But like I said --

3 Q And you signed a guilty plea agreement on that day. It says
4 the parties stipulate to a sentence of 4 to 10 years on each count to run
5 consecutive to each other. And this included both this case and the
6 other case, not the Henderson case; is that right? And I -- let me clean
7 that up a little bit.

8 So, this included both case -- the instant case here C344112
9 and the other case being C344268. You signed that guilty plea
10 agreement; is that right?

11 A Yes.

12 Q Okay. So, then you came back. This was April 30th of 2020
13 and you said that you wanted to withdraw your plea and you didn't want
14 Mr. Arnold to be your attorney anymore; is that right?

15 A Yes.

16 Q Okay. And the Court in fact removed Mr. Arnold and Ms.
17 Nguyen was appointed after that -- or Mr. Lay was appointed after that;
18 is that right?

19 A Well, actually Roger Bailey was appointed and I never talked
20 to him. The first two weeks, I'm assuming that he was the lawyer and
21 then Matthew lay was appointed and I never talked to Matthew Lay.
22 And then Rochelle was appointed.

23 Q Okay, so in the transcript, just to clarify, Mr. Bailey appeared
24 on behalf of Mr. Arnold, but Mr. Arnold was taken off the case. Does
25 that sound right? And then Ms. Nguyen, Mr. Lay were appointed for

1 you?

2 A Right.

3 Q Okay. So there was few hearings later and we're going to go
4 to June 11th of 2020. This was the date that you were appearing to
5 enter into your plea; is that right?

6 A Yes.

7 Q Okay. And you wanted to be sentenced that day; is that right?

8 A Who was my attorney at that time?

9 Q At that time it was Ms. Nguyen.

10 A Well I told Ms. Nguyen that I wasn't comfortable with the time
11 and with the deal and that's what it was.

12 Q Okay.

13 A I told her I don't understand how she had -- when I told her
14 about that I wasn't comfortable, I don't understood [sic] how she had
15 four days -- five days to catch up with the whole case when it was -- it
16 took matters and paperwork and I expressed that to her.

17 Q So, this is on page 5 of that same transcript. You're saying
18 that the paperwork, meaning the paperwork of getting the Henderson
19 case included with the guilty plea agreement was holing you up and you
20 were ready to be sentenced that day. Does that sound familiar?

21 A I don't remember.

22 Q Okay. So, the Court -- do you remember the Court indicating
23 that the Court didn't want to rush anything on that day?

24 A Yes.

25 Q Okay. And you said that you understood that -- this is on

1 page 7; is that right?

2 A Yes.

3 Q Okay. So, at that point, Ms. Nguyen -- this is at page 6 to 7,
4 was making representations to the Court. She said she talked to you,
5 she doesn't believe you're recanting any of the allegations you had
6 against Mr. Arnold -- I'm paraphrasing a little bit here. However, we,
7 meaning she and you, had spent a great deal of time talking about even
8 in light of those allegations, you know, your desire to withdraw the plea.
9 You still want to take the same recommendation and the same
10 negotiation and she thoroughly went over it with you and you said
11 absolutely; is that right? Does that sound familiar?

12 A I always stressed to her that I was not comfortable with taking
13 a deal. She told me she was --

14 Q Sorry. Does that sound like what you said in court that day?

15 A Say it again.

16 Q So, she said that she had had a bunch of conversations with
17 you. She didn't think that you were going to take back your allegations
18 against Mr. Arnold but you still wanted to accept the negotiation and you
19 said absolutely. Does that sound familiar?

20 A No.

21 Q Okay. So if the transcript indicates that, you would disagree
22 with the transcript?

23 A The transcript is not going to say that because I didn't say it.

24 Q Okay. Okay.

25 So, eventually on -- this is June 18th of 2020, you appeared

1 and you were at -- you entered into this negotiation again. Does that
2 sound familiar?

3 A Of 2020?

4 Q June 18th of 2020?

5 A Yeah.

6 Q Okay. And so, Counsel put on the record here, this is at page
7 2 of that transcript. Ms. Brown, in case C-19-344112-3 will pleading
8 guilty to one count of robbery with use of a deadly weapon. She also
9 agrees to plead guilty to robbery in case C-19-344268. Both parties
10 stipulate to a sentence of 4 to 10 years on each count to run consecutive
11 to each other and also that Henderson case was going to be dismissed.
12 That was the representation that was made in court?

13 A When I -- when that was represented -- set in court, I said that
14 I didn't have the paperwork and that I didn't understand that day. If you
15 have the records, then it should reflect that I said that.

16 Q Okay. So, on page 3 when the Court asks, Ms. Brown, is that
17 a correct statement of the negotiations for this particular case and you
18 say yeah, you would disagree with that?

19 A Say that again.

20 Q So, the Court -- this is on page 3, it says, Ms. Brown, is that a
21 correct statement of the negotiations for this particular case? And you
22 said, if the transcript reflects that you said yeah, would you disagree with
23 that?

24 A I would agree with that.

25 Q Okay.

1 A But I don't remember.

2 Q Okay. So, Ms. Nguyen -- this is further down on page 3,
3 represented to the Court, I've talked to Ms. Brown every day for the past
4 week and you said yes. Would you agree with that?

5 A She said that she talked to me a couple of times over the
6 week. I talked to her twice and one time was a extending length of time
7 because the phone would hang up like she said.

8 Q Okay, so --

9 A I had lots of questions and a lot of confusion and I expressed
10 that to her.

11 Q Okay, so this is at page 4 -- or sorry, page 3. Ms. Nguyen
12 says, I'll tell you I did read it word for -- word for word. On page 4, the
13 Court asks, is that correct Mr. Brown? And you say yes; is that right?

14 A I said she read it to me and I also told her that I didn't
15 understand --

16 Q Okay.

17 A -- even though we had time on the phone and -- the call would
18 hang up. I would have to hang up due to the -- [indiscernible] due to the
19 Corona virus.

20 Q Okay.

21 A So --

22 Q So, the Court asks, do you wish to go forward today and you
23 said yes, you wanted to go forward with the negotiation on that day; is
24 that right?

25 A It that's what it reflects.

1 Q Okay. And the Court asks again, so the negotiation is set
2 forth by your attorney. You wish to accept these negotiations and you
3 say yes; is that right?

4 A If that's the same day that you're talking about --

5 Q This is all the same day. This is all June 18th of 2020.

6 A I specifically said that I didn't understand and I didn't have the
7 paperwork.

8 Q Okay. So if the transcript reflects that, do you have a reason
9 to disagree with the transcript?

10 A That's what the transcript said but I'm also saying what I said.

11 Q Okay. So, the Court asks -- this is on page 5, before I can
12 accept your plea of guilty, I must make sure it's freely and voluntarily
13 given. Has anyone forced you to plead guilty and you said no, right?

14 A Right.

15 Q Okay. Court asks -- this is on page 6. Ma'am your attorney
16 just advised me that after she read the guilty plea agreement to you that
17 you authorized her to sign on your behalf; is that correct? And you said
18 yes; is that right?

19 A Right.

20 Q Okay. And in fact, you -- you confirmed again that she read
21 the entire guilty plea agreement to you; is that right?

22 A I never said she didn't read it to me. I said that I didn't
23 understand it and I never received it.

24 Q Okay.

25 A Yes, I had said that.

1 Q Court asks, I was going to ask you if you did have any
2 questions, were they answered for you? You're saying you didn't have
3 any questions; is that right? And you said, right. Do you agree with
4 that?

5 A Right.

6 Q And the Court says, do you understand those two documents
7 and you say, yes. Do you agree with that?

8 A I think so.

9 Q Okay. Court says, ma'am based on -- this is on page 7.
10 Ma'am, based on all the facts and circumstances of your case, are you
11 satisfied with your new attorney's representation with you? And you
12 say, yes I am; is that right?

13 A Right.

14 Q Okay. So, immediately after being canvassed in this case, do
15 you recall being canvassed in the same manner in the second case?

16 A Do I remember being canvassed?

17 Q Right.

18 A I remember being talked to.

19 Q So, this guilty plea agreement contemplated not only the case
20 that we have today, C344112, but also C344268 because you were
21 pleading to robbery with use here and robbery in the other case, and the
22 Court canvassed you separately on each of those cases. Does that
23 sound familiar?

24 A Yeah, but it was a mix up with the paperwork and they had to
25 stop court to fix the paperwork because the deals were different. And I

1 never -- I -- through the whole thing, it was a lot of stress and I didn't
2 understand.

3 Q Okay. So --

4 A I felt pressured --

5 Q I understand.

6 A -- that I needed --

7 Q So, you said that you understood in the canvass to each of the
8 cases. You said it twice. That wouldn't be correct?

9 A I never -- I didn't understand, sir.

10 Q Okay. I understand. I don't have any further questions.

11 THE COURT: Thank you.

12 MR. OWENS: Just a couple follow up.

13 **REDIRECT EXAMINATION**

14 BY MR. OWENS:

15 Q Ms. Brown, you don't have the transcripts there in front of you
16 to know what was said in court verbatim each day, do you?

17 A No, I don't.

18 Q And during your testimony here today you've done the best to
19 state your recollection of what happened in court and how you were
20 feeling and what the status was of your understanding at any given date
21 and time; is that right?

22 A Right. I was trying to understand and remember the dates
23 and what was said and what took place. So, yes, you're right.

24 Q And as you pointed out during the history of this case, you had
25 at least four different attorneys who represented you at different times,

1 that being Carl Arnold, Roger Bailey, Matthew Lay, and Rochelle
2 Nguyen; is that right?

3 A Right.

4 Q Did that add to your confusion a little bit?

5 A Yes, it did. It added to my confusion and a lot of stress. I had
6 a lot of questions. I felt a lot of pressure and I -- I felt like as time was
7 going that -- that I was -- that they were -- how could I say that? I felt as
8 the time went on, that the time was going up because I didn't understand
9 and I was just trying to understand everything. It was a lot of stress and
10 I didn't understand.

11 Some paperwork I got, some paperwork I didn't due to the
12 Corona virus, some she read to me, some I didn't understand. We
13 stayed on the phone talking about it and even then, with her, like, it was
14 just so much stress I didn't understand. It was like --

15 Q Was -- and there was restrictions on the normal procedures
16 for interacting with Counsel and coming to court all because of the
17 Corona virus protocols that were put into place, correct?

18 A Correct.

19 MR. OWENS: I don't have any further questions.

20 MR. NIMAN: I don't have any follow up.

21 THE COURT: All right. Ms. Brown?

22 THE WITNESS: Yes, ma'am.

23 THE COURT: So, I've been taking some notes and at some --
24 several times you said there was a lot of confusion and that I was
25 confused. You've said I didn't understand. So, let's just go back to the

1 most recent hearing when your plea was taken -- when your guilty plea
2 was taken on both of those separate cases. Okay?

3 THE WITNESS: Okay.

4 THE COURT: And as Counsel's reminded you that the judge
5 asked you a series of questions about whether you understood what
6 was happening today, and your answer was yes and whether you
7 wanted to move forward with the plea, and your answer was, absolutely.

8 So, what I'd like to know is -- and I -- I know that sometimes
9 when you're talking to a judge, you just answer what you're supposed to
10 answer and it's not always necessarily true, just cause you said that.
11 And that's why we're here today. We're here to find out if you really just
12 answered because you were supposed to answer or for whatever
13 reason, or if you answered because that's what you wanted to do that
14 day and now, it's just not what you wanted to do anymore. You see the
15 difference?

16 THE WITNESS: Yes, ma'am.

17 THE COURT: Okay. So that's what we're trying to figure out
18 today. So, when you're saying I didn't understand, explain to me what
19 you didn't understand or what you were confused about.

20 THE WITNESS: When they were offering me the time, I didn't
21 understand. I was expressing that the reason why I didn't understand
22 about the time that I was getting is because I didn't do it and he didn't
23 want to hear that. So, he's like, just say yes or no, so that's what I said.

24 I always explained, like I'm explaining now, because I just
25 didn't understand anything. I was confused and he didn't want to hear

1 that. He said it had to be a yes or no answer, so that's what I had to
2 say.

3 THE COURT: So, what was it that you were confused about?
4 What didn't you understand? You didn't understand the time that you
5 were going to receive? You didn't understand what you were pleading
6 to? What was it you didn't understand?

7 THE WITNESS: I didn't understand how my attorney was
8 telling me one thing and then the judge was saying a other thing.

9 THE COURT: Okay. Let me stop you right there. What was
10 your attorney telling you?

11 THE WITNESS: My attorney -- well Carl -- he told me 6 to 15
12 and with the paperwork, I didn't read over it. I signed it because I
13 thought that's -- my lawyer was for my best interest. And when it got
14 bound over to Rochelle, I expressed to her that I wasn't comfortable with
15 taking the time and that I didn't want it. And she told me that if I didn't
16 take the time that it would go up to a lot of time and that they had did
17 some -- gave me the habitual.

18 And I told her that, well if you my lawyer, did you see the disc?
19 And she told me she hadn't, so that's why I felt like -- well why would
20 you tell me to take the time and we need to go forward with court if that's
21 not -- if you didn't see the disc? I feel like she didn't have enough time
22 to get caught up and I told her that.

23 And even when I went to court with Rochelle and we went in
24 for court over the thing like I'm talking to you guys now, I even
25 expressed to Villani that he didn't want to hear it. He said that I needed

1 to say -- it needs to be a yes or no answer. It's not time for that, so I had
2 to say yeah. I said yeah.

3 THE COURT: So, Ms. Nguyen, your most recent attorney,
4 when she talked to you about the possibility that there might be a lot
5 more time and she talked to you about the habitual, it sounds like you
6 understood what she was saying, that you -- you know, it's kind of a --
7 she was saying, this is what could happen that's worse than what you're
8 -- we're talking about you pleading to instead of waiting for trial. That
9 sounds like you understood that part. That you were looking at this --
10 you know you were going to get this much time or you could get worse,
11 possibly.

12 So, it sounds like when you talked to Ms. Nguyen you
13 understood that. Does that sound right?

14 THE WITNESS: I told her when she expressed that to me,
15 just how kind of like you did, I told her that, well, I'm not comfortable with
16 that because everyone got disses and if this is what -- I know what I did,
17 and if this is what everyone's going to see, then I would like to take it to
18 trial because it will prove that I didn't have no weapon.

19 THE COURT: Okay. Did she talk to you about the weapon
20 and how that works with the law?

21 THE WITNESS: No, she actually didn't. The judge did one
22 day when we were at court.

23 THE COURT: Okay. And what do you remember about the --
24 when the -- the plea -- the offers from the DA it sounds like changed
25 from 6 to 15 to 8 to 20, but the explanation I've heard here today is that

1 there were 6, or 7, or 8 more cases from Henderson that were also
2 dismissed and that sounds like that's why it went up. Did you -- what do
3 you remember about those discussions, if any, from your attorneys?

4 THE WITNESS: From the Henderson case, from my
5 understanding, like I said, I was going to court quite a bit. In the
6 beginning -- in the beginning it was time, like -- when I went to court for
7 Henderson they were talking about whatever, but shortly after I started
8 going to court for Henderson, the time never went up from the time in
9 Henderson. The Henderson time -- I think I finally went to court two, or
10 three, or four times and they kept just bounding it over and I -- it needs
11 to get heard on the other cases.

12 THE COURT: Right.

13 THE WITNESS: But my -- [indiscernible] told me that the time
14 was in there with those. It was exceeded amount of time and it was
15 already in there so I just needed to -- do that first and then I would get --
16 that would be handled.

17 THE COURT: So those discussions took place in
18 Henderson?

19 THE WITNESS: Yes.

20 THE COURT: Okay. All right. And I don't want to put words
21 in your mouth, I'm trying to make sure I understand you. So, at the time,
22 you were under the impression that no -- that the time here on these
23 cases was going to be high enough that really, no matter what, the
24 Henderson cases would be included anyway?

25 THE WITNESS: That's what -- from my --

1 THE COURT: Okay.

2 THE WITNESS: -- understanding, yes.

3 THE COURT: Okay. All right. That explains some of that
4 confusion. Did you feel like when you spoke with Ms. Nguyen that she
5 was able to answer your questions?

6 THE WITNESS: I felt like I had so many answers. She did
7 answer some and I always expressed to her that I felt like that I want to
8 proceed with trial because with the evidence that they had that will prove
9 the -- basically the firearm carries the time and if that's what it shows on
10 the thing which I know I did have a weapon, that's what I wanted to
11 present to the DA and everyone else because it would show that I did
12 have a weapon.

13 And she told me that -- it could be -- Corona virus and all that,
14 it could be put off and that -- it was just so much, it was confusing and I
15 could express that to Rochelle, too, over and over again.

16 THE COURT: So, do you feel like if, whoever your attorney
17 was had been able to answer your questions more thoroughly that you
18 would have made a different decision?

19 THE WITNESS: Yes, ma'am.

20 THE COURT: Okay. All right. If you guys want to do any
21 follow up after I asked those questions, that's fine.

22 Mr. Owens, any other follow up?

23 MR. OWENS: No, I don't have any.

24 THE COURT: Okay.

25 MR. NIMAN: None from the State, Your Honor.

1 THE COURT: Niman -- the other Mr. Owens. All right. I think
2 we're good on the evidence.

3 All right. I'm going to excuse you as a witness okay, Ms.
4 Brown? Thank you for your time.

5 THE WITNESS: Okay.

6 MR. OWENS: I don't have any further testimony, Judge.

7 THE COURT: Okay.

8 MR. NIMAN: No witnesses, Your Honor.

9 THE COURT: Anything from the State? All right. Do you
10 guys want to just end it now? Do you want to make any kind of little
11 closing arguments applying the law on all the evidence we have today or
12 just have me make a decision?

13 MR. OWENS: Well, just briefly, Judge. I think you
14 understand the case pretty well. You've heard the testimony. Ms.
15 Brown simply doesn't feel she understood the plea bargain and that she
16 had defensible charges at trial and/or could have gotten a better plea
17 bargain if her attorney had pressed some of those points, like the deadly
18 weapon.

19 These were basically shop lifting cases and she's doing 8 to
20 20. Of that range, 8 to 20 doesn't appear anywhere in the transcripts or
21 the guilty plea agreement. It certainly says 4 to 10 consecutive, but
22 doesn't come right out and say 8 to 20. And I think she had 6 to 15
23 locked in her mind at the beginning and was either trying to get back to
24 that or thought she -- that that was still the deal and it was just really
25 confusing for her. And so I think she wants to -- I know she wants to

1 withdraw the plea and go back and see what better she can do with
2 better representation and let her understand any of the charges now.

3 THE COURT: Do you think it's significant that Ms. Nguyen
4 hadn't had time to review the video, at least of the one case where it
5 sounds like she was initially charged with having a deadly weapon in
6 that case, which would have been a knife, but then the video is showing
7 it wasn't a knife? Do you think that that's significant that Ms. Nguyen
8 didn't have a chance to look at that before she made a
9 recommendations?

10 MR. OWENS: Well, I don't remember exactly what Ms.
11 Nguyen said about that but there is a lot of cases, a lot of police reports.
12 I know it took me quite a while to go through. And so, I know that on
13 May 7th, Matthew Lay appeared in court and said he still needed to get
14 the file from Carl Arnold. And the next hearing on May 28th, Nguyen
15 says that she has the file now from Arnold and just needs a week to talk
16 to Defendant. So, with all of the cases going on, you know, apparently
17 that wasn't quite enough time.

18 Certainly Ms. Brown that was a big issue about the deadly
19 weapon. She never really could understand why she could be -- or how
20 she could be charged with a BB gun that her co-defendant had that she
21 didn't even know was used and a knife that she says she didn't have or
22 use. That doesn't show up on the video tape and that would make a
23 significant difference in the case if those charges went away.

24 THE COURT: Okay. Thank you.

25 MR. NIMAN: I mean, just briefly, Your Honor, and I think it's

1 pretty clear, if the Court reviews the transcripts, that Judge Villani
2 canvassed her multiple times and usually on both cases at the same
3 time. Usually she's saying that all of her questions were answered, that
4 she's entering the plea freely and voluntarily two times, each time she's
5 canvassed, one for each case.

6 You know, you had just asked if it was significant that Ms.
7 Nguyen didn't have an opportunity to review the video, but I don't think
8 we know that that's the case. I don't think that Ms. Brown knows what
9 Ms. Nguyen necessarily viewed or didn't view. And, you know, Ms.
10 Nguyen testified first, so we don't know from her that she did, but she
11 has been an attorney for quite some time and she did testify that it would
12 be very difficult for her -- you know, she would not recommend to
13 somebody pleading without understanding what the evidence in the
14 case is.

15 Were some of these charges defensible? Maybe. I mean, it's
16 a judgment call. There's always some risk involved in going to trial and
17 there was a lot of top end on this. You know, certainly and candor to the
18 Court, she's not going to get 177 years, I understand that. But she
19 might get 15, she might get 20, she might be habitual eligible, which is 5
20 to 20 by itself which we filed for.

21 So, certainly she could have gotten a much worse deal
22 especially if you take into account the fact that this package, not just 2,
23 but 3 cases together, one of which had 19 felonies, the other one had 7
24 or 8 different counts, and then this one had 9. So, you know, do you
25 want to give a habitual status to somebody who has something like 35

1 felonies that shows up? Maybe. That's a lot of felonies. It's not
2 impossible and there's a certain amount of risk that comes with that.

3 You know, I think that one of the things that I took at least
4 from reading the transcripts is that she often would either accept and
5 then want to go back on a deal. The 6 to 15 was offered, she said she
6 didn't want it, at least according to the minutes that we have. So, then
7 there was, you know, the 8 to 20 that was offered.

8 She says that she doesn't want that but then when the Court
9 says, all right we'll set it for trial. We'll go to trial. You can have your
10 trial, that's no problem. I don't have any preference between you taking
11 a plea and you going to trial. All of a sudden, now she wants to plea
12 again. And then a few weeks later, she decides not only does she want
13 to withdraw the plea, she doesn't want that attorney anymore.

14 Then she gets a whole new attorney who's able to talk with
15 her, not only about her allegations of ineffectiveness with Mr. Arnold but
16 about whether she could withdraw her plea about trying to renegotiate
17 an offer. Which, there's been some testimony that the Henderson case
18 was always included, but that hasn't appeared anywhere in the record
19 that I've seen. Now, it may well have, it may not have. I don't know.
20 But it certainly wasn't in the plea agreement that she signed when Mr.
21 Arnold represented her and it was in the plea agreement that she signed
22 when Ms. Nguyen represented her. So, if it was going to have any legal
23 effect, Ms. Nguyen got that for her, got her deal to be measurably better
24 than it was.

25 You know, I was sitting here for a few minutes when I came in

1 and you were still working on the calendar, you've been taking pleas
2 today. And there's a certain amount of having to accept the
3 representation of the defendants when they say, yes I understand, yes
4 my attorney answered my question that goes on. And I think when you
5 review all of the transcripts that happen in this case, all of the various
6 canvasses, repeatedly she says she doesn't -- or she does understand
7 and then at some point later she goes back and says she doesn't want it
8 or she wants something else and I think that's exactly what's happening
9 here.

10 I think she understood what the potential negotiations were
11 both the times she was actually canvassed by the Court on each of the
12 cases. It was exactly the same deal. And she said each time that she
13 understood. And now, she's coming in and saying she doesn't and I just
14 don't think that that's credible testimony and I don't think the Court
15 should credit it.

16 I believe based on the transcripts, it's pretty clear that she
17 freely and voluntarily entered into her plea and Ms. Nguyen testified as
18 to the services that she gave her, the amount of conversations she had
19 with her, what she, you know, the reason why she thought it was a good
20 idea to enter into the plea, and that all sounds like perfectly reasonable
21 advice. So, based on that, I don't think there's any reason to withdraw
22 the plea and I would ask you to -- the Court to deny the petition.

23 THE COURT: All right. Any final follow ups, Mr. Owens?

24 MR. OWENS: No.

25 THE COURT: Okay. All right. Well, I'm glad we got to have

1 this evidentiary hearing and I know when I took over Mr. -- or Judge
2 Villani's cases that he was concerned about this case and wanted to
3 make sure that Ms. Brown was able to be heard and that's, you know,
4 why he granted the evidentiary hearing. He wanted to make sure that all
5 of her rights were protected. And so, again, I know that that was
6 important to him and it's important to me as well.

7 However, based on Ms. Nguyen's testimony as well as Ms.
8 Brown's, I'm finding that there's no reasonable reason why Ms. Brown
9 did not understand and continue to stay confused, especially in light of
10 the way she answered the canvassing questions.

11 I had a lot of defendants when I ask those canvassing
12 questions hesitate, or say, well, I guess, you know, when they really
13 weren't sure. And I've discussed it with them or I've continued the case
14 to make sure they had more time to talk to their attorney. That's not
15 what was indicated and I really do appreciate that there were breaks
16 taken, that there were -- sounds like plea agreements that were
17 updated, that this went to plea several times, and then there were
18 couple different attorneys involved. But I do have concerns about Mr.
19 Arnold's representation, but I do not have concerns about Ms. Nguyen's
20 representation.

21 I think she testified very genuinely and that she represented
22 Ms. Brown competently and thoroughly, that the taking into
23 consideration the amount of charges that were resolved in this plea
24 agreement, that her advice was not in any way neglectful or careless
25 and that although the charges may have been defensible, her advice to

1 her client that this plea agreement was in her best interest is not
2 unreasonable.

3 Ms. Brown testified that she did have a chance to talk to Ms.
4 Nguyen, especially one particular time at length and at least have an
5 opportunity to have all of her questions answered and I don't see in the
6 testimony -- or in the portions of the transcript that were read, but
7 specifically in the testimony today, why with the care that Ms. Nguyen
8 was taking, why Ms. Brown still had questions.

9 I mean, at some point, we can kind of choose to stay
10 confused. It doesn't really sound like 100 percent case of buyer's
11 remorse here. I really do think there is some genuine confusion, but I
12 think she had competent counsel and it doesn't amount to the standard
13 that we would need in order to be able to grant the motion -- or petition
14 to withdraw the plea, so it's going to be denied, and State, will you draft
15 the order and -- we do that right?

16 MR. NIMAN: Yes, yes, we'll --

17 THE COURT: I'm so used to civil.

18 MR. NIMAN: We'll draft the order, Your Honor. I just want to
19 be clear this --

20 THE COURT: Okay. And then please run it by Defense
21 counsel and make sure the wording is consistent with what I said here
22 today.

23 MR. NIMAN: I will, and this encompasses both the pro per
24 petition and the supplement?

25 THE COURT: Yes.

1 MR. NIMAN: Okay.

2 THE COURT: Because they -- I believe the supplement was
3 considered a supplement not a new petition, so it'll be combined.

4 MR. NIMAN: Yes, that's correct. Yeah.

5 THE COURT: All right.

6 MR. OWENS: That's correct.

7 THE COURT: Thank you.

8 MR. OWENS: And Judge, may stay on the case for the
9 appeal if that's what my client desires to do?

10 THE COURT: Yes, I'll appoint you for the appeal, if there is
11 one. All right. Thank you.

12 MR. OWENS: And I think Ms. Brown expressed a desire to
13 speak to me on the phone. Could the Corrections Officers take her to
14 the phone so I can call her as soon as we're done here?

15 THE COURT: Okay. Jail, did you hear that?

16 THE CORRECTIONS OFFICER: Yes, she's on the phone
17 now, attorney.

18 THE COURT: Oh, she's already on the phone. She's already
19 with the phones.

20 THE CORRECTIONS OFFICER: Yes.

21 MR. OWENS: Okay.

22 THE COURT: Thank you.

23 MR. NIMAN: I guess it sounds like maybe both for the
24 purposes of the appeal, but also for drafting the order, would you like me
25 to submit an order for a transcript for today's hearing or would the Court

1 just prepare one?

2 THE COURT: We'll go ahead and prepare one.

3 MR. NIMAN: Okay.

4 THE COURT: All right. Thank you.

5 MR. NIMAN: Thank you.

6 MR. OWENS: Thanks, Judge.

7 [Hearing concluded at 3:19 p.m.]

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

24

25



Brittany Amoroso
Court Recorder/Transcriber

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

Heaven S. Linn

CLERK OF THE COURT

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.¹ 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.

¹ 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.

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

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

15 If I could get the ankle monitor to get my affairs in order and pack up my
16 house and put stuff in storage and I'm willing to sign for the deal today and
17 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].

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

20 I don't want anyone to enter negotiations just to get out of custody because
21 then people come back and say, well, I only did it just to get out of custody. I
22 didn't really mean it. I didn't do it. I was pressured, coerced into entering the
23 negotiations. So, I don't allow that to occur. I mean if you're going to plead
24 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.
25 So, I don't want you – like I said, it – I'm not going to have my hands tied to
26 say I'll only take a deal if you let me out today. That – I'm not – I don't work
27 that way.

28 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
18 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
27 combination thereof. If you’re found not guilty, then you walk out the door. Do
28 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,² 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 ² 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.

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

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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> 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

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

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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

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

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 Petitioner,

10 vs.

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

15 Respondents.

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

NOTICE OF APPEAL

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 3rd 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

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

Steve Wolfson

Motions@clarkcountyda.com

BY:

/s/ Steven S. Owens, Esq.
STEVEN S. OWENS, ESQ.
Nevada Bar No. 4352
1000 N. Green Valley #440-529
Henderson, Nevada 89074
(702) 595-1171

Attorney for Petitioner
LEQUANA BROWN

CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on February 3, 2022. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON FORD
Nevada Attorney General

ALEXANDER CHEN
Chief Deputy District Attorney

/s/ Steven S. Owens
STEVEN S. OWENS, ESQ.