

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

---

SHAN JONATHON KITTREDGE, )

#1202642, )

Appellant, )

v. )

STATE OF NEVADA, )

Respondent. )

---

Electronically Filed  
Apr 27 2022 03:10 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

CASE NO.: **83943**

**E-FILE**

D.C. Case No.: A-20-815382-W

Dept.: **XXXII**

**APPELLANT'S APPENDIX VOLUMES 1 - 2**

**Appeal from denial of a Post- Conviction Writ of Habeas Corpus  
Eighth Judicial District Court, Clark County**

TERRENCE M. JACKSON, ESQ.  
Nevada Bar No. 000854  
Law Office of Terrence M. Jackson  
624 South 9th Street  
Las Vegas, Nevada 89101  
(702) 386-0001  
Terry.jackson.esq@gmail.com

STEVEN B. WOLFSON  
Nevada Bar No. 001565  
Clark County District Attorney  
200 E. Lewis Avenue  
Las Vegas, Nevada 89155  
(702) 671-2750  
Steven.Wolfson@clarkcountyda.com

AARON D. FORD  
Nevada Bar No. 007704  
Nevada Attorney General  
100 North Carson Street  
Carson City, Nevada 89701

...  
Counsel for Appellant

Counsel for Respondent

## **MASTER INDEX**

**Case No.: 83943**

<b>Document</b> (file stamp date in parenthesis) [hearing date in brackets]	<b>Volume</b>	<b>Page No.</b>
Amended Superseding Indictment ( <u>03/18/2019</u> )	1	023 - 026
Clerk's Notice of Nonconforming Document ( <u>05/19/2021</u> )	1	216 - 218
Court Minutes - All Pending Motions [1-21-2021]	1	213
Court Minutes - Petition for WHC [12-22-2020]	1	212
Court Minutes - Petition for WHC [10-21-2021]	2	281
Court Minutes - Sentencing [5-14-2019]	1	056 - 057
Court Minutes - Superseding Indictment [8-1-2018]	1	022
Findings of Fact, Conclusions of Law & Order Heard [10-21-2021] ( <u>12/01/2021</u> )	2	287 - 303
Guilty Plea Agreement ( <u>03/18/2019</u> )	1	027 - 037
Indictment ( <u>05/09/2014</u> )	1	06 - 08
Judgment of Conviction [Plea of Guilty] ( <u>05/16/2019</u> )	1	058 - 060
Notice of Appeal [A-20-815382-W] ( <u>12/13/2021</u> )	2	305 - 306
Notice of Entry of Finding of Facts ( <u>12/6/2021</u> )	2	304
Notice of Motion & Motion for Appointment of Counsel ( <u>05/22/2020</u> )	1	061 - 062
Petition for Writ of Habeas Corpus, PC ( <u>05/22/2020</u> )	1	063 - 079

Reply to Response to Petitioner's Supplemental Petition for a Writ of Habeas Corpus ( <u>10/19/2021</u> )	2	274 - 280
Reply to State's Opposition to Motion to Sever [2-24-2016] ( <u>02/19/2016</u> )	1	051 - 57
Second Supplemental Notice of Witnesses &/or Expert Witnesses ( <u>01/19/2017</u> )	1	128 - 130
Sentencing Memorandum of Defendant ( <u>05/08/2019</u> )	1	038 - 055
State's Opposition to Defendant's Motion for Discovery heard [3-30-2016] ( <u>03/24/2016</u> )	1	079 - 93
State's Response to Defendant's Petition for WHC (Post-Conviction) & Motion for Appointment of Counsel ( <u>11/25/2020</u> )	1	198 - 211
State's Response to Defendant's Supplemental Petition for WHC (Post-Conviction) & Motion for Discovery ( <u>08/18/2021</u> )	2	258 - 273
Stipulation and Order ( <u>05/19/2021</u> )	1	214 - 215
Superseding Indictment ( <u>08/01/2018</u> )	1	001 - 021
Supplemental Petition for Writ of Habeas Corpus ( <u>07/14/2021</u> )	1	219 - 251
Supplemental Petition for Writ of Habeas Corpus ( <u>07/14/2021</u> )	2	252 - 257

...

**Transcripts Follow:**

Transcript - Jury Trial, Day 1 [3-18-2019] ( <u>11/18/2020</u> )	1	080 - 197
Transcript - Petition for Writ of Habeas Corpus [10-21-2021] ( <u>01/03/2022</u> )	2	282 - 286

## CERTIFICATE OF SERVICE

I certify I am an assistant to Terrence M. Jackson, Esquire; a person competent to serve papers, not a party to the above-entitled action and on the 27th day of April, 2022, I served a copy of the foregoing: Appellant Shan Jonathon Kittredge's Opening Brief as well as the Appendix and Index, Volumes 1 through 2 as follows:

[X] Via Electronic Service to the Nevada Supreme Court, to the Eighth Judicial District Court, and by U. S. mail with first class postage affixed to the Nevada Attorney General and the Petitioner/Appellant as follows:

STEVEN B. WOLFSON

Clark County District Attorney

[steven.wolfson@clarkcountynyda.com](mailto:steven.wolfson@clarkcountynyda.com)

AARON D. FORD

Nevada Attorney General

100 North Carson Street

Carson City, NV 89701

ALEXANDER G. CHEN

Chief Deputy District Attorney - Criminal

[motions@clarkcountynyda.com](mailto:motions@clarkcountynyda.com)

SHAN J. KITTREDGE

ID# 1202642

S. D. C. C. - P. O. Box 208

Indian Springs, NV 89107-0208

By: /s/ Ila C. Wills

Assistant to Terrence M. Jackson, Esq.



**ORIGINAL**

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

AUG 01 2018

BY:   
KIMBERLY ESTALA, DEPUTY

1 IND  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 ELIZABETH MERCER  
6 Chief Deputy District Attorney  
7 Nevada Bar #10681  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 DEANNA PAGE, aka,  
13 Deanna Lee Page, #3063395  
14 SHAN JONATHON KITTREDGE,  
15 #1779637

16 Defendant.

CASE NO: C-18-333335-2

DEPT NO: XX

SUPERSEDING  
INDICTMENT

16 STATE OF NEVADA }  
17 COUNTY OF CLARK } ss.

18 The Defendant above named, DEANNA PAGE, aka, Deanna Lee Page, SHAN  
19 JONATHON KITTREDGE, accused by the Clark County Grand Jury of the crime(s) of  
20 CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 200.380, 199.480 -  
21 NOC 50147); ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS  
22 200.380, 193.165 - NOC 50138); ATTEMPT ROBBERY WITH USE OF A DEADLY  
23 WEAPON (Category B Felony - NRS 200.380, 193.330, 193.165 - NOC 50145);  
24 BURGLARY WHILE IN POSSESSION OF A FIREARM (Category B Felony - NRS 205.060  
25 - NOC 50426); ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471  
26 - NOC 50201); GRAND LARCENY AUTO (Category B Felony - NRS 205.228.3 - NOC  
27 56014); POSSESSION OF STOLEN VEHICLE (Category B Felony - NRS 205.273.4 - NOC  
28 56048); ASSAULT ON A PROTECTED PERSON WITH USE OF A DEADLY WEAPON

C-18-333335-2  
SIND  
Superseding Indictment  
4767852

A.A. 001



w:\2018\2018F1066718F10667-IND-(Superseding\_Kittredge)-001.docx

1 (Category B Felony - NRS 200.471 - NOC 50205); RESISTING PUBLIC OFFICER WITH  
2 USE OF A FIREARM (Category C Felony - NRS 199.280 - NOC 55104); and, OWNERSHIP  
3 OR POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony - NRS  
4 202.360 - NOC 51460), committed at and within the County of Clark, State of Nevada, on or  
5 between May 21, 2018 and June 8, 2018, as follows:

6 COUNT 1 - ROBBERY WITH USE OF A DEADLY WEAPON

7 Defendant SHAN KITTREDGE, did on or about May 21, 2018 willfully, unlawfully,  
8 and feloniously take personal property, to wit: U.S. Currency, from the person of JUAN DIAZ-  
9 SALAZAR, or in his presence, by means of force or violence, or fear of injury to, and without  
10 the consent and against the will of JUAN DIAZ-SALAZAR, with use of a deadly weapon, to  
11 wit: a firearm.

12 COUNT 2 - ROBBERY WITH USE OF A DEADLY WEAPON

13 Defendant SHAN KITTREDGE, did on or about May 21, 2018 willfully, unlawfully,  
14 and feloniously take personal property, to wit: U.S. Currency, from the person of ANDORIO  
15 RODRIGUEZ, or in his presence, by means of force or violence, or fear of injury to, and  
16 without the consent and against the will of ANDORIO RODRIGUEZ, with use of a deadly  
17 weapon, to wit: a firearm.

18 COUNT 3 - ROBBERY WITH USE OF A DEADLY WEAPON

19 Defendant SHAN KITTREDGE, did on or about May 21, 2018 willfully, unlawfully,  
20 and feloniously take personal property, to wit: U.S. Currency, from the person of ROBERT  
21 RODRIGUEZ, or in his presence, by means of force or violence, or fear of injury to, and  
22 without the consent and against the will of ROBERT RODRIGUEZ, with use of a deadly  
23 weapon, to wit: a firearm.

24 COUNT 4 - ROBBERY WITH USE OF A DEADLY WEAPON

25 Defendant SHAN KITTREDGE, did on or about May 21, 2018 willfully, unlawfully,  
26 and feloniously take personal property, to wit: U.S. Currency, from the person of ABIGAIL  
27 SALAZAR, or in his presence, by means of force or violence, or fear of injury to, and without  
28

A.A. 002

1 the consent and against the will of ABIGAIL SALAZAR, with use of a deadly weapon, to wit:  
2 a firearm.

3 COUNT 5 - ROBBERY WITH USE OF A DEADLY WEAPON

4 Defendant SHAN KITTREDGE, did on or about May 21, 2018 willfully, unlawfully,  
5 and feloniously take personal property, to wit: U.S. Currency, from the person of ANTHONY  
6 RODRIGUEZ, or in his presence, by means of force or violence, or fear of injury to, and  
7 without the consent and against the will of ANTHONY RODRIGUEZ, with use of a deadly  
8 weapon, to wit: a firearm.

9 COUNT 6 - BURGLARY WHILE IN POSSESSION OF A FIREARM

10 Defendant SHAN KITTREDGE, did on or about May 21, 2018 willfully, unlawfully,  
11 and feloniously enter building, owned or occupied by ROBERTO'S TACO SHOP, located at  
12 3400 South Hualapai Way, Las Vegas, Clark County, Nevada, with intent to commit a felony,  
13 to wit: robbery, while in possession of and/or gaining possession of a firearm at any time  
14 during the commission of the crime and/or at any time before leaving the structure or upon  
15 leaving the structure.

16 COUNT 7 - CONSPIRACY TO COMMIT ROBBERY

17 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about May 26, 2018,  
18 willfully, unlawfully, and feloniously conspire with one another to commit a robbery, by the  
19 Defendants committing the acts as set forth in Counts 8 through 11, said acts being  
20 incorporated by this reference as though fully set forth herein.

21 COUNT 8 - ROBBERY WITH USE OF A DEADLY WEAPON

22 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about May 26, 2018,  
23 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency, from the  
24 person of ELIBRADA GUIAO, or in her presence, by means of force or violence, or fear of  
25 injury to, and without the consent and against the will of ELIBRADA GUIAO, with use of a  
26 deadly weapon, to wit: a handgun, the Defendant(s) being criminally liable under one or more  
27 of the following principles of criminal liability, to wit: (1) by directly committing this crime;  
28 and/or (2) by aiding or abetting in the commission of this crime, with the intent that this crime

A.A. 003

1 be committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise  
2 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this  
3 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or  
4 conspiring by Defendants acting in concert throughout.

5 **COUNT 9 - ROBBERY WITH USE OF A DEADLY WEAPON**

6 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about May 26, 2018,  
7 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency, from the  
8 person of TRIXIE ARCINAS, or in her presence, by means of force or violence, or fear of  
9 injury to, and without the consent and against the will of TRIXIE ARCINAS, with use of a  
10 deadly weapon, to wit: a handgun, the Defendant(s) being criminally liable under one or more  
11 of the following principles of criminal liability, to wit: (1) by directly committing this crime;  
12 and/or (2) by aiding or abetting in the commission of this crime, with the intent that this crime  
13 be committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise  
14 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this  
15 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or  
16 conspiring by Defendants acting in concert throughout.

17 **COUNT 10 – ROBBERY WITH USE OF A DEADLY WEAPON**

18 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about May 26, 2018,  
19 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency, from the  
20 person of DIEGO MORA-GOMEZ, or in his presence, by means of force or violence, or fear  
21 of injury to, and without the consent and against the will of DIEGO MORA-GOMEZ, with  
22 use of a deadly weapon, to wit: a handgun, the Defendant(s) being criminally liable under one  
23 or more of the following principles of criminal liability, to wit: (1) by directly committing this  
24 crime; and/or (2) by aiding or abetting in the commission of this crime, with the intent that this  
25 crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or  
26 otherwise procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to  
27 commit this crime, with the intent that this crime be committed, Defendants aiding or abetting  
28 and/or conspiring by Defendants acting in concert throughout.

A.A. 004

1 COUNT 11 - BURGLARY WHILE IN POSSESSION OF A FIREARM

2 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about May 26, 2018,  
3 willfully, unlawfully, and feloniously enter a building, owned or occupied by PANDA  
4 EXPRESS, located at 1263 East Silverado Ranch, Las Vegas, Clark County, Nevada, with  
5 intent to commit a felony, to wit: robbery, while in possession of and/or gaining possession of  
6 a handgun, a deadly weapon, during the commission of the crime and/or before leaving the  
7 structure, the Defendant(s) being criminally liable under one or more of the following  
8 principles of criminal liability, to wit: (1) by directly committing this crime; and/or (2) by  
9 aiding or abetting in the commission of this crime, with the intent that this crime be committed,  
10 by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the  
11 other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the  
12 intent that this crime be committed, Defendants aiding or abetting and/or conspiring by  
13 Defendants acting in concert throughout.

14 COUNT 12 - ROBBERY WITH USE OF A DEADLY WEAPON

15 Defendant SHAN KITTREDGE, did on or about May 27, 2018 willfully, unlawfully,  
16 and feloniously take personal property, to wit: U.S. Currency, from the person of JENNIFER  
17 STRODE, or in her presence, by means of force or violence, or fear of injury to, and without  
18 the consent and against the will of JENNIFER STRODE, with use of a deadly weapon, to wit:  
19 a firearm.

20 COUNT 13 - ROBBERY WITH USE OF A DEADLY WEAPON

21 Defendant SHAN KITTREDGE, did on or about May 27, 2018 willfully, unlawfully,  
22 and feloniously take personal property, to wit: U.S. Currency, from the person of AZALEY  
23 GOMEZ, or in her presence, by means of force or violence, or fear of injury to, and without  
24 the consent and against the will of AZALEY GOMEZ, with use of a deadly weapon, to wit: a  
25 firearm.

26 COUNT 14 - ROBBERY WITH USE OF A DEADLY WEAPON

27 Defendant SHAN KITTREDGE, did on or about May 27, 2018 willfully, unlawfully,  
28 and feloniously take personal property, to wit: U.S. Currency, from the person of ANETTE

A.A. 005

1 MENZI, or in her presence, by means of force or violence, or fear of injury to, and without the  
2 consent and against the will of ANETTE MENZI, with use of a deadly weapon, to wit: a  
3 firearm.

4 **COUNT 15 - ROBBERY WITH USE OF A DEADLY WEAPON**

5 Defendant SHAN KITTREDGE, did on or about May 27, 2018 willfully, unlawfully,  
6 and feloniously take personal property, to wit: U.S. Currency, from the person of MADISON  
7 SERWICKI, or in her presence, by means of force or violence, or fear of injury to, and without  
8 the consent and against the will of MADISON SERWICKI, with use of a deadly weapon, to  
9 wit: a firearm.

10 **COUNT 16 - ROBBERY WITH USE OF A DEADLY WEAPON .**

11 Defendant SHAN KITTREDGE, did on or about May 27, 2018 willfully, unlawfully,  
12 and feloniously take personal property, to wit: U.S. Currency, from the person of MADISON  
13 SERWICKI, or in her presence, by means of force or violence, or fear of injury to, and without  
14 the consent and against the will of MADISON SERWICKI, with use of a deadly weapon, to  
15 wit: a firearm

16 **COUNT 17 - ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON**

17 Defendant SHAN KITTREDGE, did on or about May 27, 2018 willfully, unlawfully,  
18 and feloniously attempt to take personal property, to wit: U.S. Currency, from the person of  
19 GERALDIN GALLEG0-CORAL, or in her presence, by means of force or violence, or fear  
20 of injury to, and without the consent and against the will of GERALDIN GALLEG0-CORAL,  
21 by entering her place of employment with a firearm, brandishing the firearm, and demanding  
22 U.S. Currency, with use of a deadly weapon, to wit: a firearm.

23 **COUNT 18 - BURGLARY WHILE IN POSSESSION OF A FIREARM**

24 Defendant SHAN KITTREDGE, did on or about May 27, 2018 willfully, unlawfully,  
25 and feloniously enter building, owned or occupied by DUNKIN DONUTS, located at 409 East  
26 Silverado Rancho Boulevard, Las Vegas, Clark County, Nevada, with intent to commit a  
27 felony, to wit: robbery, while in possession of and/or gaining possession of a firearm at any

28 ///

A.A. 006

1 time during the commission of the crime and/or at any time before leaving the structure or  
2 upon leaving the structure.

3 **COUNT 19 - CONSPIRACY TO COMMIT ROBBERY**

4 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about May 31, 2018,  
5 willfully, unlawfully, and feloniously conspire with one another to commit a robbery, by the  
6 Defendants committing the acts as set forth in Counts 20 through 25, said acts being  
7 incorporated by this reference as though fully set forth herein.

8 **COUNT 20 - ROBBERY WITH USE OF A DEADLY WEAPON**

9 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about May 31, 2018,  
10 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency, from the  
11 person of JORGE HERNANDEZ-GARCIA, or in his presence, by means of force or violence,  
12 or fear of injury to, and without the consent and against the will of JORGE HERNANDEZ-  
13 GARCIA, with use of a deadly weapon, to wit: a handgun, the Defendant(s) being criminally  
14 liable under one or more of the following principles of criminal liability, to wit: (1) by directly  
15 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
16 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
17 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
18 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
19 aiding or abetting and/or conspiring by Defendants acting in concert throughout.

20 **COUNT 21 - ROBBERY WITH USE OF A DEADLY WEAPON**

21 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about May 31, 2018,  
22 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency, from the  
23 person of SANDRA AMADOR-HERNANDEZ, or in his presence, by means of force or  
24 violence, or fear of injury to, and without the consent and against the will of SANDRA  
25 AMADOR-HERNANDEZ, with use of a deadly weapon, to wit: a handgun, the Defendant(s)  
26 being criminally liable under one or more of the following principles of criminal liability, to  
27 wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the commission  
28 of this crime, with the intent that this crime be committed, by counseling, encouraging, hiring,

A.A. 007

1 commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3)  
2 pursuant to a conspiracy to commit this crime, with the intent that this crime be committed,  
3 Defendants aiding or abetting and/or conspiring by Defendants acting in concert throughout.

4 COUNT 22 - ASSAULT WITH A DEADLY WEAPON

5 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about May 31, 2018  
6 willfully, unlawfully, feloniously and intentionally place another person in reasonable  
7 apprehension of immediate bodily harm and/or did willfully and unlawfully attempt to use  
8 physical force against another person, to wit: ROBERT GALBRAITH, with use of a deadly  
9 weapon, to wit: a firearm, by pointing a firearm at him in a threatening manner during the  
10 commission of a robbery, the Defendant(s) being criminally liable under one or more of the  
11 following principles of criminal liability, to wit: (1) by directly committing this crime; and/or  
12 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be  
13 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise  
14 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this  
15 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or  
16 conspiring by Defendants acting in concert throughout.

17 COUNT 23 - ASSAULT WITH A DEADLY WEAPON

18 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about May 31, 2018  
19 willfully, unlawfully, feloniously and intentionally place another person in reasonable  
20 apprehension of immediate bodily harm and/or did willfully and unlawfully attempt to use  
21 physical force against another person, to wit: KENNETH IRWIN, with use of a deadly  
22 weapon, to wit: a firearm, by pointing a firearm at him in a threatening manner during the  
23 commission of a robbery, the Defendant(s) being criminally liable under one or more of the  
24 following principles of criminal liability, to wit: (1) by directly committing this crime; and/or  
25 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be  
26 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise  
27 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this

28 ///

A.A. 008



1 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or  
2 conspiring by Defendants acting in concert throughout.

3 COUNT 24 - ASSAULT WITH A DEADLY WEAPON

4 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about May 31, 2018  
5 willfully, unlawfully, feloniously and intentionally place another person in reasonable  
6 apprehension of immediate bodily harm and/or did willfully and unlawfully attempt to use  
7 physical force against another person, to wit: LARRY WEISS, with use of a deadly weapon,  
8 to wit: a firearm, by pointing a firearm at him in a threatening manner during the commission  
9 of a robbery, the Defendant(s) being criminally liable under one or more of the following  
10 principles of criminal liability, to wit: (1) by directly committing this crime; and/or (2) by  
11 aiding or abetting in the commission of this crime, with the intent that this crime be committed,  
12 by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the  
13 other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the  
14 intent that this crime be committed, Defendants aiding or abetting and/or conspiring by  
15 Defendants acting in concert throughout.

16 COUNT 25- BURGLARY WHILE IN POSSESSION OF A FIREARM

17 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about May 31, 2018,  
18 willfully, unlawfully, and feloniously enter a building, owned or occupied by ROBERTO'S  
19 TACO SHOP, located at 2230 West Horizon Ridge Parkway, Henderson, Clark County,  
20 Nevada, with intent to commit a felony, to wit: robbery, while in possession of and/or gaining  
21 possession of a handgun, a deadly weapon, during the commission of the crime and/or before  
22 leaving the structure, the Defendant(s) being criminally liable under one or more of the  
23 following principles of criminal liability, to wit: (1) by directly committing this crime; and/or  
24 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be  
25 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise  
26 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this  
27 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or  
28 conspiring by Defendants acting in concert throughout.

1 COUNT 26 - CONSPIRACY TO COMMIT ROBBERY

2 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about May 31, 2018,  
3 willfully, unlawfully, and feloniously conspire with one another to commit a robbery, by the  
4 Defendants committing the acts as set forth in Counts 27 through 31, said acts being  
5 incorporated by this reference as though fully set forth herein.

6 COUNT 27 - ROBBERY WITH USE OF A DEADLY WEAPON

7 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about May 31, 2018,  
8 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency, from the  
9 person of MARIA SOLIS, or in her presence, by means of force or violence, or fear of injury  
10 to, and without the consent and against the will of MARIA SOLIS, with use of a deadly  
11 weapon, to wit: a handgun, the Defendant(s) being criminally liable under one or more of the  
12 following principles of criminal liability, to wit: (1) by directly committing this crime; and/or  
13 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be  
14 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise  
15 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this  
16 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or  
17 conspiring by Defendants acting in concert throughout.

18 COUNT 28 - ROBBERY WITH USE OF A DEADLY WEAPON

19 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about May 31, 2018,  
20 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency, from the  
21 person of VICTOR DELGADILLO-GARCIA, or in her presence, by means of force or  
22 violence, or fear of injury to, and without the consent and against the will of VICTOR  
23 DELGADILLO-GARCIA, with use of a deadly weapon, to wit: a handgun, the Defendant(s)  
24 being criminally liable under one or more of the following principles of criminal liability, to  
25 wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the commission  
26 of this crime, with the intent that this crime be committed, by counseling, encouraging, hiring,  
27 commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3)

28 ///

A.A. 010

1 pursuant to a conspiracy to commit this crime, with the intent that this crime be committed,  
2 Defendants aiding or abetting and/or conspiring by Defendants acting in concert throughout.

3 COUNT 29 - ASSAULT WITH A DEADLY WEAPON

4 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about May 31, 2018  
5 willfully, unlawfully, feloniously and intentionally place another person in reasonable  
6 apprehension of immediate bodily harm and/or did willfully and unlawfully attempt to use  
7 physical force against another person, to wit: HARRISON L.N.U., with use of a deadly  
8 weapon, to wit: a firearm, by pointing a firearm at him in a threatening manner during the  
9 commission of a robbery, the Defendant(s) being criminally liable under one or more of the  
10 following principles of criminal liability, to wit: (1) by directly committing this crime; and/or  
11 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be  
12 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise  
13 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this  
14 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or  
15 conspiring by Defendants acting in concert throughout.

16 COUNT 30 - ASSAULT WITH A DEADLY WEAPON

17 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about May 31, 2018  
18 willfully, unlawfully, feloniously and intentionally place another person in reasonable  
19 apprehension of immediate bodily harm and/or did willfully and unlawfully attempt to use  
20 physical force against another person, to wit: ALVARO MENDOZA, with use of a deadly  
21 weapon, to wit: a firearm, by pointing a firearm at him in a threatening manner during the  
22 commission of a robbery, the Defendant(s) being criminally liable under one or more of the  
23 following principles of criminal liability, to wit: (1) by directly committing this crime; and/or  
24 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be  
25 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise  
26 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this  
27 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or  
28 conspiring by Defendants acting in concert throughout.

A.A. 011

1 COUNT 31 - BURGLARY WHILE IN POSSESSION OF A FIREARM

2 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about May 31, 2018,  
3 willfully, unlawfully, and feloniously enter a building, owned or occupied by ROBERTO'S  
4 TACO SHOP, located at 10430 Bermuda Road, Las Vegas, Clark County, Nevada, with intent  
5 to commit a felony, to wit: robbery, while in possession of and/or gaining possession of a  
6 handgun, a deadly weapon, during the commission of the crime and/or before leaving the  
7 structure, the Defendant(s) being criminally liable under one or more of the following  
8 principles of criminal liability, to wit: (1) by directly committing this crime; and/or (2) by  
9 aiding or abetting in the commission of this crime, with the intent that this crime be committed,  
10 by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the  
11 other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the  
12 intent that this crime be committed, Defendants aiding or abetting and/or conspiring by  
13 Defendants acting in concert throughout.

14 COUNT 32 - BURGLARY WHILE IN POSSESSION OF A FIREARM

15 Defendant SHAN KITTREDGE, did on or about June 1, 2018 willfully, unlawfully,  
16 and feloniously enter building, owned or occupied by KHOURY'S MEDITERRANEAN  
17 RESTAURANT, located at 9340 West Sahara Avenue, Las Vegas, Clark County, Nevada,  
18 with intent to commit a felony, to wit: robbery, while in possession of and/or gaining  
19 possession of a firearm at any time during the commission of the crime and/or at any time  
20 before leaving the structure or upon leaving the structure.

21 COUNT 33 - ROBBERY WITH USE OF A DEADLY WEAPON

22 Defendant SHAN KITTREDGE, did on or about June 1, 2018 willfully, unlawfully,  
23 and feloniously take personal property, to wit: U.S. Currency, from the person of DON  
24 GIULIANO, or in his presence, by means of force or violence, or fear of injury to, and without  
25 the consent and against the will of DON GIULIANO, with use of a deadly weapon, to wit: a  
26 firearm.

27 ///

28 ///

A.A. 012

1 COUNT 34 - ROBBERY WITH USE OF A DEADLY WEAPON

2 Defendant SHAN KITTREDGE, did on or about June 1, 2018 willfully, unlawfully,  
3 and feloniously take personal property, to wit: U.S. Currency, from the person of JOY  
4 SHLASINGER, or in her presence, by means of force or violence, or fear of injury to, and  
5 without the consent and against the will of JOY SHLASINGER, with use of a deadly weapon,  
6 to wit: a firearm.

7 COUNT 35 - CONSPIRACY TO COMMIT ROBBERY

8 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about June 2, 2018,  
9 willfully, unlawfully, and feloniously conspire with one another to commit a robbery, by the  
10 Defendants committing the acts as set forth in Counts 35 through 38, said acts being  
11 incorporated by this reference as though fully set forth herein.

12 COUNT 36 - ROBBERY WITH USE OF A DEADLY WEAPON

13 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about June 2, 2018,  
14 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency, from the  
15 person of JENNFIER HUGHES, or in her presence, by means of force or violence, or fear of  
16 injury to, and without the consent and against the will of JENNFIER HUGHES, with use of a  
17 deadly weapon, to wit: a handgun, the Defendant(s) being criminally liable under one or more  
18 of the following principles of criminal liability, to wit: (1) by directly committing this crime;  
19 and/or (2) by aiding or abetting in the commission of this crime, with the intent that this crime  
20 be committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise  
21 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this  
22 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or  
23 conspiring by Defendants acting in concert throughout.

24 COUNT 37 - ROBBERY WITH USE OF A DEADLY WEAPON

25 Defendants SHAN KITTREDGE and DEANNA PAGE, did willfully, unlawfully, and  
26 feloniously take personal property, to wit: U.S. Currency, from the person of KEYMARI  
27 PAXTON, or in his presence, by means of force or violence, or fear of injury to, and without  
28 the consent and against the will of KEYMARI PAXTON, with use of a deadly weapon, to wit:

1 a handgun, the Defendant(s) being criminally liable under one or more of the following  
2 principles of criminal liability, to wit: (1) by directly committing this crime; and/or (2) by  
3 aiding or abetting in the commission of this crime, with the intent that this crime be committed,  
4 by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the  
5 other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the  
6 intent that this crime be committed, Defendant and/or SHAN KITTREDGE aiding or abetting  
7 and/or conspiring by Defendant and/or SHAN KITTREDGE acting in concert throughout.

8 **COUNT 38 - BURGLARY WHILE IN POSSESSION OF A FIREARM**

9 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about June 2, 2018,  
10 willfully, unlawfully, and feloniously enter a building, owned or occupied by ALBERTSON'S,  
11 located at 5975 West Tropicana Avenue, Las Vegas, Clark County, Nevada, with intent to  
12 commit a felony, to wit: robbery, while in possession of and/or gaining possession of a  
13 handgun, a deadly weapon, during the commission of the crime and/or before leaving the  
14 structure, the Defendant(s) being criminally liable under one or more of the following  
15 principles of criminal liability, to wit: (1) by directly committing this crime; and/or (2) by  
16 aiding or abetting in the commission of this crime, with the intent that this crime be committed,  
17 by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the  
18 other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the  
19 intent that this crime be committed, Defendant and/or SHAN KITTREDGE aiding or abetting  
20 and/or conspiring by Defendant and/or SHAN KITTREDGE acting in concert throughout.

21 **COUNT 39 - CONSPIRACY TO COMMIT ROBBERY**

22 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about June 7, 2018,  
23 willfully, unlawfully, and feloniously conspire with one another to commit a robbery, by  
24 Defendants committing the acts as set forth in Counts 40 through 42, said acts being  
25 incorporated by this reference as though fully set forth herein.

26 **COUNT 40 - ROBBERY WITH USE OF A DEADLY WEAPON**

27 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about June 7, 2018,  
28 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency, from the

1 person of DENISE PRATT, or in her presence, by means of force or violence, or fear of injury  
2 to, and without the consent and against the will of DENISE PRATT, with use of a deadly  
3 weapon, to wit: a handgun, the Defendant(s) being criminally liable under one or more of the  
4 following principles of criminal liability, to wit: (1) by directly committing this crime; and/or  
5 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be  
6 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise  
7 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this  
8 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or  
9 conspiring by Defendants acting in concert throughout.

10 COUNT 41 - ASSAULT WITH A DEADLY WEAPON

11 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about June 7, 2018  
12 willfully, unlawfully, feloniously and intentionally place another person in reasonable  
13 apprehension of immediate bodily harm and/or did willfully and unlawfully attempt to use  
14 physical force against another person, to wit: GUY FRANSEN, with use of a deadly weapon,  
15 to wit: a firearm, by pointing the firearm at said GUY FRANSEN and threatening him during  
16 the course of a robbery, the Defendant(s) being criminally liable under one or more of the  
17 following principles of criminal liability, to wit: (1) by directly committing this crime; and/or  
18 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be  
19 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise  
20 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this  
21 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or  
22 conspiring by Defendants acting in concert throughout.

23 COUNT 42 - BURGLARY WHILE IN POSSESSION OF A FIREARM

24 Defendants SHAN KITTREDGE and DEANNA PAGE, did on or about June 7, 2018,  
25 willfully, unlawfully, and feloniously enter a building, owned or occupied by ALBERTSON'S,  
26 located at 2500 South Fort Apache, Las Vegas, Clark County, Nevada, with intent to commit  
27 a felony, to wit: robbery, while in possession of and/or gaining possession of a handgun, a  
28 deadly weapon, during the commission of the crime and/or before leaving the structure, the

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

8 COUNT 43 - GRAND LARCENY AUTO

9 Defendant SHAN KITTREDGE did, on or between May 24, 2018 and May 25, 2018,  
10 then and there willfully, unlawfully, feloniously, and intentionally, with intent to deprive the  
11 owner permanently thereof, steal, take and carry away, drive away or otherwise remove a  
12 motor vehicle owned by another person, having a value of \$3,500.00, or greater, in the  
13 possession of RAVEN RUTSHAW, to wit: an Infiniti, bearing Nevada License No. 189AUC.

14 COUNT 44 - POSSESSION OF STOLEN VEHICLE

15 Defendant SHAN KITTREDGE did, on or between May 24, 2018 and June 8, 2018  
16 willfully, unlawfully, and feloniously possess a stolen motor vehicle wrongfully taken from  
17 RAVEN RUTSHAW, to wit: an Infiniti, bearing Nevada License No. 189AUC, which  
18 Defendant knew, or had reason to believe, had been stolen; the value of the vehicle being  
19 \$3,500.00, or more.

20 COUNT 45 - ASSAULT ON A PROTECTED PERSON WITH USE OF A DEADLY  
21 WEAPON

22 Defendant SHAN KITTREDGE, did, on or about June 8, 2018, willfully, unlawfully,  
23 feloniously and intentionally place another person in reasonable apprehension of immediate  
24 bodily harm and/or did willfully and unlawfully attempt to use physical force against another  
25 person, to wit: J. EMERY, a protected person employed as a Las Vegas Metropolitan Police  
26 Department Officer, while J. EMERY was performing his duties as a Las Vegas Metropolitan  
27 Police Department Officer, which Defendant knew, or should have known, that J. EMERY  
28 was a Las Vegas Metropolitan Police Department Officer, with use of a deadly weapon, to



1 wit: a firearm, by pointing said firearm at the said Officer J. EMERY in an attempt to escape  
2 from law enforcement.

3 **COUNT 46 - ASSAULT ON A PROTECTED PERSON WITH USE OF A DEADLY**  
4 **WEAPON**

5 Defendant SHAN KITTREDGE did, on or about June 8, 2018, willfully, unlawfully,  
6 feloniously and intentionally place another person in reasonable apprehension of immediate  
7 bodily harm and/or did willfully and unlawfully attempt to use physical force against another  
8 person, to wit: S. MCNULTY, a protected person employed as a Las Vegas Metropolitan  
9 Police Department Officer, while S. MCNULTY was performing his duties as a Las Vegas  
10 Metropolitan Police Department Officer, which Defendant knew, or should have known, that  
11 S. MCNULTY was a Las Vegas Metropolitan Police Department Officer, with use of a deadly  
12 weapon, to wit: a firearm, by pointing said firearm at the said Officer S. MCNULTY in an  
13 attempt to escape law enforcement.

14 **COUNT 47 - ASSAULT ON A PROTECTED PERSON WITH USE OF A DEADLY**  
15 **WEAPON**

16 Defendant SHAN KITTREDGE, did, on or about June 8, 2018, willfully, unlawfully,  
17 feloniously and intentionally place another person in reasonable apprehension of immediate  
18 bodily harm and/or did willfully and unlawfully attempt to use physical force against another  
19 person, to wit: N. BACHMAN, a protected person employed as a Las Vegas Metropolitan  
20 Police Department Officer, while N. BACHMAN was performing his duties as a Las Vegas  
21 Metropolitan Police Department Officer, which Defendant knew, or should have known, that  
22 N. BACHMAN was a Las Vegas Metropolitan Police Department Officer, with use of a deadly  
23 weapon, to wit: a vehicle, by attempting to strike the said Officer N. BACHMAN with his said  
24 vehicle.

25 **COUNT 48 - RESISTING PUBLIC OFFICER WITH USE OF A FIREARM**

26 Defendant SHAN KITTREDGE, did on or about June 8, 2018, willfully, unlawfully,  
27 and feloniously resist, delay, or obstruct Officer(s) J. EMERY and/or S. MCNULTY and/or  
28 R. Hart, Las Vegas Metropolitan Police Department, public officers in discharging or  
attempting to discharge any legal duty, to wit: by pointing a firearm at the said Officer(s) J.

A.A. 017

1 EMERY and/or S. MCNULTY and/or R. Hart, in an effort to flee from the officers, Defendant  
2 using a firearm or Defendant removing, taking, or attempting to take or remove a firearm from  
3 the person of, or the immediate presence of, the public officer in the course of such resistance,  
4 obstruction or delay.

5 DATED this 31<sup>st</sup> day of July, 2018.

6 STEVEN B. WOLFSON  
7 Clark County District Attorney  
8 Nevada Bar #001765

9 BY

10 ELIZABETH MERCER  
11 Chief Deputy District Attorney  
12 Nevada Bar #10681

13 ENDORSEMENT: A True Bill

14 

15 Foreperson, Clark County Grand Jury

16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
  
A.A. 018

Names of Witnesses and testifying before the Grand Jury:

AMADOR-HERNANDEZ, SANDRA – ROBERTOS 2230 W. HORIZON RIDGE PKWY,  
LV, NV 89052

EMERY, JOSEPH – LVMPD

FARRELL, PATRICK – HP #1267

FRANSEN, GUY – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

GIULLIANO, DON – KHRYS MEDITERRANEAN 9340 E. SAHARA AVE, LV, NV 89117

GOMEZ, DIEGO – PANDA EXPRESS 1263 E. SILVERADO RANCH, LV, NV 89183

GUIAO, ELIBRADA – PANDA EXPRESS 1263 E. SILVERADO RANCH, LV, NV 89183

HAASMANN, YUL – INTERPRETER

HINER, TANYA – HP #2278

HUGHES, JENNIFER – ALBERTSONS 5975 W. TROPICANA AVE, LV, NV 89118

JAPPE, DEREK – LVMPD #9992

NELSON, JASON – LVMPD

NELSON, JASON – LVMPD #6825

PENNY, BLAKE – LVMPD DETECTIVE

PRATT, DENISE – ALBERTSONS 5975 W. TROPICANA AVE, LV, NV 89118

RUTSHAW, RAVEN – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

SALAZAR- DIAZ, JUAN – ROBERTOS, 3400 S. HUALAPAI, LV, NV 89117

SNODGRASS, THEODORE – LVMPD #13701

SOLIS, MARIA – ROBERTOS TACO SHOP 10430 BERMUDA RD, LV, NV 89183

STRODE, JENNIFER – DUNKIN DONUTS 409 E. SILVERADO RANCH, LV, NV 89183

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

AMEZCUA, MARISSA – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

ARCINAS, TRIXILE – PANDA EXPRESS 1263 E. SILVERADO RANCH, LV, NV 89183

CALVANO, NATHAN – HP #1339

CARDENAS, ELIAS – LVMPD #6826

A.A. 019

1 CARILLO, CARMEN – ROBERTOS 10430 BERMUDA RD, LV, NV 89183  
2 CUSTODIAN OF RECORDS - HPD  
3 CUSTODIAN OF RECORDS - HPD COMMUNICATIONS  
4 CUSTODIAN OF RECORDS - HPD RECORDS  
5 DAVILA, LOUIS – c/o CCDA, 200 Lewis Avenue, LV, NV 89101  
6 DAVILA, REBECCA – c/o CCDA, 200 Lewis Avenue, LV, NV 89101  
7 DAVILA, RENEE – c/o CCDA, 200 Lewis Avenue, LV, NV 89101  
8 DELGADILLO-GARCIA, VICTOR – ROBERTOS TACOS SHOP 10430 BERMUDA RD,  
9 LV, NV 89183  
10 DIAZ, VON JON – c/o CCDA, 200 Lewis Avenue, LV, NV 89101  
11 GALBRAITH, ROBERT – c/o CCDA, 200 Lewis Avenue, LV, NV 89101  
12 GALLEG0-CORAL, GERALDINE – c/o CCDA, 200 Lewis Avenue, LV, NV 89101  
13 GARCIA, JORGE – ROBERTOS 2230 W. HORIZON RIDGE PKWY, LV, NV 89052  
14 GOMEZ, AZALEY – DUNKIN DONUTS 409 E. SILVERADO RANCH, LV, NV 89183  
15 GOMEZ, BARBARA – c/o CCDA, 200 Lewis Avenue, LV, NV 89101  
16 GUARD OF KEYMARI PAXTON – c/o CCDA, 200 Lewis Avenue, LV, NV 89101  
17 KRIMM, JESSICA – c/o CCDA, 200 Lewis Avenue, LV, NV 89101  
18 KRIMM, JESSICA – c/o CCDA, 200 Lewis Avenue, LV, NV 89101  
19 MARINO, PEDRO – ROBERTOS 2230 W. HORIZON RIDGE PKWY, LV, NV 89052  
20 MENDOZA, ALVARO – ROBERTOS 10430 BERMUDA RD, LV, NV 89183  
21 MERCADO, MARTIN – c/o CCDA, 200 Lewis Avenue, LV, NV 89101  
22 MEZEI, ANETTE – c/o CCDA, 200 Lewis Avenue, LV, NV 89101  
23 MURDOCH, DEAN – c/o CCDA, 200 Lewis Avenue, LV, NV 89101  
24 NORA, LILIA – PANDA EXPRESS – 1263 E. SILVERADO RANCH, LV, NV 89183  
25 PAXTON, KEYMARI – ALBERTSONS 5975 W. TROPICANA AVE, LV, NV 89118  
26 RODRIGUEZ, ANDORIO – ROBERTOS, 3400 S. HUALAPAI, LV, NV 89117  
27 RODRIGUEZ, JORGE – c/o CCDA, 200 Lewis Avenue, LV, NV 89101  
28 RODRIGUEZ, REBEL – ROBERTOS 2230 W. HORIZON RIDGE PKWY, LV, NV 89052

A.A. 020

1 SALAZAR, MATTHEW – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

2 SERWICKI, MADISON – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

3 SHLASINGER, JOY – KHRYS MEDITERRANEAN 9340 E. SAHARA AVE, LV, NV  
4 89117

5 SMITH, SAMUEL – LVMPD #6424

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26 18AGJ018A-B/18F10667X/18F10803X/18F05609X/cl-GJ  
27 LVMPD EV# 1805263789;  
28 1805311580; 1806022578;  
HPD 1811622  
(TK1)

A.A. 021

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

August 01, 2018

C-18-333335-2      State of Nevada  
                                 vs  
                                 Shan Kittredge

August 01, 2018      11:00 AM      Superseding Indictment

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11D

COURT CLERK: Estala, Kimberly

RECORDER: Vincent, Renee

REPORTER:

PARTIES PRESENT:

Laura Jean Rose

Attorney for Plaintiff

State of Nevada

Plaintiff

## JOURNAL ENTRIES

Russell Walker, 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 18AGJ018B to the Court. COURT ORDERED, the Superseding Indictment may be filed and is assigned Case Number C-18-333335-2, Department XX.

State requested a warrant, argued bail, and advised Deft is in custody. COURT ORDERED, \$200,000.00 BAIL, with House Arrest; SUPERSEDING INDICTMENT WARRANT ISSUED, and matter SET for Arraignment.

COURT FURTHER ORDERED, Exhibits 1b, 32-42 to be lodged with the Clerk of the Court; Las Vegas Justice Court case no. 18F10803X DISMISSED per the State's request.

I.W. (CUSTODY)

08/02/18 9:00 A.M. INITIAL ARRAIGNMENT (DEPT X)

ORIGINAL

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

12/18/2018

BY *Linda Skinner*  
LINDA SKINNER, DEPUTY

1 AIND  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 ELIZABETH MERCER  
6 Chief Deputy District Attorney  
7 Nevada Bar #10681  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

C-18-333335-2  
AIND  
Amended Indictment  
4823382



9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 SHAN JONATHON KITTREDGE,  
13 #1779637

14 Defendant.

CASE NO: C-18-333335-2

DEPT NO: XX

AMENDED SUPERSEDING  
INDICTMENT

15 STATE OF NEVADA }  
16 COUNTY OF CLARK } ss.  
17

18 The Defendant above named, SHAN JONATHON KITTREDGE, accused by the Clark  
19 County Grand Jury of the crime(s) of CONSPIRACY TO COMMIT ROBBERY (Category  
20 B Felony - NRS 200.380, 199.480 - NOC 50147); ROBBERY WITH USE OF A DEADLY  
21 WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138); and RESISTING  
22 PUBLIC OFFICER WITH USE OF A FIREARM (Category C Felony - NRS 199.280 -  
23 NOC 55104), committed at and within the County of Clark, State of Nevada, on or between  
24 May 21, 2018 and June 8, 2018, as follows:

25 COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

26 did on or between May 21, 2018, and June 7, 2018, willfully, unlawfully, and  
27 feloniously conspire with DEANNA PAGE, aka Deanna Lee Page, to commit a robbery, by  
28 the Defendant and DEANNA PAGE, aka Deanna Lee Page committing the acts as set forth in

//

A.A. 023

1 Counts 2 through 4, said acts being incorporated by this reference as though fully set forth  
2 herein.

3 COUNT 2 - ROBBERY WITH USE OF A DEADLY WEAPON

4 did on or between May 21, 2018, and May 26, 2018, willfully, unlawfully, and  
5 feloniously take personal property, to wit: U.S. Currency, from the person of JUAN DIAZ-  
6 SALAZAR and/or ANDORIO RODRIGUEZ and/or ROBERT RODRIGUEZ and/or  
7 ABIGAIL SALAZAR and/or ANTHONY RODRIGUEZ and/or ELIBRADA GUIAO and/or  
8 TRIXIE ARCINAS and/or DIEGO MORA-GOMEZ, or in their presence, by means of force  
9 or violence, or fear of injury to, and without the consent and against the will of JUAN DIAZ-  
10 SALAZAR and/or ANDORIO RODRIGUEZ and/or ROBERT RODRIGUEZ and/or  
11 ABIGAIL SALAZAR and/or ANTHONY RODRIGUEZ and/or ELIBRADA GUIAO and/or  
12 TRIXIE ARCINAS and/or DIEGO MORA-GOMEZ, with use of a deadly weapon, to wit: a  
13 firearm, the Defendant(s) being criminally liable under one or more of the following principles  
14 of criminal liability, to wit: (1) by directly committing this crime; and/or (2) by aiding or  
15 abetting in the commission of this crime, with the intent that this crime be committed, by  
16 counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the other  
17 to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent  
18 that this crime be committed, Defendants aiding or abetting and/or conspiring by Defendants  
19 acting in concert throughout.

20 COUNT 3 - ROBBERY WITH USE OF A DEADLY WEAPON

21 did on or between May 27, 2018, and May 31, 2018, willfully, unlawfully, and  
22 feloniously take personal property, to wit: U.S. Currency, from the person of JENNIFER  
23 STRODE and/or AZALEY GOMEZ and/or ANETTE MENZI and/or MADISON SERWICKI  
24 and/or JORGE HERNANDEZ-GARCIA and/or SANDRA AMADOR-HERNANDEZ and/or  
25 MARIA SOLIS and/or VICTOR DELGADILLO-GARCIA, or in their presence, by means of  
26 force or violence, or fear of injury to, and without the consent and against the will of  
27 JENNIFER STRODE and/or AZALEY GOMEZ and/or ANETTE MENZI and/or MADISON  
28 SERWICKI and/or JORGE HERNANDEZ-GARCIA and/or SANDRA AMADOR-

A.A. 024



1 HERNANDEZ and/or MARIA SOLIS and/or VICTOR DELGADILLO-GARCIA, with use  
2 of a deadly weapon, to wit: a firearm, the Defendant(s) being criminally liable under one or  
3 more of the following principles of criminal liability, to wit: (1) by directly committing this  
4 crime; and/or (2) by aiding or abetting in the commission of this crime, with the intent that this  
5 crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or  
6 otherwise procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to  
7 commit this crime, with the intent that this crime be committed, Defendants aiding or abetting  
8 and/or conspiring by Defendants acting in concert throughout.

9 COUNT 4 - ROBBERY WITH USE OF A DEADLY WEAPON

10 did on or between June 1, 2018, and June 7, 2018, willfully, unlawfully, and  
11 feloniously take personal property, to wit: U.S. Currency, from the person of DON  
12 GIULIANO and/or JOY SHLASINGER and/or JENNFIER HUGHES and/or KEYMARI  
13 PAXTON and/or DENISE PRATT, or in their presence, by means of force or violence, or fear  
14 of injury to, and without the consent and against the will of DON GIULIANO and/or JOY  
15 SHLASINGER and/or JENNFIER HUGHES and/or KEYMARI PAXTON and/or DENISE  
16 PRATT, with use of a deadly weapon, to wit: a firearm, the Defendant(s) being criminally  
17 liable under one or more of the following principles of criminal liability, to wit: (1) by directly  
18 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
19 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
20 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
21 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
22 aiding or abetting and/or conspiring by Defendants acting in concert throughout.

23 COUNT 5 - RESISTING PUBLIC OFFICER WITH USE OF A FIREARM

24 Defendant SHAN KITTREDGE, did on or about June 8, 2018, willfully, unlawfully,  
25 and feloniously resist, delay, or obstruct Officer(s) J. EMERY and/or S. MCNULTY and/or  
26 R. Hart, Las Vegas Metropolitan Police Department, public officers in discharging or  
27 attempting to discharge any legal duty, to wit: by pointing a firearm at the said Officer(s) J.  
28 EMERY and/or S. MCNULTY and/or R. Hart, in an effort to flee from the officers, Defendant

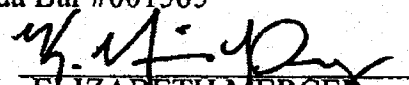
A.A. 025

1 using a firearm or Defendant removing, taking, or attempting to take or remove a firearm from  
2 the person of, or the immediate presence of, the public officer in the course of such resistance,  
3 obstruction or delay.

4 DATED this 18<sup>th</sup> day of March, 2019.

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

7 BY

 #12473  
8 ELIZABETH MERCER  
9 Chief Deputy District Attorney  
Nevada Bar #10681

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25 18AGJ018A-B/18F10667X/18F10803X/18F05609X/llm/GCU  
26 LVMPD EV# 1805263789;  
27 1805311580; 1806022578;  
28 HPD 1811622  
(TK1)

A.A. 026

● ORIGINAL ●

FILED IN OPEN COURT  
STEVEN D. GRIERSON  
CLERK OF THE COURT  
MAR 18 2019

1 GPA  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 ELIZABETH MERCER  
6 Chief Deputy District Attorney  
7 Nevada Bar #010681  
8 200 Lewis Avenue  
9 Las Vegas, NV 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

By Linda Skinner  
LINDA SKINNER, DEPUTY

DISTRICT COURT  
CLARK COUNTY, NEVADA

C-18-33335-2  
GPA  
Guilty Plea Agreement  
4823381



9 THE STATE OF NEVADA,  
10 Plaintiff,

11 -vs-

12 SHAN JONATHON KITTREDGE,  
13 #1779637

14 Defendant.

CASE NO: C-18-33335-2  
DEPT NO: XX

15 GUILTY PLEA AGREEMENT

16 I hereby agree to plead guilty to: COUNT 1 - CONSPIRACY TO COMMIT  
17 ROBBERY (Category B Felony - NRS 200.380, 199.480 - NOC 50147); COUNTS 2  
18 through 4 - ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony -  
19 NRS 200.380, 193.165 - NOC 50138); and COUNT 5 - RESISTING PUBLIC OFFICER  
20 WITH USE OF A FIREARM (Category C Felony - NRS 199.280 - NOC 55104), as more  
21 fully alleged in the charging document attached hereto as Exhibit "1".

22 My decision to plead guilty is based upon the plea agreement in this case which is as  
23 follows:

24 Both parties stipulate to a total term of imprisonment of eighteen (18) to forty-five (45)  
25 years in the Nevada Department of Corrections.

26 I agree to the forfeiture of any and all weapons or any interest in any weapons seized  
27 and/or impounded in connection with the instant case and/or any other case negotiated in  
28 whole or in part in conjunction with this plea agreement.

A.A. 027

1 I understand and agree that, if I fail to interview with the Department of Parole and  
2 Probation, fail to appear at any subsequent hearings in this case, or an independent magistrate,  
3 by affidavit review, confirms probable cause against me for new criminal charges including  
4 reckless driving or DUI, but excluding minor traffic violations, the State will have the  
5 unqualified right to argue for any legal sentence and term of confinement allowable for the  
6 crime(s) to which I am pleading guilty, including the use of any prior convictions I may have  
7 to increase my sentence as an habitual criminal to five (5) to twenty (20) years, life without  
8 the possibility of parole, life with the possibility of parole after ten (10) years, or a definite  
9 twenty-five (25) year term with the possibility of parole after ten (10) years.

10 Otherwise I am entitled to receive the benefits of these negotiations as stated in this  
11 plea agreement.

12 CONSEQUENCES OF THE PLEA

13 I understand that by pleading guilty I admit the facts which support all the elements of  
14 the offense(s) to which I now plead as set forth in Exhibit "1".

15 As to Count 1, I understand that as a consequence of my plea of guilty the Court must  
16 sentence me to imprisonment in the Nevada Department of Corrections for a minimum term  
17 of not less than one (1) year and a maximum term of not more than six (6) years. The minimum  
18 term of imprisonment may not exceed forty percent (40%) of the maximum term of  
19 imprisonment. I understand that I may also be fined up to \$5,000.00. I understand that I am  
20 eligible for probation for the offense to which I am pleading guilty. I understand that, except  
21 as otherwise provided by statute, the question of whether I receive probation is in the discretion  
22 of the sentencing judge.

23 As to Counts 2 through 4, I understand that as a consequence of my plea of guilty the  
24 Court must sentence me to imprisonment in the Nevada Department of Corrections for a  
25 minimum term of not less than two (2) years and a maximum term of not more than fifteen  
26 (15) years plus a consecutive term of one (1) year to ~~ten (10)~~ <sup>fifteen (15)</sup> years for the ~~weapon~~ <sup>enhancement</sup>  
27 enhancement. The minimum term of imprisonment may not exceed forty percent (40%) of  
28 //

1 the maximum term of imprisonment. I understand that I am not eligible for probation for the  
2 offense to which I am pleading guilty.

3 As to Count 5, I understand that as a consequence of my plea of guilty the Court must  
4 sentence me to imprisonment in the Nevada Department of Corrections for a minimum term  
5 of not less than one (1) year and a maximum term of not more than six (6) years. The minimum  
6 term of imprisonment may not exceed forty percent (40%) of the maximum term of  
7 imprisonment. I understand that I may also be fined up to \$10,000.00. I understand that I am  
8 eligible for probation for the offense to which I am pleading guilty. I understand that, except  
9 as otherwise provided by statute, the question of whether I receive probation is in the discretion  
10 of the sentencing judge.

11 I understand that the law requires me to pay an Administrative Assessment Fee.

12 I understand that, if appropriate, I will be ordered to make restitution to the victim of  
13 the offense(s) to which I am pleading guilty and to the victim of any related offense which is  
14 being dismissed or not prosecuted pursuant to this agreement. I will also be ordered to  
15 reimburse the State of Nevada for any expenses related to my extradition, if any.

16 I understand that I am eligible for probation for the offense to which I am pleading  
17 guilty. I understand that, except as otherwise provided by statute, the question of whether I  
18 receive probation is in the discretion of the sentencing judge.

19 I understand that I must submit to blood and/or saliva tests under the Direction of the  
20 Division of Parole and Probation to determine genetic markers and/or secretor status.

21 I understand that if I am pleading guilty to charges of Burglary, Invasion of the Home,  
22 Possession of a Controlled Substance with Intent to Sell, Sale of a Controlled Substance, or  
23 Gaming Crimes, for which I have prior felony conviction(s), I will not be eligible for probation  
24 and may receive a higher sentencing range.

25 I understand that if more than one sentence of imprisonment is imposed and I am  
26 eligible to serve the sentences concurrently, the sentencing judge has the discretion to order  
27 the sentences served concurrently or consecutively.

28 //

1 I understand that information regarding charges not filed, dismissed charges, or charges  
2 to be dismissed pursuant to this agreement may be considered by the judge at sentencing.

3 I have not been promised or guaranteed any particular sentence by anyone. I know that  
4 my sentence is to be determined by the Court within the limits prescribed by statute.

5 I understand that if my attorney or the State of Nevada or both recommend any specific  
6 punishment to the Court, the Court is not obligated to accept the recommendation.

7 I understand that if the offense(s) to which I am pleading guilty was committed while I  
8 was incarcerated on another charge or while I was on probation or parole that I am not eligible  
9 for credit for time served toward the instant offense(s).

10 I understand that if I am not a United States citizen, any criminal conviction will likely  
11 result in serious negative immigration consequences including but not limited to:

- 12 1. The removal from the United States through deportation;
- 13 2. An inability to reenter the United States;
- 14 3. The inability to gain United States citizenship or legal residency;
- 15 4. An inability to renew and/or retain any legal residency status; and/or
- 16 5. An indeterminate term of confinement, with the United States Federal  
17 Government based on my conviction and immigration status.

18 Regardless of what I have been told by any attorney, no one can promise me that this  
19 conviction will not result in negative immigration consequences and/or impact my ability to  
20 become a United States citizen and/or a legal resident.

21 I understand that the Division of Parole and Probation will prepare a report for the  
22 sentencing judge prior to sentencing. This report will include matters relevant to the issue of  
23 sentencing, including my criminal history. This report may contain hearsay information  
24 regarding my background and criminal history. My attorney and I will each have the  
25 opportunity to comment on the information contained in the report at the time of sentencing.  
26 Unless the District Attorney has specifically agreed otherwise, the District Attorney may also  
27 comment on this report.

28 //

1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8

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.

18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

I understand that the State would have to prove each element of the charge(s) against me at trial.

All of the foregoing elements, consequences, rights, and waiver of rights have been thoroughly explained to me by my attorney.

27  
28

1 I am signing this agreement voluntarily, after consultation with my attorney, and I am  
2 not acting under duress or coercion or by virtue of any promises of leniency, except for those  
3 set forth in this agreement.

4 I am not now under the influence of any intoxicating liquor, a controlled substance or  
5 other drug which would in any manner impair my ability to comprehend or understand this  
6 agreement or the proceedings surrounding my entry of this plea.

7 My attorney has answered all my questions regarding this guilty plea agreement and its  
8 consequences to my satisfaction and I am satisfied with the services provided by my attorney.

9 DATED this 18 day of March, 2019.

10  
11  
12 SHAN JONATHAN KITTREDGE  
Defendant

13 AGREED TO BY:

14  
15 E. M. Mercer #12473  
16 ELIZABETH MERCER  
17 Chief Deputy District Attorney  
18 Nevada Bar #010681  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



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, 2019.

DEFENSE ATTY. NAME

llm/GCU

A.A. 033

1 **AIND**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 ELIZABETH MERCER  
6 Chief Deputy District Attorney  
7 Nevada Bar #10681  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

12 DISTRICT COURT  
13 CLARK COUNTY, NEVADA

14 THE STATE OF NEVADA,

15 Plaintiff,

CASE NO: C-18-333335-2

16 -vs-

DEPT NO: XX

17 SHAN JONATHON KITTREDGE,  
18 #1779637

19 Defendant.

20 **AMENDED SUPERSEDING**  
21 **INDICTMENT**

22 STATE OF NEVADA }  
23 COUNTY OF CLARK } ss.

24 The Defendant above named, SHAN JONATHON KITTREDGE, accused by the Clark  
25 County Grand Jury of the crime(s) of **CONSPIRACY TO COMMIT ROBBERY (Category**  
26 **B Felony - NRS 200.380, 199.480 - NOC 50147); ROBBERY WITH USE OF A DEADLY**  
27 **WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138); and RESISTING**  
28 **PUBLIC OFFICER WITH USE OF A FIREARM (Category C Felony - NRS 199.280 -**  
**NOC 55104), committed at and within the County of Clark, State of Nevada, on or between**  
**May 21, 2018 and June 8, 2018, as follows:**

**COUNT 1 - CONSPIRACY TO COMMIT ROBBERY**

did on or between May 21, 2018, and June 7, 2018, willfully, unlawfully, and  
feloniously conspire with DEANNA PAGE, aka Deanna Lee Page, to commit a robbery, by  
the Defendant and DEANNA PAGE, aka Deanna Lee Page committing the acts as set forth in

//

**EXHIBIT 1**

A.A. 034

1 Counts 2 through 4, said acts being incorporated by this reference as though fully set forth  
2 herein.

3 COUNT 2 - ROBBERY WITH USE OF A DEADLY WEAPON

4 did on or between May 21, 2018, and May 26, 2018, willfully, unlawfully, and  
5 feloniously take personal property, to wit: U.S. Currency, from the person of JUAN DIAZ-  
6 SALAZAR and/or ANDORIO RODRIGUEZ and/or ROBERT RODRIGUEZ and/or  
7 ABIGAIL SALAZAR and/or ANTHONY RODRIGUEZ and/or ELIBRADA GUIAO and/or  
8 TRIXIE ARCINAS and/or DIEGO MORA-GOMEZ, or in their presence, by means of force  
9 or violence, or fear of injury to, and without the consent and against the will of JUAN DIAZ-  
10 SALAZAR and/or ANDORIO RODRIGUEZ and/or ROBERT RODRIGUEZ and/or  
11 ABIGAIL SALAZAR and/or ANTHONY RODRIGUEZ and/or ELIBRADA GUIAO and/or  
12 TRIXIE ARCINAS and/or DIEGO MORA-GOMEZ, with use of a deadly weapon, to wit: a  
13 firearm, the Defendant(s) being criminally liable under one or more of the following principles  
14 of criminal liability, to wit: (1) by directly committing this crime; and/or (2) by aiding or  
15 abetting in the commission of this crime, with the intent that this crime be committed, by  
16 counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the other  
17 to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent  
18 that this crime be committed, Defendants aiding or abetting and/or conspiring by Defendants  
19 acting in concert throughout.

20 COUNT 3 - ROBBERY WITH USE OF A DEADLY WEAPON

21 did on or between May 27, 2018, and May 31, 2018, willfully, unlawfully, and  
22 feloniously take personal property, to wit: U.S. Currency, from the person of JENNIFER  
23 STRODE and/or AZALEY GOMEZ and/or ANETTE MENZI and/or MADISON SERWICKI  
24 and/or JORGE HERNANDEZ-GARCIA and/or SANDRA AMADOR-HERNANDEZ and/or  
25 MARIA SOLIS and/or VICTOR DELGADILLO-GARCIA, or in their presence, by means of  
26 force or violence, or fear of injury to, and without the consent and against the will of  
27 JENNIFER STRODE and/or AZALEY GOMEZ and/or ANETTE MENZI and/or MADISON  
28 SERWICKI and/or JORGE HERNANDEZ-GARCIA and/or SANDRA AMADOR-

A.A. 035

1 HERNANDEZ and/or MARIA SOLIS and/or VICTOR DELGADILLO-GARCIA, with use  
2 of a deadly weapon, to wit: a firearm, the Defendant(s) being criminally liable under one or  
3 more of the following principles of criminal liability, to wit: (1) by directly committing this  
4 crime; and/or (2) by aiding or abetting in the commission of this crime, with the intent that this  
5 crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or  
6 otherwise procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to  
7 commit this crime, with the intent that this crime be committed, Defendants aiding or abetting  
8 and/or conspiring by Defendants acting in concert throughout.

9 COUNT 4 - ROBBERY WITH USE OF A DEADLY WEAPON

10 did on or between June 1, 2018, and June 7, 2018, willfully, unlawfully, and  
11 feloniously take personal property, to wit: U.S. Currency, from the person of DON  
12 GIULIANO and/or JOY SHLASINGER and/or JENNFIER HUGHES and/or KEYMARI  
13 PAXTON and/or DENISE PRATT, or in their presence, by means of force or violence, or fear  
14 of injury to, and without the consent and against the will of DON GIULIANO and/or JOY  
15 SHLASINGER and/or JENNFIER HUGHES and/or KEYMARI PAXTON and/or DENISE  
16 PRATT, with use of a deadly weapon, to wit: a firearm, the Defendant(s) being criminally  
17 liable under one or more of the following principles of criminal liability, to wit: (1) by directly  
18 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
19 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
20 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
21 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
22 aiding or abetting and/or conspiring by Defendants acting in concert throughout.

23 COUNT 5 - RESISTING PUBLIC OFFICER WITH USE OF A FIREARM

24 Defendant SHAN KITTREDGE, did on or about June 8, 2018, willfully, unlawfully,  
25 and feloniously resist, delay, or obstruct Officer(s) J. EMERY and/or S. MCNULTY and/or  
26 R. Hart, Las Vegas Metropolitan Police Department, public officers in discharging or  
27 attempting to discharge any legal duty, to wit: by pointing a firearm at the said Officer(s) J.  
28 EMERY and/or S. MCNULTY and/or R. Hart, in an effort to flee from the officers, Defendant

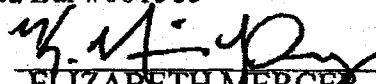
A.A. 036

1 using a firearm or Defendant removing, taking, or attempting to take or remove a firearm from  
2 the person of, or the immediate presence of, the public officer in the course of such resistance,  
3 obstruction or delay.

4 DATED this \_\_\_\_ day of March, 2019.

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

8 BY

 #12473  
9 ELIZABETH MERCER  
10 Chief Deputy District Attorney  
11 Nevada Bar #10681  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

25 18AGJ018A-B/18F10667X/18F10803X/18F05609X/llm/GCU  
26 LVMPD EV# 1805263789;  
27 1805311580; 1806022578;  
28 HPD 1811622  
(TK1)

A.A. 037



MEMO  
YAMPOLSKY & MARGOLS  
MACE J. YAMPOLSKY, ESQ.  
Nevada Bar No. 01945  
JASON R. MARGOLIS  
Nevada Bar No. 12439  
Las Vegas, Nevada 89101  
Telephone: (702) 385-9777; Fax: (702) 385-3001  
Attorneys for Defendant SHAN KITTREDGE

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

THE STATE OF NEVADA,	)	***	
	)	Case No.	C-18-33335
Plaintiff,	)	Dept. No.	XX
	)		
vs.	)		
	)		
SHAN KITTREDGE,	)	Sentencing Date:	5-14-2019
	)	Sentencing Time:	8:30 a.m.
Defendant.	)		

**SENTENCING MEMORANDUM OF DEFENDANT SHAN KITTREDGE**

COMES NOW, Defendant SHAN KITTREDGE, by and through his counsel of record MACE J. YAMPOLSKY, ESQ., of the law firm YAMPOLSKY & MARGOLIS, and hereby files the foregoing Sentencing Memorandum for the Court's consideration in advance of the scheduled sentencing hearing herein.

DATED this 8<sup>th</sup> day of May, 2019.

YAMPOLSKY & MARGOLIS

/s/ Jason R. Margolis, Esq.  
MACE J. YAMPOLSKY, ESQ.  
Nevada Bar No. 001945  
JASON R. MARGOLIS, ESQ.  
Nevada Bar No. 012439  
625 South Sixth Street  
Las Vegas, Nevada 89101  
Attorneys for Defendant KITTREDGE

## **BIOGRAPHICAL INFORMATION AND BACKGROUND FACTS**

Shan Jonathon Kittredge was born in Albuquerque, New Mexico on May 23, 1980. Mr. Kittredge and his sister Taura were raised by both parents and had a relatively pleasant childhood—save for the fact that Shan was sexually abused by an uncle from age 5 to age 6. Mr. Kittredge never reported the abuse and does not in any manner seek to excuse his criminal conduct by means of the abuse excuse. He simply knows that, on some subconscious level, this event has contributed to his struggles with depression and drug abuse throughout his adult life as he never worked through the ramifications of the abuse. For several years, it was not entirely clear that Shan was suffering from this depression and emotional hollowness—he graduated high school, completed a two year Associates Degree, and had established himself in a trade—Mr. Kittredge was a fairly successful plumber for five years. Unfortunately this stability was not to last.

While Shan had experimented with drugs during his teenage years—as do most teenagers, he did not develop a drug addiction until his early twenties. Mr. Kittredge drank at parties in high school and college, and managed to do so largely without any adversity. Mr. Kittredge first tried marijuana at the age of 10, but never developed a habit for the drug and has used it and alcohol only intermittently, and without any incident, for most of his life. At the age of 15, however, Mr. Kittredge was introduced to cocaine. He feels he became addicted almost immediately and but for a lack of funds, he likely would have succumbed to an ever-growing addiction to that drug.

Thankfully, following nearly a decade of relatively consistent use of cocaine, Mr. Kittredge was able to kick the habit entirely, right around the same time his lengthy criminal history begins. Mr. Kittredge was first charged in Nevada with misdemeanor Obstruction of an Officer in 2003 and his cocaine use ceased in 2004. Sadly for this story and for the Kittredge family, Shan did not simply kick cocaine and begin to live a healthier life—instead he replaced his now dormant cocaine dependency with a quickly growing and exponentially more devastating methamphetamine addiction. It was around this time, in 2003 and 2004, when Shan was 23 and 24 years old that he began to commit the types of serious offenses for which he is

1 being sentenced today.

2 Mr. Kittredge has been addicted to drugs for twenty years. He was addicted to cocaine.  
3 He was then addicted to methamphetamine. In 2006, due to what was likely a combination of  
4 latent mental illness which was exacerbated by prolonged narcotics abuse, Mr. Kittredge was  
5 diagnosed with Schizophrenic Manic Disorder; Clinical Depression; Post Traumatic Stress  
6 Disorder; and Generalized Anxiety. Mr. Kittredge has never received mental health treatment  
7 and realizes how instrumental this might have been.

8 Yet, he continued to self-medicate with increasingly terrible consequences—his  
9 addiction(s) grew and the crimes he would resort to committing to obtain money for more drugs  
10 became more serious. He was unable to maintain any level of consistent employment because his  
11 addiction grew to the point that he could hardly function without substantial amounts of opiates.  
12 Finally, in the coup de grace, Mr. Kittredge became addicted to heroin shortly after his 30<sup>th</sup>  
13 birthday and he has spent much of the past decade becoming steadily more addicted, less capable  
14 of regulating his own behavior and emotions, and has become someone entirely different than  
15 the son, brother, and father that his family knew and loved. Shan became a shell of himself.

16 Mr. Kittredge has two children—a thirteen year old daughter who resides with her mother  
17 in New Mexico and a son who will be four years old on May 30<sup>th</sup> of this year. Mr. Kittredge has  
18 largely missed his son's entire life in a drug fueled haze or incarceration and he is ashamed and  
19 despondent at his failure as a father. Despite his love for his children, Shan has spent much of  
20 their lives engaging in a prolonged pity party of self-sabotage. Rather than face and address his  
21 failures in life he has continued to religiously abuse drugs to numb the pain away. Clearly, it has  
22 not worked. Mr. Kittredge's life has been steadily crumbling, and has been doing so at an  
23 accelerated pace, with every passing day since he began to use heroin at age 30 or 31. Mr.  
24 Kittredge is a sick man. It is anathema to justice to blame the sick for their illness—but in the  
25 case of men like Shan, men who self-medicate and voluntarily intoxicate themselves with  
26 dangerous drugs—we tend to show them no quarter in the criminal justice system. This is  
27 shameful.

28



1 Mr. Kittredge does not believe he is an alcoholic—he does, however, acknowledge that  
2 he has a serious substance abuse problem. This problem led him to burglarize cars and to steal  
3 things—to obtain money to feed his chemical dependency. Ultimately, this led to retail robberies  
4 at gunpoint in order to ensure that he could obtain enough money to feed his burgeoning drug  
5 and gambling addictions. Mr. Kittredge has been forthright with both undersigned counsel and  
6 the prosecution about his drug dependency and has acknowledged that he was under the  
7 influence at the time of the instant offense(s). In fact, Mr. Kittredge has not committed any  
8 crimes whatsoever in which he was not under the influence of heroin, methamphetamine,  
9 cocaine, or some combination thereof.

10 This is not an excuse—Mr. Kittredge understands—but counsel hopes an understanding  
11 of this dependency may help to serve as an explanation of sorts. Mr. Kittredge desperately wants  
12 to be at liberty so that he can establish a meaningful relationship with his son. Mr. Kittredge has  
13 largely had no contact with his son, whom he shares with his former girlfriend Deanna Page. It  
14 may be instructive for this court to know that Ms. Page was Mr. Kittredge's partner in crime—  
15 she was initially believed to be a codefendant, but has received a great deal of leniency in return  
16 for her cooperation against Shan. Ms. Page is also deeply addicted to drugs and has lost rights to  
17 the couple's son, who was born addicted to opiates. Mr. Kittredge's mother Sophie Kittredge has  
18 been raising his son since his birth while also working full time into her golden years. It is unfair  
19 and Shan knows it. He needs to be there for his son, for his mother, for his family and friends—  
20 but he has forfeited that chance with selfish and ill-fated decisions designed to satiate his need  
21 for heroin.

22 Mr. Kittredge is going to spend at least 18 years in prison. He will not be free during his  
23 son's childhood, won't attend any little league games or graduations, and for this he feels terrible  
24 and immensely angry with himself. That said, Mr. Kittredge and his family plead with this  
25 Honorable Court for understanding and compassion. He did terrible things, endangered and  
26 frightened many good, law-abiding, and hard-working people and he has no excuse. He is very  
27 sorry and only wants the chance to know his son before his son has no need for him anymore.

28 Suffice it to say, this broken and battered man is remorseful, and wants nothing more

1 than an opportunity to continue to see the light of day and his loved ones before he is a senior  
2 citizen. His drug dependency will be a lifelong struggle for him and he need look no further than  
3 the mirror or at younger versions of himself to realize that.

4 For the first time in his life, Mr. Kittredge has acknowledged he has a problem and has  
5 taken action to address it. Of course, most folks don't need to be shot several times and damn-  
6 near executed by law enforcement officers in order to see the proverbial light. Shan did. This has  
7 been the longest, most healthy, and most productive period of Mr. Kittredge's adult life and it is  
8 a damn shame that it took having bullets still lodged in his face and being in critical condition for  
9 weeks for him to get the message. Whatever the ultimate sentence, intensive drug treatment is  
10 respectfully requested.

#### 12 **PROCEDURAL HISTORY AND FACTS RELATED TO THE OFFENSE**

13 Currently, Mr. Kittredge is incarcerated and has been so since his release from the  
14 hospital following the officer-involved shooting that led to his apprehension. During a drug  
15 fueled span of approximately three weeks, from May 21, 2018, through June 8, 2018, Mr.  
16 Kittredge, along with his girlfriend and mother of his young son, Deanna Page, committed a  
17 series of armed robberies at convenience stores, fast food restaurants and other retail  
18 establishments. The general tenor of the robberies involved Mr. Kittredge entering the  
19 businesses, approaching a clerk or manager with a visible firearm, and instructing the employees  
20 to open the cash drawers. Mr. Kittredge would then take the money, dumping the remaining  
21 contents of the drawers on the ground, and would then flee to a waiting car driven by Ms. Page.

22 In all, Mr. Kittredge committed eight robberies and Ms. Page was the getaway driver for  
23 at least four of them. Mr. Kittredge robbed a Roberto's Taco Shop on May 21, 2018; a Panda  
24 Express on May 26, 2018; a Dunkin Donuts on May 27, 2018; two *different* Roberto's Taco  
25 Shop locations on May 31, 2018; Khoury's Mediterranean Restaurant on June 1, 2018; a local  
26 Albertson's grocery store on June 7, 2018; and finally a different Albertson's location on June 8,  
27 2018. On June 8, 2018, Mr. Kittredge was stopped from committing any further robberies when  
28

1 he was shot multiple times and left within an inch of his life following his apprehension by a  
2 group of officers who had been surveilling him. The nearly fatal offer involved shooting of Mr.  
3 Kittredge took place outside a crowded gas station midday and it is a minor miracle that both Mr.  
4 Kittredge survived, and nobody else sustained significant injury in the chaotic exchange.

5 Ms. Page, in large part due to her lesser criminal record and role in only half of the  
6 charged robberies, was offered a very favorable plea agreement provided she offered truthful  
7 testimony about her involvement. On January 31, 2019, Ms. Page pled guilty to Count 1,  
8 Conspiracy to Commit Robbery, a Category B Felony Offense, as well as Counts 2 and 3, both  
9 robberies, both Category B Felony Offenses. Sentencing in her case is set for approximately two  
10 weeks after Mr. Kittredge's sentencing—on May 30, 2019 in this very judicial department.

11 Mr. Kittredge has agreed to plead guilty to Counts 1, 2 through 4, and Count 5—this  
12 means that Mr. Kittredge has entered guilty pleas to a lone count of Conspiracy to Commit  
13 Robbery, a Category B Felony Offense; three (3) counts of Robbery with Use of a Deadly  
14 Weapon, a B felony offense, and a single count Resisting a Public Officer with a Firearm, a  
15 Category C Felony Offense. The Guilty Plea Agreement (hereinafter "GPA") further provides  
16 that the District Attorney may appropriately seek to impose either the Small or Large Habitual  
17 Criminal sentence in light of Mr. Kittredge's extensive criminal record—however the parties  
18 have stipulated to a sentence within the range of 18 to 45 years in the Nevada Department of  
19 Corrections. Given that Mr. Kittredge's youngest son, who has resided with his mother Sophie  
20 Kittredge since birth, is yet to turn four years old, counsel and Mr. Kittredge's family earnestly  
21 plead for a sentence as near to the eighteen-year minimum penalty contemplated by the parties.

22 Mr. Kittredge knows his past history does not make the Court inclined to think any  
23 leniency will make a difference, but the reality is that Mr. Kittredge has never taken his drug  
24 dependency seriously, has never received treatment for his addiction(s), and as a result, was  
25 doomed to repeat the same self-destructive patterns he developed in his early twenties. When  
26 Mr. Kittredge is sent to the Nevada Department of Corrections he will make it his life's mission  
27 to get clean and will avail himself of any and all applicable drug treatment programs. As Mr.  
28 Kittredge's family repeatedly avers, this young man is sick and has been for nearly two decades.

1 His thought processes and decision making may well be irreparably damaged but without  
2 significant and extensive drug treatment over a prolonged period of time, we will never know. It  
3 is beyond question that Shan will do a great deal of time in prison—his family and undersigned  
4 counsel merely pray for the opportunity to get Shan the treatment he has so desperately needed  
5 for so long, in hopes that this stint in prison can be a productive one—and can be Mr. Kittredge's  
6 last one.

7 Mr. Kittredge has a very large and supportive family here in Las Vegas, and a few other  
8 supporters remaining near Albuquerque, New Mexico. A representative of the family composed  
9 a concise but very informative two page letter to the Court in hopes that your honor would  
10 consider the same before rendering sentence in Shan's case. A true and accurate copy of this  
11 letter is attached to this memorandum as Exhibit "A". In large part, the family bemoans the  
12 deleterious effects Shan's prolonged history of drug abuse have had on his character, cognitive  
13 ability, and his decision-making ability. In sum, the Shan they know and love is not the same  
14 man terrorizing the Las Vegas Valley. The family misses the Shan they knew and desperately  
15 long for the day when this Shan returns. Essentially, it is very critical to Shan's family and to  
16 undersigned counsel that this Court knows this man is more than the collection of crimes he  
17 committed over three weeks in the summer of 2018.

18 In addition, Mr. Kittredge's mother Sophie and sister Taura, both of whom reside in Las  
19 Vegas and have regular contact with not only Shan but are raising his son, have written letters of  
20 support and pleas for leniency for your consideration. Counsel will not endeavor to excerpt or  
21 paraphrase much of that here, but counsel has rarely felt the pain of two women as palpably as in  
22 these missives. Both Mr. Kittredge's mother and sister, but most especially his mother Sophie,  
23 have been crushed by Shan's inability to right his ship and both fear for the loss Mr. Kittredge's  
24 son will feel if he never gets to know his father. As Sophie writes in her letter, attached hereto as  
25 Exhibit "B", "there is nothing like the father-son relationship." Mr. Kittredge genuinely wants to  
26 know his son and while he realizes the degree to which he will not is of his own making, he still  
27 throws himself before the mercy of the Court in sincere hopes that if he cannot be there for his  
28 son's high school graduation, maybe he can be there for his wedding and/or college graduation.

1 Finally, Mr. Kittredge's sister Taura has written the Court asking for understanding and  
2 compassion in the sentencing of her brother. She and the family were devastated when he was in  
3 critical condition, barely clinging to life, and while she too condemns her brother's actions in  
4 committing the crimes for which he is pleading guilty, she is also alarmed at just how callously  
5 and seemingly without a second's hesitation Sergeant Emory and other responding officers were  
6 ready to end his life. The family is well aware of Mr. Kittredge's warts but he did not deserve to  
7 be at the center of a firestorm while officers radioed "finish him," as he was motionless slumped  
8 over the steering wheel. All that aside, what Sophie and Taura most want is a chance for Shan to  
9 be a father to his young son. That is it, and that is all. Taura's letter on his behalf is attached  
10 hereto as Exhibit "C".

11 In reviewing and defending this case counsel has had ample opportunity to ask himself,  
12 and Shan, what exactly it was he was thinking in that gas station parking lot on June 8, 2018. To  
13 a distant, third-party observer, playing back the video in real time, it almost looks as if Mr.  
14 Kittredge was trying to commit what is known colloquially as "suicide by cop." By virtue of  
15 many conversations, counsel has come to conclude that Shan just wasn't thinking at all. He was  
16 basically in a heroin fueled haze and the synapses that ought to have been firing quite clearly  
17 weren't. It would be instructive perhaps to determine what if any effect Mr. Kittredge's long  
18 spanning drug abuse has had on his brain, but given the trauma he sustained due to the multiple  
19 gun-shot wounds to the head he suffered, counsel does not know that we will ever be able to  
20 know much for sure. Mr. Kittredge may not deserve a compassionate or lenient sentence in this  
21 Court's estimation, based on the series of robberies, the long criminal record, and the seemingly  
22 constant string of petty and not so petty offenses—we humbly ask for this compassion and  
23 leniency anyway.

24 We do so because, although Shan is sorry for what he has done and his history gives your  
25 honor some substantive reasons to disbelieve this man's mea culpa, a sentence far in excess of  
26 the presumably two decades Mr. Kittredge will spend in prison will not only punish him. Such a  
27 sentence would really serve to punish his daughter, his son, his mother, his sister, the people that  
28 love and care about him. Shan will be nearly or more than 60 years old when he is released from

1 prison, and that is even if he is sentenced on the low end of the range. This family is begging this  
2 Honorable Court for a chance for this man to see his family again outside the confines of a cage.  
3 If your honor is not inclined to do it for Shan, please give a bottom of the range sentence serious  
4 though for the betterment of his family, his children, and the other innocent people that will be  
5 harmed by Shan's prolonged absence from their lives.

6 Shan is not a career criminal, in the classic sense, he is just a desperate and wayward drug  
7 abuser. Thankfully, nobody was hurt, shot, or otherwise severely injured, save for Shan himself.  
8 This man is a father, a son and a brother. He will have a great deal of time within which to  
9 square himself and his life away, putting away the things that have cost him most of the first  
10 twenty years of his adult life.

11 DATED this 8<sup>th</sup> day of May, 2019.

12 YAMPOLSKY & MARGOLIS

13 /s/ Jason R. Margolis, Esq.

14 MACE J. YAMPOLSKY, ESQ.

15 Nevada Bar No. 001945

16 JASON R. MARGOLIS, ESQ.

17 Nevada Bar No. 012439

18 625 South Sixth Street

19 Las Vegas, Nevada 89101

20 Attorneys for Defendant KITTREDGE  
21  
22  
23  
24  
25  
26  
27  
28

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

**A.A. 047**

*Exhibit “A”*

*Exhibit “A”*



Date: 04/29/2019

To: Judge Eric Johnson of the Eighth Judicial District Court

From: Family representatives of Shan Kittredge

Your Honor,

We have waited patiently to put out a statement since the events occurred, back on June 9<sup>th</sup> of 2018, with the officer involved shooting that led to Shan's apprehension. A lot has transpired since the incident took place and Shan's sentencing is quickly approaching. We are writing so that we can express our feelings of the events and further add clarity to Shan's drug addictive past as to add value to his life and to humanize Shan as a person. We will keep our statement brief and to the point out of respect for the courts time.

To begin, we are grateful that Shan is alive and has been recovering; although, he has endured some very serious injuries including facial paralysis. Healthcare professionals say he will have lifelong injuries to deal with and, currently, has two bullets lodged within his cavities. As expected, we were shocked to hear what transpired and how it was truly handled, on both sides. To begin with, Shan's family members were not allowed to see him until June 21st, twelve days after the initial shooting took place and only given his health status updates by Metro, but at their leisure. Having a loved one fighting for his life with no family support was a hard reality for us. We have the upmost respect for law enforcement and all first responders. We have friends in the LV Metro police department and family member's throughout the U.S. that are law enforcement officers and first responders. We also understand that everyone is innocent until proven guilty and that Shan made some very serious mistakes. With that being said, we feel the apprehension process was completely mishandled by Metro Detectives and the task force who was conducting surveillance for two weeks prior to taking Shan into custody. We have been approached by advocates groups against police negligence pertaining to unreasonable and excessive force which was inflicted by Metros Joseph Emery, et al. These counselors and advocate groups feel Emery and all metro officers on site that night had other multiple apprehension avenues they could have pursued, mainly, that Emory acted as Judge, Jury, and Executioner. The horrific video is a testament which truly shows the task force didn't have a proper plan in place when they felt their "window of opportunity" had presented itself. To simply put it, hearing the amount of shots, hearing the suspect is slumped over, and then to hear someone radio in, "finish him", as two more shots, at point blank range, are fired. The task force had an amazing amount of resources allocated for the apprehension process, and they didn't utilize those resources effectively. The press conference that followed was staged to fully discredit Shan and to validate Metro Polices actions, mainly Emery's. We are truly grateful that no one else was injured in any events that involved Shan and we look forward with moving things along with the advocate counseling groups against Emory. We have waited and have not met with any news media outlets as wait for the completion of Shan's sentencing.

There is no denying the severity of the crimes that took place and we don't want to make Shan a victim of those actions. Shan's criminal past always involved narcotic related crimes. The main reason for that is clear, Shan is an addict, who eventually graduated to the worst drug addiction of them all, heroin abuse. The National Institute on Drug Abuse (NIDA) describes heroin as highly addictive. People who regularly use heroin often develop a tolerance, which means that they need higher and/or more frequent doses of the drug. Those abusive drugs physically alter the way the brain works by sending abnormal messages through out the brain. Opiate abuse is one of the most powerful diseases that plague the world. Unfortunately, Shan never received the proper care to treat his complex addiction. Shan has lived a life of drug misery and will continue to further be incarcerated for his recent actions. Shan is a son, father, brother, an uncle, and due to his illness was out casted by many due to his addiction issues. The root of the problem never was resolved which could have led to Shan living a life without crime and drug abuse. Shan is not alone in this fight, heroin addiction turns people of all walks of life, i.e., doctors, housewives, priests, etc., to do acts they would have never done before just so they can feed their addiction disease. But it takes personal commitment and the will to change, and systematically other suppressive drugs to mitigate the opiate addiction. This will not go away overnight and Shan's lifetime battle with his disease will continue to carry on. We are hoping to aid him as he serves his time and fights this disease, our efforts from this letter is to add value to Shan as human being that made mistakes. We want Shan to have a relationship with his son, whom is being raised by our family; Shan's son was born addicted to opiates due to drug use by the mother during pregnancy. The mother has no relationship with Shan's son and is fighting her own personal demons. The mother made a deal with the State to be a key witness against Shan not for their son's sake but for her own, and currently is free in the Vegas Valley. She carried out similar crimes but since she was needed as a witness received leniency by the state in order to prove their case. But that is other subject matter that will be further looked into by the advocate team.

We hope you don't see us as being greedy by asking for contingencies, we just want Shan safe as possible while incarcerated, appointed proper health treatment for his injuries and for his addiction. Also, we hope that Shan is placed close to the Vegas Valley where we may visit frequently and often to ensure that family bonds are maintained and healed and that his son gets to know who is father is, the good with the bad.

Thank you for taking the time to read this letter.

Respectfully,

Shan's family.

*Exhibit “B”*

*Exhibit “B”*

①

April 30, 2019

Honorable Judge Eric Johnson

Dear Eric Johnson

I would like for you to read this letter prior to sentencing.

I am the mother of Shan J. Kittredge. I am pleading with you to please have some compassion for Shan J. Kittredge during sentencing. I know his crimes are serious which happened all in the matter of 2 weeks. In those two weeks Shan was on heroin.

I was told by Shan's girlfriend's sister Krystal L. Page that Shan and Deanna were so bad she was shooting him up with the drug. Deanna L. Page was with Shan when the crimes were committed. Deanna L. Page is free and Shan will be going to prison. Studies have shown

some deterioration of the brain's white matter due to heroin use, which may affect decision making abilities.

the ability to regulate behavior once a person has heroin use disorder, seeking and using the drug becomes their primary

(2)

purpose in Life.

Shan has a son that will be 4 years old on May 30, 2019.

The mother of his son is Deanna L. Page. I have had custody of his son since he was born. Deanna L. Page doesn't want him and the state took him away from her at birth because he was born addicted to drugs. I will be taking care of him till Shan comes home from Prison.

Please Find a place in your heart to consider giving my son Shan J. Kittredge a Lesser Sentencing so he can be there for his son. There's nothing like the Father-Son relationship, as a boy grows up.

Thank You, Respectfully  
Sachie Kittredge

*Exhibit “C”*

*Exhibit “C”*

April 29<sup>th</sup>, 2019

Dear Judge Eric Johnson,

Case: Shan J. Kittredge vs State of Nevada

I am writing to you regarding Case, Shan Jonathan Kittredge, my brother. I am asking of you to lower his sentence. He has been sustained with life long injuries that occurred on June 9, 2019, and is having suffering of pain due to what occurred, and is still needing medical necessity to which the court has not given him the medical attention he seeks and deserves. Shan has a 3 yr. old son with Deanna the girl who was involved with the crimes also. Due to all circumstances the son has been in the care of our mother Sophie Kittredge who is a senior citizen and still working full time. Because no one else wants to care for this child. I would ask the court to have some type of compassion to give Shan J. Kittredge, the opportunity to have a lesser sentence to be able to raise his son. I would hope this would give Shan, and his son a reconnection to be there for one another from a father to son, I would feel so sad & empty if they had to be apart for all of Shan's son's adolescent life. My message is for you Judge to find a place in your heart that my brother won't have to spend years of his life imprisoned, that you may lesser his sentencing.

Thank you, Respectfully Taura Kittredge (sister)  
Taura Kittredge

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

May 14, 2019

C-18-333335-2      State of Nevada  
vs  
Shan Kittredge

May 14, 2019      08:30 AM      Sentencing

HEARD BY:      Johnson, Eric      COURTROOM: RJC Courtroom 12A

COURT CLERK: Skinner, Linda

RECORDER:      Calvillo, Angie

REPORTER:

## PARTIES PRESENT:

Elizabeth A. Mercer	Attorney for Plaintiff
Mace J. Yampolsky	Attorney for Defendant
Shan Jonathon Kittredge	Defendant
State of Nevada	Plaintiff

## JOURNAL ENTRIES

Upon Court's inquiry, Mr. Yampolsky and Defendant advised there are no issues pursuant to the Stockmeier decision. By virtue of his plea and by Order of this Court, DEFENDANT KITTREDGE ADJUDGED GUILTY of COUNT 1 - CONSPIRACY TO COMMIT ROBBERY (F); COUNTS 2-4 - ROBBERY WITH USE OF A DEADLY WEAPON (F) and COUNT 5 - RESISTING PUBLIC OFFICER WITH USE OF A FIREARM (F). Statements by Ms. Mercer. Matter submitted by Mr. Yampolsky. COURT ORDERED, in addition to the \$25 Administrative Assessment fee and the \$3.00 DNA Collection fee with the \$150 DNA Analysis fee being WAIVED as previously imposed, DEFENDANT SENTENCED to the Nevada Department of Corrections as follows:

COUNT 1 - a MINIMUM term of TWENTY-EIGHT (28) MONTHS with a MAXIMUM term of SEVENTY-TWO (72) MONTHS;

COUNT 2 - a MINIMUM term of FORTY-EIGHT (48) MONTHS with a MAXIMUM term of ONE HUNDRED TWENTY (120) MONTHS, plus a CONSECUTIVE term of FORTY-EIGHT (48) MONTHS MINIMUM and a MAXIMUM term of ONE HUNDRED TWENTY (120) MONTHS for Use of a Deadly Weapon, Count 2 to run CONCURRENT with Count 1;

COUNT 3 - a MINIMUM term of FORTY-EIGHT (48) MONTHS with a MAXIMUM term of ONE HUNDRED TWENTY (120) MONTHS, plus a CONSECUTIVE term of FORTY-EIGHT (48) MONTHS MINIMUM and a MAXIMUM term of ONE HUNDRED TWENTY (120) MONTHS for Use of a Deadly Weapon, Count 3 to run CONSECUTIVE to Count 2;

COUNT 4 - a MINIMUM term of FORTY-EIGHT (48) MONTHS with a MAXIMUM term of ONE HUNDRED TWENTY (120) MONTHS, plus a CONSECUTIVE term of FORTY-EIGHT (48) MONTHS MINIMUM and a MAXIMUM term of ONE HUNDRED TWENTY (120) MONTHS for Use of a Deadly Weapon, Count 4 to run CONCURRENT with Count 3;

COUNT 5 - a MINIMUM term of TWENTY-FOUR (24) MONTHS with a MAXIMUM term of SIXTY (60) MONTHS, to run CONSECUTIVE to Count 3 with 156 days credit for time served.

Defendant to pay \$4,153.37 RESTITUTION (\$2,802 to be paid jointly and severally with co-defendant) in the following amounts: \$400 to Panda Express, \$300 to Duncan Donuts; \$331 to Roberto's Taco Shop; \$100 to Khoury's Mediterranean Restaurant and \$3,022.37 to Albertson's.



**AGGREGATE TOTAL SENTENCE is EIGHTEEN (18) YEARS to FORTY-FIVE (45) YEARS.**

**BOND, if any, EXONERATED.**

**NDC**



1 JOCP

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-VS-

SHAN JONATHON KITTREDGE  
#1779637

Defendant.

CASE NO. C-18-333335-2

DEPT. NO. XX

JUDGMENT OF CONVICTION

(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crimes of COUNT 1 – CONSPIRACY TO COMMIT ROBBERY (Category B Felony) in violation of NRS 200.380, 199.480; COUNTS 2, 3, & 4 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.380, 193.165; and COUNT 5 – RESISTING PUBLIC OFFICER WITH USE OF A FIREARM (Category C Felony) in violation of NRS 199.280; thereafter, on the 14<sup>th</sup> day of May, 2019, the Defendant was present in court for sentencing with counsel MACE YAMPOLSKY, ESQ., and good cause appearing,


A.A. 058

1 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in  
2 addition to the \$25.00 Administrative Assessment Fee, \$4,153.37 Restitution  
3 (\$2,802.00 to be paid Jointly and Severally with Co-Def) in the following amounts:  
4 \$400.00 to Panda Express, \$300.00 to Dunkin' Donuts, \$331.00 to Roberto's Taco  
5 Shop, \$100.00 to Khoury's Mediterranean Restaurant, \$3,022.37 to Albertson's and  
6 \$150.00 DNA Analysis Fee including testing to determine genetic markers (waived if  
7 previously collected) plus \$3.00 DNA Collection Fee, the Defendant is sentenced to  
8 the Nevada Department of Corrections as follows: **COUNT 1** – a MAXIMUM of  
9 SEVENTY-TWO (72) MONTHS with a MINIMUM parole eligibility of TWENTY-EIGHT  
10 (28) MONTHS; **COUNT 2** – a MAXIMUM of ONE HUNDRED TWENTY (120)  
11 MONTHS with a MINIMUM parole eligibility of FORTY-EIGHT (48) MONTHS, plus a  
12 CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM  
13 parole eligibility of FORTY-EIGHT (48) MONTHS for the Use of a Deadly Weapon,  
14 CONCURRENT with COUNT 1; **COUNT 3** – a MAXIMUM of ONE HUNDRED  
15 TWENTY (120) MONTHS with a MINIMUM parole eligibility of FORTY-EIGHT (48)  
16 MONTHS, plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS  
17 with a MINIMUM parole eligibility of FORTY-EIGHT (48) MONTHS for the Use of a  
18 Deadly Weapon; CONSECUTIVE to COUNT 2; **COUNT 4** – a MAXIMUM of ONE  
19 HUNDRED TWENTY (120) MONTHS with a MINIMUM parole eligibility of FORTY-  
20 EIGHT (48) MONTHS, plus a CONSECUTIVE term of ONE HUNDRED TWENTY  
21 (120) MONTHS with a MINIMUM parole eligibility of FORTY-EIGHT (48) MONTHS for  
22 the Use of a Deadly Weapon, CONCURRENT with COUNT 3; and **COUNT 5** – a  
23 MAXIMUM of SIXTY(60) MONTHS with a MINIMUM parole eligibility of TWENTY-  
24  
25  
26  
27  
28



1 FOUR (24) MONTHS, CONSECUTIVE to COUNT 3; with ONE HUNDRED FIFTY-SIX  
2 (156) DAYS credit for time served. The AGGREGATE TOTAL sentence is FORTY-  
3 FIVE (45) YEARS MAXIMUM with a MINIMUM of EIGHTEEN (18) YEARS.  
4

5 DATED this 15 day of May, 2019.

6  
7   
8 ERIC JOHNSON  
9 DISTRICT COURT JUDGE  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

45

FILED

MAY 22 2020

*John L. Blum*  
CLERK OF COURT

IN THE EIGHTH JUDICIAL DISTRICT COURT OF  
THE STATE OF NEVADA IN AND FOR THE  
COUNTY OF CLARK

SHAN JONATHAN KITTREDGE,  
Petitioner.

Case NO.

Dept NO.

vs.

STATE OF NEVADA,  
Respondent(s)

A-20-815382-W

Dept. XX

NOTICE OF MOTION AND MOTION FOR THE APPOINTMENT OF COUNSEL

COMES NOW. Shan Kittredge in Proper Person and moves this  
Court for its order allowing the appointment of Counsel.

This MOTION is made and based upon the accompanying  
Memorandum of Points and Authorities.

DATED: This 1st day of April, 2020.

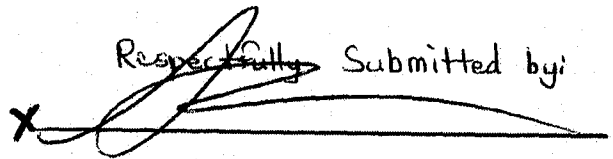
Petitioner in Proper Person.

A.A. 061

1 The Court must appoint Counsel where the complexities of a  
2 case are such that denial of Counsel would amount to a denial  
3 of due process. Brown v. United States, 623 F.2d 54, 61 (9th Cir  
4 1980) and/or where a person is of such limited education as to  
5 be incapable of presenting his claims in such a way that the Court  
6 can afford him a fair hearing. SEE Hawkins v. Bennett, 423 F.2d 948  
7 (8th Cir 1970) Petitioner Shan Jonathan Kittredge alleges that the iss-  
8 ues in this case are complex and that petitioner is unable to ade-  
9 quately present the claims without the assistance of Counsel.  
10 Shan Jonathan Kittredge hereby respectfully requests that the Court  
11 appoint Counsel for the above mentioned reasons.

12  
13  
14  
15 DATED THIS 1st day of April, 2020

16  
17  
18  
19 Respectfully Submitted by:

20   
21 \_\_\_\_\_  
22  
23  
24  
25  
26  
27  
28

Shan Jonathon Kittredge  
Petitioner/In Propria Persona  
Post Office Box 208, SDCC  
Indian Springs, Nevada 89070

**FILED**

**MAY 22 2020**

*John J. Sullivan*  
CLERK OF COURT

IN THE EIGHTH JUDICIAL DISTRICT COURT OF  
THE STATE OF NEVADA IN AND FOR THE  
COUNTY OF CLARK

**A-20-815382-W**  
**Dept. XX**

SHAN JONATHON KITTREDGE,

Petitioner,

vs.

STATE OF NEVADA

Respondent(s).

Case No. C-18-333335-2

Dept. No. XX

Docket \_\_\_\_\_

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

**INSTRUCTIONS:**

- (1) This petition must be legibly handwritten or typewritten signed by the petitioner and verified.
- (2) Additional pages are not permitted except where noted or with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) If you want an attorney appointed, you must complete the Affidavit in Support of Request to Proceed in Forma Pauperis. You must have an authorized officer at the prison complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
- (4) You must name as respondent the person by whom you are confined or restrained. If you are in a specific institution of the department of corrections, name the warden or head of the institution. If you are not in a specific institution of the department within its custody, name the director of the department of corrections.
- (5) You must include all grounds or claims for relief which you may have regarding your conviction and sentence.

**RECEIVED**  
**APR 19 2020**

CLERK OF THE COURT

**A.A. 063**

1 Failure to raise all grounds in this petition may preclude you from filing future petitions  
2 challenging your conviction and sentence.

3 (6) You must allege specific facts supporting the claims in the petition you file seeking relief  
4 from any conviction or sentence. Failure to allege specific facts rather than just conclusions may  
5 cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of  
counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which  
you claim your counsel was ineffective.

6 (7) If your petition challenges the validity of your conviction or sentence, the original and one  
7 copy must be filed with the clerk of the district court for the county in which the conviction  
8 occurred. Petitions raising any other claim must be filed with the clerk of the district court for the  
9 county in which you are incarcerated. One copy must be mailed to the respondent, one copy to the  
attorney general's office, and one copy to the district attorney of the county in which you were  
convicted or to the original prosecutor if you are challenging your original conviction or sentence.  
Copies must conform in all particulars to the original submitted for filing.

### 10 PETITION

11 1. Name of institution and county in which you are presently imprisoned or where and who you  
12 are presently restrained of your liberty: SOUTHERN DESERT CORRECTIONAL CENTER

13 2. Name the location of court which entered the judgment of conviction under attack: Eighth  
14 Judicial District Court, Clark County, Nevada

15 3. Date of judgment of conviction: May 15th 2019

16 4. Case number: C-18-333335-2

17 5. (a) Length of sentence: Eighteen to Forty-five Years

18 (b) If sentence is death, state any date upon which execution is scheduled: N/A

19 6. Are you presently serving a sentence for a conviction other than the conviction under attack in  
20 this motion:

21 Yes ☐ No ☒ If "Yes", list crime, case number and sentence being served at this time: \_\_\_\_\_  
22 \_\_\_\_\_

23 7. Nature of offense involved in conviction being challenged: Count 1 - Conspiracy To  
24 Commit Robbery (Category B felony) Counts 2, 3, & 4 - Robbery with  
25 use of a Deadly Weapon Category B Felony and Count 5 - Resisting  
26 Public Officer with use of A firearm (Category C Felony)



1 8. What was your plea? (Check one)

2 (a) Not guilty       

3 (b) Guilty ✓

4 (c) Nolo contendere       

5 9. If you entered a guilty plea to one count of an indictment or information, and a not guilty plea  
6 to another count of an indictment or information, or if a guilty plea was negotiated, give details:       

7         
8       

9 10. If you were found guilty after a plea of not guilty, was the finding made by: (check one)

10 (a) Jury       

11 (b) Judge without a jury       

12 11. Did you testify at trial? Yes        No ✓

13 12. Did you appeal from the judgment of conviction?

14 Yes        No ✓

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

16 (a) Name of court:

17 (b) Case number or citation:

18 (c) Result:

19 (d) Date of appeal:

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

21 14.) If you did not appeal, explain briefly why you did not:       

22         
23       

24 15. Other than a direct appeal from the judgment of conviction and sentence, have you previously  
25 filed any petitions, applications or motions with respect to this judgment in any court, state or  
26 federal? Yes        No ✓

27

28

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

2 (a) (1) Name of court: \_\_\_\_\_

3 (2) Nature of proceedings: \_\_\_\_\_

4  
5 (3) Grounds raised : \_\_\_\_\_

6  
7  
8 (4) Did you receive an evidentiary hearing on your petition, application or motion?

9 Yes \_\_\_\_ No \_\_\_\_

10 (5) Result: \_\_\_\_\_

11 (6) Date of result: \_\_\_\_\_

12 (7) If known, citations of any written opinion or date of orders entered pursuant to each  
13 result: \_\_\_\_\_

14 (b) As to any second petition, application or motion, give the same information:

15 (1) Name of Court: \_\_\_\_\_

16 (2) Nature of proceeding: \_\_\_\_\_

17 (3) Grounds raised: \_\_\_\_\_

18 (4) Did you receive an evidentiary hearing on your petition, application or motion?

19 Yes \_\_\_\_ No \_\_\_\_

20 (5) Result: \_\_\_\_\_

21 (6) Date of result: \_\_\_\_\_

22 (7) If known, citations or any written opinion or date of orders entered pursuant to each  
23 result: \_\_\_\_\_

24 (c) As to any third or subsequent additional application or motions, give the same  
25 information as above, list them on a separate sheet and attach.

26

27

28

1 (d) Did you appeal to the highest state or federal court having jurisdiction, the result or action  
2 taken on any petition, application or motion?

3 (1) First petition, application or motion?

4 Yes \_\_\_ No ☒

5 Citation or date of decision: \_\_\_\_\_

6 (2) Second petition, application or motion?

7 Yes \_\_\_ No ☒

8 Citation or date of decision: \_\_\_\_\_

9 (e) If you did not appeal from the adverse action on any petition, application or motion,  
10 explain briefly why you did not. (You may relate specific facts in response to this question. Your  
11 response may be included on paper which is 8 1/2 x 11 inches attached to the petition. Your response  
12 may not exceed five handwritten or typewritten pages in length).  
13 \_\_\_\_\_  
14 \_\_\_\_\_

15 17. Has any ground being raised in this petition been previously presented to this or any other  
16 court by way of petition for habeas corpus, motion or application or any other post-conviction  
17 proceeding? If so, identify:

18 (a) Which of the grounds is the same: \_\_\_\_\_  
19 \_\_\_\_\_

20 (b) The proceedings in which these grounds were raised: \_\_\_\_\_  
21 \_\_\_\_\_

22 (c) Briefly explain why you are again raising these grounds. (You must relate specific facts  
23 in response to this question. Your response may be included on paper which is 8 1/2 x 11 inches  
24 attached to the petition. Your response may not exceed five handwritten or typewritten pages in  
25 length). \_\_\_\_\_  
26 \_\_\_\_\_  
27 \_\_\_\_\_

1 18. If any of the grounds listed in Nos. 23(a), (b), (c), and (d), or listed on any additional pages  
2 you have attached, were not previously presented in any other court, state or federal, list briefly what  
3 grounds were not so presented, and give your reasons for not presenting them. (You must relate  
4 specific facts in response to this question. Your response may be included on paper which is 8 1/2 x  
5 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten  
6 pages in length). N/A

7  
8 19. Are you filing this petition more than one (1) year following the filing of the judgment of  
9 conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay.  
10 (You must relate specific facts in response to this question. Your response may be included on  
11 paper which is 8 1/2 x 11 inches attached to the petition. Your response may not exceed five  
12 handwritten or typewritten pages in length). N/A

13  
14  
15 20. Do you have any petition or appeal now pending in any court, either state or federal, as to the  
16 judgment under attack?

17 Yes ☐ No ☐

18 If "Yes", state what court and the case number: N/A

19  
20 21. Give the name of each attorney who represented you in the proceeding resulting in your  
21 conviction and on direct appeal: Mace Yampolsky, ESA

22  
23  
24 22. Do you have any future sentences to serve after you complete the sentence imposed by the  
25 judgment under attack?

26 Yes ☐ No ☒ If "Yes", specify where and when it is to be served, if you know:

Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

23. (a) GROUND ONE: Defendant/Petitioner's Counselor was ineffective  
And his Guilty Plea was unknowingly and unintelligently signed

23. (a) SUPPORTING FACTS (Tell your story briefly without citing cases or law): In  
June of 2018 petitioner (was shot by (Las Vegas Metropolitan  
Police who was in alliance with Major Violators Unit) Nine times  
two of those shots were to the head. Petitioner Complained to his  
Attorney that because of the injury to his head he did not  
Clearly or intelligently understand what his Attorney Mr. Mace Yam-  
polsky was trying to explain to him Concerning a Guilty Plea the  
Assistant District Attorney was offering. Petitioner was Confused and  
unable to think clearly. Petitioner offers as evidence that he could  
not think clearly and intelligently the Court Minutes dated January  
8th 2019. In the above named document petitioner can be seen in  
in Courtroom 12A explaining that he has sent several inmate Kites i.e.:  
request seeking medical attention but was unable to get any med-  
ical attention. Someone being shot twice in the head is a miracle  
to be alive any layman or Professional knows or should know that  
questioning Someone who was shot not once, but twice in the  
head is under great strain mentally, physically as well as spirit-  
ually. The injury to petitioner's head was extremely serious and the  
medication he received was not sufficient to overbear his will to  
resist the questioning, his injuries impaired his rational faculties.  
Counsel was also ineffective because he failed to explain to the.

23. ~~(b) GROUND TWO:~~ Continued from page 7

Court that petitioner needed more time (because of his serious head injuries) to clearly, knowingly and intelligently understand the offer the State was presenting as a Guilty Plea Agreement.

23. (b) SUPPORTING FACTS (Tell your story briefly without citing cases or law):

Petitioner was prejudiced by this because had he been in his right State or Compos Mentis he would not have signed whatever document Counsel placed before him and proceeded to a jury trial. Any Medical or Psychology Doctor will attest to the fact that petitioner should not have been placed under duress to make a serious decision after the trauma petitioner suffered after being shot in the head. This is Axiomatic, no argument can contravert what any human could or should know. That is that, anyone getting shot twice in the head should never be signing not only a plea Agreement but any Agreement for that matter.

**CERTIFICATE OF SERVICE BY MAILING**

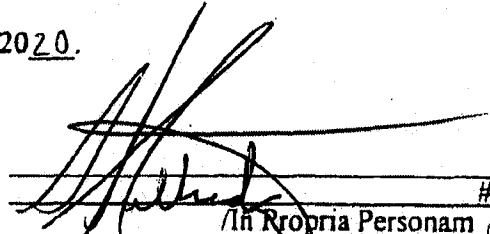
I, Shan Jonathan Kittredge, hereby certify, pursuant to NRCP 5(b), that on this 1st  
day of April, 2020, I mailed a true and correct copy of the foregoing, "Petition For Writ  
Of Habeas Corpus"

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the  
United State Mail addressed to the following:

Steven D. Gnierson Clerk of The Court  
200 Lewis Ave.  
Las Vegas, NV. 89155-1160

CC:FILE

DATED: this 1st day of April, 2020.

  
/In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:

A.A. 071

**AFFIRMATION**  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Petition for

Writ of Habeas Corpus  
(Title of Document)

filed in District Court Case number C 18 333335-2

☒ Does not contain the social security number of any person.

**-OR-**

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

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

**-or-**

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

  
\_\_\_\_\_  
Signature

4/1/20  
\_\_\_\_\_  
Date


Shan Jonathon Kittredge  
\_\_\_\_\_  
Print Name

Pro'se  
\_\_\_\_\_  
Title




1 WHEREFORE, Shan J. Kittredge, prays that the court grant Petitioner Kittredge  
2 relief to which he may be entitled in this proceeding.

3 EXECUTED at Southern Desert Correctional Center  
4 on the 1st day of April, 2020.

5  
6   
7 Signature of Petitioner

8 **VERIFICATION**

9 Under penalty of perjury, pursuant to N.R.S. 208.165 et seq., the undersigned declares that he is  
10 the Petitioner named in the foregoing petition and knows the contents thereof; that the pleading is  
11 true and correct of his own personal knowledge, except as to those matters based on information and  
12 belief, and to those matters, he believes them to be true.

13  
14   
15 Signature of Petitioner

16  
17 \_\_\_\_\_  
18 Attorney for Petitioner  
19  
20  
21  
22  
23  
24

# EXHIBIT-A

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**January 08, 2019**

---

C-18-333335-2      State of Nevada  
                                 vs  
                                 Shan Kittredge

---

**January 08, 2019      8:30 AM      Motion**

**HEARD BY:** Johnson, Eric

**COURTROOM:** RJC Courtroom 12A

**COURT CLERK:** Linda Skinner

**RECORDER:** Angie Calvillo

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Mercer, Elizabeth A.	Attorney
	State of Nevada	Plaintiff
	Toddre, Frank A, II	Attorney
	Yampolsky, Mace J.	Attorney

**JOURNAL ENTRIES**

- Statements by Mr. Yampolsky including that Defendant has sent several kites, however, has been unable to get any medical attention. Upon Court's inquiry, Mr. Toddre advised he was just made aware of this issue and requested the matter be continued so that he can speak with the medical personnel. COURT ORDERED, matter CONTINUED TWO (2) WEEKS.

**CUSTODY (COC-NDC)**

... CONTINUED 1/24/19 9:00 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**January 24, 2019**

---

C-18-333335-2      State of Nevada  
                                 vs  
                                 Shan Kittredge

---

**January 24, 2019      9:00 AM      Motion**

**HEARD BY:** Johnson, Eric

**COURTROOM:** RJC Courtroom 12A

**COURT CLERK:** Linda Skinner

**RECORDER:** Angie Calvillo

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Merback, William J.	Attorney
	State of Nevada	Plaintiff
	Yampolsky, Mace J.	Attorney

**JOURNAL ENTRIES**

- Frank Toddre from the Nevada Department of Corrections also present. Court noted it appears Defendant is being treated. Mr. Yampolsky concurred but advised he is waiting for an MRI and X-rays. Following colloquy, COURT ORDERED, Motion DENIED.

CUSTODY (COC-NDC)

**CERTIFICATE OF SERVICE BY MAILING**

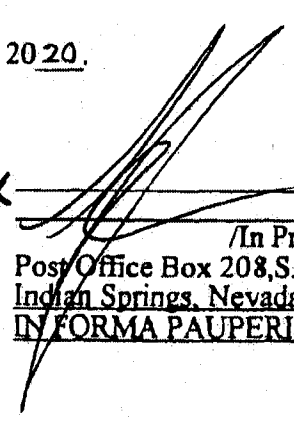
I, Shan Kittredge, hereby certify, pursuant to NRCP 5(b), that on this 1st  
day of April, 2020, I mailed a true and correct copy of the foregoing, "MOTION  
For APPOINTMENT OF COUNSEL"

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the  
United State Mail addressed to the following:

STEVEN D. GRIERSON Clerk of Court  
200 LEWIS AVE. 3rd floor  
LAS VEGAS, NV. 89155-1160

CC:FILE

DATED: this 1st day of April, 2020.

X  #1202592  
/In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding MOTION FOR

APPOINTMENT OF COUNSEL  
(Title of Document)

filed in District Court Case number \_\_\_\_\_

☒ Does not contain the social security number of any person.

-OR-

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

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-or-

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

x [Signature]  
Signature

4/1/20  
Date

Shan Kittredge  
Print Name

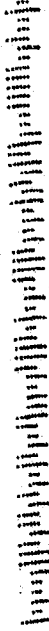
\_\_\_\_\_  
Title

SDCC P.O. Box 208

Indian Springs N.V. 89070

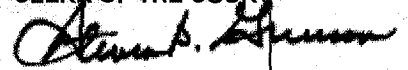
To: Steven D. Grier son  
Clerk of Court  
200 Lewis Ave. 3rd Floor  
Las Vegas N.V. 89155-1160

8910196300 0075



Outgoing Mail  
Oct 3 2000  
Post Office  
Correspondence Center

A.A. 079



1 RTRAN

2

3

4

5

DISTRICT COURT  
CLARK COUNTY, NEVADA

6

7

8

THE STATE OF NEVADA,

CASE #: C-18-333335-2

9

Plaintiff,

DEPT. XX

10

vs.

11

SHAN JONATHON KITTREDGE,

12

Defendant.

13

14

BEFORE THE HONORABLE ERIC JOHNSON, DISTRICT COURT JUDGE

15

MONDAY, MARCH 18, 2019

16

**RECORDER'S TRANSCRIPT OF HEARING:  
JURY TRIAL - DAY 1**

17

**APPEARANCES:**

18

For the State:

SAMUEL S. MARTINEZ  
ELIZABETH A. MERCER  
Chief Deputy District Attorneys

19

20

21

For the Defendant:

MACE J. YAMPOLSKY, ESQ.  
JASON R. MARGOLIS, ESQ.

22

23

24

25

RECORDED BY: ANGIE CALVILLO, COURT RECORDER

**A.A. 080**



1 [Las Vegas, Nevada, Monday, March 18, 2019, at 10:33 a.m.]

2 [Outside the presence of the prospective jury]

3  
4 THE COURT: State of Nevada versus Shan Kittredge, case  
5 number C333335. Counsel, go ahead and make your formal  
6 appearances for the record.

7 MS. MERCER: Good morning, Your Honor. Elizabeth Mercer  
8 and Samuel Martinez for the State.

9 MR. YAMPOLSKY: Mace Yampolsky and Jason Margolis on  
10 behalf of Mr. Kittredge, who is present in custody. Also seated at  
11 Counsel's table is Kaitlyn Stella. She's a paralegal in my office. She'll  
12 be assisting during the trial.

13 THE COURT: Okay, very good. All right. Well it's my  
14 understanding we have the jury out there. And you've all been provided  
15 with the random list, is that correct?

16 MS. MERCER: That's correct, Your Honor.

17 MR. MURPHY: Correct.

18 THE COURT: Okay.

19 MR. YAMPOLSKY: Yes.

20 THE COURT: Anything we need to talk about before we get  
21 started?

22 MS. MERCER: Your Honor, I don't know – did we ever make  
23 a record about the offer that was conveyed in this case?

24 THE COURT: I don't remember a record being made.

25 MS. MERCER: Okay. I don't think we ever got to the specific

1 details of what charges he would plead to, but the State had made an  
2 offer of to Mr. Kittredge some time ago of a stipulated term of  
3 imprisonment 20 to 50 years. I asked Mr. Yampolsky to visit with his  
4 client and let me know if his client was amenable to some sort of  
5 negotiation near that range, and then never heard anything back. So I'm  
6 assuming that we were just so far apart that it wasn't worth having any  
7 further discussions, but if we could just confirm that with Counsel for the  
8 record for appellate purposes.

9 THE COURT: All right. Mr. Yampolsky, is her representations  
10 consistent with your understanding?

11 MR. YAMPOLSKY: That's correct. We discussed it with Mr.  
12 Kittredge and we weren't close. And as a matter of fact, I had a brief  
13 discussion with Ms. Mercer, but we weren't going to be able to agree,  
14 so --

15 THE COURT: All right. Mr. Kittredge, I don't want you to  
16 discuss anything that was between you and your attorneys. But do you  
17 recall being discussed -- having a discussion with them relating to this  
18 offer?

19 THE DEFENDANT: Yes.

20 THE COURT: Okay. All right. And your attorney's  
21 representing that you don't have any -- you didn't feel that you were  
22 anywhere close to where you would be willing to accept an offer, and so  
23 negotiations were not pursued. Do you concur with that?

24 THE DEFENDANT: Yes.

25 THE COURT: Okay. All right. Does the State want anything

1 further in terms of a record?

2 MS. MERCER: No, Your Honor. Thank you.

3 THE COURT: All right. Now, I don't know if anybody here  
4 has done a trial? We'll seat --

5 MR. YAMPOLSKY: Well not in here.

6 MR. MARTINEZ: Not in here.

7 THE COURT: Not in here, I know. But, I mean, a trial in front  
8 of me, sorry. I got a lot of years of experience with trials sitting here in  
9 the courtroom. We'll seat 10 in the back; 10 in the second row, and then  
10 four up here. I don't refer to them by badge numbers. I refer to them by  
11 seat number or their name. If you want to refer to them by badge  
12 number, you can. But I just find the badge numbers confusing, so I  
13 always refer to them by name or seat number.

14 MR. YAMPOLSKY: And how do you go?

15 THE COURT: One is over here.

16 MR. YAMPOLSKY: One is all the way to the left in the back?

17 THE COURT: Right, I look at it for me. I'm going across, so  
18 one to 10; 11 to 20, and 21 to 24.

19 MR. YAMPOLSKY: Twenty-one, 22, 23, 24, okay.

20 THE COURT: And so the alternates will come out of 21  
21 through 24. So if you waive anything, that doesn't move anybody into an  
22 alternate position. So alternates will come out of 21 through 24; I'll give  
23 you each one preempt as to that 21 through 24, and then you get your  
24 four preempts as to 21 through -- don't move -- I'll ask questions for a  
25 couple hours, don't move to dismiss anybody for cause in front of the

1 jury, we'll have sidebars; we'll have breaks.

2 MR. YAMPOLSKY: Okay.

3 THE COURT: And at that point in time, I'll give you an  
4 opportunity if you see somebody you want to dismiss; you can dismiss --  
5 or move to dismiss for cause.

6 MR. MARTINEZ: So just take note of it, and we'll --

7 THE COURT: So just take note of it, and we'll deal with it in  
8 the back. When we do remove anybody whether it's for cause or  
9 scheduling or whatever it may be, I don't make everybody get up and  
10 move down. We'll just take the next one in the gallery. So at a break,  
11 we get rid of Juror 2; Juror 10; Juror 15, and Juror 23. The next one will  
12 take over two; the next one will take over 10; the next one will take over  
13 15, and the next one will take over 23.

14 Does everybody understand that?

15 MR. MARTINEZ: Yes.

16 MS. MERCER: Yes, Your Honor. Thank you.

17 THE COURT: Okay.

18 MR. YAMPOLSKY: Uh-huh.

19 THE COURT: Okay. Pretty similar to how they did it over in  
20 federal court.

21 MR. YAMPOLSKY: Except you will let us talk, right?

22 THE COURT: Yeah, I'll let you ask questions, yeah. After,  
23 like I said, I'll get through my list of questions. I will give the State a  
24 chance to give a brief summary of the case. Do you want me to just  
25 have -- say, the Defense will now introduce itself and any additional

1 witnesses?

2 MR. YAMPOLSKY: Yeah, that's fine.

3 THE COURT: Or do you want me -- I'll give you an  
4 opportunity if you want to state a defense; you have to state a short  
5 summary of your defense.

6 MR. YAMPOLSKY: No, no, I usually -- you know, basely  
7 introduce myself and say, you know --

8 THE COURT: All right. Well I just didn't want to put you on  
9 the spot by saying now the defense will give -- introduce themselves and  
10 give a short summary. And then you look at me and say, well I really  
11 didn't want to. I don't want to put you on the spot like that, so I'm letting  
12 you --

13 MR. YAMPOLSKY: Yeah.

14 THE COURT: -- letting you adjust on it.

15 MR. YAMPOLSKY: I'll just introduce myself.

16 THE COURT: Okay, that's fine.

17 [Court and Clerk confer]

18 MS. MERCER: Your Honor, for scheduling purposes, do you  
19 anticipate that we'll get to witnesses today. We have three tentatively  
20 lined up for 2:30, but --

21 THE COURT: You know, if we can get a jury picked, yeah. I'll  
22 want to get openings going and a witness. I don't know how long it'll  
23 take for us to get a jury picked in this case. But, yeah, I will keep this --

24 MR. YAMPOLSKY: Are we going 'til five?

25 THE COURT: We'll go to five. And if we don't have a jury

1 picked but we're close, I'll probably keep everybody here a little bit to try  
2 to get the jury done. I mean if we get to 4:30, you know, probably won't  
3 make you do anything today.

4 MR. MARTINEZ: Okay.

5 MS. MERCER: Okay.

6 THE COURT: Even if we -- you know, if you want to talk  
7 among yourselves in terms of tomorrow.

8 THE CLERK: I have an 18-page Indictment to read.

9 THE COURT: You have an 18 page -- so that's 15 minutes of  
10 reading time just right there.

11 MR. MARTINEZ: And Ms. Mercer has about 740 witnesses to  
12 read off, potential witnesses.

13 THE COURT: All right.

14 MR. YAMPOLSKY: And that's her pare down list.

15 THE COURT: Okay. All right.

16 MR. MARTINEZ: Are you okay with us asking panel  
17 questions? Or do you want it just individual questions?

18 THE COURT: I'll let you have a chance to ask group  
19 questions --

20 MR. MARTINEZ: Okay.

21 THE COURT: -- or individual questions; whatever you do. I  
22 will -- you know -- if it's repetitive with any question I ask, or anybody I  
23 will shut you down.

24 MR. MARTINEZ: Okay.

25 THE COURT: We aren't going to ask the same question

1 six different ways. And I don't --

2 MR. YAMPOLSKY: You don't think they'll answer us  
3 differently than you?

4 THE COURT: Sometimes they might but most of the time, no.  
5 I mean, I'll let you have a little leeway. But, you know, we're not going to  
6 spend a lot of time on repeat questions. I can't think -- any of you have  
7 any questions, Mr. Yampolsky? Mr. Margolis?

8 MR. MARGOLIS: I don't think so, Your Honor.

9 THE COURT: All right. The State?

10 THE CLERK: The circles.

11 THE COURT: Oh, that's right. See all those metal circles  
12 over here?

13 MR. MARTINEZ: Yes.

14 MR. YAMPOLSKY: Uh-huh.

15 MS. MERCER: Yes.

16 THE COURT: Okay. Pretend that on this side of the metal  
17 circles is an imaginary line?

18 MR. YAMPOLSKY: Okay.

19 MR. MARGOLIS: Okay.

20 THE COURT: You aren't to go across that imaginary line to  
21 the jury.

22 MR. YAMPOLSKY: I see.

23 THE COURT: And I will definitely tell you to move back if you  
24 step over, over that line; that should be it. All right, anything else before  
25 we get started?

1 MS. MERCER: No, Your Honor.

2 MR. YAMPOLSKY: No.

3 THE COURT: All right. Let Bruce know that we can bring  
4 them in.

5 [In the presence of the prospective jurors]

6 THE MARSHAL: All rise, the jury is entering.

7 THE COURT: Let the record reflect the presence of the  
8 attorneys for both sides; the presence of the defendant. Does the  
9 parties stipulate to the presence of the voir dire panel?

10 MR. MARTINEZ: Yes, Your Honor.

11 MR. YAMPOLSKY: Yes, Your Honor.

12 THE COURT: Okay, very good. All right. Good morning,  
13 ladies and gentlemen. It's good to see everybody here today. I want to  
14 thank you for coming down here and meeting your responsibilities as  
15 citizens here at Southern Nevada to be considered for jury service. I  
16 really do appreciate it.

17 My name is Eric Johnson. I'm the District Court Judge  
18 for Department 20 here in the Eighth Judicial District Court. Some  
19 people sometimes will ask me if Department 20 represents any  
20 particular geographic area like an assembly seat represents a certain  
21 area, or a state senate seat represents a certain area and it doesn't, it's  
22 just is an organizational term.

23 We have 32 general jurisdiction judges here in the  
24 Eighth Judicial District Court which essentially covers all of Clark  
25 County. And so to organize things, we assign each judge a department



1 number, and so I've been assigned Department No. 22 [sic]. People at  
2 times will ask me, what is a general jurisdictional judge? And quite  
3 simply, a general jurisdictional judge is a judge that handles criminal and  
4 civil jury trials, and that's why you're all down here today to be  
5 considered for possible participation in what is a criminal jury trial.

6 I want to thank you all for being here. I want to make  
7 sure you understand I'm not under any delusion that the vast majority of  
8 you are thrilled about being here. I do appreciate, as all the courts and  
9 judges appreciate, that this is an infringement on your time; that you all  
10 have jobs, or school, or family, or a variety of other different events and  
11 obligations that this impacts upon, so I do appreciate it.

12 I'm not under any delusion that when you got the  
13 summons in the mail that you danced around the house with your happy  
14 dance going, I finally got my jury summons, so I really do appreciate it.  
15 But in coming down here I want you also to appreciate what you're doing  
16 here, and the reason why we're asking you to come down here, and to  
17 be considered is because what you're doing here is very, very important.

18 The jury system is an essential, crucial element to our  
19 justice system. And people will ask me at times, why is that so; why do  
20 we have juries; why do we have jury trials; what's the big thing about  
21 juries. And I like to say that, the reason juries are so important is  
22 because you, as a jury, give our community confidence in the decisions  
23 that come out of this court.

24 Well what do I mean? Well if you think about it, what is  
25 a jury? And a jury is essentially a group of individuals taken from all

1 segments of Southern Nevada; all economic aspects of Southern  
2 Nevada; all different types of backgrounds out of Southern Nevada;  
3 you're selected totally at random from every area, and every economic  
4 and social stratum in the community to come down here and be  
5 considered for jury service, and you were selected totally at random.

6 We have a computer system here that selects and  
7 sends out the summonses, and it's got composed of 1.6 million names.  
8 So you all were pulled from 1.6 million names, it's sort of like you won  
9 the lottery but there's just not really a cash prize at the end of it. But we  
10 bring you down here and during the course of today, we go through a  
11 process to determine a final group of people to sit on a jury who we  
12 believe can listen to the witnesses that testify here under oath; look at  
13 the exhibits that were introduced into evidence.

14 And then, at the end, go back as a group of people  
15 and deliberate; talk among yourselves regarding the witnesses you  
16 heard; the evidence that you saw that was admitted, and then discuss  
17 and decide ultimately whether or not, in a criminal case, someone is  
18 guilty or not guilty of the charges beyond a reasonable doubt. Or in a  
19 civil case, to determine whether or not someone has been harmed and  
20 deserves damages by a preponderance of the evidence so you do that.  
21 And that's the thing you're the ones who do that, the citizens out of the  
22 community with no real interest or background in the case; no real  
23 knowledge about the case; who listen to just the evidence that's  
24 appropriate for you to hear and go back as a group and decide that,  
25 you're the ones to do that.

1                   And it's because it's used, the citizens out of the  
2 community who make that decision, you give our community confidence  
3 in the decisions that come out of this court. I don't decide whether or not  
4 someone is guilty or not guilty of a crime, or deserves some sort of  
5 compensation. The governor doesn't get to do that; the county  
6 commission doesn't do that; the city council doesn't do that. There's no  
7 special panel of judges that does it, it's you, the citizen of the community  
8 that makes that decision. And because of that, you do give the  
9 community here confidence in the decisions that come out of this court.

10                   I'm sure though, you know, you're all saying this is not a  
11 perfect system, and I'm not going to suggest it isn't. It's a system made  
12 up by humans and we're not a perfect law. But I will suggest that over  
13 the course of history, there has not been a better system that has been  
14 developed to have citizens out of the community look at the facts of the  
15 case and make a decision as to whether -- how the justice system  
16 should treat someone, and this has been considered an essential right  
17 that we all have for hundred of years.

18                   And I want to emphasize that, this is a right that all  
19 of you have and that your friends, close friends, and family member  
20 have. And if ever you, close family member, or friend get involved in the  
21 justice system, it's a right that you can rely on to have your case be  
22 handled by a jury.

23                   And the original -- one of the first written constitutions,  
24 the Magna Carta, formed hundred of years ago in England and secured  
25 the right to jury trial; is one of the rights in that document. The U.S.

1 Constitution, when it was created in the 1780s, included the right to jury  
2 trial in the Bill of Rights. In the Nevada Constitution, when it was being  
3 created in the 1760s -- or the 1860s, included the right to jury trials; a  
4 right in the Nevada Constitution.

5 So this has been a right that has been thought to be  
6 important to all of us and our participation in the justice system for  
7 hundreds of years. And it's also a right that has been fought for, and  
8 defended for significant period of time. And I want to emphasize that  
9 point that we've had, over the course of our history, millions of  
10 individuals serve in our armed forces.

11 Right now, we have approximately 1.3 million people  
12 serving in active duty status in our military, and about 800,000 in  
13 reserved status. And at any one time, we have around 200,000 people  
14 serving overseas. And I'd like to emphasize that point because these  
15 men and women in meeting their responsibilities; serving in our military  
16 and defending our rights, including our right to a jury trial, they give up a  
17 lot of things in the course of doing that, and meeting that obligation.

18 They're not always able to come home for a child birth,  
19 or to come home for a Christmas, or a Passover; to be there for a child's  
20 first date; first dance; first ballgame; see the homerun that's hit, or the  
21 basketball school that scored. They're not available, or able to do that  
22 because they're meeting their responsibilities to the military and to all of  
23 us in this country.

24 And I emphasize that point because there's going to  
25 come a time today during the course of the jury selection process when I

1 ask you, if there's anything about the schedule that we have in this case  
2 that's going to place a burden on you if you were to serve in this jury  
3 trial, and before you throw your hand up and you're like, I've got school;  
4 I've got work; I've got, you know, the family; or this/that; or other event, I  
5 want you to think about the millions of people who served; hundreds of  
6 thousands of people who have died or been injured in course of battles  
7 to defend our rights, and those who are serving here today who have  
8 given up a lot. And this is your opportunity as citizens of this community  
9 to provide a very real and important service to the community.

10 The last thing I want to say is, if you are selected as a  
11 juror, I think you will find it to be a very meaningful and important  
12 experience in your lives. Prior to coming onto the bench, I was a  
13 prosecutor with the United States Department of Justice over on the  
14 federal side with their organized crime and racketeering program.

15 And during the course of my time doing those kinds  
16 of cases, over 32 something years, I dealt with a lot of juries and trials  
17 that lasted several months to some that lasted just a couple days. And  
18 after every one of those trials, I would try to get a hold of some of the  
19 jurors to ask them about the experience and whether -- you know, what I  
20 could have done better, or how we could've better presented the case,  
21 or what they felt about how we handled the evidence to try to improve  
22 and make it a learning experience for me and my colleagues.

23 And I would always ask jurors, you know, how did you  
24 find the experience? And I'll tell you during the 32 years that I was  
25 actively litigating these cases, I didn't speak to anyone who didn't tell me

1 that they didn't find it to be a very important meaningful and worthwhile  
2 experience. In coming onto the bench about four years ago, I've done  
3 numerous criminal and civil jury trials.

4 And after each one of those trials, I tried to get one  
5 of those jurors to go back to the jury deliberation room so I can  
6 personally thank them for their service. And also to -- as a learning  
7 experience, to see if there's anyway we can improve as a court system  
8 in terms of the jury selection process and how we have the cases  
9 presented here at trial. And I always ask the jurors, you know, how did  
10 you find the experience? And I haven't spoken to anyone, in the four  
11 years that I've been doing this, who hasn't told that they didn't find it to  
12 be a very important meaningful experience that gave them a real sense  
13 of the significance of the jury in our justice system.

14 I've had some jurors come up to me at the end and say,  
15 I was so angry with you; I was so angry; I was so upset; I thought I've  
16 given you a good enough reason to get me off the jury; you didn't let me  
17 off, and I was really upset; but, you know, I'm glad you didn't let me off;  
18 I'm glad I served; I'm glad I had the opportunity; it was something that I  
19 think was important, and I was glad to be able to serve.

20 So I do think if you are selected to serve on the jury,  
21 you will find it to be a very important and meaningful experience. As I  
22 said, my name is Eric Johnson. I want to introduce some other people  
23 that you'll become familiar with during the course of this process.  
24 Seated next to me is our Courtroom Clerk Linda. She really is the brains  
25 of the operations here. She keeps track of everything that's done here

1 in the courtroom. She keeps track of all the witnesses. She keeps track  
2 of all the exhibits. And most importantly, she's done this a lot of years  
3 herself, and she makes sure I don't screw up. And so she plays a really  
4 critical role here and will be here throughout the trial.

5 And next to her is Angie, she's our Court Recorder, and  
6 that's exactly what she does. She records everything that is said here in  
7 the courtroom. If you look around, you'll see these little black things with  
8 red lights on them, those are microphones. They're recording  
9 everything I'm saying right now, and they'll record everything that you all  
10 say during the course of the jury selection process, and what the  
11 witnesses say during the course of the trial.

12 It's very important that we get a record of what's said  
13 here in the courtroom. And in doing that, it's very important that we  
14 always identify who is speaking at any time, and that we don't speak  
15 over each other. So at times I may interrupt you or Angie may interrupt  
16 you and say, just for the record, that's Juror No. 6 or Juror John Doe or  
17 Jane Doe that's speaking. And there will be times where I might  
18 interrupt you or Angie might interrupt you and say, don't speak over  
19 each other.

20 When we do that, we're not trying to be rude in any  
21 way. It's just that it's very important that we get a clear record, and it's  
22 hard to do that if we don't get a name down who's talking or people  
23 speaking over each other. Don't feel bad if you get cautioned on  
24 speaking over each other that happens absolutely all the time. I'm guilty  
25 of that just as much as anybody, it's a common thing. Because what's

1 going to happen here today is I'll start asking you a question, or one of  
2 the attorneys will start asking you a question and you'll anticipate what  
3 my question is before I'm done, so you'll start to answer. And in  
4 reverse, I'll hear your answer and anticipate what you're going to say  
5 and start asking the next question, so it happens all the time. But we try  
6 to minimize that, and so we may at times ask you not to speak over  
7 each other.

8                   The next one I want to introduce is our marshal,  
9 Marshal Schvaneveldt; you've all met him, he's the one who brought you  
10 up here. He's responsible for courtroom security when we're in session.  
11 He's also the one who's responsible for dealing with all of you here  
12 today. And if you're selected to serve on the jury, he's the one who's  
13 going to be responsible for working with you.

14                   If anything comes up during the course of the  
15 process today or during the trial; if you're selected as a juror; which you  
16 got a question or a concern about, anything other than the facts of this  
17 case, bring it to the marshal's attention and he'll bring it to my attention  
18 and we'll -- if necessary, I'll bring it to the attorneys' attention. So if you  
19 need to know where to park; you need to know where our vendor  
20 machine is -- you know -- or if you see something that bothers you in  
21 some way; or hear something that bothers you in some way, contact the  
22 marshal and he'll pass it on.

23                   During the course of these proceedings, generally my  
24 staff and the attorneys will not talk to you. We'll, probably, won't even  
25 say, hi, to you if we should happen to run into you in an elevator or pass



1 you in the hallway. And it's not that we're trying to be anti-social in any  
2 way, but we want to make sure that you are not presented with any  
3 comments, or any information, or anything that would possibly be  
4 something you shouldn't be presented with in regards to your potential  
5 deliberations.

6 And so to do that we generally, as a rule, provide that  
7 the attorneys and my staff generally won't talk to you during the course  
8 of the proceedings. But if something comes up and you need to talk to  
9 somebody, talk to the marshal. Again, about anything other than the  
10 facts of this case, do not mention or talk about the facts of this case in  
11 any way.

12 At different times my Law Clerk Skyler, she's a recent  
13 graduate from the Boyd School of Law here at the University of Las  
14 Vegas -- University of Nevada of Las Vegas, and also recent member of  
15 the Nevada Bar. She may be in at different times. Skyler helps me with  
16 legal research and different issues that come up in the case, and so she  
17 may come in.

18 Danielle, my extern from UNLV School of Law may  
19 come in at different times. And then Kelly, my Judicial Assistant, may  
20 come in at different times as things might happen. So those are people  
21 you might see during the course of the trial, so that concludes pretty  
22 much of our introductions.

23 Now, I have a couple of orders that I want to make, and  
24 I'm going to emphasize these are orders. I'm ordering all of you not to  
25 do a couple of things. And hopefully after we get done with this process,

1 you'll understand why I'm making orders. But I'm also going to be  
2 asking you not to do the things that I'm going to be prohibiting here.

3 And the first thing I'm going to order you to not do is to  
4 not use social media in any way to refer to this case, or to discuss this  
5 case. Don't go on Facebook, or WhatsApp or your texting things, or  
6 Instagram, or Snapchat, or whatever else may be out there, and talk  
7 about this case and your potential involvement in any way. And  
8 hopefully you can appreciate why I'm ordering you not to do that. And I  
9 emphasize, I'm just saying about this case.

10 You know, you're free to go on Facebook and talk about  
11 the brackets for the NCAA tournament, and who you think is going to be  
12 an upset. And you're free to talk about your family or whatever, but do  
13 not talk about this case. And the reason -- and I'm asking you not to do  
14 that beyond ordering you because the reason for this is if you go on the  
15 Internet or social media, Facebook and --you know, during one of the  
16 breaks you take a selfie of yourself standing in front of the Regional  
17 Justice Center and post that and say, hey, I'm being considered for a  
18 trial in a criminal case, people can comment on that. And some of the  
19 comments may be of the nature that you shouldn't be exposed to, and  
20 so to avoid that, we just don't want you to go on social media and talk  
21 about the case in any way.

22 The other thing I'm going to order you and I emphasize,  
23 order you not to do, is to go on the Internet; your smartphones; your  
24 computers and do any sort of investigation or research about this case;  
25 any information you hear about this case; any word that comes up

1 during the course of the proceedings that you may not understand; do  
2 any research about me or any of the parties.

3 Again, I'm focusing on this case. If you need to go on  
4 the Internet for any other purpose, that's fine. But don't go on it to do  
5 any sort of investigation or research, and I'm asking you all not to do that  
6 too. Beyond ordering you, I'm asking you. And hopefully, again, it's  
7 obvious the reason why I'm asking you that.

8 If you were to go on the Internet and look up  
9 anything in regard to the parties or, you know, Google Maps to look at  
10 an area that's referred to, you'll be obtaining information that the other  
11 jurors wouldn't have. And you might be obtaining information that's  
12 inappropriate under the rules of evidence for you to have.

13 And so if you do that and your back in the jury room  
14 with information you shouldn't have or/and other jurors don't have, it  
15 makes the proceedings unfair to both sides during the course of the trial.  
16 So to avoid that, just don't go on the Internet and do any sort of research  
17 or investigation. The job of the attorneys in this case; they're job is to  
18 make sure you have the information you need when you go back to the  
19 deliberation room so let them do their job.

20 If you are selected as a juror in this case, you will be  
21 given the opportunity after our witness testifies to ask that witness  
22 written questions, so you will have a chance to ask some questions  
23 during the course of the trial, but don't go out and do any sort of  
24 investigation or research on your own.

25 All right, at this point in time, I'm going to do a roll call of

1 the group of 24 over here; make sure that everybody is sitting in the right  
2 seat, and that we have everybody we're supposed to have. During the  
3 course of the selection process today, I'm going to be referring to you  
4 either by your name or by your seat number.

5 And the way the seat numbering works is the back row,  
6 we have seats one through 10; the middle row, the second row down  
7 from the back, we have seats number 11 through 20, and then sitting in  
8 front of the wood bar there, we have seats number 21 through 24. And  
9 in Seat No. 1 is over to my left; to your right, and Seat No. 10 is over to  
10 my right and your left. And same thing for the second row, Seat No. 11  
11 is to my left and to your right. And then Seat No. 20 is to my right; to  
12 your left. And then 21 through 24 same pattern, 21 over to my left; to  
13 your right. And 24 over to my right which is your left, so that's the way  
14 I'll be referring to you all today and will be identifying you for the  
15 purposes of the record.

16 In that regard, sitting in Seat No. 1 -- and now when I go  
17 through this, I need to get some acknowledgment that you're there. And  
18 as I said, we're recording all of this. And rather than pass a microphone  
19 down at this point in time, I need you to say something loud enough that  
20 those red/black light mics on the bench there will pick you up. So give  
21 me a here, or a yes, or present or whatever you feel like; make it loud  
22 and clear.

23 So sitting in Seat No. 1 should be Ms. Britton?

24 PROSPECTIVE JUROR NO. 106: Here.

25 THE COURT: Okay. And Seat No. 2 should be Mr. Bond?

1 PROSPECTIVE JUROR NO. 107: Here.  
2 THE COURT: And Seat No. 3 should be Ms. Glassman?  
3 PROSPECTIVE JUROR NO. 108: Here.  
4 THE COURT: Thank you. Seat No. 4 should be Ms. Garcia-  
5 Rosales?  
6 PROSPECTIVE JUROR NO. 111: Here.  
7 THE COURT: Seat No. 5 should be Ms. Arias?  
8 PROSPECTIVE JUROR NO. 112: Here.  
9 THE COURT: Seat No. 6 should be Mr. Thistle?  
10 PROSPECTIVE JUROR NO. 114: Here.  
11 THE COURT: Seat No. 7 should be Ms. Yager?  
12 PROSPECTIVE JUROR NO. 116: Here.  
13 THE COURT: Okay. Seat No. 8 should be Ms.  
14 Staudenmaier?  
15 PROSPECTIVE JUROR NO. 117: Here.  
16 THE COURT: Okay. Seat No. 9 should be Mr. Nettles?  
17 PROSPECTIVE JUROR NO. 118: Here.  
18 THE COURT: Okay. Seat No. 10 should be Ms. Waters?  
19 PROSPECTIVE JUROR NO. 119: Here.  
20 THE COURT: Okay, we're going to come back over here to  
21 Seat No. 11, and that should be Ms. Scholl?  
22 PROSPECTIVE JUROR NO. 121: Here.  
23 THE COURT: Okay. And then Seat No. 12 should be Mr.  
24 Kokoczka?  
25 PROSPECTIVE JUROR NO. 122: Kokoczka.

1 THE COURT: How bad did I butcher that?  
2 PROSPECTIVE JUROR NO. 122: Real bad.  
3 THE COURT: Okay. Go ahead and give me, how do you  
4 pronounce it?  
5 PROSPECTIVE JUROR NO. 122: Ko-kocz-ka.  
6 THE COURT: Ko-kocz-ka. All right, Seat No. 13 should be  
7 Ms. Alcomindras? That's not --  
8 PROSPECTIVE JUROR NO. 123: It's Alcomindras.  
9 THE COURT: Alcomindras?  
10 PROSPECTIVE JUROR NO. 123: Yeah.  
11 THE COURT: All right, Seat No. 14 should be Ms. Santana?  
12 PROSPECTIVE JUROR NO. 124: Yes.  
13 THE COURT: Okay. Seat No. 15 should be Ms. Finnegan?  
14 PROSPECTIVE JUROR NO. 126: Here.  
15 THE COURT: Okay. Seat No. 16 should be Mr. Roland?  
16 PROSPECTIVE JUROR NO. 127: Here.  
17 THE COURT: Seat No. 17 should be Ms. Bohn?  
18 PROSPECTIVE JUROR NO. 128: Here.  
19 THE COURT: Seat No. 18 should be Mr. Kelly?  
20 PROSPECTIVE JUROR NO. 129: Here.  
21 THE COURT: Seat No. 19 should be Ms. Wetenkamp?  
22 PROSPECTIVE JUROR NO. 131: Here.  
23 THE COURT: All right. And Seat No. 20 should be Ms.  
24 Brewster?  
25 PROSPECTIVE JUROR NO. 132: Yes.

1 THE COURT: Okay, coming down to the third row, No. 21  
2 should be Mr. Chang?

3 PROSPECTIVE JUROR NO. 133: Here.

4 THE COURT: No. 22 should be Mr. Purdy?

5 PROSPECTIVE JUROR NO. 135: Here.

6 THE COURT: No. 23 should be Mr. Elton?

7 PROSPECTIVE JUROR NO. 138: Ms. Elton.

8 THE COURT: Ms. -- oh, I'm sorry. Ms. Elton, I apologize.

9 PROSPECTIVE JUROR NO. 138: Yes.

10 THE COURT: I was on a run there with Misters, I apologize.

11 THE COURT: And then No. 24 should be Ms. Young?

12 PROSPECTIVE JUROR NO. 139. Here.

13 THE COURT: Okay, everybody is where they're supposed to  
14 be. All right, at this point in time I'm going to ask everybody to rise if  
15 you're able to, and that includes all of you out in the gallery and be  
16 sworn in to answer questions.

17 [Prospective jury sworn in by Clerk]

18 THE CLERK: Please be seated.

19 THE COURT: All right. Now as I mentioned before, this  
20 is -- I don't know if I mentioned before, but this is going to be a criminal  
21 trial, and that's what you're being considered for is a criminal trial. At  
22 this point in time, I'm going to ask the attorneys representing the State of  
23 Nevada to introduce themselves, and to give you a very, very, very short  
24 summary of the charges in this case, and then read off a list of  
25 witnesses.

1 Now, I want to emphasize that when they read off the  
2 list of witnesses, they're reading off anyone and everyone who they feel  
3 possibly, for whatever reason, could testify in this case. The list can get  
4 extraordinary long, and I don't want everyone to become panicky in  
5 terms of the number of witnesses they hear mentioned. It's usually very,  
6 very much fewer than what's listed out by the course of the State's so  
7 don't worry about it in that regard.

8 I've talked with the parties and we anticipate this case  
9 may run a little bit into next week. I think we can get it done by Monday  
10 or Tuesday next week. There is a light at the end of the tunnel so don't  
11 let the list of witnesses scare you in any way, but I do need you to listen  
12 to that list of witnesses. And if you think you know somebody, file that  
13 away in the back of your head because at some point very soon, I will  
14 ask you if you think you know any of the witnesses in this case. And at  
15 that point in time, you can raise your hand and say, I think I might know  
16 Witness Jane Doe. And we'll figure out at that point whether or not you  
17 know the Jane Doe that's being called into testify.

18 We all like to think we are unique, and each of us is  
19 unique as an individual but our names aren't that unique. And so there's  
20 a lot -- you know, Eric Johnson while I like the name; I lived with it now  
21 for a lot of years. I'm not under any delusion that there aren't a lot of  
22 other Eric Johnsons that are out there; same thing with any of these  
23 witnesses names.

24 So if you think you know somebody who -- an Eric  
25 Johnson or John Doe that gets mentioned, file that away, and then we'll



1 figure out a little later if the John Doe or Eric Johnson's being called to  
2 testify is the one that you know. All right, I'll ask the State to introduce  
3 themselves, give a short summary, and a list of witnesses.

4 MS. MERCER: Thank you, Your Honor. Your Honor, may I  
5 stand at the podium?

6 THE COURT: Sure.

7 MS. MERCER: Good morning ladies and gentlemen. My  
8 name is Elizabeth Mercer and my co-counsel is Samuel Martinez. We're  
9 the Chief Deputy District Attorneys assigned to prosecute this case.  
10 This case involves a series of eight different robberies that occurred  
11 between May 21<sup>st</sup> of 2018 and June 7<sup>th</sup> of 2018 at the following  
12 locations: on May 21<sup>st</sup> the Roberto's Taco Shop located at 3400 South  
13 Hualapai Way was robbed; on May 26<sup>th</sup> of 2018, the Panda Express  
14 located at 1263 Silverado Ranch was robbed; on May 27<sup>th</sup> of 2018, the  
15 Duncan Donuts at 409 East Silverado Ranch was robbed; on May 31<sup>st</sup>  
16 the Roberto's Taco Shop at 2230 Horizon Ridge was robbed; also on  
17 May 31<sup>st</sup> of 2018, the Roberto's Taco Shop at 10430 Bermuda was  
18 robbed; on June 1<sup>st</sup> of 2018, the Khoury's Mediterranean grille located at  
19 9340 West Sahara was robbed; on June 2<sup>nd</sup> the Albertson's located at  
20 5975 West Tropicana Avenue was robbed, and on June 7<sup>th</sup> the  
21 Albertson's located at 2550 South Fort Apache was robbed.

22 As a result of the robbery allegations, he's charged with  
23 22 counts of robbery with use of a deadly weapon; one count of attempt  
24 robbery with use of a deadly weapon; eight counts of burglary while in  
25 possession of a firearm; five counts of conspiracy to commit robbery,

1 and six counts of assault with use of a deadly weapon.

2           There are also allegations that on or about May 24<sup>th</sup> of  
3 2018, he stole a blue 2-door coupe Infiniti that belonged to Raymond  
4 [sic] Rutshaw from the apartment complex located in the vicinity of Blue  
5 Diamond and Cimarron Road, and that he used that vehicle in  
6 subsequent robberies. As a result of that conduct, he's charged with  
7 one count of grand larceny auto as well as one count of possession of a  
8 stolen vehicle.

9           Then on June 8<sup>th</sup> of 2018 when he was taken into  
10 custody at a Green Valley Grocery located at the intersection of Blue  
11 Diamond and Valley View, several detectives attempted to apprehend  
12 him and take him into custody. He resisted their commands; pulled a  
13 firearm on them and attempted to run one of them over. As a result of  
14 that, he's charged with one count of resisting a police officer with a  
15 firearm, and three counts of assault on a protective person with use of a  
16 deadly weapon.

17           As the Judge indicated, I'm going to read off a long list  
18 of names. We do not intend to call every single person I name, but if  
19 you could please listen closely: Pedro Marino; Juan Salazar; Rebel  
20 Rodriguez; Andorio Rodriguez; Dillon Walsh-Murray; Officer Keith  
21 Sonetti, a patrol officer with Metro; Mark Tolentino, another patrol officer  
22 with Metro; Matthew Carter, another patrol officer with Metro; Chanel  
23 Vargas Berbe, another patrol officer with Metro; Elias Cardenas, a  
24 robbery detective with Metro; Glezzelle Tapay, who's a crime scene  
25 analyst with Metro; Heather Gouldthorpe, who is a latent fingerprint

1 examiner with Metro; Elibrada, and I can't pronounce her last name so  
2 I'm going to spell it, it's G-U-I-A-O; Trixie Arcinas; Lilia Nora; Von Jon  
3 Diaz; Jorge Rodriguez; Diego Gomez; Dean Murdoch; Matthew Salazar;  
4 Officer Michael Tolbert with Metro; Officer Cameron Cozzens with Metro;  
5 Officer Liovany Garcia with Metro; Crime Scene Analyst Traci Goldberg  
6 with Metro; robbery Detective Kyle Toomer with Metro; Jonathon Plott,  
7 another patrol officer with Metro; Marissa Amezcua; Louis Anthony  
8 Davila Sr.; Rebecca Davila; Renee Davila; Louis Anthony Jr. Davila;  
9 Geraldine Gallego-Coral; Azaley Gomez; Barbara Gomez; Annette  
10 Mezel; Madison Serwicki; Jennifer Strobe; Patrol Officer Christopher  
11 Deang with Metro; Patrol Officer Scott Benes with Metro; Megan  
12 Madonna; Erik Perkett, a robbery detective with Metro; Linda Manigault,  
13 latent fingerprint examiner with Metro; Sandra Amador-Hernandez;  
14 Jorge Hernandez-Garcia; Robert Galbraith; Noe Gonzalez; Kenneth  
15 Irwin; Larry Reese [phonetic], Patrol Officer E. Karovic with Henderson  
16 Police Department; Detective Nathan Kalbano [phonetic] with  
17 Henderson Police Department; Detective Kevin Lapeer with Henderson  
18 Police Department; Detective Wayne Nichols [phonetic] with Henderson  
19 Police Department; Crime Scene Analyst Patrick Farrell with Henderson  
20 Police Department; Tanya Hiner with Henderson Police Department,  
21 who is a latent fingerprint examiner as well as a -- she examines  
22 footwear impressions left behind at scenes; Carmen Carrillo; Victor  
23 Delgado-Garcia; Alvaro Mendoza; Maria Solis; a custodian of records  
24 from the Village Pub by the name of Danny Smith; a custodian of  
25 records for Life Storage by the name of Jennifer Ann [phonetic]; Charles

1 Yannis, a Henderson -- I'm sorry, a Metro Police Officer Louise Renhard;  
2 a crime scene analyst with Metro Joy Shlasinger; Christine Montisano;  
3 Christopher Mireles; Don Guiliano; Patrol Officer T. Defauw with Metro;  
4 Patrol Officer Michael Boyd with Metro; robbery Detective Eric Honea  
5 with Metro; robbery Detective Theodore Snodgrass with Metro; Crime  
6 Scene Analyst Jennifer Strumillo with Metro; Jennifer Hughes; Keymari  
7 Paxton; Martin Mercado; Jessica Krimm; Russell Anders, a patrol officer  
8 with Metro; Crime Scene Analyst -- or retired Crime Scene Analyst by  
9 the name of Randall McPhail with Metro; Denise Pratt; Guy Fransen;  
10 David Canvanugh; Enrique, and his last name is spelled H-U-A-P-A-Y-A;  
11 Adrian Thompson, a patrol officer with Metro; Garrett Wilson, a patrol  
12 officer with Metro; Robert Rafferty with Metro; Amanda Wright, a crime  
13 scene analyst with Metro; a DNA analyst with Metro by the name of  
14 Craig King; Detective Blake Penny; Detective Sean McNulty; retired  
15 Detective Joseph Emery with Metro; a K-9 Officer by the name of  
16 Nicklaus Bauchman with Metro, and Detective Richard Hart, he goes by  
17 Tony; he's also with Metro; you will also hear from a patrol officer by the  
18 name of Pavlovic with Metro; a John Beckerly, another detective with  
19 Metro; Zachary Ivins, another detective with Metro; Michael O'halloran,  
20 another detective with Metro; Ernie Morgan, a K-9 Officer with Metro;  
21 Sabrina Steinmetz, a crime scene analyst with Metro; Stephanie  
22 Fletcher, a crime scene analyst with Metro; Ebony Stephens, a crime  
23 scene analyst with Metro; Stephanie Thi, T-H-I, a crime scene analyst  
24 with Metro; Jennifer -- oh, I'm sorry, I already said that name; Christie  
25 Thomas, a crime scene analyst with Metro; Tabatha Paine, a crime

1 scene analyst with Metro; Trevor Alsup, another detective with Metro;  
2 Marc Colon, another detective with Metro; Scott Mendoza, another  
3 detective with Metro; Kenton Buford, another detective with Metro;  
4 Joseph Patton another detective with Metro; Marvin Cotton; Tamika  
5 Hope; Odin Garcia; Kathy Geil, a firearms examiner with Metro, and  
6 Heather Gouldthorpe another latent fingerprint with Metro; as well as  
7 Derek Jappe, detective with Metro; C. Pastuna with Metro; Samuel  
8 Smith with Metro; Joe Lepore with Metro; M. Campbell with Metro; I.  
9 Williams with Metro; Prunchak P-R-U-N-C-H-A-K, first initial E with  
10 Metro; Detective Jason Nelson with Metro; Raven Rutshaw; James  
11 Downing, a custodian of records with T-Mobile; a custodian of records of  
12 AT&T, and potentially a co-conspirator Deann Page. Thank you, Your  
13 Honor.

14 THE COURT: Thank you, Counsel. We're going to pause just  
15 one second, we're having a little feedback problem. My recorder wants  
16 to just do a test.

17 All right, ladies and gentleman, at this point in time  
18 we're going to start asking you some questions.

19 [Clerk and Court confer]

20 THE COURT: Oh, that's right. I screwed up, I apologize.  
21 That's why we have Linda here, and she caught that. I stopped things to  
22 do a test, and I need to go back to where we go. I'd ask the Defense to  
23 introduce themselves and the defendant.

24 MR. YAMPOLSKY: Good morning, my name is Mace  
25 Yampolsky, I'm a lawyer. I represent Shane Kittredge; this is Jason

1 Margolis, he's another lawyer who works with me, and this is Kaitlyn  
2 Stella, who's a paralegal in my office.

3 THE COURT: All right, thank you. Are there anyone you want  
4 to add to the list of witnesses?

5 MR. YAMPOLSKY: Theresa Musgay [phonetic] also works  
6 with as does Marina Alvarez.

7 THE COURT: Okay, very good. Thank you very much, Mr.  
8 Yampolsky. All right, now we'll get started in terms of asking you some  
9 questions. In this process I'm going to be focusing on the group over  
10 here of 24 people in Seats 1 through 24. But it's very important for all of  
11 you out in the gallery to listen to all of the questions. And if you would  
12 answer any of them, to remember -- put that in the back of your head  
13 and remember that.

14 The reason is that, as we go through the 24 over here,  
15 inevitably someone is going to be excused for some reason or another  
16 as we go through the process. When someone is excused over here,  
17 we'll have one of you out in the gallery come and take their place. At  
18 that point in time when you sit down, I'm going to ask you if you heard  
19 the questions that I asked earlier today. And if you say, yes; I heard the  
20 questions you asked earlier today, I'll ask if you would have answered  
21 any of them. And if you wouldn't have, just say, no; I wouldn't have  
22 answered any of the questions. Or if you say, yes, I would have, I'll ask  
23 you to tell me which questions you would've answered and what your  
24 answer would've been, and you can go through and tell me the  
25 questions you would've answered and what your answer is.

1                   Now if I ask you, did you have an opportunity to hear all  
2 the questions I earlier asked today and you say, no, well then I have to  
3 go back and ask you all the questions that I asked earlier today. And  
4 everybody is going to stare at you real mean like because that's going to  
5 really slow things down, and everybody wants to try to move this  
6 process along as quickly as possible.

7                   So it's very important that all of you out there listen to all  
8 the questions, and if you would answer any of them to file that in the  
9 back of your brain and be prepared to tell us that. It's very important you  
10 all listen to the questions and you not make any assumption that for  
11 whatever reason you're not going to be called up to sit in one of the  
12 chairs over here. I'll tell you right now, I've done a number of jury trials  
13 since coming onto the bench and even before that it's not uncommon  
14 that we go through almost everybody in the gallery during the course of  
15 selecting a jury so it is important for all of you to listen to the questions.

16                  Now, the thing I want to emphasize in terms of these  
17 questions, there's no right answer; there's no wrong answer. All we  
18 want is just an honest answer; be honest, and don't hold anything back.  
19 If you don't understand a question that I ask, just say I don't understand  
20 the question; raise your hand, and I'll try to rephrase it. If you don't hear  
21 a question, again, raise your hand; say, I'm sorry, I didn't hear the  
22 question, I'll make sure that it is repeated.

23                  If at any time you don't feel comfortable giving an  
24 answer out here in front of everybody, tell me that you would like to do a  
25 sidebar. And what we'll do is have you come up and come around here

1 to the back behind where I'm sitting, and the attorneys will be there; it  
2 will be recorded. But we'll let you answer back there rather than in front  
3 of everybody, if that makes it easier for you to answer the question. I  
4 don't encourage you to do a lot of sidebars because that takes up more  
5 time. But if it is necessary for us to get an honest answer from you,  
6 don't hesitate to ask for a sidebar to give an answer to one of the  
7 questions.

8 Now, as I said, all we're looking for is honest answers.  
9 And I've had people who been sitting where you are that expressed  
10 some concern; that they hesitate to give an answer because they're  
11 concerned it may show some prejudice or bias on their part, and that  
12 doesn't mean anything. We all have prejudices or biases. Sometimes  
13 we have unconscious prejudices and biases and we may not be aware  
14 of, and that doesn't mean you can't be a good juror if you have a  
15 prejudice or bias in some way.

16 Like I said, we all have some sort of prejudice or bias.  
17 But what we generally have found is if we recognize what those  
18 prejudices or biases are that we have and we take steps to consider  
19 them; think about them, we usually can put those biases or prejudices  
20 aside and be fair and that's what we're going to try to find out from all of  
21 you in that regard.

22 So don't feel bad if you have an answer which may  
23 suggest you have some prejudice or bias. Again, everybody has some  
24 prejudice or bias. We'll work from there and see if that's something that  
25 you recognize and you can put aside and feel that you can be fair to



1 both sides in this case. So again, what we're looking for is a honest  
2 answer to the questions.

3 Now, the first question -- as I said, I'll be focusing on the  
4 24 over here. But this first question, actually, is for everybody here in  
5 the courtroom. And so those of you out in the gallery, I need you to  
6 answer it too. The first question is language. Is there anyone having  
7 trouble understanding me concerning what I'm saying either because  
8 English is not your first language, or because you have a hearing  
9 problem?

10 Is there anyone who's having trouble hearing what I'm  
11 saying or understanding what I'm saying? I'm focusing first -- keep your  
12 hand up. I'm focusing first on the 24 over here; let the record reflect no  
13 hands. And then we have one juror -- or two jurors in the back, if you  
14 could hand the mic to one of them and let me get their badge number.

15 THE MARSHAL: Badge No. 264, Judge.

16 THE COURT: I'm sorry, what?

17 THE MARSHAL: Two, sixty-four.

18 THE COURT: Okay, that's Ms. Rosales. Ma'am, what's your  
19 problem either understanding what I'm saying? Can you hear me? Or is  
20 English not your first language.

21 MS. HERNANDEZ: She doesn't speak English.

22 THE COURT: She doesn't speak any --

23 THE MARSHAL: She doesn't speak any English.

24 THE COURT: All right.

25 THE RECORDER: Who's speaking for the record?

1 THE MARSHAL: That's her daughter-in-law, just so you  
2 know.  
3 THE COURT: Okay. What's your name for the record?  
4 MS. HERNANDEZ: Tomasa Hernandez.  
5 THE RECORDER: I'm sorry, she needs to speak into the mic.  
6 MS. HERNANDEZ: Tomasa Hernandez.  
7 THE COURT: All right.  
8 THE RECORDER: Can you spell that please.  
9 MS. HERNANDEZ: T-O-M-A-S-A, Hernandez,  
10 H-E-R-N-A-N-D-E-Z.  
11 THE COURT: Thank you very much. And then I saw another  
12 hand, I thought.  
13 THE MARSHAL: It's Badge No. 251, Judge.  
14 THE COURT: And that's Ms. Nguyen. What's your concern,  
15 Ms. Nguyen?  
16 PROSPECTIVE JUROR NO. 251: I'm not speaking very well.  
17 THE COURT: Okay. Do you understand really anything that  
18 I'm saying?  
19 PROSPECTIVE JUROR NO. 251: Some understand, but not  
20 the whole thing.  
21 THE COURT: All right, what is your native language?  
22 PROSPECTIVE JUROR NO. 251: Vietnamese.  
23 THE COURT: Okay. All right. But how much do you think  
24 you're understanding what I'm saying? A little bit? Or a lot?  
25 PROSPECTIVE JUROR NO. 251: I think about 10 or 20

1 percent.

2 THE COURT: Okay. All right. Thank you very much. All  
3 right, anybody else who I missed? All right, let the record reflect no  
4 other hands. All right, the next set of questions is for the group of 24  
5 over here. First of all, is there any one of you who is not a United States  
6 Citizen? Okay, let the record reflect no hands. Is there any one of you  
7 who has been convicted of a felony? Okay, let the record reflect no  
8 hands. Is there any one of you with a prejudice or bias for or against  
9 any individuals relating to age, gender, religion, ethnic origin, or sexual  
10 orientation? All right, let the record reflect no hands.

11 Now, we've had the defendant introduce -- Shane  
12 Kittredge introduced by his new attorneys. Is there anyone who thinks  
13 that they know the defendant in any way? Either know him, heard of  
14 him, have any association, or any sort of knowledge from whatever  
15 source about the defendant in this case?

16 PROSPECTIVE JUROR NO. 121: May I ask a question, what  
17 is his last name again?

18 THE COURT: Kittredge, K-I-T-T-R-E-D-G-E.

19 PROSPECTIVE JUROR NO. 121: He just looks familiar to  
20 me.

21 THE COURT: Okay, that's -- hand the mic down if you would,  
22 Ms. Britton to No. 11, Ms. Scholl. For the record, Ms. Scholl is the one  
23 who asked of his last name and said he looked familiar. Do you have  
24 any senses to why he looks familiar to you, Ms. Scholl?

25 PROSPECTIVE JUROR NO. 121: I do not. I don't know if it's

1 from prior work. I lived here for 30 years but he just seems familiar to  
2 me.

3 THE COURT: All right, you have no idea why or --

4 PROSPECTIVE JUROR NO. 121: No idea, no.

5 THE COURT: Okay. Anything with your familiarity with him  
6 that's negative in any way?

7 PROSPECTIVE JUROR NO. 121: No,

8 THE COURT: Okay. Is there anything in terms of your  
9 concern about prior familiarity with him that you feel would affect your  
10 ability to be a fair juror in this case?

11 PROSPECTIVE JUROR NO. 121: No.

12 THE COURT: Okay. All right, thank you very much. Anybody  
13 else that thinks they have any knowledge, or information, or association  
14 with the defendant? Let's go down to No. 6, Mr. Thistle.

15 PROSPECTIVE JUROR NO. 114: Yeah. I remember reading  
16 about these robberies in the newspaper as they were occurring.

17 THE COURT: All right. I don't want you to say anything  
18 further at this point. But at a break, we'll probably ask you to come up to  
19 a sidebar, okay?

20 PROSPECTIVE JUROR NO. 114: Okay.

21 THE COURT: All right. Thank you for raising that with us, Mr.  
22 Thistle. All right, anybody else? Let the record reflect no other hands.  
23 Now both Defense Attorneys, Mr. Yampolsky and Mr. Margolis, have  
24 introduced themselves. Is there any one of you who thinks that you  
25 know them, have any information about them, familiarity with them, or

1 anything about them from any source? All right, let the record reflect no  
2 hands.

3 The District Attorneys, here, have introduced  
4 themselves. Is there anyone who thinks they know either one of the  
5 District Attorneys here; either know them, heard of them, have any  
6 information about them in any way from any source? All right, let the  
7 record reflect no hands.

8 Let me ask now a broader question, is there anyone  
9 who knows anyone who works at the Clark County District Attorney's  
10 Office either as an attorney, or as staff member in some way at the Clark  
11 County District Attorney's Office? Okay, we got a few hands on that. I  
12 usually like to go in order. If we can hand -- Ms. Britton, if you can hand  
13 that all the way down to No. 10, Ms. Waters.

14 And, Ms. Waters, who do you know at the Clark County  
15 District Attorney's Office?

16 PROSPECTIVE JUROR NO. 119: Yolanda Givens [phonetic].

17 THE COURT: Okay. And how do you know her?

18 PROSPECTIVE JUROR NO. 119: We are church members  
19 together. We sing in the choir together.

20 THE COURT: Okay, how long you guys been doing that?

21 PROSPECTIVE JUROR NO. 119: Oh, god, her kids are  
22 24/25, so way before that.

23 THE COURT: Oh, okay, so quite a while.

24 PROSPECTIVE JUROR NO. 119: Yes.

25 THE COURT: All right. I mean, is that where you essentially

1 associate with her?

2 PROSPECTIVE JUROR NO. 119: Yolanda, yeah, in church  
3 or -- well, of course, we have baby showers and weddings and that kind  
4 of thing.

5 THE COURT: Okay. All right. But you don't have a real  
6 social relationship with her beyond church? Do you guys go out  
7 together? Or go to dinner? Or have each other to your houses?

8 PROSPECTIVE JUROR NO. 119: No, we don't do that but  
9 we're close.

10 THE COURT: Okay, obviously. Okay, that's good. Do you  
11 know what she does at the District Attorney's Office?

12 PROSPECTIVE JUROR NO. 119: She's an attorney.

13 THE COURT: Okay. All right. Is there anything about your  
14 relationship with her and her work that would affect your ability to be a  
15 fair juror in this case?

16 PROSPECTIVE JUROR NO. 119: No.

17 THE COURT: All right. Do you feel you'll be able to follow my  
18 instructions and fairly and unbiasedly apply those instructions to the  
19 evidence admitted?

20 PROSPECTIVE JUROR NO. 119: Yes.

21 THE COURT: Okay. Thank you very much, Ms. Waters. All  
22 right, I saw another hand. Is there anyone in the back row? All right.  
23 The second row? Anyone think they know somebody in the District  
24 Attorney's Office? I thought I saw a hand.

25 PROSPECTIVE JUROR NO. 131: You did, but I misread you.

1 She doesn't work for the District Attorney's Office.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 129: I misunderstood you as  
4 well.

5 THE COURT: Okay. Well let's make a -- I'm sorry, we're  
6 going to have to make a record who just said that; that was -- the first  
7 person speaking was Ms. Wetenkamp, and the second person was 18,  
8 Mr. Kelly. All right. Well let me just -- if you can hand the mic down to  
9 Mr. Kelly, No. 18. I'm sorry, who did you think I was -- who did you --

10 PROSPECTIVE JUROR NO. 129: I thought you were saying  
11 any attorney that works for the court or anything.

12 THE COURT: Okay. I'm going to ask if you know somebody  
13 in the law a little bit later. All right. And then, Ms. Wetenkamp, No. 19,  
14 what did you think? I was just asking generally about attorneys?

15 PROSPECTIVE JUROR NO. 131: Yes.

16 THE COURT: Okay. I am going to ask generally  
17 about attorneys here in a few minutes so just keep that in mind.  
18 Anybody else I missed who thought they might know someone with the  
19 Clark County District Attorney's Office either an attorney or staff? All  
20 right, let the record reflect no other hands.

21 Now, the Clark County District Attorney's Office has  
22 participated in a reality-type television program called, Sin City Justice,  
23 on the investigation discovery channel. Has anyone ever watched the  
24 program? Okay, we have one hand. Let's go down to No. 12, Mr.  
25 Kokoczka.

1 PROSPECTIVE JUROR NO. 122: I guess I have seen it.

2 THE COURT: Okay, about how long ago was that?

3 PROSPECTIVE JUROR NO. 122: I have -- I have no idea,  
4 maybe a year.

5 THE COURT: Did you watch one or a lot of them?

6 PROSPECTIVE JUROR NO. 122: When I'm bored, I put it  
7 on.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NO. 122: Not many.

10 THE COURT: Alrighty, I don't know -- I don't know whoever  
11 appeared on that program. Do you recognize either one of our attorneys  
12 on that program?

13 PROSPECTIVE JUROR NO. 122: No, I don't.

14 THE COURT: Okay. Is there anything about that program;  
15 you're watching it that would affect your ability to be a fair juror in this  
16 case?

17 PROSPECTIVE JUROR NO. 122: I don't think so.

18 THE COURT: All right. Do you feel you would be able to  
19 follow my instructions and fairly and unbiasedly apply those instructions  
20 to the evidence admitted?

21 PROSPECTIVE JUROR NO. 122: I should.

22 THE COURT: Okay. All right, thank you very much.  
23 Anybody else seen the program? All right, let the record reflect no other  
24 hands. All right. Now, this case was investigated by -- was it Metro with  
25 the whole investigation? Or the other law enforcement agencies



1 involved?

2 MS. MERCER: Henderson as well, Your Honor.

3 THE COURT: Okay. All right. Let me ask, is there anyone  
4 who thinks that they know someone who works for the Las Vegas  
5 Metropolitan Police or the Henderson Police Department either as a  
6 police officer or as a staff member? All right, we got a few hands here.  
7 Let's go -- actually, if we could go back to the top row, and we'll hand off  
8 to No. 3, Ms. Glassman.

9 PROSPECTIVE JUROR NO. 108: I know a police officer here  
10 in --

11 THE RECORDER: Oh, I'm sorry, I don't think the mic is on.

12 THE MARSHAL: You can't grab it on the bottom, you'll turn it  
13 off. Now it's on.

14 PROSPECTIVE JUROR NO. 108: I know a police officer very  
15 well so --

16 THE COURT: All right, with law enforcement?

17 PROSPECTIVE JUROR NO. 108: Henderson Police  
18 Department.

19 THE COURT: And who's that?

20 PROSPECTIVE JUROR NO. 108: Rick Turkhouse [phonetic].

21 THE COURT: And is he a police officer you said?

22 PROSPECTIVE JUROR NO. 108: Yes, he is.

23 THE COURT: Okay. And how long have you known him?

24 PROSPECTIVE JUROR NO. 108: Ten plus years.

25 THE COURT: Okay. Generally, how do you know him?

1 PROSPECTIVE JUROR NO. 108: He's one of my agents.  
2 I'm a corporate real estate broker, and he's also a licensee.

3 THE COURT: Okay. And so do you have a working  
4 relationship, or a social relationship, or both?

5 PROSPECTIVE JUROR NO. 108: Both.

6 THE COURT: Okay. Is there anything about his work with  
7 the Henderson Police Department and your association with him that  
8 would affect your ability to be a fair juror in this case?

9 PROSPECTIVE JUROR NO. 108: I don't believe so.

10 THE COURT: All right. Do you feel you would be able to  
11 follow my instructions and fairly and unbiasedly apply those instructions  
12 to the evidence submitted?

13 PROSPECTIVE JUROR NO. 108: Yes.

14 THE COURT: Okay. Thank you very much. I know there  
15 was some other -- who else in the back row? Let's focus on the back  
16 row. Let's go down now to No. 9, Mr. Nettles.

17 PROSPECTIVE JUROR NO. 118: I know a Scott Nickles  
18 [phonetic] with Metro.

19 THE COURT: And how do you know him?

20 PROSPECTIVE JUROR NO. 118: He's a father-in-law of  
21 friend's kid.

22 THE COURT: Okay. Do you have a close relationship?

23 PROSPECTIVE JUROR NO. 118: Not at all.

24 THE COURT: All right. How long have you known him?

25 PROSPECTIVE JUROR NO. 118: Probably about five or six

1 years.

2 THE COURT: Okay. Let me ask anything about your  
3 relationship with him and his work that would affect your ability to be a  
4 fair juror in this case?

5 PROSPECTIVE JUROR NO. 118: Not at all.

6 THE COURT: Would you be able to follow my instructions  
7 and fairly and unbiasedly apply those instructions to the evidence  
8 submitted?

9 PROSPECTIVE JUROR NO. 118: Yes.

10 THE COURT: Okay, thank you. And I think, Ms. Waters,  
11 didn't you have your hand up?

12 PROSPECTIVE JUROR NO. 119: Yes.

13 THE COURT: Okay, who do you know?

14 PROSPECTIVE JUROR NO. 119: I know Maurice Collins, he  
15 is a Metro police officer.

16 THE COURT: All right, and how do you know him?

17 PROSPECTIVE JUROR NO. 119: I know him because his  
18 mother is the godmother of my daughter.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR NO. 119: And he's been at my  
21 house several times, I know him real well.

22 THE COURT: Okay, about how long would that be?

23 PROSPECTIVE JUROR NO. 119: That would be 42 years,  
24 that's how old he is.

25 THE COURT: Okay. All right, so that's a pretty good

1 relationship. Let me ask though, is there anything about his work and  
2 your relationship with him that would affect your ability to be a fair juror  
3 in this case?

4 PROSPECTIVE JUROR NO. 119: No.

5 THE COURT: Okay, thank you.

6 PROSPECTIVE JUROR NO. 119: I have one more.

7 THE COURT: Oh, I'm sorry. I apologize.

8 PROSPECTIVE JUROR NO. 119: My daughter Anicka  
9 Cannon [phonetic].

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NO. 119: She works for Metro;  
12 she's a list.

13 THE COURT: Okay, how long has she been doing that?

14 PROSPECTIVE JUROR NO. 119: I want to say three or four  
15 years, three to four years.

16 THE COURT: Okay. What kind of things does she do?

17 PROSPECTIVE JUROR NO. 119: Fingerprinting; that, I just  
18 know because she talks about that a lot. She deals with the public --  
19 you know, with guys who come in for work cards; people who come in  
20 for that; that kind of thing; people that have to --

21 THE COURT: Okay, anything about her work and your  
22 relationship with her that would affect your ability to be a fair juror in this  
23 case?

24 PROSPECTIVE JUROR NO. 119: I guess not. I don't know.

25 THE COURT: Well I'm asking you. I mean, is there anything

1 about her work and your relationship with her that would affect your  
2 ability to be a fair juror in this case?

3 PROSPECTIVE JUROR NO. 119: I don't think so.

4 THE COURT: Okay. Do you feel you would be able to follow  
5 my instructions and fairly and unbiasedly apply those instructions to the  
6 evidence submitted?

7 PROSPECTIVE JUROR NO. 119: Yeah, I probably -- I mean,  
8 I could do that. It's just I know so much, yeah. I'm just --

9 THE COURT: And I appreciate you probably had chatted  
10 some with your daughter --

11 PROSPECTIVE JUROR NO. 119: Yeah.

12 THE COURT: -- and maybe some with Mr. --

13 PROSPECTIVE JUROR NO. 119: Maurice, uh-huh.

14 THE COURT: -- Mr. Collins?

15 PROSPECTIVE JUROR NO. 119: Mr. Collins, uh-huh.

16 THE COURT: But whatever they're talking about is totally  
17 different from this case, do you understand that?

18 PROSPECTIVE JUROR NO. 119: Right. Yes.

19 THE COURT: We're going to have witnesses come in here  
20 under oath and testify, and we'll have exhibits introduced. What I need  
21 to know from you is do you feel you can put aside your conversations  
22 with your daughter --

23 PROSPECTIVE JUROR NO. 119: Oh, yeah.

24 THE COURT: -- and Mr. Collins and focus on the evidence  
25 in this case?

1 PROSPECTIVE JUROR NO. 119: Yes.

2 THE COURT: Okay, thank you very much. Anybody else in  
3 the back row that I missed? All right, in the middle row? I know there  
4 were some hands. Let's go -- if we could, let's go down first to No. 14,  
5 Ms. Santana. Who do you know, Ms. Santana?

6 PROSPECTIVE JUROR NO. 124: Ty Toller [phonetic]. I  
7 believe he's Metro, and he's a customer at my shop.

8 THE COURT: Okay. All right. Is that the extent of your  
9 relation is that of a business customer?

10 PROSPECTIVE JUROR NO. 124: Yes. I'm friends with his  
11 wife, but we're not socially. I mean they come into my shop and we talk.

12 THE COURT: Okay. What is your shop generally?

13 PROSPECTIVE JUROR NO. 124: Well I have a pet boutique  
14 in grooming.

15 THE COURT: Okay, that's pretty important. Trust me, we got  
16 two English Springer Spaniels, so that's an important thing. Let me ask  
17 you, is there anything about your relationship with them and their work  
18 that would affect your ability to be a fair juror in this case?

19 PROSPECTIVE JUROR NO. 124: I don't think so.

20 THE COURT: All right. Do you feel you would be able to  
21 follow my instructions and fairly and unbiasedly apply those instructions  
22 to the evidence submitted?

23 PROSPECTIVE JUROR NO. 124: Yes.

24 THE COURT: Okay, thank you. And then let's go down -- Mr.  
25 Kelly, No. 18.

1 PROSPECTIVE JUROR NO. 129: One of my employee's  
2 husband works for the Metro Police Department. I don't know his first  
3 name, I just met him once; his last name is Lowry [phonetic].

4 THE COURT: Okay. Anything -- I take it since you don't  
5 know his first name, you don't have much of a social relationship?

6 PROSPECTIVE JUROR NO. 129: No, I just wanted to say it.

7 THE COURT: No, and I'm glad you did. Anything about your  
8 relationship with him that would affect your ability to be a fair juror in this  
9 case?

10 PROSPECTIVE JUROR NO. 129: No.

11 THE COURT: Okay. Can you hand that now to No. 19, Ms.  
12 Wetenkamp.

13 PROSPECTIVE JUROR NO. 131: Heather and Dave  
14 Gouldthorpe, and Heather was on the witness list.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 131: Next door neighbors  
17 previously.

18 THE COURT: All right, previously. They're not currently your  
19 neighbors?

20 PROSPECTIVE JUROR NO. 131: No.

21 THE COURT: How long have they not been your neighbor?

22 PROSPECTIVE JUROR NO. 131: Three or four years.

23 THE COURT: Okay. Were you close to them before --

24 PROSPECTIVE JUROR NO. 131: When they lived there, we  
25 went back and forth. But since they moved, we don't see them as often.

1 THE COURT: Okay. When you say, "they lived there you;  
2 went back and forth", what do you mean?

3 PROSPECTIVE JUROR NO. 131: They would have parties  
4 and they would invite us, or they would stop by when they were walking  
5 their little girl and chat with us, or come over and borrow something and  
6 vice versa.

7 THE COURT: Okay, anything about your relationship with  
8 them and their work and your past relationship with them as neighbors  
9 that would affect your ability to be a fair juror in this case?

10 PROSPECTIVE JUROR NO. 131: No.

11 THE COURT: All right. Do you feel you would be able to  
12 follow my instructions and fairly and unbiasedly apply those instructions  
13 to the evidence submitted?

14 PROSPECTIVE JUROR NO. 131: Yes.

15 THE COURT: Okay, thank you. Anyone else in the second  
16 row? Oh, I'm sorry, I missed No. 11, Ms. Scholl. Will you hand that all  
17 the way back down to her?

18 PROSPECTIVE JUROR NO. 121: Officer Fulton. However,  
19 he is my nephew's father. I have no relationship with him at all, but I did  
20 want you to know.

21 THE COURT: What law enforcement agency is he with?

22 PROSPECTIVE JUROR NO. 121: I believe he's Metro.

23 THE COURT: Okay. All right, anything about that relationship  
24 at all that would affect your ability to be a fair juror in this case?

25 PROSPECTIVE JUROR NO. 121: No, not at all.



1 THE COURT: As I've asked other jurors, do you feel you  
2 would be able to follow my instructions and fairly and unbiasedly apply  
3 those instructions to the evidence submitted?

4 PROSPECTIVE JUROR NO. 121: Yes.

5 THE COURT: Okay, thank you. Anyone else I missed in the  
6 second row? Anyone down in the third row here? Okay, let's hand the  
7 mic down to No. 24, Ms. Young. Go ahead, Ms. Young.

8 PROSPECTIVE JUROR NO. 139: I know two officers in  
9 Metro.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NO. 139: Bradley Nameth [phonetic]  
12 and Jordan Traverse [phonetic].

13 THE COURT: All right. How do you know each one of them?

14 PROSPECTIVE JUROR NO. 139: Brad used to live with us  
15 before he was -- when he was a kid.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 139: And I know him and his  
18 wife and his children, but we're not very close. And then Jordan  
19 Traverse, I've known -- I'm best friends with his wife and I've known  
20 them for about 20 years.

21 THE COURT: Okay. All right. Let me ask, is there anything  
22 about your relationship to them and their work that would affect your  
23 ability to be a fair juror in this case?

24 PROSPECTIVE JUROR NO. 139: No.

25 THE COURT: All right, do you feel you would be able to

1 follow my instructions and fairly and unbiasedly apply those instructions  
2 to the evidence submitted?

3 PROSPECTIVE JUROR NO. 139: I believe so.

4 THE COURT: Okay, thank you. Anybody I missed? All right,  
5 let the record reflect no other hands. All right, we already had one  
6 person identify that they knew Heather Gouldthorpe, one of the  
7 witnesses that was listed out. Let me ask at this point, is there anyone  
8 of you who think you may know anyone on the witness list that was read  
9 off by the District Attorney's Office?

10 Okay, let's hand the mic over to No. 18, Mr. Kelly.

11 PROSPECTIVE JUROR NO. 129: Victor Delgado. I'm not  
12 sure if it's Delgado-Garcia. But one of my employees at my previous  
13 employer, her husband -- his name is Victor Delgado, so I'm not sure if  
14 it's Garcia or hyphenated.

15 THE COURT: So the -- I can't remember now, the Delgado  
16 that you know is Delgado hyphen Garcia?

17 PROSPECTIVE JUROR NO. 129: No, it's just Victor  
18 Delgado.

19 THE COURT: Okay. All right. And this is one of your current  
20 employees?

21 PROSPECTIVE JUROR NO. 129: No, my former.

22 THE COURT: About how long ago was that?

23 PROSPECTIVE JUROR NO. 129: About two half years, but I  
24 worked with her for five years. So I never met him, but I know her. I just  
25 wanted to --

1 THE COURT: Did she ever indicate what he did or anything  
2 like that?

3 PROSPECTIVE JUROR NO. 129: I know he's a custodian,  
4 but I don't know where. But that name is very distinctive, Victor  
5 Delgado.

6 THE COURT: Okay. Does that help at all in terms of whether  
7 it's the one --

8 MS. MERCER: Court's indulgence, Your Honor.

9 THE COURT: Sure. Did he say -- where was -- what kind?  
10 Did he ever indicate where he worked as a custodian?

11 PROSPECTIVE JUROR NO. 129: No, just a custodian.

12 THE COURT: Okay.

13 MS. MERCER: Your Honor, the witness's name is Victor  
14 Delgadillo-Garcia.

15 PROSPECTIVE JUROR NO. 129: Oh, okay, okay.

16 THE COURT: Okay. Let me just ask anything about -- let's  
17 assume for just a moment that, it is the husband of your prior employee,  
18 anything about that that would affect your ability to be a fair juror in this  
19 case?

20 PROSPECTIVE JUROR NO. 129: No, no, no.

21 THE COURT: Okay. All right, I don't think that based on what  
22 we've got, he probably is that person. But if not, I don't think it is going  
23 to impact upon him in any way. All right, thank you very much, Mr. Kelly.

24 Anybody else I missed? All right, let the record reflect  
25 no other hands. Does anyone believe they know anything about the

1 facts of this particular case either through personal knowledge,  
2 conversation with people, the news media or social media? And, Mr.  
3 Thistle, I noted you so you don't have to say anything more. Let me ask  
4 that about anyone else here?

5 All right, let's pass the mic to No. 12, Mr. Kokoczka.

6 PROSPECTIVE JUROR NO. 122: I do recall reading about it  
7 in the newspaper.

8 THE COURT: Okay, let me not ask you to go any further with  
9 that. And then like I said with Mr. Thistle, we may have you come up to  
10 a sidebar a little bit later. But thank you for bringing that up, anybody  
11 else? Okay, let's hand the mic up to No. 9, Mr. Nettles.

12 PROSPECTIVE JUROR NO. 118: It just sounds familiar from  
13 reading the RJ a year ago, probably.

14 THE COURT: You don't have any specific recollection of it?

15 PROSPECTIVE JUROR NO. 118: No.

16 THE COURT: All right. But it just sounds familiar to  
17 something you read?

18 PROSPECTIVE JUROR NO. 118: Yeah. If I'm in town, I read  
19 the RJ so --

20 THE COURT: Okay. All right. Again, we may ask you to  
21 come up to the sidebar, so I won't ask you to say anything else at this  
22 point in time, okay?

23 PROSPECTIVE JUROR NO. 118: Okay.

24 THE COURT: All right, thank you. Anybody else? All right,  
25 let the record reflect no other hands. All right, let me talk a little bit of the

1 schedule in this case. My hope is that we can get this case done by  
2 next Monday, Tuesday or Wednesday. I am quite sure, talking with the  
3 attorneys, that it shouldn't take us past next week. So we'll be going this  
4 week and possibly through next week, although we're going to make  
5 effort to get it done as quickly as possible.

6 In terms of scheduling, we'll be starting Mondays about  
7 8:30 or nine o'clock in the morning. We'll go all day until around five  
8 o'clock with a break somewhere in there for lunch. On Tuesdays and  
9 Thursdays, we'll be starting at around 12:30 to 1:30, and going to five  
10 o'clock; have a couple breaks in there. We start a little bit later on  
11 Tuesdays and Thursdays; that day is the day that I have my criminal  
12 calendar.

13 Besides this case, I have several hundred other cases  
14 that I'm responsible to keep moving forward, and so I'll have anywhere  
15 from 25 to 50 matters on my calendars on each of those mornings.  
16 We'll get started a little bit later on Tuesdays and Thursdays. On  
17 Wednesdays, if I have my civil calendar, that can either run long or it can  
18 be short. Generally, though, we'll get started sometime around nine or  
19 10 o'clock in the mornings on Wednesday. We'll go the entire day until  
20 five o'clock, of course, with a break for lunch. Fridays, we'll generally  
21 get started around, again, 8:30 or nine and go until five o'clock with a  
22 break for lunch.

23 As I said this week, we won't -- I didn't say this but this  
24 week we won't have any trial on Thursday. There will not be a trial on  
25 Thursday. So we'll just be meeting today, tomorrow, Tuesday,

1 Wednesday, and then Friday, and then we'll be meeting all next week.  
2 And like I said, I'm pretty sure we'll be getting things done by the end of  
3 next week as we get through the case.

4 As I do appreciate all trials are inconvenient, this trial  
5 could go on for a couple of weeks which isn't the longest trial you could  
6 be considered for. You're fortunate in a sense that this is not a  
7 construction defect case, where you can spend nine months considering  
8 potential flaws in stucco, or six months considering whether or not Las  
9 Vegas is too hard on yellow brass fixtures. Those are actual cases that  
10 had been tried in this court. And you don't need to be worrying about  
11 that, this will be no more than a two-week case.

12 But all trials, I do appreciate are inconvenient and I  
13 understand that but what you're doing here is very, very important. But I  
14 do want to know if there is any scheduling issue that you feel would  
15 create a hardship for you with the schedule that we just gone through.  
16 So let me ask, is there anybody who feels that there is a scheduling  
17 issue that they would not be able to resolve if they were to remain on the  
18 jury?

19 Okay, let's start with the back row first, we'll go to No. 3,  
20 Ms. Glassman. Okay, go ahead, Ms. Glassman.

21 PROSPECTIVE JUROR NO. 108: I just wanted to make sure  
22 it was on. The biggest thing for me is I have 175 agents, and I'm the  
23 only broker at the company. So it's a very long time obligation for me to  
24 be away from the office and not answering my calls for my agents in the  
25 middle of certain things and transactions; going into month end and so

1 on and so forth. So if it was a day or two, it wouldn't really be that big of  
2 a problem but this type of time commitment is very, very hard.

3 THE COURT: Okay. Well I mean not when we're not in  
4 session like tomorrow morning, or Thursday morning, or perhaps a little  
5 bit of time on Wednesday, you certainly could work as long as you were  
6 back here in that time.

7 PROSPECTIVE JUROR NO. 108: Yeah.

8 THE COURT: Would those time periods alleviate your  
9 concerns in any way?

10 PROSPECTIVE JUROR NO. 108: It would help, but it's still  
11 going to be a real, real stretch. If I had somebody else to fill in for me or  
12 I have a small company, it wouldn't be so bad.

13 THE COURT: What do you do when you have a vacation or  
14 anything?

15 PROSPECTIVE JUROR NO. 108: I take my work with me,  
16 literally.

17 THE COURT: Okay. What do you mean you take it with you?

18 PROSPECTIVE JUROR NO. 108: I have to operate from a  
19 computer. I mean, I still have to answer the phones.

20 THE COURT: All right. All right, thank you very much.

21 PROSPECTIVE JUROR NO. 108: You're welcome.

22 THE COURT: Now, who else in the back row? All right, let's  
23 go down to -- I did see your hand, Mr. Thistle, go ahead.

24 PROSPECTIVE JUROR NO. 114: If it runs into next week, it  
25 will disrupt my classes at UNLV.

1 THE COURT: What classes? Are you a teacher?  
2 PROSPECTIVE JUROR NO. 114: Yes, I'm a professor at  
3 UNLV.  
4 THE COURT: Okay. And what do you teach?  
5 PROSPECTIVE JUROR NO. 114: I teach finance.  
6 THE COURT: Okay.  
7 PROSPECTIVE JUROR NO. 114: I teach introductory  
8 finance for -- it's required for all business majors. And I teach an MBA  
9 Finance class, it's required for all MBA students.  
10 THE COURT: And what days are you scheduled to do that?  
11 PROSPECTIVE JUROR NO. 114: Monday/Wednesday.  
12 THE COURT: What time?  
13 PROSPECTIVE JUROR NO. 114: The undergraduate class  
14 is 11:30 to one; the MBA classes 5:30 to 6:45.  
15 THE COURT: Okay, thank you very much.  
16 THE COURT: And then --  
17 PROSPECTIVE JUROR NO. 116: Hi.  
18 THE COURT: Okay, let's go to No. 7, Ms. Yager [phonetic].  
19 PROSPECTIVE JUROR NO. 116: I have 9-year-old twins  
20 and I pick them up from school. I don't know anything about aftercare  
21 after five o'clock.  
22 THE COURT: Okay. If we make sure that you got -- how far  
23 away are you from the school?  
24 PROSPECTIVE JUROR NO. 116: Henderson International.  
25 THE COURT: Okay.



1 PROSPECTIVE JUROR NO. 116: It's the other side.  
2 THE COURT: That's called Sandy Ridge or something  
3 like --  
4 PROSPECTIVE JUROR NO. 116: That's right, very good.  
5 THE COURT: All right, that's probably about 45 minutes?  
6 PROSPECTIVE JUROR NO. 116: Yeah.  
7 THE COURT: All right. I can tell -- if we got you out of here  
8 by then, do you feel you would be able to pick them up?  
9 PROSPECTIVE JUROR NO. 116: I don't know anything  
10 about aftercare. I pick them up between 3:15 and 3:30, so I would have  
11 to explore that.  
12 THE COURT: All right, we'll have a break here. Could I ask  
13 you to call --  
14 PROSPECTIVE JUROR NO. 116: Sure.  
15 THE COURT: -- after one of the breaks and see how late  
16 their aftercare --  
17 PROSPECTIVE JUROR NO. 116: Sure.  
18 THE COURT: -- could potentially go?  
19 PROSPECTIVE JUROR NO. 116: Sure.  
20 THE COURT: And we'll see -- but I appreciate you raising  
21 that.  
22 PROSPECTIVE JUROR NO. 116: Okay.  
23 THE COURT: And I think next to you had their hand up.  
24 PROSPECTIVE JUROR NO. 117: Hi, there.  
25 THE COURT: Yes, Ms. Staudenmaier, go ahead.

1 PROSPECTIVE JUROR NO. 117: Next Friday I have a plane  
2 ticket leaving Friday morning at 8:30 a.m.

3 THE COURT: Okay. And business or personal?

4 PROSPECTIVE JUROR NO. 117: Personal, it's my  
5 daughter's Mom's Weekend at her sorority in Reno.

6 THE COURT: I'm sorry, her what?

7 PROSPECTIVE JUROR NO. 117: In Reno at her sorority.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NO. 117: But I have a plane ticket --

10 THE COURT: No, all right --

11 PROSPECTIVE JUROR NO. 117: If we're done by then, it  
12 will be okay as long as we're done before Friday.

13 THE COURT: All right, so next Friday?

14 PROSPECTIVE JUROR NO. 117: Next Friday.

15 THE COURT: All right, thank you very much.

16 PROSPECTIVE JUROR NO. 117: Thank you.

17 THE COURT: Anybody else in the back row? Let's go right  
18 next door to Mr. Nettles, No. 9.

19 PROSPECTIVE JUROR NO. 118: I have a planned stay  
20 vacation to visit my daughter and grandkids in Idaho. I'm flying out  
21 Wednesday morning until Friday of next week; if we're done Tuesday,  
22 no problem.

23 THE COURT: All right. Is that anything that you could put off  
24 at all?

25 PROSPECTIVE JUROR NO. 118: Well I would have to

1 cancel everything, and they would have to rearrange their schedule.  
2 And knowing their grandma and grandpa are coming in and it's their --  
3 and they have this next week off is their break in Idaho.

4 THE COURT: All right, thank you. And let's go one more, Ms.  
5 Waters.

6 PROSPECTIVE JUROR NO. 119: The first thing is -- and I  
7 heard everything you said. My granddaughter's here for spring break.  
8 She is usually with me. She leaves next Saturday. The second thing --  
9 oh, no, that's not until the following week. Okay, so I'm okay there.  
10 That's not until the following week, I'm okay.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NO. 119: I just would like to say, too,  
13 though that my husband had a triple heart bypass.

14 THE COURT: I'm sorry.

15 PROSPECTIVE JUROR NO. 119: And even like today, he  
16 wasn't really feeling well but I left to come, and that happened the last  
17 day of November.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 119: And he is coming along,  
20 but I just would like to mention that.

21 THE COURT: All right. Okay. No, I appreciated that. Thank  
22 you. Anybody else in the back row I missed? All right. Who in the next  
23 row? All right, let's go down and start with No. 12, Mr. Kokoczka.

24 PROSPECTIVE JUROR NO. 122: I have a 100-mile  
25 commute one way. And my household only has one vehicle, and it is

1 being used by my housemate to -- several times a week to drive to St.  
2 George, Utah.

3 THE COURT: Okay. I'm not sure but if I can arrange for  
4 accommodations down here so you didn't have to drive up and back  
5 every day, would that work?

6 PROSPECTIVE JUROR NO. 122: It's going to be tough, Your  
7 Honor, because of sometimes -- this morning, I was even stuck in a little  
8 traffic coming here, and I do have to get up probably about 4:30.

9 THE COURT: Well, no, that's what I'm saying --

10 PROSPECTIVE JUROR NO. 122: Yeah.

11 THE COURT: -- if we can arrange accommodations, room  
12 accommodations, here would that --

13 PROSPECTIVE JUROR NO. 122: I really wouldn't want that.

14 THE COURT: Okay. All right. Where do you live right now?  
15 St. George?

16 PROSPECTIVE JUROR NO. 122: Mesquite.

17 THE COURT: Oh, Mesquite.

18 PROSPECTIVE JUROR NO. 122: Yeah.

19 THE COURT: All right. Okay, and what was the issue  
20 with your car?

21 PROSPECTIVE JUROR NO. 122: We only have one car in  
22 the household.

23 THE COURT: Okay. All right, thank you. All right, let's go to  
24 the next one. All right, we'll go down to No. 14, Ms. Santana.

25 PROSPECTIVE JUROR NO. 124: So I -- as I mentioned, I

1 have a small business in Boulder City, and I'm a sole proprietor. I have  
2 two groomers that depend on me to be there. I run the shop in the  
3 bottom. I check-in dogs and check them out. So I do have a friend that  
4 helps me here and there. I know she can help me tomorrow, but  
5 Wednesday she has oral surgery. And next Monday, I have a  
6 colonoscopy that's been scheduled for a long time.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NO. 124: So that would interfere --

9 THE COURT: So you got colonoscopy next Monday?

10 PROSPECTIVE JUROR NO. 124: The 25<sup>th</sup>, yes.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NO. 124: And I just got a reminder  
13 to pick up my prep and all that fun stuff.

14 THE COURT: All right. Lucky you.

15 PROSPECTIVE JUROR NO. 124: No, I'm not looking forward  
16 to it.

17 THE COURT: No, I wouldn't be worried about you if you  
18 were. All right, anything else?

19 PROSPECTIVE JUROR NO. 124: No.

20 THE COURT: All right, thank you. Who else? Who's next?

21 Let's go down couple to No. 16, Mr. Roland.

22 PROSPECTIVE JUROR NO. 127: Yeah, mine is just work  
23 and taking my daughters to school.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 127: Because I work graveyard

1 12 to 8. And then when I get off, I got to take them straight to school  
2 and I have to pick them up because their mom works day shift.

3 THE COURT: All right, when do you pick them up?

4 PROSPECTIVE JUROR NO. 127: Three o'clock.

5 THE COURT: How old are your kids?

6 PROSPECTIVE JUROR NO. 127: Eleven and eight.

7 THE COURT: Is there any after-school care that they could  
8 participate in?

9 PROSPECTIVE JUROR NO. 127: Not my middle school. My  
10 little daughter, she goes to dance like right after I pick her up. Her  
11 dance practice is at five to seven. And my 8-year-old, she doesn't do  
12 any after-school programs.

13 THE COURT: Is there anyone who could sort of watch them  
14 for this week and next week?

15 PROSPECTIVE JUROR NO. 127: It will all be if their mother  
16 can leave work early, that's what it really depend on. Like today, she  
17 was able to leave early while I came here.

18 THE COURT: Okay. If she can, is there any friends that she  
19 have that she can call up when things are difficult?

20 PROSPECTIVE JUROR NO. 127: Not really.

21 THE COURT: Okay. All right, thank you very much. Who's  
22 next? Is there anyone else in the second row? All right, let's go all the  
23 way down to No. 20, Ms. Brewster. Go ahead, Ms. Brewster.

24 PROSPECTIVE JUROR NO. 132: Yes, I have chronic back  
25 pain, and I have pain management once a month which is the 26<sup>th</sup> of this

1 month. And I have problems sleeping at night, so it's really hard for me  
2 to get up early in the mornings. And some mornings, I can't get up at all  
3 and I'm on, you know, some pretty heavy medication.

4 THE COURT: Okay, what kind of medication are you on?

5 PROSPECTIVE JUROR NO. 132: Norco; Cyclobenzaprine;  
6 Meloxicam.

7 THE COURT: Okay. Now, does it help at all to stand?

8 PROSPECTIVE JUROR NO. 132: Sometimes, because I  
9 have back problems and knee problems because I've had shots. And I  
10 have like a tumor and a cyst on the tumor in my knee cap. And I've had  
11 bad back problems since the day before 9/11 happened.

12 THE COURT: All right. But standing doesn't help you any?

13 PROSPECTIVE JUROR NO. 132: Not really.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 132: Standing and walking is  
16 my major problem.

17 THE COURT: All right. All right, thank you very much.

18 Anyone in the fourth row? All right, let's hand the mic down to No. 21,  
19 Mr. Chang. Go ahead, sir.

20 PROSPECTIVE JUROR NO. 133: As far as my business, I  
21 have patients scheduled throughout the week, and I would have to  
22 cancel all the appointments.

23 THE COURT: And what's -- I'm sorry, your business?

24 PROSPECTIVE JUROR NO. 133: Optometrist. At this point,  
25 I wouldn't be able to find any fill-in doctors. But more importantly, I have

1 several children patients who are undergoing therapy right now, which I  
2 should -- requires me to see them weekly. And the other fill-ins I would  
3 be able to -- even if I were able to find -- they're not certified to be able  
4 to do that treatment.

5 THE COURT: Okay. Is that something that couldn't be put off  
6 a couple weeks?

7 PROSPECTIVE JUROR NO. 133: No, because they had  
8 already started, and so there's a certain timeframe they need to  
9 be -- excuse me, seen during.

10 THE COURT: And there's no one you can get to handle those  
11 therapy sessions for the next couple of weeks?

12 PROSPECTIVE JUROR NO. 133: No, because they're not  
13 certified to do it.

14 THE COURT: Okay, anyone else in the fourth row?

15 THE CLERK: Third row.

16 THE COURT: Or third row? I'm Sorry. All right, let the --  
17 anyone I missed? All right, let the record reflect no other hands. All  
18 right, let me move on to some additional questions. Let me ask, is there  
19 anyone over here that was really thrilled and happy to receive the  
20 summons in the mail for jury service? Every now and then I get  
21 somebody who is really thrilled and happy. I'm not going to get anybody  
22 today, obviously, at this point in time. All right, we'll let the record reflect  
23 no hands.

24 Now let me ask, is there anyone -- and if you already  
25 mentioned scheduling issue; which is the root of this issue, you don't



1 need to mention that again. But is there anyone who was really upset  
2 that you got the summons? And if you were upset again because of  
3 scheduling issues you've already mentioned, you don't need to explain  
4 them again.

5 But let me ask, is there anyone who was really upset  
6 that you got the summons for jury duty? Okay, let the record reflect no  
7 hands. Let me ask, is there anyone of you or close family or friend, who  
8 had been engaged in some way in the practice of law either as an  
9 attorney or paralegal or staff? Either you or close family member or  
10 close friend.

11 Okay, I remember Mr. Kelly and Ms. Wetenkamp, but  
12 let's go in order. Who in the back row? Okay, let's move to No. 7, Ms.  
13 Yager. Go ahead.

14 PROSPECTIVE JUROR NO. 116: Hi, there. Father maritime;  
15 brother attorney works with a magistrate in federal court in New Orleans.

16 THE COURT: All right, so your brother works for a magistrate  
17 in New Orleans Federal Court?

18 PROSPECTIVE JUROR NO. 116: Yeah. Yes.

19 THE COURT: Okay. And your father was a maritime  
20 attorney?

21 PROSPECTIVE JUROR NO. 116: Maritime, yes.

22 THE COURT: I'm assuming he wasn't here locally.

23 PROSPECTIVE JUROR NO. 116: No, in New Orleans also.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 116: With bar exam questions

1 and graded them.

2 THE COURT: So neither one was in criminal law?

3 PROSPECTIVE JUROR NO. 116: No.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 116: Sorry.

6 THE COURT: That's fine, just asking. Anything about your  
7 relationship to them and their legal --

8 PROSPECTIVE JUROR NO. 116: Oh, I have others.

9 THE COURT: Oh, okay, I'm sorry. Go ahead, I apologize.  
10 Go ahead.

11 PROSPECTIVE JUROR NO. 116: Stepdaughter, general  
12 counsel U.C. Irvine, and then I have two close friends who are local. I  
13 think one is criminal called, Galbroy -- Christian Galbroy.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 116: And they were close  
16 personal friends.

17 THE COURT: Okay. All right, anything about those -- your  
18 relationship with them and their work that would affect your ability to be  
19 a fair juror in this case?

20 PROSPECTIVE JUROR NO. 116: No.

21 THE COURT: All right, thank you very much.

22 PROSPECTIVE JUROR NO. 116: Okay.

23 THE COURT: Anyone else?

24 PROSPECTIVE JUROR NO. 112: I did not raise my hand,  
25 sorry.

1 THE COURT: Okay, that's fine. We'll go down to No. 5, Ms.  
2 Arias.

3 PROSPECTIVE JUROR NO. 112: So just two individuals that  
4 are both criminal defense attorneys here, Cristina Hinds and Craig  
5 Mueller.

6 THE COURT: Okay. How do you know them?

7 PROSPECTIVE JUROR NO. 112: I went to high school with  
8 Cristina. I've known her for 30 years.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 112: And Craig is her husband.

11 THE COURT: Okay, anything about your relationship with  
12 them and their work that would affect your ability to be a fair juror in this  
13 case?

14 PROSPECTIVE JUROR NO. 112: Not at all.

15 THE COURT: Okay. All right, thank you very much.  
16 Anybody in the back row I missed? All right, let's go down to No. 10,  
17 Ms. Waters.

18 PROSPECTIVE JUROR NO. 119: My husband was a law  
19 enforcement officer with gaming.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NO. 119: He's retired now.

22 THE COURT: All right, so not an attorney though?

23 PROSPECTIVE JUROR NO. 119: No.

24 THE COURT: Okay. And just while I got you here  
25 because that will be the next question, how long did he work for

1 gaming?

2 PROSPECTIVE JUROR NO. 119: About 17 years.

3 THE COURT: Okay. All right. Anything about your  
4 relationship and his work, law enforcement in gaming that would affect  
5 your ability to be a fair juror in this case?

6 PROSPECTIVE JUROR NO. 119: No.

7 THE COURT: Okay, thank you. Anyone else I missed in the  
8 back row? Oh, don't worry, I'm moving to the next row here in a second.  
9 All right, no other hands. Let's move to the second row, Seats 11  
10 through 20, and I saw Mr. -- No. 12, Mr. Kokoczka's hand come up.

11 PROSPECTIVE JUROR NO. 122: I had a cousin -- I have a  
12 cousin that's a corporate attorney in Jackson, Michigan.

13 THE COURT: Okay. And anything about your relationship  
14 with him and his work that would affect your ability to be a fair juror in  
15 this case?

16 PROSPECTIVE JUROR NO. 122: Not that I know of.

17 THE COURT: Okay. All right, thank you. Anyone else in the  
18 second row? Okay, let's go down to No. 18, Mr. Kelly.

19 PROSPECTIVE JUROR NO. 129: I know Angela Cook  
20 [phonetic], she's a friend and we volunteered together. She is an  
21 attorney for children here in Nevada.

22 THE COURT: Okay. All right, anything about your  
23 relationship with her that would affect your ability to be a fair juror in this  
24 case?

25 PROSPECTIVE JUROR NO. 129: No, Your Honor.

1 THE COURT: Okay. All right, and anyone else you know?  
2 All right, let's move one over to No. 19, Ms. Wetenkamp.

3 PROSPECTIVE JUROR NO. 131: My niece Jamie Doctor, I  
4 don't know what kind of law she's into, and Crystal Herrera who now  
5 works for the Clark County School District as an attorney.

6 THE COURT: Okay, anything about your relationship with  
7 them that would affect your ability to be a fair juror in this case?

8 PROSPECTIVE JUROR NO. 131: No.

9 THE COURT: Okay. Anyone else I missed in the second  
10 row? All right, anyone in the third row? Okay, let's hand the mic down to  
11 No. 21, Mr. Chang.

12 PROSPECTIVE JUROR NO. 133: I know a James Kwon, an  
13 attorney in town. He's just a friend.

14 THE COURT: I'm sorry?

15 PROSPECTIVE JUROR NO. 133: Just a friend.

16 THE COURT: All right, socialize any?

17 PROSPECTIVE JUROR NO. 133: Yep.

18 THE COURT: What kind of work does he do?

19 PROSPECTIVE JUROR NO. 133: I think he's employed as a  
20 business attorney.

21 THE COURT: Okay, anything about your relationship with  
22 him and his work that would affect your ability to be a fair juror in this  
23 case?

24 PROSPECTIVE JUROR NO. 133: No.

25 THE COURT: All right, thank you. Anyone else I missed?

1 PROSPECTIVE JUROR NO. 118: So any attorneys in town?

2 THE COURT: If you or someone close to you, or close family  
3 member or close friend --

4 PROSPECTIVE JUROR NO. 118: Not an acquaintance?

5 THE COURT: -- engaged in the practice of law.

6 PROSPECTIVE JUROR NO. 118: Not just your basic  
7 acquaintance to --

8 THE COURT: Yeah, someone close to you, close family  
9 member, or close friend. All right, and just for the record, that was Mr.  
10 Nettles who was speaking. All right, no one who fits that bill?

11 PROSPECTIVE JUROR NO. 118: No, sir.

12 THE COURT: No, sir. Okay, good deal, thank you. Okay, let  
13 me ask -- and if you already identified somebody when I asked about  
14 Metro or Henderson Police Department, you don't need to talk about  
15 them again. Let me ask, is there anyone of you either you or a close  
16 family member or close friend been engaged in law enforcement work or  
17 security work? Again, if you've already mentioned someone, you don't  
18 need to mention them again.

19 But let me ask, is there any one of you or close family  
20 member or close friend who had been engaged in law enforcement work  
21 or security work?

22 PROSPECTIVE JUROR NO. 119: I have a question.

23 THE COURT: Okay, let's hand the mic up to No. 10, Ms.  
24 Waters.

25 PROSPECTIVE JUROR NO. 119: Just a question. I'm a

1 retired settlement officer with IRS, and I was a revenue officer. I don't  
2 know if guys consider that enforcement work or not, so that's my  
3 question.

4 THE COURT: Okay. No, and I appreciate you bringing that  
5 up.

6 PROSPECTIVE JUROR NO. 119: Okay.

7 THE COURT: If I remember correctly, revenue officers didn't  
8 have arrest authority, is that correct?

9 PROSPECTIVE JUROR NO. 119: Right.

10 THE COURT: Yeah.

11 PROSPECTIVE JUROR NO. 119: Right. We worked with a  
12 lot of the attorneys in there. But -- so I just wanted to --

13 THE COURT: Is that here in Las Vegas?

14 PROSPECTIVE JUROR NO. 119: Yeah.

15 THE COURT: All right.

16 PROSPECTIVE JUROR NO. 119: I retired.

17 THE COURT: How long did you do that?

18 PROSPECTIVE JUROR NO. 119: Thirty-one years.

19 THE COURT: Okay. And anything about that work that would  
20 affect your ability to be a fair juror in this case?

21 PROSPECTIVE JUROR NO. 119: No.

22 THE COURT: Okay. All right, very good. All right, so let's go  
23 back again either you or close family member or close friend has been  
24 involved in law enforcement work or security work? Let's focus on the  
25 back row first. Anyone? I don't see any hands. All right, the second

1 row? And let's go down, first, to No. 12, Mr. Kokoczka.

2 PROSPECTIVE JUROR NO. 122: I had a close cousin that  
3 was a deputy sheriff.

4 THE COURT: Where?

5 PROSPECTIVE JUROR NO. 122: In Jackson, Michigan -- or  
6 Jackson County, I should say.

7 THE COURT: All right.

8 PROSPECTIVE JUROR NO. 122: And we were real close,  
9 and we spoke a lot about what he did.

10 THE COURT: Okay. All right, anything about your  
11 relationship to him and his work that would affect your ability to be a fair  
12 juror in this case?

13 PROSPECTIVE JUROR NO. 122: That, I couldn't tell you.

14 THE COURT: Well, I mean --

15 PROSPECTIVE JUROR NO. 122: I mean, I don't know which  
16 way -- you know, we talked about law enforcement quite a bit too, so --

17 THE COURT: Whatever he told you, you would agree, is  
18 totally separate and apart from anything that's going to be involved in  
19 this case? There's not going to be any facts from anything he talked  
20 about there that's going to be an issue.

21 PROSPECTIVE JUROR NO. 122: Well it can't be, that was at  
22 least over 10 years ago.

23 THE COURT: Yeah, so --

24 PROSPECTIVE JUROR NO. 122: So nothing with that, but  
25 maybe something connecting to it; I don't know because he did a lot of



1 work so --

2 THE COURT: All right. Well do you think you would be able  
3 to focus on the witnesses who testify here and the exhibits here, and go  
4 back into the jury room and be fair to both sides?

5 PROSPECTIVE JUROR NO. 122: Maybe. I can't tell you  
6 because, you know, we spoke a lot over 20 years --

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NO. 122: -- that he was deputy so --

9 THE COURT: All right.

10 PROSPECTIVE JUROR NO. 122: I'm just being honest.

11 THE COURT: No, I appreciate that. That's what I want, thank  
12 you. All right, anyone else in the second row? Let's go  
13 down -- oh, did No. 11, Ms. Scholl, did you have your hand up?

14 PROSPECTIVE JUROR NO. 121: I did.

15 THE COURT: I'm sorry, I apologize, I didn't see it. Go ahead.

16 PROSPECTIVE JUROR NO. 121: So my husband did some  
17 security work in the past. He worked with; for Mr. White with the  
18 wrestling and a couple of other companies, armed guard. However, he  
19 no longer does that.

20 THE COURT: Okay. About how long ago was that?

21 PROSPECTIVE JUROR NO. 121: Well he kind of worked on  
22 and off for a couple of different companies. I'd say probably the last  
23 time he worked was at least a year and a half ago or two.

24 THE COURT: All right.

25 PROSPECTIVE JUROR NO. 121: However, he will go if they

1 call him.

2 THE COURT: All right, fair enough. Anything about his work  
3 and your relation with him that would affect your ability to be a fair juror  
4 in this case?

5 PROSPECTIVE JUROR NO. 121: I don't believe so.

6 THE COURT: Okay. Do you feel you would be able to follow  
7 my instructions and fairly and unbiasedly apply those instructions to the  
8 evidence admitted?

9 PROSPECTIVE JUROR NO. 121: Yes.

10 THE COURT: Okay, thank you. And who else in the second  
11 row? Let's go down to No. 14, Ms. Santana.

12 PROSPECTIVE JUROR NO. 124: I worked for a security and  
13 a customer service company 10 years ago in San Diego, Elite.

14 THE COURT: Okay. And what did you do for them?

15 PROSPECTIVE JUROR NO. 124: We worked big venues,  
16 stadiums, baseball parks, and major league baseball parks. And we just  
17 did crowd control and alcohol control, and just make sure people were  
18 safe. But I did not carry a firearm or anything, I just -- if we had any  
19 incidents, we'd radio in to get a police officer.

20 THE COURT: Okay, okay, good. Did you like doing that?

21 PROSPECTIVE JUROR NO. 124: It was fun.

22 THE COURT: Okay. Did you get into a lot of good games?

23 PROSPECTIVE JUROR NO. 124: I did.

24 THE COURT: Yeah, there you go.

25 PROSPECTIVE JUROR NO. 124: San Diego was nice.

1 THE COURT: All right, anything about that work and your  
2 experience with that company that would affect your ability to be a fair  
3 juror in this case?

4 PROSPECTIVE JUROR NO. 124: No. I saw a lot of things,  
5 but some were not pleasant but we were more concerned about the  
6 safety of our surrounding.

7 THE COURT: Let me ask you, again, obviously whatever  
8 happened in San Diego or whatever was different than what --

9 PROSPECTIVE JUROR NO. 124: Yeah.

10 THE COURT: Do you feel you would be able to focus on the  
11 witnesses who testify here and the exhibits here?

12 PROSPECTIVE JUROR NO. 124: Yes.

13 THE COURT: Okay. All right, who's next? We'll go down to  
14 No. 16, Mr. Roland.

15 PROSPECTIVE JUROR NO. 127: That's my current job. I'm  
16 a security supervisor at the Stratosphere Hotel.

17 THE COURT: All right. How long have you been doing that?

18 PROSPECTIVE JUROR NO. 127: Three years.

19 THE COURT: And did you do any security work before you  
20 started there?

21 PROSPECTIVE JUROR NO. 127: Just in houses.

22 THE COURT: Okay. All right, and how many people are you  
23 supervising?

24 PROSPECTIVE JUROR NO. 127: On a shift -- on our shift on  
25 graveyard, it's like two supervisors; one manager; officers on the floor,

1 so anywhere from like 10 to 15.

2 THE COURT: Okay. All right, anything about your work and  
3 that you do at the Stratosphere that would affect your ability to be a fair  
4 juror in this case?

5 PROSPECTIVE JUROR NO. 127: No.

6 THE COURT: All right, thank you. And who's next? Go down  
7 to No. 19, Ms. Wetenkamp.

8 PROSPECTIVE JUROR NO. 131: My son was vice president  
9 of Global Security for Diamond Resorts for nine years, and just switched  
10 to a new security position with a different company, that I don't  
11 remember the name of, in August.

12 THE COURT: Okay, anything about his work that would affect  
13 your ability to be a fair juror in this case?

14 PROSPECTIVE JUROR NO. 131: No.

15 THE COURT: Okay. All right, thank you very much. Anyone  
16 else in the second row? All right, what about in the third row? Okay,  
17 let's hand the mic down to No. 22, Mr. Purdy.

18 PROSPECTIVE JUROR NO. 135: My oldest brother is retired  
19 LAPD detective, and my nephew is a current Colorado PD detective.

20 THE COURT: All right. Are you close to either one of those?

21 PROSPECTIVE JUROR NO. 135: Yeah.

22 THE COURT: All right, socialize much?

23 PROSPECTIVE JUROR NO. 135: Yep.

24 THE COURT: All right. Let me ask you, anything about their  
25 work and your relation to them that would affect your ability to be a fair

1 juror in this case?

2 PROSPECTIVE JUROR NO. 135: No.

3 THE COURT: Do you feel you would be able to follow my  
4 instructions and fairly and unbiasedly apply those instructions to the  
5 evidence admitted?

6 PROSPECTIVE JUROR NO. 135: I do.

7 THE COURT: Okay. All right, thank you. Anyone else I  
8 missed? All right. Let's do one more question; then we'll break for  
9 lunch. Now, as has been explained, this case involves charges of  
10 conspiracy to commit robbery, robbery with use of a deadly weapon,  
11 attempt robbery with use of a deadly weapon, burglary while in  
12 possession of a firearm, assault with a deadly weapon, grand larceny  
13 auto, possession of stolen vehicle, assault on a protective person with a  
14 deadly weapon, and resisting a public officer with use of a firearm.

15 Is there anything -- does anyone feel that there's a  
16 possibility that you cannot be fair or keep an open mind as to whether  
17 the State has met its burden of proof of proving the charges beyond a  
18 reasonable trial until the end of the trial because of the nature of the  
19 charges in this case?

20 So essentially I'm asking, because of the nature of the  
21 charges in this case, is there anyone who doesn't feel they could keep  
22 an open mind as to whether the State has met its burden of proof until  
23 the end of the trial because of the nature of the charges in this case?

24 Okay, let's hand the mic down to No. 20, Ms. Brewster.

25 PROSPECTIVE JUROR NO. 132: Okay, for one thing, I'm

1 saved and I'm a praying woman. And I don't believe in any violence  
2 whatsoever. I just --I don't see a reason for nobody to try to destroy  
3 somebody with a vehicle, or anything else.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 132: I don't like it. I'm just  
6 going to tell the truth. I know everybody's thinking it but I'm saying it, I  
7 don't like it.

8 THE COURT: Let me stop you and we can maybe talk with  
9 you a little bit more during the break. Is that okay, Ms. Brewster?

10 PROSPECTIVE JUROR NO. 132: Yeah.

11 THE COURT: All right, thank you. Anybody else? All right,  
12 let's go down to No. 12, Mr. Kokoczka.

13 PROSPECTIVE JUROR NO. 122: I do have one concern with  
14 myself. Several years back in the Mesquite area -- I'm sure everybody  
15 knows of the Bundy situation, and I was real close friends with the  
16 family. And the way they were treated, it was --

17 THE COURT: Okay, let me stop you right there.

18 PROSPECTIVE JUROR NO. 122: Okay.

19 THE COURT: And you've highlighted the issue.

20 PROSPECTIVE JUROR NO. 122: Okay.

21 THE COURT: Do you feel that would impact some way in  
22 your ability to be fair in this case?

23 PROSPECTIVE JUROR NO. 122: Yes.

24 THE COURT: Okay. All right, again, we may want to talk to  
25 you a little bit more at a sidebar. But thank you for bringing that up, sir.

1 Anybody else that I missed here? All right, let's go one over to No. 13,  
2 Ms. Alcomindras.

3 PROSPECTIVE JUROR NO. 123: Alcomindras, close.

4 THE COURT: I was close.

5 PROSPECTIVE JUROR NO. 123: Yeah.

6 THE COURT: Give me some credit, I was close. Yes,  
7 ma'am.

8 PROSPECTIVE JUROR NO. 123: I was robbed while  
9 working at a fast food before.

10 THE COURT: Okay. About how long ago was that?

11 PROSPECTIVE JUROR NO. 123: It was like 10 years ago.

12 THE COURT: All right. And you said, what kind -- what  
13 restaurant?

14 PROSPECTIVE JUROR NO. 123: It was a Pizza Hut on MLK  
15 and Alexander.

16 THE COURT: Okay. Do you know if anyone was ever  
17 apprehended from that robbery?

18 PROSPECTIVE JUROR NO. 123: Yeah. I actually went to  
19 court here in this building for it.

20 THE COURT: Okay. And were you satisfied or dissatisfied  
21 with law enforcement's response?

22 PROSPECTIVE JUROR NO. 123: Satisfied.

23 THE COURT: All right. Now let me ask you, anything about  
24 that experience you think would affect your ability to be a fair juror in this  
25 case?

1 PROSPECTIVE JUROR NO. 123: I don't think so.

2 THE COURT: All right. Do you feel you would be able to  
3 follow my instructions and fairly and unbiasedly apply those instructions  
4 to the evidence admitted?

5 PROSPECTIVE JUROR NO. 123: Yeah.

6 THE COURT: All right, thank you. Anybody else? Because  
7 of the nature of the charges here, feel they would not be fair and keep  
8 an open mind until the end of the case to determine whether the State  
9 has met its burden of proof beyond a reasonable doubt? All right, let the  
10 record reflect no other hands.

11 This is probably a good -- I know there's some people  
12 that need a bathroom break; this is also probably a good time to take a  
13 lunch break. I'm going to ask -- it's just a little bit past 12:20. I'm going  
14 to ask everybody to try to get back here by 1:20. Get out in the hall -- try  
15 to get here by 1:15, so we can get started again at 1:20.

16 I know that's not giving you a lot of time. But here's the  
17 long and short of it, we cannot get started again until all of you; you over  
18 here in this box, and you out there in the gallery get back. So if anyone  
19 of you decides this is the time to see what the Fremont Street  
20 Experience is like and ride the zip line that takes more than an hour,  
21 we're all going to be waiting to hear about your experience when you get  
22 back.

23 And the long and short of it is, I will try my best to get  
24 through the jury selection process today. If we don't get through it, then  
25 we're going to have to have everybody come back tomorrow. So I want



1 to try to keep things moving as quickly as possible so that we can have  
2 you all out of here if possible, or minimize the inconvenience as  
3 possible.

4                   While you're out there, do not talk to each other about  
5 this case or about anyone who has anything to do with it; do not let  
6 anyone -- do not talk with each other; do not talk with anyone else about  
7 the case or about anyone that has anything to do with it; do not let  
8 anyone come up to you and talk to you about the case or about anyone  
9 that has anything to do with it. If someone should try to talk to you about  
10 the case, please report it to me immediately by contacting the Marshal;  
11 do not listen to any radio or television reports about the case or anyone  
12 who has anything to do with it; do not undertake any sort of investigation  
13 or research, visit the scene of any events mentioned during the course  
14 of the trial. This would include use of social media to any way discuss  
15 the case or the use of the internet or other reference materials to do any  
16 sort of investigation or research. And do not begin to form or express  
17 any opinion connected with this case until you either been selected as a  
18 juror, had a chance to be seated and listen to the evidence, and you go  
19 back to the jury room to deliberate. So with that, have a great lunch and  
20 we'll see you back here at 1:15.

21                   THE MARSHAL: All rise, jury's exiting.

22                   [Outside the presence of the prospective jurors]

23                   THE COURT: Okay, let's start out first with the two jurors that  
24 were sitting in the back, who have really, I think, pretty clearly --

25                   MR. YAMPOLSKY: They can't understand. I mean, I'll

1 stipulate to excuse them.

2 MR. MARTINEZ: State will as well.

3 THE COURT: All right, that's number --

4 THE CLERK: It is --

5 MR. MARGOLIS: Two, sixty-four and 251.

6 THE COURT: Yeah.

7 MR. MARGOLIS: Or Seats 49 and 52 because I cover the  
8 seats too.

9 THE COURT: Yeah, that's Ms. Nguyen, 251 and Ms.  
10 Rosales, 264. I mean, both of them -- I mean, we had to have the  
11 daughter come in for one.

12 MR. YAMPOLSKY: Right. And 20 percent --

13 MR. MARGOLIS: I think she was overselling too.

14 MR. YAMPOLSKY: Yeah

15 THE COURT: Okay. Any objection from the State?

16 MR. MARTINEZ: No objection, Your Honor.

17 MS. MERCER: No, Your Honor.

18 THE COURT: All right. You're good, Mr. Yampolsky?

19 MR. YAMPOLSKY: Yeah.

20 THE COURT: All right, we'll excuse those two individuals.

21 Any problem if I just have the marshal excuse them when they get back  
22 from lunch?

23 MR. YAMPOLSKY: No.

24 MR. MARGOLIS: No.

25 THE COURT: State?

1 MR. MARTINEZ: No objection, Your Honor.

2 THE COURT: All right. Let's deal with -- why don't we deal  
3 with any cause objections at this point in time, and then we'll deal with  
4 the scheduling issues. Let me ask the State, is there anybody at this  
5 point in time that they wish to move for cause?

6 MR. YAMPOLSKY: Yeah, the only --

7 THE COURT: Well, wait, I'm asking the State.

8 MR. YAMPOLSKY: Oh, sorry.

9 THE COURT: I'll be right -- I'm not going to forget you.

10 MR. MARTINEZ: I didn't have any for cause, Your Honor.

11 THE COURT: Okay. Now I'll turn to --

12 MR. YAMPOLSKY: Go ahead.

13 MR. MARGOLIS: Yeah, I just feel like the young lady that  
14 was robbed at the Pizza Hut. I admire her aplomb in saying that she  
15 feels she's able to be fair and not hold any residual resentment or bias  
16 from that, but I just have a hard time believing it. I feel like, on some  
17 level, the evidence in this case will raise that memory and it might make  
18 it difficult to be fair. I can appreciate that she said she can be, but I feel  
19 like the nature of that experience and some of the evidence in this case  
20 they're too close, it's too close.

21 THE COURT: All right. State's position?

22 MR. MARTINEZ: That's why we got peremptory challenges. I  
23 don't think it's an appropriate basis for challenge for cause just because  
24 she's been a victim of a robbery before. She said she could be fair.

25 THE COURT: I mean, I'll -- at this point in time, I'm going to

1 deny it. I'm not going to preclude you from raising it again in the future.  
2 And you're obviously can ask for some stuff if you want to during your  
3 individual voir dire, but she did indicate that it was 10 years ago. I mean  
4 I'd be -- yeah, if this was like last year, I'd be much more concern about  
5 it. But this was 10 years ago; she said she could be fair. So at this point  
6 in time, I'm not going to remove her from cause. But I'm not precluding  
7 you from raising that again, and you have a chance to chat with her.

8 Anybody else, at this point, from the Defense?

9 MR. YAMPOLSKY: No, Your Honor.

10 THE COURT: Okay. Let's talk about scheduling issues, No.  
11 3, Ms. Glassman. She is the only broker for 175 agents.

12 MR. YAMPOLSKY: I'm sorry --

13 MR. MARTINEZ: I don't feel bad for her at all.

14 MR. YAMPOLSKY: I don't feel bad either. There's  
15 telephones --

16 THE COURT: Okay. I don't feel bad for her either, let's just  
17 leave it at that. I'm not inclined to let her go. I'm taking the State is  
18 concurring with me?

19 MR. MARTINEZ: I agree.

20 THE COURT: And Defense concurs with me?

21 MR. YAMPOLSKY: Yes, we concur with you.

22 THE COURT: All right, we're not going to let Ms.

23 Glassman go at this point. All right. Mr. Thistle, he's got class a couple  
24 days next week. I'll be frank, I'm not inclined to let him go at this point in  
25 time. I mean, he's a teacher. I mean, I had my teachers say, oh, I can't

1 do it and make me take make-up classes at ridiculously inconvenient  
2 time. So he can make them do classes at ridiculously inconvenient  
3 times but, I mean, that's my take.

4 State's position?

5 MR. MARTINEZ: We'll submit it, Your Honor.

6 THE COURT: All right.

7 MR. YAMPOLSKY: Submit it.

8 THE COURT: Okay, I'm not going to let Mr. Thistle go. Ms.  
9 Yager, actually, she was going to check in terms of after-school care. At  
10 one time I thought Henderson -- well, I mean, I was never associated  
11 with Henderson International. But usually they had child care until at  
12 least five or six o'clock and she was going to call, so I'm not inclined to  
13 let her go right now.

14 But let me ask the State's position?

15 MR. MARTINEZ: We'll submit.

16 MR. YAMPOLSKY: We'll submit it too.

17 THE COURT: Okay. Mr. Margolis, you look like you're about  
18 to say something.

19 MR. MARGOLIS: Just Clark County schools has Safekey and  
20 Teen Scene. They have those programs.

21 THE COURT: Yeah, but she's in private school.

22 MR. MARGOLIS: Yeah, so I can't speak to that.

23 THE COURT: I'm guessing that they probably have  
24 something.

25 MR. MARGOLIS: I'd be surprised if they do.

1 THE COURT: All right, but we won't let Ms. Yager go at this  
2 point. And then Ms. Staudenmaier, she has airline tickets next Friday  
3 morning.

4 MR. YAMPOLSKY: I don't think that's going to be a problem.  
5 I can't imagine -- the only way -- and I still can't imagine -- I would  
6 assume that we're going to finish by next Wednesday; even if we finish  
7 on Thursday, I don't know how long the jury will be deliberating.

8 THE COURT: All right. Well that's why we have alternates.

9 MS. MERCER: Yeah.

10 MR. YAMPOLSKY: Yeah.

11 THE COURT: I'm not going to let her off at this point.

12 MR. YAMPOLSKY: No, I don't think it's necessary.

13 THE COURT: All right. Well what did Mr. Nettles have next  
14 week? Oh, he's got vacation scheduled Wednesday through Friday.

15 MR. YAMPOLSKY: It's getting close.

16 MR. MARTINEZ: Yeah.

17 MR. YAMPOLSKY: Yeah, I'd say, I would not have a problem  
18 excusing him, if the State's okay with it?

19 MR. MARTINEZ: I don't have a problem with it either.

20 THE COURT: Let me think about Mr. Nettles at this point.

21 But both sides are saying that they're okay if I excuse him?

22 MR. MARTINEZ: That's correct.

23 MR. YAMPOLSKY: Right.

24 MR. MARGOLIS: The grandkids are on Spring Break next  
25 week. He made a pretty good case, he backed it all up.

1 THE COURT: You got to be old and heartless like me; wait  
2 until I have grandkids. All right, then -- did Ms. Waters have anything?  
3 No, she didn't.

4 THE CLERK: No.

5 THE COURT: All right.

6 THE CLERK: Yeah, she did. No, she -- her granddaughter is  
7 here.

8 THE COURT: Yeah. But then she said that wasn't a problem,  
9 it was going to be the next week after that.

10 THE CLERK: Right.

11 THE COURT: So she was good. All right, what about Mr.  
12 Kokoczka, who I assure you if I don't excuse him this time, he'll come up  
13 with even a better reason why he should be excused.

14 MR. YAMPOLSKY: Yes. I'm sorry, I had my phone and I lost  
15 it. And I don't know how to shut it up, but I'll figure it out.

16 THE COURT: That's okay. I'm inclined to let Mr. Kokoczka  
17 go. What's the State's position?

18 MS. MERCER: We agree.

19 MR. YAMPOLSKY: Yes. Because you're right, he would've  
20 come up with something else.

21 THE COURT: He's going to come up with --

22 MR. MARGOLIS: I just, kind of, want to hear what it is. I  
23 mean, that's my position. I'm being honest, but I understand everyone  
24 else's.

25 THE COURT: No. He's saying here that the Bundy's -- and

1 we're going to hear about -- I don't know. All right, we'll excuse Mr.  
2 Kokoczka. Ms. Santana, small business; the grooming shop, it doesn't  
3 sound like she's the groomer.

4 MR. YAMPOLSKY: No.

5 MS. MERCER: Yeah.

6 THE COURT: She sounds like she's the business end of  
7 the deal. It sounds like the shop will go on, it's just whether or not she's  
8 there to keep an eye on.

9 MR. YAMPOLSKY: Yeah, I'll submit it.

10 THE COURT: Now, she has a colonoscopy. Now that --

11 MR. YAMPOLSKY: Yeah.

12 MR. MARTINEZ: Yeah, that's a viable --

13 MR. YAMPOLSKY: Yeah, that's --

14 THE COURT: And that's why she probably won't get it  
15 scheduled for anytime soon.

16 MR. YAMPOLSKY: Right. And I don't have any problem  
17 excusing her.

18 THE COURT: All right. What's the State's position?

19 MR. MARTINEZ: It's not like it's a fun thing, she's going to be  
20 doing, to get off the jury duty.

21 MR. YAMPOLSKY: Right.

22 THE COURT: So everybody is good getting rid of Ms.  
23 Santana?

24 MR. YAMPOLSKY: Yeah.

25 MR. MARTINEZ: Yes.



1 MR. YAMPOLSKY: That root canal, jury duty, that's right up  
2 there.

3 THE COURT: All right. Let's see Mr. Roland, he works from  
4 eight to -- from 12 to eight; he takes the kids to school; picks them up at  
5 three; one goes to dance; the other one -- I don't know what of anything  
6 she does. What's your thoughts of Mr. Roland?

7 MR. YAMPOLSKY: I'll submit it.

8 MR. MARTINEZ: Is he going to be awake? I mean he works  
9 from 12 to eight.

10 THE COURT: Well I mean that's a concern.

11 MR. MARTINEZ: Yeah.

12 THE COURT: But let me ask you all what you all think?

13 MR. MARTINEZ: We'll submit it, Your Honor.

14 MR. YAMPOLSKY: I don't know what to do.

15 MS. STELLA: Let me fix it.

16 THE COURT: You know how to silence it, right?

17 MS. STELLA: Yes, I do.

18 THE COURT: Give it to the --

19 MR. YAMPOLSKY: The kids.

20 THE COURT: Give it to the kid? I mean, not that I want  
21 to -- that she's a kid, but give it to the young person that understands  
22 how this all works.

23 MR. MARTINEZ: I know how to silence a phone for the  
24 record as well.

25 THE COURT: I do, too, for the record.

1 MR. YAMPOLSKY: I did until I got this phone.

2 THE COURT: Okay. All right, what was our thoughts? I'm  
3 sorry, what was our thoughts on Mr. Roland?

4 MR. MARTINEZ: I think he was going to check if their mother  
5 would be able to leave work early.

6 THE COURT: Yeah.

7 MR. MARTINEZ: So I'll submit it to Your Honor's discretion.

8 THE COURT: What's your position Mr. Yampolsky or Mr.  
9 Margolis as to Mr. Roland?

10 MR. MARGOLIS: I think he should be allowed to go.

11 THE COURT: I just always -- I mean because it's work-  
12 related -- let me think about Mr. Roland for right now, along with Mr.  
13 Nettles. All right. And then the next one we got is Ms. Brewster.  
14 Anybody have an issue with Ms. Brewster, who seems like she isn't in a  
15 lot of pain right now. But let me ask the State's position?

16 MR. MARTINEZ: Submit it, Your Honor.

17 MR. YAMPOLSKY: We'll submit it.

18 THE COURT: All right. Let me for the record, I mean, my  
19 sense of Ms. Brewster is she is utilizing narcotics to control her pain. I  
20 was hopeful she was going to say that she can stand and that would  
21 relieve it. And we can obviously make her come in; make steps to have  
22 her be in a position where she can stand and relieve it, but she indicated  
23 that standing and anything didn't help with it. So, I mean, we're going to  
24 have someone who would have serious pain issues, plus she's sleepy.  
25 But my biggest concern is, I did get a sense that she is utilizing narcotics

1 to control the pain so I will excuse Ms. Brewster, No. 20.

2 Mr. Chang, he's the optometrist. He obviously figured  
3 out that I didn't have a lot of sympathy for his schedule generally, so he  
4 brought up that he has children in special therapy that no one else is  
5 accredited in doing. What's the State's thoughts as to him?

6 MR. MARTINEZ: We'll submit it to Your Honor's discretion.

7 MR. YAMPOLSKY: I'll submit it.

8 MR. MARTINEZ: I find that hard to believe, but we'll submit it.

9 MR. MARGOLIS: Yeah, I think --

10 MR. YAMPOLSKY: Yeah, we find it hard to believe too.

11 MR. MARGOLIS: Yeah, I found others' narratives more  
12 compelling.

13 THE COURT: All right, I won't let Mr. Chang go right now.  
14 Let's see Mr. Nettles -- all right, he had the vacation Wednesday through  
15 Friday with the grandkids that I'm supposed to have sympathy for.  
16 Everybody was going to let Mr. Nettles go, is that --

17 MR. YAMPOLSKY: Yes.

18 MR. MARTINEZ: Yes.

19 THE COURT: All right, I'll let Mr. Nettles go.

20 MR. YAMPOLSKY: It wasn't so hard.

21 THE COURT: Yeah. Mr. Roland, I'm going to leave Mr.  
22 Roland on right now, and let's see if he -- what he finds out about the  
23 kids. I mean, I was surprised he didn't raise the issue of sleep.

24 MR. YAMPOLSKY: He seemed pretty alert.

25 MR. MARGOLIS: And he seemed really with it --

1 MR. YAMPOLSKY: He seemed really with it, absolutely.

2 MR. MARGOLIS: -- compared to others up there.

3 THE COURT: So, I mean, I'm going to leave him on for now.

4 But, you know, when you get down to doing peremptories; if he's still  
5 there and rather than just throw that one out as a waiver, you might have  
6 some sympathy in Mr. Roland's -- all right, so at this point in time, I'm  
7 showing that I'm going to excuse No. 9, Mr. Nettles; No. 12, Mr.  
8 Kokoczka; No. 14, Ms. Santana, and No. 20, Ms. Brewster.

9 Is that -- does the State concur with that?

10 MR. MARTINEZ: Yes, Your Honor.

11 THE COURT: Defense concur with that?

12 MR. YAMPOLSKY: I'm sorry, Your Honor.

13 THE COURT: I asked, I show that we're going to let go at this  
14 point: No. 9, Mr. Nettles; No. 12, Mr. Kokoczka; No. 14, Ms. Santana,  
15 and No. 20, Ms. Brewster.

16 MR. YAMPOLSKY: Yes.

17 THE COURT: Anybody else I missed? Or anything else at  
18 this point in time.

19 MR. YAMPOLSKY: No, Your Honor.

20 THE COURT: I want to emphasize, again, I asked about  
21 cause. I'll ask you several more times about cause; you can reassert  
22 someone for cause at any time. I'll let you know when the point of no  
23 return is at, so I know you moved as to somebody, No. 13, I think; you're  
24 not precluded from raising --

25 MR. YAMPOLSKY: Ms. Alcomindras.

1 THE COURT: Yeah, you're not precluded from bringing it up  
2 later. I want to make sure -- just because I ruled now doesn't mean that  
3 you -- I'll ask you to -- all right, anything else before we break for lunch?

4 MS. MERCER: I'm sorry, Your Honor.

5 THE COURT: Anything else? Am I talking to myself?

6 MR. YAMPOLSKY: What?

7 MS. MERCER: Mr. Yampolsky's very distracting.

8 THE COURT: All right, anything else?

9 MR. YAMPOLSKY: I've heard that before.

10 THE COURT: Anything else before we break for lunch,  
11 State?

12 MS. MERCER: Your Honor, I think we're plausibly close to a  
13 negotiation.

14 MR. YAMPOLSKY: We may have this resolved.

15 THE COURT: That's fine. If you do, bring a plea agreement  
16 when you come back at 1:15.

17 MS. MERCER: Okay.

18 THE COURT: All right.

19 MS. MERCER: Thank you, Your Honor.

20 THE COURT: Anything else from the State?

21 MR. MARTINEZ: No, Your Honor.

22 THE COURT: Anything else from Defense?

23 MR. MARGOLIS: Nothing.

24 MR. MARGOLIS: No, Your Honor.

25 THE COURT: Okay, we'll see you in a few.

1 MS. MERCER: Thank you.

2 [Proceeding resumed at 2:03 p.m.]

3 [Outside the presence of the prospective jurors]

4 THE COURT: All right. Okay, Mr. Kittredge, I want you to  
5 listen carefully because in a second, I'm going to ask one of your  
6 attorneys to state the substance; by that, I mean the primary or most  
7 important terms of your plea negotiation with the state. I want you to  
8 listen carefully because when he's done, I'm going to ask you if you  
9 heard what he said and if you agree that he accurately stated the  
10 substance of your negotiation with the State. Will you do that?

11 THE DEFENDANT: Yes.

12 THE COURT: Counsel, whoever wants to do it.

13 MR. MARGOLIS: Sure. Mr. Kittredge is going to plead guilty  
14 pursuant to the guilty plea agreement you have before Your Honor.  
15 He's going to plead guilty to conspiracy to commit robbery, B felony;  
16 robbery with use of a deadly weapon as evidence by Counts 2 through  
17 4; as well as resisting a public officer with use of a firearm, which is also  
18 a category C felony; which is Count 5 of the amended superseding  
19 indictment.

20 In return, the parties have agreed to stipulate to a  
21 sentence of 18 to 45 years in the Nevada Department of Corrections.

22 THE COURT: Okay. Mr. Kittredge, did you just hear Mr.  
23 Margolis go through the substance of your negotiations with the State?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And did he accurately state the substance; that

1 is the primary and most important terms of your negotiation with the  
2 State?

3 THE DEFENDANT: Yes, he did.

4 THE COURT: Okay. Now, do you read, write and understand  
5 the English language?

6 THE DEFENDANT: Yes.

7 THE COURT: Have you received a copy of the amended  
8 superseding indictment?

9 THE DEFENDANT: I have.

10 THE COURT: Okay. And this is -- just to make sure we're on  
11 the same page, this is the indictment charging you with Count 1,  
12 conspiracy to commit robbery, a category B felony, in violation of  
13 Nevada Revised Statutes 200.380 and 199.480, and in Counts 2, 3 and  
14 4 with robbery with use of a deadly weapon, a category B felony, in  
15 violation of Nevada Revised Statutes 200.380 and 193.165, and in  
16 Count 5, with resisting a public officer with use of a firearm, a category C  
17 felony in violation of Nevada Revised Statute 199.280.

18 Did you receive a copy of that indictment?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And did you read it?

21 THE DEFENDANT: Yes.

22 THE COURT: And did you discuss with your attorneys the  
23 charges in the amended superseding indictment to which you intend to  
24 plead guilty?

25 THE DEFENDANT: Yes.

1 THE COURT: Do you waive me reading out loud, here, in  
2 court today the amended superseding indictment?

3 THE DEFENDANT: Yes.

4 THE COURT: Okay. Now, before accepting your guilty plea,  
5 there are a number of questions I'm going to have to ask you to ensure  
6 myself that you're entering a valid plea. If you do not understand any of  
7 the questions, would you please let me know so I can rephrase the  
8 question?

9 THE DEFENDANT: Yes.

10 THE COURT: Okay. If at any time you wish to take a break  
11 in the proceedings so you can discuss matters in private with your  
12 attorney, will you let me know that so I can give you the opportunity and  
13 chance to do so?

14 THE DEFENDANT: Yes.

15 THE COURT: All right. How old are you?

16 THE DEFENDANT: Thirty-eight.

17 THE COURT: And where were you born?

18 THE DEFENDANT: Albuquerque, New Mexico.

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

20 THE DEFENDANT: Graduated; some college.

21 THE COURT: Okay. Have you taken any drugs, medicine,  
22 pills of any kind, or drunk any alcoholic beverages in the past 24 hours?

23 THE DEFENDANT: No, sir.

24 THE COURT: Are you on any medication at the jail?

25 THE DEFENDANT: No.



1 THE COURT: Okay. Have you ever been treated for any  
2 mental illness or addiction to narcotic drugs of any kind?

3 THE DEFENDANT: Yes.

4 THE COURT: Okay, what have you been treated for?

5 THE DEFENDANT: Schizophrenic manic, bipolar, anxiety,  
6 depression, and PTSD.

7 THE COURT: And you're not on any medications for those  
8 right now?

9 THE DEFENDANT: No, sir.

10 THE COURT: Okay. Do you feel those are relatively well  
11 controlled without any medication?

12 THE DEFENDANT: After committing these offenses, I'm  
13 trying to stay off drugs, even mental drugs, you know.

14 THE COURT: Okay.

15 THE DEFENDANT: So I'm maintaining.

16 THE COURT: All right, you've mentioned some serious  
17 mental health issues. Do you feel that any of those issues is impacting  
18 on your ability to understand what's going on here today?

19 THE DEFENDANT: No, sir. No, sir.

20 THE COURT: Do you feel they are impacting on your ability  
21 at all to understand what you are charged with and the nature of those  
22 charges?

23 THE DEFENDANT: No, not at all.

24 THE COURT: All right. Do you feel they impact upon your  
25 ability at all to understand the plea agreement you're entering into with

1 the State?

2 THE DEFENDANT: No, sir.

3 THE COURT: And they don't affect your ability to read and  
4 understand, for instance: the amended superseding indictment or the  
5 plea agreement?

6 THE DEFENDANT: No, not in any way.

7 THE COURT: Okay. Do you feel you understand what's  
8 happening here today?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Tell me in your own words what's happening  
11 here today?

12 THE DEFENDANT: We resolved a plea and went over my  
13 plea agreement; you're just making sure that I understand.

14 THE COURT: Okay. All right, does either Counsel have any -- does  
15 any Counsel from either side have any doubts as to the defendant's  
16 competence to plead at this time?

17 MS. MERCER: No, Your Honor.

18 MR. YAMPOLSKY: No, Your Honor.

19 THE COURT: All right. Based on Counsel's representations,  
20 the Court's own observations of the defendant, I find the defendant is  
21 competent to plead in this matter. Now, have you had ample  
22 opportunities to discuss your case with your attorneys?

23 THE DEFENDANT: Yes.

24 THE COURT: Have you discussed with them any possible  
25 defenses, defense strategies, and circumstances which might be in your

1 favor?

2 THE DEFENDANT: Yes.

3 THE COURT: Are you satisfied to have them as your  
4 attorneys and the advice they have given you?

5 THE DEFENDANT: Of course, yes.

6 THE COURT: Okay. Do you understand that under the  
7 constitution and laws of the United States and the state of Nevada,  
8 you're entitled to a trial by jury on the charges contained in the amended  
9 superseding indictment?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you understand that in order to convict you,  
12 all the jurors would have to agree you are guilty?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you understand that, at trial, while you'd  
15 be -- let me try again. Do you understand that, at trial, you would  
16 presume to be innocent and the State would have to overcome that  
17 presumption and prove you guilty beyond a reasonable doubt by  
18 competent evidence and you would not have to prove you were  
19 innocent?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you understand that, in the course of the  
22 trial, witnesses for the State would have to come to court and testify in  
23 your presence and your attorney could cross examine those witnesses  
24 and could object to evidence offered by the State?

25 THE DEFENDANT: Yes.

1 THE COURT: Do you understand that, at trial, your attorney  
2 would have the right to call witnesses and present evidence on your  
3 behalf?

4 THE DEFENDANT: Yes.

5 THE COURT: Do you understand that, at trial, while you  
6 would have a right to testify if you chose to do so, you would also have  
7 the right not to testify, and if you decided not to testify at your trial, the  
8 State would not be able to use the fact you didn't testify against you in  
9 any way to prove the State's case?

10 THE DEFENDANT: Yes.

11 THE COURT: If I accept your guilty plea, do you understand  
12 that you'll be waiving, that is giving up your right to a jury trial and all of  
13 the other rights I've just discussed?

14 THE DEFENDANT: Yes.

15 THE COURT: In pleading guilty, do you understand that you'll  
16 also have to waive your right not to testify against yourself because  
17 you'll have to admit you committed the crimes charged in the amended  
18 superseding indictment and I am going to have to ask you questions  
19 about what you did to satisfy myself that you are guilty as charged?

20 THE DEFENDANT: Made some mistakes I committed -- I  
21 committed --

22 THE COURT: No, no, right now, do you understand that I'm  
23 going to be asking you -- you're going to -- you have a right not to testify  
24 against yourself, do you understand that?

25 THE DEFENDANT: Correct, correct.

1 THE COURT: Do you understand that in making this plea  
2 you're going to be waiving that right and admitting that you committed  
3 the crimes charged here? So you're going to be essentially admitting  
4 you committed the crimes and that's incriminating yourself, do you  
5 understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: And I'm going to have to ask you -- you're also  
8 have to waive your right to not incriminate yourself because I'm going to  
9 have to ask you some questions about what you did and you're going to  
10 have to answer those questions, and that would be incriminating  
11 yourself, do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: Now, you've been charged in the amended  
14 superseding indictment in Count 1, with conspiracy to commit robbery.  
15 Do you understand that for you to be guilty of this crime, the State would  
16 have to prove beyond a reasonable doubt that on and between May 21,  
17 2018 and June 7, 2018, and that during that time and in Clark County,  
18 you did conspire, that is reach an agreement with Deanna Page to  
19 commit a number of robberies? Do you understand the State would  
20 have to prove all those facts beyond a reasonable doubt for you to be  
21 found guilty of conspiracy to commit robbery?

22 THE DEFENDANT: Yes.

23 THE COURT: You've been charged in Counts 2, 3 and 4 with  
24 robbery with use of a deadly weapon. Do you understand that for you to  
25 be guilty -- found guilty of robbery with use of a deadly weapon in those

1 counts, you would have to -- the State would have to prove beyond a  
2 reasonable doubt that you were in Clark County, Nevada in -- between  
3 May 21 and May 26 of 2018; May 27 and May 31 of 2018, and June 1  
4 and June 7 of 2018 in Clark County? Do you understand the State  
5 would have to prove that?

6 THE DEFENDANT: Yes.

7 THE COURT: And on each of those occasions, the State  
8 would also need to prove beyond a reasonable doubt that you did  
9 willfully and unlawfully take personal property, that being U.S. Currency  
10 from either the person or in the presence of different individuals charged  
11 in Counts 2, 3 and 4 of the superseding indictment, by means of force or  
12 violence or fear of injury to them without their consent and against their  
13 will? Do you understand the State would have to prove those facts  
14 beyond a reasonable doubt for you to be guilty of the robbery aspect of  
15 robbery with use of a deadly weapon?

16 THE DEFENDANT: Yes.

17 THE COURT: And do you understand that in additionally the  
18 State would also have to prove beyond a reasonable doubt that in taking  
19 that property by means of force or violence or fear of injury to those  
20 individuals, that you utilized a deadly weapon, that being a firearm? Do  
21 you understand the State would have to prove that beyond a reasonable  
22 doubt?

23 THE DEFENDANT: Yes.

24 THE COURT: All right. Now, are you aware that as to Count  
25 1, conspiracy to commit robbery, that the penalty for this count is a

1 minimum sentence of one year to a maximum sentence of six years in  
2 the Nevada Department of Corrections?

3 THE DEFENDANT: Yes.

4 THE COURT: Do you understand that in addition to or  
5 separate from any sentence of imprisonment, you can be fined up to  
6 \$5,000 for conspiracy to commit robbery?

7 THE DEFENDANT: Yes.

8 THE COURT: As to Counts 2, 3 and 4, robbery with use of a  
9 deadly weapon, do you understand that the penalty for these counts as  
10 to the robbery aspect is a minimum sentence of two years to a maximum  
11 sentence of 15 years in the Nevada Department of Corrections?

12 THE DEFENDANT: Yes.

13 THE COURT: Are you aware that as to the use of a deadly  
14 weapon aspect of robbery with use of a deadly weapon that, the Court is  
15 required to sentence you to a consecutive term of one to 15 years in the  
16 Nevada Department of Corrections for the use of a deadly weapon as to  
17 each one of those counts?

18 THE DEFENDANT: Yes.

19 THE COURT: As to Count 5, resisting public officer with use  
20 of a firearm, are you aware that the penalty for this crime is a minimum  
21 sentence of one year to a maximum sentence of six years in the Nevada  
22 Department of Corrections?

23 THE DEFENDANT: Yes.

24 THE COURT: Are you aware that in addition to or separate  
25 from any sentence of imprisonment for resisting a public officer with use

1 of a firearm, you can be fined up to \$10,000?

2 THE DEFENDANT: Yes.

3 THE COURT: All right. Now as to each one of these counts,  
4 Counts 1, 2, 3, 4 and 5, do you understand that the Court could  
5 sentence you consecutive terms for each one of these counts?

6 THE DEFENDANT: Yes.

7 THE COURT: All right. Now, do you also understand that an  
8 assessment fee of \$25, a DNA assessment fee of \$3, and if you're not  
9 already been tested, a DNA testing fee of \$150 will be imposed at the  
10 time of sentencing?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you also understand that if you've not  
13 previously been tested for DNA, you'll be ordered to be tested for DNA  
14 at the time of sentencing?

15 THE DEFENDANT: Yes.

16 THE COURT: All right. Pursuant to the statute to which  
17 you're pleading guilty, you are eligible for probation for the crime of  
18 conspiracy to commit robbery charged in Count 1, and resisting a public  
19 officer with use of a firearm in Count 5. Do you understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: Now, do you understand that the -- do you  
22 understand that the decision whether to grant you probation on either  
23 one of the counts is my decision as the sentencing judge, regardless of  
24 any recommendation by your attorney or any recommendation by the  
25 prosecutor; if I decline or decide not to sentence you to probation on



1 those counts and you're not happy with my sentence, do you understand  
2 that you cannot withdraw your plea?

3 THE DEFENDANT: Yes.

4 THE COURT: Now as to Counts 2, 3 and 4 which charge you  
5 with robbery with use of a deadly weapon, do you understand that you're  
6 not eligible for probation on any of those counts?

7 THE DEFENDANT: Yes.

8 THE COURT: All right. Now, do you understand if I was to  
9 sentence you to probation on either Count 1 or Count 5, you would be  
10 required to abide by conditions specified by the court and that probation  
11 could be revoked if you've violated any of those conditions?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you also understand that if probation was  
14 revoked for any reason, you could be imprisoned for the full term of any  
15 suspended sentence I might give in this matter?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you also understand that the court may  
18 order you to make restitution to any victim of the offenses to which  
19 you're pleading guilty?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you understand that the offenses to which  
22 you are pleading guilty are felony offenses?

23 THE DEFENDANT: Yes.

24 THE COURT: If your plea is accepted, you'll be adjudged  
25 guilty of a felony and that may deprive of you of a valuable civil right,

1 such as the right to vote, the right to serve on a jury, the right to possess  
2 any kind of firearm, the ability to apply to a foreign government for a  
3 Visa, or the ability to travel freely and internationally. Do you understand  
4 that?

5 THE DEFENDANT: Yes.

6 THE COURT: Now, has anyone threatened you or forced you  
7 to plead guilty?

8 THE DEFENDANT: No.

9 THE COURT: Has anyone told you that if you do not plead  
10 guilty some other adverse action will be taken against you?

11 THE DEFENDANT: No.

12 THE COURT: Are you pleading guilty because of any  
13 coercion from, or fear from any co-defendant?

14 THE DEFENDANT: No.

15 THE COURT: Now, have you through your attorneys entered  
16 into a plea agreement with the State?

17 THE DEFENDANT: Yes.

18 THE COURT: I'm holding in my hand a document titled,  
19 Guilty Plea Agreement which at page 6 shows a signature for you, did  
20 you sign this?

21 THE DEFENDANT: Yes.

22 THE COURT: Did you read it before you signed it?

23 THE DEFENDANT: Yes.

24 THE COURT: Did you discuss it with your attorneys before  
25 you signed it?

1 THE DEFENDANT: Yes.

2 THE COURT: Did they answer all your questions?

3 THE DEFENDANT: Yes.

4 THE COURT: Do you feel you understand the plea  
5 agreement?

6 THE DEFENDANT: Yes.

7 THE COURT: You understand that your attorney, at the start  
8 of this proceeding, went through the substance or the primary terms of  
9 your plea agreement with the State but this written plea agreement  
10 contains in writing everything you and the State are agreeing to, do you  
11 understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you understand that even if your attorney  
14 did not mention a term or understanding with the State orally at the  
15 beginning of the proceedings; if it's in your plea agreement and in  
16 writing, you're also agreeing with these terms?

17 THE DEFENDANT: Yes.

18 THE COURT: Now, has anyone made any promise to you  
19 other than those set forth in the plea agreement to induce you or cause  
20 you to plead guilty here today?

21 THE DEFENDANT: No.

22 THE COURT: Do you understand that any recommendation  
23 or stipulation of sentence agreed to by your attorney and the attorneys  
24 for the State is not binding on the court and that you might on the basis  
25 of your guilty plea receive a more severe sentence than that requested

1 or recommended?

2 THE DEFENDANT: Yes.

3 THE COURT: Do you understand that if that were to happen,  
4 you would not have the right to withdraw your guilty plea?

5 THE DEFENDANT: Yes.

6 THE COURT: Now other than what's set forth in your plea  
7 agreement, has anyone made any prediction or promise to you as to  
8 what your sentence will be?

9 THE DEFENDANT: No.

10 THE COURT: Do you understand that under your agreement  
11 with the State, if you failed to interview with the Department of Parole  
12 and Probation, failed to appear at any subsequent hearings in this case,  
13 or an independent magistrate by affidavit review confirms probable  
14 cause you have committed new criminal charges, including reckless  
15 driving or DUI but excluding minor traffic violations, the State will have  
16 the right to argue for any legal sentence in term of confinement  
17 allowable for the crimes to which you're pleading guilty?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you have any questions about what you  
20 have alleged to have done in the second amended -- let's try that again,  
21 in the amended superseding indictment?

22 THE DEFENDANT: No, sir.

23 THE COURT: All right. How then do you plead to the charge  
24 in Count 1 of the amended superseding indictment, conspiracy to  
25 commit robbery, guilty or not guilty?

1 THE DEFENDANT: Guilty.

2 THE COURT: How do you plead to the charge in Count 2 of  
3 the amended superseding indictment, guilty or not guilty?

4 THE DEFENDANT: Guilty.

5 THE COURT: How do you plead to the charge in Count 3,  
6 robbery with use of a deadly weapon in the second -- in the amended  
7 superseding indictment, guilty or not guilty?

8 THE DEFENDANT: Guilty.

9 THE COURT: Let me just go back to Count 2 and make sure  
10 that you understand; have a clear record as to what that count involved.  
11 How do you plead to the charge in Count 2, robbery with use of a deadly  
12 weapon in the amended superseding indictment, guilty or not guilty?

13 THE DEFENDANT: Guilty.

14 THE COURT: Okay. Going to Count 4, robbery with use of a  
15 deadly weapon in the amended superseding indictment, how do you  
16 plead, guilty or not guilty?

17 THE DEFENDANT: Guilty.

18 THE COURT: And as to Count 5, resisting a public officer  
19 with use of a firearm in the amended superseding indictment, how do  
20 you plead, guilty or not guilty?

21 THE DEFENDANT: Guilty.

22 MR. YAMPOLSKY: Your Honor, maybe -- did you miss three  
23 or did I mishear it?

24 THE COURT: No.

25 MS. MERCER: No, he did three. He just went back to do --

1 MR. YAMPOLSKY: Oh, you went back, okay.

2 THE COURT: Yeah, I didn't -- when I asked him how he pled  
3 to Count 2, I don't think I referenced the crime.

4 MR. YAMPOLSKY: Oh, okay. All right.

5 THE COURT: I just wanted to make sure he understood  
6 when I referenced Count 2 --

7 MR. YAMPOLSKY: All right.

8 THE COURT: -- that I was referencing --

9 MR. YAMPOLSKY: Okay.

10 THE COURT: -- a robbery with use of a deadly weapon.

11 MR. YAMPOLSKY: Okay.

12 THE COURT: But we'll just double check, it never hurts to  
13 be sure, Mr. Yampolsky.

14 How do you plead to Count 3, robbery with use of a  
15 deadly weapon in the amended superseding indictment, guilty or not  
16 guilty?

17 THE DEFENDANT: Guilty.

18 THE COURT: Okay. Now, let me ask you as to Count 2,  
19 robbery with use of a deadly weapon, were you in Clark County, Nevada  
20 between May 21, 2018 and May 26, 2018?

21 THE DEFENDANT: Yes.

22 THE COURT: And during that period of time and in Clark  
23 County, did you willfully and unlawfully take personal property, that  
24 being U.S. Currency from either the person or in the presence of Juan  
25 Diaz-Salazar or Andorio Rodriguez and/or Robert Rodriguez and/or

1 Abigail Salazar and/or Anthony Rodriguez and/or Elibrada Guiao and/or  
2 Trixie Arcinas and/or Diego Mora-Gomez?

3 THE DEFENDANT: Yes, I did.

4 THE COURT: And did you do this by means of force or  
5 violence, or fear of injury to them?

6 THE DEFENDANT: Yes.

7 THE COURT: And did you do this without their -- did you take  
8 this personal property without their consent and against their will?

9 THE DEFENDANT: Yes.

10 THE COURT: And in the course of doing this, did you use a  
11 deadly weapon, that being a firearm?

12 THE DEFENDANT: Yes.

13 THE COURT: All right. As to Count 3, robbery with use of a  
14 deadly weapon, were you in Clark County, Nevada between May 27,  
15 2018 and May 31, 2018?

16 THE DEFENDANT: Yes.

17 THE COURT: And during that period of time and in Clark  
18 County, did you willfully and unlawfully take personal property, that  
19 being U.S. Currency, from the person or in the presence of Jennifer  
20 Strode and/or Azaley Gomez and/or Anette Menzi and/or Madison  
21 Serwicki and/or Jorge Hernandez-Garcia and/or Sandra Amador-  
22 Hernandez and/or Maria Solis and/or Victor Delgadillo-Garcia?

23 THE DEFENDANT: Yes.

24 THE COURT: And did you do this with means of force or  
25 violence, or fear of injury to them?

1 THE DEFENDANT: Yes.

2 THE COURT: And did you take this personal property without  
3 their consent and against their will?

4 THE DEFENDANT: Yes.

5 THE COURT: And in doing this, did you utilize a deadly  
6 weapon, that being a firearm?

7 THE DEFENDANT: Yes.

8 THE COURT: All right. As to Count 4, robbery with use of a  
9 deadly weapon, were you in Clark County, Nevada between June 1,  
10 2018 and June 7, 2018?

11 THE DEFENDANT: Yes.

12 THE COURT: And during that period of time and in Clark  
13 County, did you willfully and unlawfully take personal property, that  
14 being U.S. Currency from either the person or in the presence of Don  
15 Giuliano and/or Joy Shlasinger and/or Jennifer Hughes and/or Keymari  
16 Paxton and/or Denise Pratt?

17 THE DEFENDANT: Yes.

18 THE COURT: And did you do this by means of force or  
19 violence, or fear of injury to them?

20 THE DEFENDANT: Yes.

21 THE COURT: And in taking this personal property, did you do  
22 it without their consent and against their will?

23 THE DEFENDANT: Yes.

24 THE COURT: And in taking the personal property, did you  
25 use a deadly weapon, that being a firearm?



1 THE DEFENDANT: Yes.

2 THE COURT: All right. As to Count 1, conspiracy to commit  
3 robbery, were you in Clark County, Nevada between May 21, 2018 and  
4 June 7, 2018?

5 THE DEFENDANT: Yes.

6 THE COURT: And during that period of time and in Clark  
7 County, did you willfully and unlawfully conspire, that is reach an  
8 agreement with Deanna Page to commit the robberies as set forth in  
9 Counts 2, 3 and 4 of the amended superseding indictment?

10 THE DEFENDANT: Yes.

11 THE COURT: And then as to Count 5, resisting public officer  
12 with use of a firearm, were you in Clark County, Nevada June 8, 2018?

13 THE DEFENDANT: Yes.

14 THE COURT: And on that date and in Clark County, did you  
15 willfully and unlawfully resist, delay, or obstruct Law Enforcement  
16 Officers J. Emery and/or S. McNulty and/or R. Hart all of the Las Vegas  
17 Metropolitan Police Department?

18 THE DEFENDANT: Yes.

19 THE COURT: And do you agree that they are public officers  
20 who were discharging or attempting to discharge their legal duty?

21 THE DEFENDANT: Yes.

22 THE COURT: And did you obstruct, resist, delay, and  
23 obstruct them by pointing a firearm at those officers in an effort to flee  
24 from the officers?

25 THE DEFENDANT: Yes.

1 THE COURT: And did you do this by using a firearm or  
2 removing, taking, or attempting to take or remove a firearm from the  
3 person of, or the immediate presence of, the public officer in the course  
4 of such resistance, obstruction or delay?

5 THE DEFENDANT: Yes.

6 THE COURT: Does the State require anything further in  
7 terms of canvass?

8 MR. MARTINEZ: No, Your Honor.

9 THE COURT: All right. Since you acknowledged that you are  
10 in fact guilty as charged in Counts 1 through 5; since you know your  
11 right to trial; what the maximum possible punishment is, and since you're  
12 voluntarily pleading guilty, I will conditionally accept your guilty plea. It's  
13 the finding of the Court, the defendant is fully competent and capable of  
14 entering an informed plea, and that his plea of guilty is knowing and  
15 voluntary supported by an independent basis and fact containing the  
16 essential elements of the offenses charged. Again, his plea is therefore  
17 conditionally accepted.

18 Let's go ahead and set a sentencing date.

19 THE CLERK: May 7<sup>th</sup> at 8:30.

20 MS. MERCER: Thank you, Your Honor.

21 MR. MARTINEZ: Thank you.

22 MR. YAMPOLSKY: Thank you, Your Honor.

23 THE COURT: All right. We'll need to bring in the jury. Do  
24 any of the parties want to remain in here when I bring in the juries?

25 MS. MERCER: If it's easier for you, we can stay here until

1 your done, Your Honor.

2 THE COURT: It's up to you. Do you want to have the  
3 defendant removed?

4 MR. YAMPOLSKY: Whatever the Court's pleasure.

5 THE COURT: Why don't we go ahead and take the defendant  
6 out, and we'll bring in the jury in.

7 MR. YAMPOLSKY: Okay.

8 MS. MERCER: Okay.

9 THE DEFENDANT: Thank you, Mace.

10 MR. YAMPOLSKY: Take care.

11 THE DEFENDANT: Thank you, Jason.

12 MR. MARGOLIS: Of course.

13 [In the presence of the prospective jurors]

14 THE COURT: All right, ladies and gentlemen, I want to  
15 apologize for the delay. I know -- my marshal indicated that essentially  
16 you all got back by 1:15 which is really critical for us to keep things  
17 moving along. So I want you to know I really appreciate it, it's very hard  
18 to do that with a group this large. So I really do appreciate you taking  
19 your time getting done through the lunch.

20 I'm apologizing for the delay. On the other hand, I think,  
21 since nobody over here indicated that they were really thrilled to get the  
22 summons in the mail, I think in the end you'll be happy to hear that,  
23 during the course of your lunch and the time of this last hour, what we  
24 refer to as a plea agreement was reached between the defendant and  
25 the representatives of the State.

1 And the defendant just completed a plea; taking a  
2 guilty plea in the case so that concludes the case in purposes  
3 of determining the issue of guilty or not guilty of the defendant. And we  
4 no longer need your services, you all are going to be excused at this  
5 point in time; you're free to talk about this on social media if you want;  
6 you're free to go on the Internet and look anything up in regard to it that  
7 you want.

8 I know you may be sitting here; walking out here  
9 going, gee, this was a royal waste of my time. And I'm sorry if you do  
10 feel that way; I'm sorry that you do feel that, you really shouldn't feel that  
11 way. The fact that you were here today ready to be considered for jury  
12 service was what prompted this case to be resolved. So you did serve a  
13 very important role in seeing that this case was resolved, and you  
14 shouldn't feel that you wasted your time in any way.

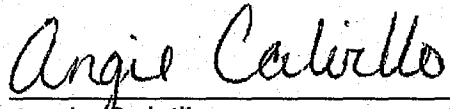
15 The good news; the further good news I can offer  
16 you is that, you shouldn't receive another summons in the mail for 18  
17 months. I cannot guarantee that with the Federal District Court here.  
18 You can be summoned by the Federal District Court tomorrow, and  
19 you'll have to deal with them on your own. When you leave, make sure  
20 that you give the marshal your badge and so that he's got that.

21 Again, I want to thank you. What you did here today  
22 resolved the case. And if we had to go to trial; what you would've done  
23 as a jury would've been critical to the success of our justice system and  
24 ensuring, again, public confidence in the decisions that come out of this  
25 system. So I want to thank you for your time, and I wish you all the best.

1 I guess Spring starts this week so have a wonderful Spring, and we'll  
2 see you all later.

3 [Hearing concluded at 2:36 p.m.]  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17

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

20   
21 \_\_\_\_\_

22 Angie Calvillo  
23 Court Recorder/Transcriber  
24  
25



1 **RSPN**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 JONATHAN E. VANBOSKERCK  
6 Chief Deputy District Attorney  
7 Nevada Bar #006528  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

SHAN JONATHON KITTREDGE,  
#1779637

Defendant.

CASE NO: A-20-815382-W  
C-18-333335-2  
DEPT NO: XX

STATE'S RESPONSE TO DEFENDANT'S PETITION FOR WRIT OF HABEAS  
CORPUS (POST-CONVICTION) AND MOTION FOR APPOINTMENT OF  
COUNSEL

DATE OF HEARING: DECEMBER 22, 2020  
TIME OF HEARING: 12:00 PM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County  
District Attorney, through JONATHAN E. VANBOSKERCK, Chief Deputy District  
Attorney, and hereby submits the attached Points and Authorities in Response to Defendant's  
Petition for Writ of Habeas Corpus (Post-Conviction) and Motion for Appointment of Counsel.

This response 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.

//

//

//

\\CLARKCOUNTYDA.NET\CRM\CASE2\2018\380\59\201838059C-RSPN-(SHAN JOHNATHON KITTREDGE)-001.DOCX

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On August 1, 2018, the State filed a Superseding Indictment charging Shan Jonathon  
4 Kittridge (hereinafter "Petitioner") with the following: Counts 1-5, 8-10, 12-16, 20-21, 27-28,  
5 33-34, 36-37, 40 – Robbery with Use of a Deadly Weapon; Counts 7, 19, 26, 35, 39 –  
6 Conspiracy to Commit Robbery; Count 17 – Attempt Robbery with Use of a Deadly Weapon;  
7 Counts 6, 11, 18, 25, 31-32, 38, 42 – Burglary while in Possession of a Firearm; Counts 22-  
8 24, 29-30, 41, – Assault with a Deadly Weapon; Count 43 – Grand Larceny Auto; Count 44 –  
9 Possession of Stolen Vehicle; Counts 45-47 – Assault on Protected Person With Use of a  
10 Deadly Weapon; and Count 48 – Resisting Public Officer With Use of a Firearm. Petitioner's  
11 co-defendant was also charged as to Counts 7-11, 19-31, and 35-42. On August 21, 2018,  
12 Petitioner pled not guilty and waived his right to a speedy trial.

13 On December 19, 2018, Petitioner filed a Motion for Medical Treatment. On January  
14 8, 2019, statements were made by defense counsel that Petitioner had sent several kites but  
15 has been unable to receive medical attention. A two (2) week continuance was requested for  
16 Mr. Frank Toddre, from the Attorney General's Office, to speak with medical personnel. On  
17 January 23, 2019, Mr. Toddre filed a Status Report regarding Petitioner's treatment. A  
18 Declaration from the Director or Nursing Bob Faulkner was attached. On January 24, 2019,  
19 this Court noted that Petitioner was being treated and defense counsel concurred. Defense  
20 counsel did note that Petitioner was waiting for an MRI and x-rays. Accordingly, the Court  
21 then denied the motion.

22 On March 11, 2019, the State filed a Notice of Intent to Seek Punishment as a Habitual  
23 Criminal.

24 On March 18, 2019, jury trial began, but Petitioner ultimately decided to plead guilty  
25 pursuant to a Guilty Plea Agreement ("GPA"). According to the GPA, "both parties stipulate  
26 to a total term of imprisonment of eighteen (18) to forty-five (45) years in the Nevada  
27 Department of Corrections." The Amended Superseding Indictment was also filed, and  
28 charged Petitioner with: Count 1- Conspiracy to Commit Robbery; Counts 2-4 – Robbery with

**A.A. 199**

1 Use of a Deadly Weapon; and Count 5 – Resisting Public Officer With Use of a Firearm. On  
2 May 8, 2019, defense counsel filed a Sentencing Memorandum.

3 On May 14, 2019, the District Court sentenced Petitioner to the Nevada Department of  
4 Corrections as follows: Count 1 – a minimum of twenty-eight (28) months with a maximum  
5 of seventy-two (72) months; Count 2 – a minimum of forty-eight (48) months and a maximum  
6 of one hundred twenty (120) months, plus a consecutive term of a minimum of forty-eight (48)  
7 months and a maximum of one hundred twenty (120) months for Use of a Deadly Weapon,  
8 concurrent with Count 1; Count 3 – a minimum of forty-eight (48) months and a maximum of  
9 one hundred twenty (120) months, plus a consecutive term of a minimum of forty-eight (48)  
10 months and a maximum of one hundred twenty (120) months for Use of a Deadly Weapon,  
11 consecutive to Count 2; Count 4 – a minimum of forty-eight (48) months and a maximum of  
12 one hundred twenty (120) months, plus a consecutive term of a minimum of forty-eight (48)  
13 months and a maximum of one hundred twenty (120) months for Use of a Deadly Weapon,  
14 concurrent with Count 3; and Count 5 – a minimum of twenty-four (24) months and a  
15 maximum of sixty (60) months, consecutive to Count 3, with one hundred fifty-six (156) days  
16 credit for time served. Petitioner was further ordered to pay \$4,153.37 in Restitution, with  
17 \$2,802 to be paid jointly and severally with the co-defendant. Restitution was ordered in the  
18 following amounts: \$400 to Panda Express, \$300 to Duncan Donuts; \$331 to Roberto's Taco  
19 Shop; \$100 to Khoury's Mediterranean Restaurant and \$3,022.37 to Albertson's. The aggregate  
20 total sentence was eighteen (18) years to forty-five (45) years. The Judgment of Conviction  
21 was filed on May 16, 2019.

22 On April 5, 2019, Petitioner filed another Motion for Medical Treatment. According to  
23 Petitioner, he had an infection from lesions, and said infection was left untreated with no refills  
24 for antibiotics. On April 16, 2019, counsel for the Clark County Detention Center (“CCDC”)  
25 advised that Petitioner was seen by a doctor, just not as quickly as he would have liked, and  
26 Mr. Margolis, on behalf of Mr. Yampolsky advised that Petitioner was now taking antibiotics.  
27 Additionally, Petitioner had a follow-up appointment for the bullet in his head. The Court then  
28 denied the Motion as Moot.

**A.A. 200**



1 On May 14, 2019, defense counsel filed a Notice of Withdrawal of Attorney.

2 On May 22, 2020, Petitioner filed the instant post-conviction Petition for Writ of  
3 Habeas Corpus and Motion for Appointment of Counsel. The State responds herein.

4 **ARGUMENT<sup>1</sup>**

5 **I. PETITIONER FAILS TO DEMONSTRATE HE IS ENTITLED TO HABEAS**  
6 **RELIEF**

7  
8 Petitioner claims his counsel was ineffective and that his guilty plea was unknowingly  
9 and unintelligently signed. Petition at 7. The Sixth Amendment to the United States  
10 Constitution provides that, “[i]n all criminal prosecutions, the accused shall enjoy the right...to  
11 have the Assistance of Counsel for his defense.” The United States Supreme Court has long  
12 recognized that “the right to counsel is the right to the effective assistance of counsel.”  
13 Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2063 (1984); see also State v.  
14 Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323 (1993).

15 To prevail on a claim of ineffective assistance of trial counsel, a defendant must prove  
16 he was denied “reasonably effective assistance” of counsel by satisfying the two-prong test of  
17 Strickland, 466 U.S. at 686-87, 104 S. Ct. at 2063-64. See also Love, 109 Nev. at 1138, 865  
18 P.2d at 323. Under Strickland, a defendant must show first that his counsel's representation  
19 fell below an objective standard of reasonableness, and second, that but for counsel's errors,  
20 there is a reasonable probability that the result of the proceedings would have been different.  
21 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068; Warden, Nevada State Prison v. Lyons, 100  
22 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting the Strickland two-part test). “[T]here is  
23 no reason for a court deciding an ineffective assistance claim to approach the inquiry in the  
24 same order or even to address both components of the inquiry if the defendant makes an  
25 insufficient showing on one.” Strickland, 466 U.S. at 697, 104 S. Ct. at 2069.

26 //

**A.A. 201**

27  
28 <sup>1</sup> Although this Petition appears to be time-barred, since it was filed on May 22, 2020, and the Judgment of Conviction  
was filed on May 16, 2019, it is not because the Clerk's Office received it on April 19, 2020.

1 The Court begins with the presumption of effectiveness and then must determine  
2 whether the defendant has demonstrated by a preponderance of the evidence that counsel was  
3 ineffective. Means v. State, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004). "Effective counsel  
4 does not mean errorless counsel, but rather counsel whose assistance is '[w]ithin the range of  
5 competence demanded of attorneys in criminal cases.'" Jackson v. Warden, 91 Nev. 430, 432,  
6 537 P.2d 473, 474 (1975).

7 Counsel cannot be ineffective for failing to make futile objections or arguments. See  
8 Ennis v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006). Trial counsel has the  
9 "immediate and ultimate responsibility of deciding if and when to object, which witnesses, if  
10 any, to call, and what defenses to develop." Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167  
11 (2002). Further, a defendant who contends his attorney was ineffective because he did not  
12 adequately investigate must show how a better investigation would have rendered a more  
13 favorable outcome probable. Molina v. State, 120 Nev. 185, 192, 87 P.3d 533, 538 (2004). A  
14 defendant is not entitled to a particular "relationship" with his attorney. Morris v. Slappy, 461  
15 U.S. 1, 14, 103 S.Ct. 1610, 1617 (1983).

16 Based on the above law, the role of a court in considering allegations of ineffective  
17 assistance of counsel is "not to pass upon the merits of the action not taken but to determine  
18 whether, under the particular facts and circumstances of the case, trial counsel failed to render  
19 reasonably effective assistance." Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711  
20 (1978). This analysis does not mean that the court should "second guess reasoned choices  
21 between trial tactics nor does it mean that defense counsel, to protect himself against  
22 allegations of inadequacy, must make every conceivable motion no matter how remote the  
23 possibilities are of success." Id. To be effective, the constitution "does not require that counsel  
24 do what is impossible or unethical. If there is no bona fide defense to the charge, counsel  
25 cannot create one and may disserve the interests of his client by attempting a useless charade."  
26 United States v. Cronin, 466 U.S. 648, 657 n.19, 104 S. Ct. 2039, 2046 n.19 (1984).

27 "There are countless ways to provide effective assistance in any given case. Even the  
28 best criminal defense attorneys would not defend a particular client in the same way."

A.A. 202

1 Strickland, 466 U.S. at 689, 104 S. Ct. at 689. "Strategic choices made by counsel after  
2 thoroughly investigating the plausible options are almost unchallengeable." Dawson v. State,  
3 108 Nev. 112, 117, 825 P.2d 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784  
4 P.2d 951, 953 (1989). In essence, the court must "judge the reasonableness of counsel's  
5 challenged conduct on the facts of the particular case, viewed as of the time of counsel's  
6 conduct." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066.

7 Claims for relief devoid of specific factual allegations are "bare" and "naked," and are  
8 insufficient to warrant relief, as are those claims belied and repelled by the record. Hargrove  
9 v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). "[Petitioner] *must* allege specific facts  
10 supporting the claims in the petition[.]...Failure to allege specific facts rather than just  
11 conclusions may cause [the] petition to be dismissed." NRS 34.735(6) (emphasis added).

12 When a conviction is the result of a guilty plea, a defendant must show that there is a  
13 "reasonable probability that, but for counsel's errors, he would not have pleaded guilty and  
14 would have *insisted on going to trial*." Hill v. Lockhart, 474 U.S. 52, 59, 106 S.Ct. 366, 370  
15 (1985) (emphasis added); see also Kirksey v. State, 112 Nev. 980, 988, 923 P.2d 1102, 1107  
16 (1996); Molina v. State, 120 Nev. 185, 190-91, 87 P.3d 533, 537 (2004).

17 When considering ineffective-assistance-of-counsel claims where the Petitioner  
18 pleaded guilty, the Nevada Supreme Court has held that:

19  
20 A defendant who pleads guilty upon the advice of counsel may attack the validity  
21 of the guilty plea by showing that he received ineffective assistance of counsel  
22 under the Sixth Amendment to the United States Constitution. However, guilty  
23 pleas are presumptively valid, especially when entered on advice of counsel, and  
24 a defendant has a heavy burden to show the district court that he did not enter  
25 his plea knowingly, intelligently, or voluntarily. To establish prejudice in the  
26 context of a challenge to a guilty plea based upon an assertion of ineffective  
27 assistance of counsel, *a defendant must demonstrate a reasonable probability*  
28 *that, but for counsel's errors, he would not have pleaded guilty and would have*  
*insisted on going to trial.*

(emphasis added). Molina, 120 Nev. 185, 190-91, 87 P.3d 533, 537 (internal quotations and  
citations omitted). "A reasonable probability is a probability sufficient to undermine

A.A. 203

1 confidence in the outcome.” Strickland, 466 U.S. at 694, 104 S.Ct. at 2068. It is counsel’s  
2 duty to candidly advise a Petitioner regarding whether or not they believe it would be  
3 beneficial for a Petitioner to accept a plea offer, but the ultimate decision of whether or not to  
4 accept a plea offer is the Petitioner’s, as it was in this case. Rhyne, 118 Nev. at 8, 38 P.3d at  
5 163.

6 Nevada precedent reflects “that where a guilty plea is not coerced and the defendant  
7 [is] competently represented by counsel at the time it [is] entered, the subsequent conviction  
8 is not open to collateral attack and any errors are superseded by the plea of guilty.” Powell v.  
9 Sheriff, Clark County, 85 Nev. 684, 687, 462 P.2d 756, 758 (1969) (citing Hall v. Warden, 83  
10 Nev. 446, 434 P.2d 425 (1967)). In Woods v. State, the Nevada Supreme Court determined  
11 that a defendant lacked standing to challenge the validity of a plea agreement because he had  
12 “voluntarily entered into the plea agreement and accepted its attendant benefits.” 114 Nev.  
13 468, 477, 958 P.2d 91, 96 (1998).

14 Furthermore, the Nevada Supreme Court has explained:

15 “[A] guilty plea represents a break in the chain of events which has preceded it  
16 in the criminal process. When a criminal defendant has solemnly admitted in  
17 open court that he is in fact guilty of the offense with which he is charged, he  
18 may not thereafter raise independent claims relating to the deprivation of  
constitutional rights that occurred prior to the entry of the guilty plea.”

19 Webb v. State, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975) (quoting Tollet v. Henderson, 411  
20 U.S. 258, 267, 93 S.Ct. 1602, 1608 (1973)). Indeed, entry of a guilty plea “waive[s] all  
21 constitutional claims based on events occurring prior to the entry of the plea[], except those  
22 involving voluntariness of the plea[] [itself].” Lyons, 100 Nev. at 431, 683 P.2d 505; see also,  
23 Kirksey, 112 Nev. at 999, 923 P.2d at 1114 (“Where the defendant has pleaded guilty, the only  
24 claims that may be raised thereafter are those involving the voluntariness of the plea itself and  
25 the effectiveness of counsel.”).

26 //

27 //

28 //

A.A. 204

1           **A. Petitioner's Claims that Counsel was Ineffective are Nothing More Than Bare**  
2           **and Naked Assertions.**

3           According to Petitioner, he complained to his counsel that because of the injury to his  
4 head, he did not clearly or intelligently understand what counsel was explaining to him  
5 regarding the GPA. Petition at 7. Petitioner notes that he sent several kites regarding medical  
6 treatment and states that "someone who was shot not once, but twice in the head is under great  
7 strain mentally physically as well as spiritually." Id. Petitioner further claims that counsel was  
8 also ineffective because counsel failed to explain to the Court that he needed more time to  
9 understand the State's offer. Petitioner's claims are nothing more than bare and naked  
10 assertions that are belied by the record and suitable for summary denial pursuant to Hargrove,  
11 100 Nev. at 502, 686 P.2d at 225.

12           First, by signing the GPA, Petitioner agreed that he understood the consequences of his  
13 plea and that counsel had explained said consequences to him. GPA pp. 2-4. Additionally,  
14 Petitioner acknowledged that his plea was entered into voluntarily and knowingly:

15           I have discussed the elements of all of the original charge(s) against me with my  
16 attorney and I understand the nature of the charge(s) against me.

17           I understand that the State would have to prove each element of the charge(s)  
18 against me at trial.

19           I have discussed with my attorney any possible defenses, defense strategies and  
20 circumstances which might be in my favor.

21           All of the foregoing elements, consequences, rights, and waiver of rights have  
22 been thoroughly explained to me by my attorney.

23           I believe that pleading guilty and accepting this plea bargain is in my best  
24 interest, and that a trial would be contrary to my best interest.

25           *I am signing this agreement voluntarily, after consultation with my attorney, and*  
26 *I am not acting under duress or coercion or by virtue of any promises of leniency,*  
*except for those set forth in this agreement.*

27           I am not now under the influence of any intoxicating liquor, a controlled  
28 substance or other drug which would in any manner impair my ability to

**A.A. 205**

1 comprehend or understand this agreement or the proceedings surrounding my  
2 entry of this plea.

3 My attorney has answered all my questions regarding this guilty plea agreement  
4 and its consequences to my satisfaction and I am satisfied with the services  
5 provided by my attorney.

6 GPA pp. 5-6. (emphasis added).

7 Furthermore, Petitioner's claims that his head injury "was extremely serious and the  
8 medication he received was not sufficient to overbear his will to resist the questioning" is  
9 belied by the record. See Petition at 7. During the plea canvass, the following occurred:

10 THE COURT: Okay. Have you ever been treated for any mental illness or  
11 addiction to narcotic drugs of any kind?

12 THE DEFENDANT: Yes.

13 THE COURT: Okay, what have you been treated for?

14 THE DEFENDANT: Schizophrenic manic, bipolar, anxiety, depression, and  
15 PTSD.

16 THE COURT: And you're not on any medications for those right now?

17 THE DEFENDANT: No, sir.

18 THE COURT: Okay. Do you feel those are relatively well controlled without  
19 any medication?

20 THE DEFENDANT: After committing these offenses, I'm trying to stay off  
21 drugs, even mental drugs, you know.

22 THE COURT: Okay.

23 THE DEFENDANT: So I'm maintaining.

24 THE COURT: All right, you've mentioned some serious mental health issues.  
25 *Do you feel that any of those issues is impacting on your ability to understand*  
26 *what's going on here today?*

27 THE DEFENDANT: No, sir. No, sir.

28 A.A. 206

1 THE COURT: Do you feel they are impacting on your ability at all to understand  
2 what you are charged with and the nature of those charges?

3 THE DEFENDANT: No, not at all.

4 THE COURT: All right. Do you feel they impact upon your ability at all to  
5 understand the plea agreement you're entering into with the State?

6 THE DEFENDANT: No, sir.

7 THE COURT: And they don't affect your ability to read and understand, for  
8 instance: the amended superseding indictment or the plea agreement?

9 THE DEFENDANT: No, not in any way.

10 THE COURT: Okay. Do you feel you understand what's happening here today?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Tell me in your own words what's happening here today?

13 THE DEFENDANT: *We resolved a plea and went over my plea agreement;*  
14 *you're just making sure that I understand.*

15 Recorder's Transcript: Jury Trial – Day 1, March 18, 2019 ("RT) pp. 98-99 (emphasis added).  
16 Based upon the record, Petitioner understood what was going on at, the time he entered his  
17 plea.  
18

19 Additionally, the Court informed Petitioner that if at any time he needed to discuss  
20 something with counsel, in private, he would be given the opportunity:

21 THE COURT: Okay. Now, before accepting your guilty plea, there are a number  
22 of questions I'm going to have to ask you to ensure myself that you're entering  
23 a valid plea. If you do not understand any of the questions, would you please let  
24 me know so I can rephrase the question?

25 THE DEFENDANT: Yes.

26 THE COURT: Okay. If at any time you wish to take a break in the proceedings  
27 so you can discuss matters in private with your attorney, will you let me know  
28 that so I can give you the opportunity and chance to do so?

THE DEFENDANT: Yes.

A.A. 207

1 RT p. 97. Moreover, Petitioner informed the Court that he was pleading guilty without any  
2 coercion, that he signed the GPA, and that he discussed the agreement with his attorney. RT  
3 p. 107. Petitioner also responded affirmatively that he felt as though he understood the plea  
4 agreement. RT p. 108. Further, Petitioner acknowledged that he understood the charges and  
5 relevant penalties. RT pp. 102-05.

6 Now, Petitioner's attachment of the Minutes from January 8, 2019, do not provide any  
7 support for his claim. On that day, statements were made that Petitioner had not received  
8 medical attention. However, on January 23, 2019, counsel from the Attorney General's Office  
9 filed a Status Report and Declaration after speaking with medical personnel. According to the  
10 Status Report, Petitioner was treated for his alleged wounds and follow-up tests, including x-  
11 rays, had been ordered. On January 24, 2019, this Court noted that Petitioner was being treated  
12 and defense counsel concurred. Petitioner did not enter into his guilty plea until March 18,  
13 2019, approximately two (2) months after he was given treatment. Accordingly, Petitioner was  
14 given medical attention prior to entering his plea. Regardless, the plea canvass evidences that  
15 fact that his plea was entered into knowingly and voluntarily.

16 As to Petitioner's specific claims against counsel, by signing the GPA, counsel certified  
17 that he had fully explained everything to Petitioner prior to his entry of plea:

18  
19 I, the undersigned, as the attorney for the Defendant named herein and as an  
20 officer of the court hereby certify that:

21 1. I have fully explained to the Defendant the allegations contained in the  
22 charge(s) to which guilty pleas are being entered.

23 2. I have advised the Defendant of the penalties for each charge and the  
24 restitution that the Defendant may be ordered to pay.

25 3. I have inquired of Defendant facts concerning Defendant's immigration  
26 status and explained to Defendant that if Defendant is not a United States citizen  
27 any criminal conviction will most likely result in serious negative immigration  
28 consequences including but not limited to:

- a. The removal from the United States through deportation;
- b. An inability to reenter the United States;

**A.A. 208**



- c. The inability to gain United States citizenship or legal residency;
- d. An inability to renew and/or retain any legal residency status; and/or
- e. An indeterminate term of confinement, by with United States Federal Government based on the conviction and immigration status.

Moreover, I have explained that regardless of what Defendant may have been told by any attorney, no one can promise Defendant that this conviction will not result in negative immigration consequences and/or impact Defendant's ability to become a United States citizen and/or legal resident.

4. All pleas of guilty offered by the Defendant pursuant to this agreement are consistent with the facts known to me and are made with my advice to the Defendant.

5. To the best of my knowledge and belief, the Defendant:

- a. Is competent and understands the charges and the consequences of pleading guilty as provided in this agreement,
- 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.

GPA p. 7. For these reasons, Petitioner failed to show that counsel was ineffective.

#### **B. Petitioner Failed to Establish Prejudice.**

Here, Petitioner failed to show that there is a "reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial." See Hill, 474 U.S. 52, 59, 106 S.Ct. 366, 370. Instead, Petitioner made another bare and naked assertion that he was prejudiced because had he been in the right state of mind, he would not have pled guilty and would have proceeded to trial. Petitioner initially faced forty-eight (48) charges, with significantly higher penalties. With the possibility of facing a lengthier sentence, Petitioner cannot now argue that but for the alleged error, he would have gone to trial. Moreover, the plea was entered into during the first day of trial, after voir dire had begun. At any point Petitioner could have told the Court he did not wish to proceed with the GPA and to continue with the trial. Instead, Petitioner was clear that he wanted to enter into this guilty

1 plea. For the reasons stated above, Petitioner's counsel was effective, and his claim should be  
2 denied.

## 3 II. PETITIONER IS NOT ENTITLED TO AN APPOINTMENT OF 4 COUNSEL

5 Under the U.S. Constitution, the Sixth Amendment provides no right to counsel in post-  
6 conviction proceedings. Coleman v. Thompson, 501 U.S. 722, 752, 111 S. Ct. 2546, 2566  
7 (1991). In McKague v. Warden, 112 Nev. 159, 163, 912 P.2d 255, 258 (1996), the Nevada  
8 Supreme Court similarly observed that "[t]he Nevada Constitution...does not guarantee a right  
9 to counsel in post-conviction proceedings, as we interpret the Nevada Constitution's right to  
10 counsel provision as being coextensive with the Sixth Amendment to the United States  
11 Constitution." McKague specifically held that with the exception of NRS 34.820(1)(a)  
12 (entitling appointed counsel when petitioner is under a sentence of death), one does not have  
13 "any constitutional or statutory right to counsel at all" in post-conviction proceedings. Id. at  
14 164, 912 P.2d at 258.

15 However, the Nevada Legislature has given courts the discretion to appoint post-  
16 conviction counsel so long as "the court is satisfied that the allegation of indigency is true and  
17 the petition is not dismissed summarily." NRS 34.750. NRS 34.750 reads:

18 A petition may allege that the Defendant is unable to pay the costs of  
19 the proceedings or employ counsel. If the court is satisfied that the  
20 allegation of indigency is true and the petition *is not dismissed*  
21 *summarily*, the court may appoint counsel at the time the court orders  
22 the filing of an answer and a return. In making its determination, the  
23 court may consider whether:

- 21 (a) The issues are difficult;
- 22 (b) The Defendant is unable to comprehend the proceedings;
- 23 or
- 24 (c) Counsel is necessary to proceed with discovery.

24 (emphasis added). Under NRS 34.750, it is clear that the court has discretion in determining  
25 whether to appoint counsel.

26 Here, the issues are not difficult as Petitioner's claims are belied by the record. Next,  
27 while Petitioner claims that he is unable to adequately present his claims without counsel,  
28 Petitioner failed to allege that he is unable to comprehend the proceedings. Finally, counsel is

1 not needed to proceed with discovery nor does Petitioner allege that counsel is needed for this  
2 reason. Therefore, Petitioner is not entitled to an appointment of counsel.

3 **CONCLUSION**

4 For the foregoing reasons, Defendant's Petition for Writ of Habeas Corpus (Post-  
5 Conviction) and Motion for Appointment of Counsel must be denied.

6 DATED this 25th day of November, 2020.

7 Respectfully submitted,

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

10 BY /s/ JONATHAN E. VANBOSKERCK  
11 JONATHAN E. VANBOSKERCK  
12 Chief Deputy District Attorney  
13 Nevada Bar #006528

14 **CERTIFICATE OF MAILING**

15 I hereby certify that service of the above and foregoing was made this 7th day of July,  
16 2020, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

17 SHAN JONATHON KITTREDGE, BAC#1202642  
18 SOUTHERN DESERT CORRECTIONAL CENTER  
19 P.O. BOX 208  
20 INDIAN SPRINGS, NEVADA 89070

21 BY /s/ L.M.  
22 Secretary for the District Attorney's Office

23  
24  
25  
26  
27  
28 JEV/sw/lm/GCU

**A.A. 211**

---

A-20-815382-W      Shan Kittredge, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

---

December 22, 2020      12:00 PM      Petition for Writ of Habeas Corpus

HEARD BY:      Johnson, Eric      COURTROOM: RJC Courtroom 12A

COURT CLERK: Everett, Tia

RECORDER:      Calvillo, Angie

REPORTER:

PARTIES PRESENT:

William J. Merback      Attorney for Defendant

### JOURNAL ENTRIES

Court stated Defendant not present and in custody with the Nevada Department of Corrections.

Court noted having read Defendant s petition and State s Response; COURT ORDERED, Petition DENIED and stated findings. Defendant s Mother Sofie Kittredge present via blue. Mr. Kittredge advised counsel was to be appointed and that never happened and the habeas corpus was filed as the attorney never helped appeal. Court stated based on the sentence imposed; FURTHER ORDERED previous ruling VACATED and Request for Appointment of Counsel GRANTED. COURT FURTHER ORDERED, matter SET for Confirmation of Counsel.

NDC

1/21/2021 1:45 PM CONFIRMATION OF COUNSEL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**January 21, 2021**

A-20-815382-W      Shan Kittredge, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

**January 21, 2021      11:00 AM      All Pending Motions**

**HEARD BY:** Craig, Christy

**COURTROOM:** RJC Courtroom 16D

**COURT CLERK:** Carolyn Jackson

**RECORDER:** Kaihla Berndt

**REPORTER:**

**PARTIES**

**PRESENT:**      Lichtenstein, Allen      Attorney  
                 Thomas, Morgan B.A.      Attorney

**JOURNAL ENTRIES**

- Upon inquiry of court if the office of conflict counsel appointed Mr. Lichtenstein to the case, Mr. Lichtenstein stated they had. COURT ORDERED, confirmation of counsel CONFIRMED.

Colloquy regarding setting of schedule for Petition for Writ of Habeas Corpus. COURT ORDERED, filing of writ due May 20, 2021, response by State due September 16, 2021, reply due by October 14, 2021, and matter CONTINUED for argument on October 21, 2021 at 11:00 a.m. Mr. Lichtenstein stated his client will need to be transported. Ms. Thomas stated she will make a note to prepare a transport order. Court directed Mr. Lichtenstein to advise State if his client does not want to be transported.

CONTINUED TO: 10/21/2021 11:00 AM

CLERK'S NOTE: Minute Order prepared by Nicole McDevitt via listening to JAVS recording. /nm  
2/4/2021



Allen Lichtenstein  
NV Bar No. 3992  
Allen Lichtenstein, Attorney At Law, LTD.  
3315 Russell Road, No. 222  
Las Vegas, NV 89120  
Telephone (702) 433-2666  
Facsimile (702) 433-9591  
allaw@lvcoxmail.com  
Attorney for Plaintiff *Shan Kittredge*

DISTRICT COURT  
CLARK COUNTY, NEVADA

SHAN KITTREDGE,

Plaintiff,

v.

STATE OF NEVADA,

Defendant

Case No: A-20-815382-W

Dept No.: XXXII

**STIPULATION AND ORDER**

The parties hereby stipulate that Petitioner Kittredge's Supplemental Brief, currently due on May 20, 2021, shall now be due on or before July 7, 2021.

Dated this \_\_\_\_\_ day of May 2021.

Respectfully submitted by:

//

//

**A.A. 214**

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

/s/Allen Lichtenstein  
NV Bar No. 3992  
Allen Lichtenstein, Attorney At Law, LTD.  
3315 Russell Road, No. 222  
Las Vegas, NV 89120  
(702) 433-2666  
allaw@lvcoxmail.com

Attorney for Shane Kittredge

/s/Jonathan VanBoskerck  
Deputy DA  
Clark County District Attorney's Office  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
jonathan.vanboskerck@clarkcountyyda.com

Attorney for the State of Nevada

ORDER

It is hereby ordered that Petitioner Kittredge's Supplemental Brief, currently due  
on May 20, 2021, shall now be due on or before July 7, 2021.

---

District Court Judge



CNND

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Shan Kittredge, Plaintiff(s)

A-20-815382-W

vs.

Department 32

State of Nevada, Defendant(s)

**CLERK'S NOTICE OF NONCONFORMING DOCUMENT**

Pursuant to Rule 8(b)(2) of the Nevada Electronic Filing and Conversion Rules, notice is hereby provided that the following electronically filed document does not conform to the applicable filing requirements:

Title of Nonconforming Document: Stipulation and Order

Party Submitting Document for Filing: Plaintiff

Date and Time Submitted for Electronic Filing: 05/19/21 at 10:28 AM

**Reason for Nonconformity Determination:**

- ☐ The document filed to commence an action is not a complaint, petition, application, or other document that initiates a civil action. *See* Rule 3 of the Nevada Rules of Civil Procedure. In accordance with Administrative Order 19-5, the submitted document is stricken from the record, this case has been closed and designated as filed in error, and any submitted filing fee has been returned to the filing party.
- ☐ The document initiated a new civil action and the case type designation does not match the cause of action identified in the document.
- ☐ The document initiated a new civil action and a cover sheet was not submitted as required by NRS 3.275.
- ☐ The submitted document initiated a new civil action and was made up of multiple documents submitted together.
- ☐ The case caption and/or case number on the document does not match the case caption and/or case number of the case that it was filed into.



- 1 ☐ The document was not signed by the submitting party or counsel for said party.
- 2 ☒ The document filed was a court order that did not contain the signature of a
- 3 judicial officer. In accordance with Administrative Order 19-5, the submitted
- 4 order has been furnished to the department to which this case is assigned.
- 5 ☐ Motion does not have a hearing designation per Rule 2.20(b). Motions must
- 6 include designation "Hearing Requested" or "Hearing Not Requested" in the
- 7 caption of the first page directly below the Case and Department Number.

8 Pursuant to Rule 8(b)(2) of the Nevada Electronic Filing and Conversion Rules, a

9 nonconforming document may be cured by submitting a conforming document. All documents

10 submitted for this purpose must use filing code "**Conforming Filing – CONFILE.**" Court filing

11 fees will not be assessed for submitting the conforming document. Processing and convenience

12 fees may still apply.

13

14 Dated this: 19th day of May, 2021

15 By: /s/ Marie Kramer

16 Deputy District Court Clerk

17

18

19

20

21

22

23

24

25

26

27

28

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on May 19, 2021, I concurrently filed and served a copy of the  
3 foregoing Clerk's Notice of Nonconforming Document, on the party that submitted the  
4 nonconforming document, via the Eighth Judicial District Court's Electronic Filing and Service  
5 System.  
6

7  
8 By: /s/ Marie Kramer  
9 Deputy District Court Clerk  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



Allen Lichtenstein  
Allen Lichtenstein, Attorney at Law, Ltd.  
Nevada Bar No. 3992  
3315 Russell Road, No. 222  
Las Vegas, Nevada 89120  
(702) 433-2666 (phone)  
(702) 433-9591 (fax)  
allaw@lvcoxmail.com  
Attorney for Petitioner

IN THE EIGHTH JUDICIAL DISTRICT COURT  
IN AND FOR THE COUNTY OF CLARK STATE OF NEVADA

SHAN JONATHAN KITTREDGE,

Petitioner

v.

THE STATE OF NEVADA,

Respondent

CASE NO: A-20-815382-W

C-18-33335-2

DEPT: XX

SUPPLEMENTAL PETITION FOR A  
WRIT OF HABEAS CORPUS

Date of Hearing:

Comes now, Petitioner, Shan Kittredge, by and through the undersigned counsel, and  
hereby files Supplemental Brief to the Petitioner's Petition for Habeas Corpus pursuant to NRS  
34.280, as set forth in this Court's Minute Order.

This motion is made and supported by the attached Points and Authorities, and is further  
supported by all papers, pleadings and documents on file herein, and any future hearing.

Dated this 14<sup>th</sup> day of July, 2021

Respectfully submitted by:

/s/Allen Lichtenstein

Allen Lichtenstein

Nevada Bar No.: 3992

Allen Lichtenstein, Attorney at Law, Ltd.

3315 Russell Road, No. 222

Las Vegas, NV 89120

(702) 433-2666 – phone

(702) 433-9591 – fax

A.A. 219

**POINTS AND AUTHORITIES**

**I. INTRODUCTION**

On May 22, 2020, Petitioner filed a pro se Petition for Writ of Habeas Corpus (**Exhibit A**).

Petitioner in pertinent part asserts that his defense counsel, MaceYampolsky, Esq., was ineffective for not pursuing or challenging issues of mental impairment. On 6/8/2018, Petitioner sustained multiple gunshot wounds to the head upon arrest and thus leading to Petitioner's incapacity to make cogent judgments/decisions when offered the guilty plea agreement on 3/18/2019. This is in violation of his right to due process as guaranteed by the 5<sup>th</sup>, 6<sup>th</sup>, and 14<sup>th</sup> to The United States Constitution.

Said documentation evidencing degree of cognitive impairment has been strangely unexplored and sadly unavailable for examination at this point in order to definitively determine cause and deleterious effect of said gunshot wounds to Petitioner's head. Without court authorization, Petitioner cannot subpoena said necessary records. According to N.R.S. § 34.500(9), "Habeas Corpus relief is available where courts find that there has been a specific denial of Petitioner's Constitutional rights with respect to conviction or sentence in a criminal case." Moreover, N.R.S. § 31.27 makes provision for evidentiary hearings.

"The extraordinary remedy of habeas corpus is appropriate to test the legality of a conviction which is challenged on constitutional grounds." *Shum v. Fogliani*, 82 Nev. 156, 158, 413 P.2d 495, 496 (1966), citing *Dean v. Fogliani*, 81 Nev. 541, 407 P.2d 580 (1965) and *Garnick v. Miller*, 81 Nev. 372, 403 P.2d 850 (1965).

**II. NATURE OF THE ILLEGAL DETENTION**

1       Petitioner is being held in violation of his constitutional rights based upon the following  
2 grounds:

3       1. Trial counsel was ineffective:

4           A. For not pursuing mental impairment/incapacity issues due to possible traumatic brain  
5 injury after sustaining two (2) gunshot wounds to the head upon 6/8/2018 arrest.

6       **III.   FACTS IN SUPPORT OF SUPPLEMENT**

7           The case as presented by Petitioner was established on the following version of events:  
8

9           On August 1, 2018, the State filed a Superseding Indictment charging Shane Jonathon  
10 Kittridge (hereinafter "Petitioner") with the following: Counts 1-5, 8-10, 12-16, 20-21, 27-28, 33-  
11 34, 36-37, 40 –Robbery with Use of a Deadly Weapon; Counts 7, 19, 26, 35, 39 –Conspiracy to  
12 Commit Robbery; Count 17 –Attempt Robbery with Use of a Deadly Weapon; Counts 6, 11, 18,  
13 25, 31-32, 38, 42 –Burglary while in Possession of a Firearm; Counts 22-24, 29-30, 41, –Assault  
14 with a Deadly Weapon; Count 43 –Grand Larceny Auto; Count 44 –Possession of Stolen Vehicle;  
15 Counts 45-47 –Assault on Protected Person With Use of a Deadly Weapon; and Count 48 –  
16 Resisting Public Officer With Use of a Firearm. Petitioner's co-defendant was also charged as to  
17 Counts 7-11, 19-31, and 35-42. On August 21, 2018, Petitioner pled not guilty and waived his  
18 right to a speedy trial. On December 19, 2018, Petitioner filed a Motion for Medical Treatment.  
19 On January 8, 2019, statements were made by defense counsel that Petitioner had sent several  
20 kites but has been unable to receive medical attention. A two (2) week continuance was requested  
21 for Mr. Frank Toddre, from the Attorney General's Office, to speak with medical personnel. On  
22 January 23, 2019, Mr. Toddre filed a Status Report regarding Petitioner's treatment. (**Exhibit B**).  
23 A Declaration from the Director of Nursing Bob Faulkner was attached (**Exhibit B**). On January  
24 24, 2019, this Court noted that Petitioner was being treated; and defense counsel concurred.  
25 Defense counsel did note that Petitioner was waiting for an MRI and x-rays (as of this writing,  
26  
27  
28

1 Petitioner has not been able to secure copies of same). Accordingly, the Court then denied the  
2 motion. On March 11, 2019, the State filed a Notice of Intent to Seek Punishment as a Habitual  
3 Criminal. On March 18, 2019, jury trial began with the jury being selected and seated. After the  
4 lunch break, Petitioner decided to plead guilty pursuant to a Guilty Plea Agreement ("GPA").  
5 According to the GPA, "both parties stipulate to a total term of imprisonment of eighteen (18) to  
6 forty-five (45) years in the Nevada Department of Corrections." The Amended Superseding  
7 Indictment was also filed and charged Petitioner with: Count 1-Conspiracy to Commit Robbery;  
8 Counts 2-4 -Robbery with Use of a Deadly Weapon; and Count 5 -Resisting Public Officer, With  
9 Use of a Firearm. On May 8, 2019, defense counsel filed a Sentencing Memorandum. On May  
10 14, 2019, the District Court sentenced Petitioner to the Nevada Department of Corrections as  
11 follows: Count 1 -a minimum of twenty-eight (28) months with a maximum of seventy-two (72)  
12 months; Count 2 -a minimum of forty-eight (48) months and a maximum of one hundred twenty  
13 (120) months, plus a consecutive term of a minimum of forty-eight (48) months and a maximum  
14 of one hundred twenty (120) months for Use of a Deadly Weapon, concurrent with Count 1; Count  
15 3 -a minimum of forty-eight (48) months and a maximum of one hundred twenty (120) months,  
16 plus a consecutive term of a minimum of forty-eight (48) months and a maximum of one hundred  
17 twenty (120) months for Use of a Deadly Weapon, consecutive to Count 2; Count 4 -a minimum  
18 of forty-eight (48) months and a maximum of one hundred twenty (120) months, plus a  
19 consecutive term of a minimum of forty-eight (48) months and a maximum of one hundred twenty  
20 (120) months for Use of a Deadly Weapon, concurrent with Count 3; and Count 5 -a minimum of  
21 twenty-four (24) months and a maximum of sixty (60) months, consecutive to Count 3, with one  
22 hundred fifty-six (156) days credit for time served. Petitioner was further ordered to pay \$4,153.37  
23 in Restitution, with \$2,802 to be paid jointly and severally with the co-defendant. Restitution was  
24 ordered in the following amounts: \$400 to Panda Express, \$300 to Duncan Donuts; \$331 to  
25  
26  
27  
28

1 Roberto's Taco Shop; \$100 to Khoury's Mediterranean Restaurant and \$3,022.37 to Albertson's.  
2 The aggregate total sentence was eighteen (18) years to forty-five (45) years. The Judgment of  
3 Conviction was filed on May 16, 2019.

4 On April 5, 2019, Petitioner filed another Motion for Medical Treatment. According to  
5 Petitioner, he had an infection from lesions, and said infection was left untreated with no refills for  
6 antibiotics. On April 16, 2019, counsel for the Clark County Detention Center ("CCDC") advised  
7 that Petitioner was seen by a doctor, just not as quickly as he would have liked and Mr. Margolis,  
8 on behalf of Mr. Yampolsky advised that Petitioner was now taking antibiotics. Additionally,  
9 Petitioner had a follow-up appointment for the bullet in his head (as of this writing, Petitioner has  
10 not been able to secure same records). The Court then denied the Motion as moot.

12 On May 14, 2019, defense counsel filed a Notice of Withdrawal of Attorney.

13 On May 22, 2020, Petitioner filed a pro se post-conviction Petition for Writ of Habeas  
14 Corpus on the grounds of ineffective counsel claim.

15 **IV. THE DEFICIENT PERFORMANCE OF DEFENSE COUNSEL WARRANTS THE**  
16 **GRANTING OF HABEAS CORPUS RELIEF.**

17 To prevail in an ineffective counsel claim, the defendant must show that there is a  
18 reasonable probability that but for counsel's unprofessional errors, the result of the proceeding  
19 would have been different. A reasonable probability is a probability sufficient to undermine  
20 confidence in the outcome. *Strickland v. Washington*, 104 S. Ct. 2052, 2068, 466 U.S. 668, 694  
21 (U.S.,1984). A reasonable probability is a probability sufficient to undermine confidence in the  
22 outcome, "*but it does not require that a defendant demonstrate that he would have been*  
23 *acquitted.*" (*emphasis added*), *State v. Rogers*, 2001 MT 165, ¶ 14, 306 Mont. 130, ¶ 14, 32 P.3d  
24 724, ¶ 14 (quoting *Strickland*, 466 U.S. at 694, 104 S. Ct. at 2068, 80 L.Ed.2d at 698). *State v.*  
25 *Kougl*, 323 Mont. 6, 13, 97 P.3d 1095, 1100 (Mont.,2004).

1 Ineffective assistance cases turn on their individual facts. *Langston v. Wyrick*, 698 F.2d  
2 926, 931 (8th Cir.1982) *Sanders v. Trickey*, 875 F.2d 205, 209 (C.A.8 (Mo.),1989).

3 Turning on the facts as evidenced in Petitioner's 5/22/2020 Pro Se Petition, in relevant  
4 part, Petitioner's attorney, Mace Yampolsky, Esq., neglected to stress and or utilize a defense of a  
5 possibility that Petitioner suffered impaired judgment due to sustaining two (2) gunshot wounds to  
6 the head (nine (9) gunshot wounds in total) upon his arrest on June 8, 2018. Therefore, Petitioner  
7 should never have been advised to accept a guilty plea agreement, at that point, due to possible  
8 inability to make sound judgments and life decisions due to traumatic brain injury. According to  
9 the record referenced (*supra* at Pg. 4, L. 13-25) on 12/19/2018 Petitioner filed a Motion for  
10 Medical Treatment for the bullet wound on his neck that was oozing plasma and pus. There was  
11 only a mention of MRIs and x-rays but nothing beyond that. Another Motion for Medical  
12 Treatment was filed on or about 4/5/2019 (*supra* at Pg. 6, line 10-20). After aggressive inquiry of  
13 multiple possible sources, present counsel has not been able to secure any kind of significant  
14 medical records, i.e., diagnostics, such as the Glasgow Coma Scale stats; psychometric  
15 assessments of cognitive impairment after traumatic brain injury from Petitioner's initial  
16 hospitalization upon arrest in June 2018 nor any subsequent brain related diagnostic  
17 tests/assessments. Said medical documents are essential to Petitioner's situation in order to have  
18 an understanding concerning mental capacity - the crux of his case. As necessary as these  
19 documents certainly are to establish the most basic requirements of Petitioner's defense, they  
20 were inexplicably not included in his original defense. Why were they so conspicuously and oddly  
21 absent? Even though these diagnostic tests are referenced on pages 4 and 6 (*supra*) and quoted  
22 from State's 11-20-2020 Reply Brief at Page 3, Lines 22-28, unfortunately, the medical aspect of  
23 Petitioner's case at trial stage seems to have been incomprehensibly ignored as though  
24 inconsequential and frivolous. Why was this not pursued until now? Additionally, there is no  
25  
26  
27  
28



1 evidence of any competency hearing. Moreover, if one compares “before” (prior to the 6/8/2018  
2 head gunshot wounds; existing LVMPD file photo of Mr. Kittredge pg. 23 of 6/13/2018 police  
3 report) and “after” (after 6/8/2018 head gunshot wounds from online NDOC, Southern Desert  
4 Correctional Facility Inmate Photo) photographs of Petitioner (both attached as **Exhibit C**), it is  
5 apparent that the after prison photo shows a demonstrable difference and asymmetry to Mr.  
6 Kittredge’s face – most compellingly suggestive of brain trauma as a result of the bullet wounds to  
7 his head.  
8

9 For this phase of Petitioner’s proceedings, any-and-all diagnostics, including MRIs, CAT  
10 scans, x-rays of his head/neck and medical assessments/physicians’ impressions/reports to rule out  
11 or demonstrate neurological deficits are imperative to obtain and review.

12 Petitioner may have ill-advisedly and inadvertently signed a guilty plea agreement - for  
13 which he is serving up to a maximum 45-year sentence that he was not competent to fully  
14 comprehend. The conspicuously questionable legal stratagem that omitted essential evidence  
15 concerning competency at trial stage conflated with nomothetic indifference, justify redress and  
16 accountability of the judicial process through the instant Petition.  
17

18 I. As to deficient performance:

19 In *Summerlin v. Schiro*, 427 F.3d 623 at 630 (9<sup>th</sup> Cir. 2005) (en banc): the Ninth Circuit  
20 stated that “[w]e have long recognized an attorney’s duty to investigate and present mitigating  
21 evidence of mental impairment.” *See also, Riggins v. Nevada* (90-8466), 504 U.S. 127 (1992):  
22 (“Nevada law prohibits the trial of incompetent persons.”), Nev. Rev. Stat. § 178.400 (1989),  
23 and, *Leavitt v. Arave*, 646 F.3d 605, 620 (9<sup>th</sup> Cir. 2011) Reinhardt, J. dissenting.. (“That he  
24 conducted a thorough investigation relevant to one possible strategy does not make any more  
25 reasonable his failure to investigate a potentially much stronger case for  
26  
27  
28

1 mitigation. Parmenter *simply neglected the one subject that he should have known mattered*  
2 *most.*”(emphasis added).

3 Also pertinent to the instant appeal is *Dusky v. United States of America*, 362 U.S. 402, 80  
4 S. Ct. 788, 4 L.Ed.2d 824 (1960), which states that “the record in this case does not sufficiently  
5 support the findings of competency to stand trial,’ for to support those findings under 18 U.S.C. §  
6 4244, 18 U.S.C.A. § 4244 the district judge ‘would need more information than this record  
7 presents.” The Dusky Court further notes:

8  
9 ...it is not enough for the district judge to find that ‘the defendant (is) oriented to  
10 time and place and (has) some recollection of events,’ but that the ‘test must be  
11 whether he has sufficient present ability to consult with his lawyer with a  
reasonable degree of rational understanding—and whether he has a rational as  
well as factual understanding of the proceedings against him.’

12 *Id.*

13 Even though Petitioner responded with seeming clarity to each of Judge Johnson’s  
14 questions during the guilty plea agreement Q&A, it was not clear that he really had a reasonable  
15 degree of rational understanding of what he was agreeing to on March 18, 2019. Moreover,  
16 unlike the instant case, the defendant in *Dusky* had the benefit of psychiatric testimony as to  
17 competence. Still the U.S. Supreme Court saw fit to “reverse and remand the case to the District  
18 Court for a new hearing to ascertain petitioner’s present competency to stand trial, and for a new  
19 trial if petitioner is found competent.” *Id.*

20  
21 Reviewing court transcript under date of 3/18/2019, Petitioner, Kittredge, did not have the  
22 benefit of psychiatric or medical analysis of any sort. After careful combing through court  
23 documents available through Odyssey and the records of trial attorney Mace Yampolsky’s office,  
24 we were able to find references to the undisputed fact that Petitioner’s sustained 6/8/2018 bullet  
25 head wounds, as well as evidence of prolonged illegal drug use. Defense attorney’s 5/18/2019  
26 Sentencing Memo mentions at Page 5, lines 7-10: “...it is a damn shame that it took having bullets  
27  
28

1 still lodged in his [Kittredge] face and being in critical condition for weeks..." "By virtue of many  
2 conversations, counsel has come to conclude that Shan just wasn't thinking at all [on 6/8/2018]."

3 He was basically in a heroin fueled haze and the synapses that ought to have been  
4 firing quite clearly weren't. It would be instructive perhaps to determine what if  
5 any effect Mr. Kittredge's long spanning drug abuse has had on his brain, but given  
6 the trauma he sustained due to multiple gunshot wounds to the head he suffered,  
7 counsel does not know that we will ever be able to know much for sure.

8 *Id.* at Pg. 8, lines 14-20.

9 Even though traumatic brain injury is referenced, there is no evidence of neurological  
10 deficit testing, medical reports, evaluations or the like presented in Petitioner's defense. This  
11 clearly falls below the level of competence set forth in *Strickland*. Based upon the foregoing,  
12 Petitioner files this Supplemental Brief for Petition of Habeas Corpus (post-conviction) relief  
13 claiming ineffective assistance of counsel.

14 WHEREFORE, Petitioner prays for the following:

- 15 1. That his Habeas Corpus proceeding go forward, and
- 16 2. That consistent with his 5<sup>th</sup>, 6<sup>th</sup>, and 14<sup>th</sup> Amendment rights that this Court re-open  
17 discovery and also order an evidentiary hearing in this matter,

18 Dated this 14<sup>th</sup> day of July, 2021

19 Respectfully submitted by:

20 /s/Allen Lichtenstein

21 Allen Lichtenstein

22 Nevada Bar No.: 3992

23 Allen Lichtenstein, Attorney at Law, Ltd.

24 3315 Russell Road, No. 222

25 Las Vegas, NV 89120

26 (702) 433-2666 – phone; (702) 433-9591 – fax

27 allaw@lvcoxmail.com

28 Attorney for Petitioner

**CERTIFICATE OF SERVICE**

I hereby certify that on July 14, 2021, I served all parties through the Court's electronic filing and service system and also the email to the following:

JONATHAN VANBOSKERCK  
Chief Deputy District Attorney  
Nevada Bar #006528  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212

Jonathan.Vanboskerck@clarkcountyda.com

1 still lodged in his [Kittredge] face and being in critical condition for weeks..." "By virtue of many  
2 conversations, counsel has come to conclude that Shan just wasn't thinking at all [on 6/8/2018]."

3 He was basically in a heroin fueled haze and the synapses that ought to have been  
4 firing quite clearly weren't. It would be instructive perhaps to determine what if  
5 any effect Mr. Kittredge's long spanning drug abuse has had on his brain, but given  
6 the trauma he sustained due to multiple gunshot wounds to the head he suffered,  
7 counsel does not know that we will ever be able to know much for sure.

8 *Id.* at Pg. 8, lines 14-20.

9 Even though traumatic brain injury is referenced, there is no evidence of neurological  
10 deficit testing, medical reports, evaluations or the like presented in Petitioner's defense. This  
11 clearly falls below the level of competence set forth in *Strickland*. Based upon the foregoing,  
12 Petitioner files this Supplemental Brief for Petition of Habeas Corpus (post-conviction) relief  
13 claiming ineffective assistance of counsel.

14 WHEREFORE, Petitioner prays for the following:

- 15 1. That his Habeas Corpus proceeding go forward, and
- 16 2. That consistent with his 5<sup>th</sup>, 6<sup>th</sup>, and 14<sup>th</sup> Amendment rights that this Court re-open  
17 discovery and also order an evidentiary hearing in this matter,

18 Dated this 14<sup>th</sup> day of July, 2021

19 Respectfully submitted by:

20 /s/Allen Lichtenstein

21 Allen Lichtenstein

22 Nevada Bar No.: 3992

23 Allen Lichtenstein, Attorney at Law, Ltd.

24 3315 Russell Road, No. 222

25 Las Vegas, NV 89120

26 (702) 433-2666 – phone; (702) 433-9591 – fax

27 allaw@lvcoxmail.com

28 Attorney for Petitioner

# **EXHIBIT A**

Shan Jonathon Kittredge  
Petitioner/In Propria Persona  
Post Office Box 208, SDCC  
Indian Springs, Nevada 89070

**FILED**  
**MAY 22 2020**

*Alan J. Blum*  
CLERK OF COURT

IN THE EIGHTH JUDICIAL DISTRICT COURT OF  
THE STATE OF NEVADA IN AND FOR THE  
COUNTY OF CLARK

SHAN JONATHON KITTREDGE;

Petitioner,

vs.

STATE OF NEVADA

Respondent(s).

**A-20-815382-W**  
**Dept. XX**

Case No. C-18-333333-2

Dept. No. XX

Docket

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

**INSTRUCTIONS:**

- (1) This petition must be legibly handwritten or typewritten signed by the petitioner and verified.
- (2) Additional pages are not permitted except where noted or with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) If you want an attorney appointed, you must complete the Affidavit in Support of Request to Proceed in Forma Pauperis. You must have an authorized officer at the prison complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
- (4) You must name as respondent the person by whom you are confined or restrained. If you are in a specific institution of the department of corrections, name the warden or head of the institution. If you are not in a specific institution of the department within its custody, name the director of the department of corrections.
- (5) You must include all grounds or claims for relief which you may have regarding your conviction and sentence.

APR 19 2020

CLERK OF THE COURT

**A.A. 231**

1 Failure to raise all grounds in this petition may preclude you from filing future petitions  
2 challenging your conviction and sentence.

3 (6) You must allege specific facts supporting the claims in the petition you file seeking relief  
4 from any conviction or sentence. Failure to allege specific facts rather than just conclusions may  
5 cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of  
counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which  
you claim your counsel was ineffective.

6 (7) If your petition challenges the validity of your conviction or sentence, the original and one  
7 copy must be filed with the clerk of the district court for the county in which the conviction  
8 occurred. Petitions raising any other claim must be filed with the clerk of the district court for the  
9 county in which you are incarcerated. One copy must be mailed to the respondent, one copy to the  
attorney general's office, and one copy to the district attorney of the county in which you were  
convicted or to the original prosecutor if you are challenging your original conviction or sentence.  
Copies must conform in all particulars to the original submitted for filing.

### 10 PETITION

11 1. Name of institution and county in which you are presently imprisoned or where and who you  
12 are presently restrained of your liberty: SOUTHERN DESERT CORRECTIONAL CENTER

13 2. Name the location of court which entered the judgment of conviction under attack: Eighth  
14 Judicial District Court, Clark County, Nevada

15 3. Date of judgment of conviction: May 15th 2019

16 4. Case number: C-18-333335-2

17 5. (a) Length of sentence: Eighteen to Forty-five Years

18 (b) If sentence is death, state any date upon which execution is scheduled: N/A

19 6. Are you presently serving a sentence for a conviction other than the conviction under attack in  
20 this motion:

21 Yes ☐ No ☒ If "Yes", list crime, case number and sentence being served at this time: \_\_\_\_\_

22  
23 7. Nature of offense involved in conviction being challenged: Count 1 - Conspiracy To  
24 Commit Robbery (Category B Felony) Counts 2, 3, & 4 - Robbery with  
25 use of a Deadly Weapon Category B Felony and Count 5 - Resisting  
26 Public Officer with use of A Firearm (Category C Felony)



- 1 8. What was your plea? (Check one)
- 2 (a) Not guilty \_\_\_\_\_
- 3 (b) Guilty ☒ \_\_\_\_\_
- 4 (c) Nolo contendere \_\_\_\_\_
- 5 9. If you entered a guilty plea to one count of an indictment or information, and a not guilty plea
- 6 to another count of an indictment or information, or if a guilty plea was negotiated, give details: \_\_\_\_\_
- 7 \_\_\_\_\_
- 8 \_\_\_\_\_
- 9 10. If you were found guilty after a plea of not guilty, was the finding made by: (check one)
- 10 (a) Jury \_\_\_\_\_
- 11 (b) Judge without a jury \_\_\_\_\_
- 12 11. Did you testify at trial? Yes \_\_\_\_\_ No ☒ \_\_\_\_\_
- 13 12. Did you appeal from the judgment of conviction?
- 14 Yes \_\_\_\_\_ No ☒ \_\_\_\_\_
- 15 13. If you did appeal, answer the following:
- 16 (a) Name of court: \_\_\_\_\_
- 17 (b) Case number or citation: N/A
- 18 (c) Result: \_\_\_\_\_
- 19 (d) Date of appeal: \_\_\_\_\_
- 20 (Attach copy of order or decision, if available).
- 21 14.) If you did not appeal, explain briefly why you did not: \_\_\_\_\_
- 22 \_\_\_\_\_
- 23 \_\_\_\_\_
- 24 15. Other than a direct appeal from the judgment of conviction and sentence, have you previously
- 25 filed any petitions, applications or motions with respect to this judgment in any court, state or
- 26 federal? Yes \_\_\_\_\_ No ☒ \_\_\_\_\_
- 27
- 28

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

2 (a) (1) Name of court: \_\_\_\_\_

3 (2) Nature of proceedings: \_\_\_\_\_

4  
5 (3) Grounds raised : \_\_\_\_\_

6  
7  
8 (4) Did you receive an evidentiary hearing on your petition, application or motion?

9 Yes \_\_\_\_ No \_\_\_\_

10 (5) Result: \_\_\_\_\_

11 (6) Date of result: \_\_\_\_\_

12 (7) If known, citations of any written opinion or date of orders entered pursuant to each  
13 result: \_\_\_\_\_

14 (b) As to any second petition, application or motion, give the same information:

15 (1) Name of Court: \_\_\_\_\_

16 (2) Nature of proceeding: \_\_\_\_\_

17 (3) Grounds raised: \_\_\_\_\_

18 (4) Did you receive an evidentiary hearing on your petition, application or motion?

19 Yes \_\_\_\_ No \_\_\_\_

20 (5) Result: \_\_\_\_\_

21 (6) Date of result: \_\_\_\_\_

22 (7) If known, citations or any written opinion or date of orders entered pursuant to each  
23 result: \_\_\_\_\_

24 (c) As to any third or subsequent additional application or motions, give the same  
25 information as above, list them on a separate sheet and attach.

26

27

28

1 (d) Did you appeal to the highest state or federal court having jurisdiction, the result or action  
2 taken on any petition, application or motion?

3 (1) First petition, application or motion?

4 Yes \_\_\_ No ☒

5 Citation or date of decision: \_\_\_\_\_

6 (2) Second petition, application or motion?

7 Yes \_\_\_ No ☒

8 Citation or date of decision: \_\_\_\_\_

9 (e) If you did not appeal from the adverse action on any petition, application or motion,  
10 explain briefly why you did not. (You may relate specific facts in response to this question. Your  
11 response may be included on paper which is 8 1/2 x 11 inches attached to the petition. Your response  
12 may not exceed five handwritten or typewritten pages in length).

13 \_\_\_\_\_

14  
15 17. Has any ground being raised in this petition been previously presented to this or any other  
16 court by way of petition for habeas corpus, motion or application or any other post-conviction  
17 proceeding? If so, identify:

18 (a) Which of the grounds is the same: \_\_\_\_\_

19  
20 (b) The proceedings in which these grounds were raised: \_\_\_\_\_

21  
22 (c) Briefly explain why you are again raising these grounds. (You must relate specific facts  
23 in response to this question. Your response may be included on paper which is 8 1/2 x 11 inches  
24 attached to the petition. Your response may not exceed five handwritten or typewritten pages in  
25 length). \_\_\_\_\_

26  
27 \_\_\_\_\_

1 18. If any of the grounds listed in Nos. 23(a), (b), (c), and (d), or listed on any additional pages  
2 you have attached, were not previously presented in any other court, state or federal, list briefly what  
3 grounds were not so presented, and give your reasons for not presenting them. (You must relate  
4 specific facts in response to this question. Your response may be included on paper which is 8 1/2 x  
5 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten  
6 pages in length). N/A

7  
8 19. Are you filing this petition more than one (1) year following the filing of the judgment of  
9 conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay.  
10 (You must relate specific facts in response to this question. Your response may be included on  
11 paper which is 8 1/2 x 11 inches attached to the petition. Your response may not exceed five  
12 handwritten or typewritten pages in length). N/A

13  
14  
15 20. Do you have any petition or appeal now pending in any court, either state or federal, as to the  
16 judgment under attack?

17 Yes ☐ No ☐

18 If "Yes", state what court and the case number: N/A

19  
20 21. Give the name of each attorney who represented you in the proceeding resulting in your  
21 conviction and on direct appeal: Mace Yampolsky, ESA

22  
23  
24 22. Do you have any future sentences to serve after you complete the sentence imposed by the  
25 judgment under attack?

26 Yes ☐ No ☒ If "Yes", specify where and when it is to be served, if you know:

1 Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating  
2 additional grounds and facts supporting same.

3 23. (a) GROUND ONE: Defendant/Petitioner's Counselor was ineffective  
4 And his Guilty Plea was unknowingly and unintelligently signed  
5  
6

7 23. (a) SUPPORTING FACTS (Tell your story briefly without citing cases or law): In  
8 June of 2018 petitioner (was shot by (Las Vegas Metropolitan  
9 Police who was in alliance with Major Violators Unit) Nine times  
10 two of those shots were to the head. Petitioner complained to his  
11 Attorney that because of the injury to his head he did not  
12 clearly or intelligently understand what his Attorney Mr. Mace Yam-  
13 polsky was trying to explain to him concerning a Guilty Plea the  
14 Assistant District Attorney was offering. Petitioner was Confused and  
15 unable to think clearly. Petitioner offers as evidence that he could  
16 not think clearly and intelligently the Court Minutes dated January  
17 8th 2019. In the above named document petitioner can be seen in  
18 in Courtroom 12A explaining that he has sent several inmate Kites i.e.  
19 request seeking medical attention but was unable to get any med-  
20 ical attention. Someone being shot twice in the head is a miracle  
21 to be alive any layman or Professional knows or should know that  
22 questioning Someone who was shot not once, but twice in the  
23 head is under great strain mentally, physically as well as spirit-  
24 ually. The injury to petitioner's head was extremely serious and the  
25 medication he received was not sufficient to overbear his will to  
26 resist the questioning, his injuries impaired his rational faculties.  
27 Counsel was also ineffective because he failed to explain to the  
28

1 23. (b) GROUND TWO: Continued from page 7  
2 Court that petitioner needed more time (because of his serious  
3 head injuries) to clearly, knowingly and intelligently understand the  
4 offer the State was presenting as a Guilty Plea Agreement.

5 23. (b) SUPPORTING FACTS (Tell your story briefly without citing cases or law):  
6 Petitioner was prejudiced by this because had he been in his  
7 right State or Compos Mentis he would not have signed whatever  
8 document Counsel placed before him and proceeded to a jury trial.  
9 Any Medical or Psychology Doctor will attest to the fact that petitioner  
10 should not have been placed under duress to make a serious decision  
11 after the trauma petitioner suffered after being shot in the  
12 head. This is Axiomatic, no argument can contravert what any  
13 human could or should know. That is that, anyone getting shot  
14 twice in the head should never be signing not only a plea Agreement  
15 but any Agreement for that matter.

**CERTIFICATE OF SERVICE BY MAILING**

I, Shan Jonathon Kittredge, hereby certify, pursuant to NRCP 5(b), that on this 1st  
day of April, 2020, I mailed a true and correct copy of the foregoing, "Petition For Writ  
Of Habeas Corpus"  
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the  
United State Mail addressed to the following:

Steven D. Gnierson Clerk of The Court  
200 Lewis Ave.  
Las Vegas, NV. 89155-1160

CC:FILE

DATED: this 1st day of April, 2020.

[Signature]  
In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:

#202051

## AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Petition for

Writ of Habeas Corpus  
(Title of Document)

filed in District Court Case number C18 333335-2

☒ Does not contain the social security number of any person.

**-OR-**

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

A. A specific state or federal law, to wit:

(State specific law)



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

**Signature**

Date \_\_\_\_\_


Shan Jonathon Kittredge  
Print Name

Pro'se  
Title




1 WHEREFORE, Shan J. Kittredge, prays that the court grant Petitioner Kittredge  
2 relief to which he may be entitled in this proceeding.

3 EXECUTED at Southern Desert Correctional Center  
4 on the 1st day of April, 2020.

5  
6   
7 Signature of Petitioner

8 **VERIFICATION**

9 Under penalty of perjury, pursuant to N.R.S. 208.165 et seq., the undersigned declares that he is  
10 the Petitioner named in the foregoing petition and knows the contents thereof; that the pleading is  
11 true and correct of his own personal knowledge, except as to those matters based on information and  
12 belief, and to those matters, he believes them to be true.

13  
14   
15 Signature of Petitioner

16  
17 \_\_\_\_\_  
18 Attorney for Petitioner  
19  
20  
21  
22  
23  
24

# EXHIBIT-A

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**January 08, 2019**

---

C-18-333335-2      State of Nevada  
   vs  
   Shan Kittredge

---

**January 08, 2019      8:30 AM      Motion**

**HEARD BY:** Johnson, Eric

**COURTROOM:** RJC Courtroom 12A

**COURT CLERK:** Linda Skinner

**RECORDER:** Angie Calvillo

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Mercer, Elizabeth A.	Attorney
	State of Nevada	Plaintiff
	Toddre, Frank A, II	Attorney
	Yampolsky, Mace J.	Attorney

**JOURNAL ENTRIES**

- Statements by Mr. Yampolsky including that Defendant has sent several kites, however, has been unable to get any medical attention. Upon Court's inquiry, Mr. Toddre advised he was just made aware of this issue and requested the matter be continued so that he can speak with the medical personnel. COURT ORDERED, matter CONTINUED TWO (2) WEEKS.

**CUSTODY (COC-NDC)**

... CONTINUED 1/24/19 9:00 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**January 24, 2019**

---

C-18-333335-2      State of Nevada  
                                 vs  
                                 Shan Kittredge

---

**January 24, 2019      9:00 AM      Motion**

**HEARD BY:** Johnson, Eric

**COURTROOM:** RJC Courtroom 12A

**COURT CLERK:** Linda Skinner

**RECORDER:** Angie Calvillo

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Merback, William J.	Attorney
	State of Nevada	Plaintiff
	Yampolsky, Mace J.	Attorney

**JOURNAL ENTRIES**

- Frank Toddre from the Nevada Department of Corrections also present. Court noted it appears Defendant is being treated. Mr. Yampolsky concurred but advised he is waiting for an MRI and X-rays. Following colloquy, COURT ORDERED, Motion DENIED.

CUSTODY (COC-NDC)

**CERTIFICATE OF SERVICE BY MAILING**

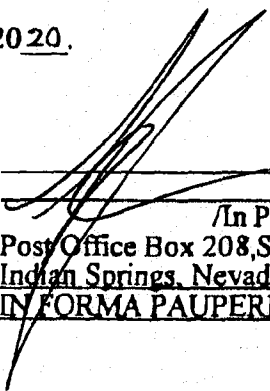
I, Shan Kittredge, hereby certify, pursuant to NRCP 5(b), that on this 1st  
day of April, 2020, I mailed a true and correct copy of the foregoing, "MOTION  
For APPOINTMENT OF COUNSEL"

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the  
United State Mail addressed to the following:

STEVEN D. GRIERSON Clerk of Court  
200 LEWIS AVE. 3rd floor  
LAS VEGAS, NV. 89155-1160

CC:FILE

DATED: this 1st day of April, 2020.

X  #1202592  
/In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding MOTION FOR

APPOINTMENT OF COUNSEL  
(Title of Document)

filed in District Court Case number \_\_\_\_\_

☒ Does not contain the social security number of any person.

-OR-

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

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-or-

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

x [Signature]  
Signature

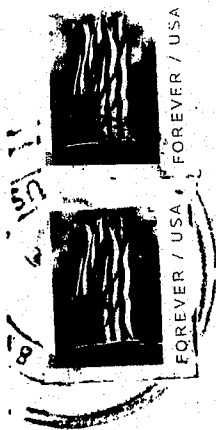
4/1/20  
Date

Shan Kittredge  
Print Name

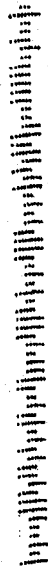
\_\_\_\_\_  
Title

A.A. 246

Shan Kittredge #1202642  
SDCC P.O. Box 208  
Indian Springs N.V. 89070



To: Steven D. Grier son  
Clerk of Court  
200 Lewis Ave. 3rd Floor  
Las Vegas N.V. 89155-1160



9510186300 0075

Outgoing Mail  
APR 3 2000  
Post Office Center  
Indian Springs

# **EXHIBIT B**



1 **MISC**

2 **AARON D. FORD**

3 Nevada Attorney General

4 **FRANK A. TODDRE II** (Bar No. 11474)

5 Senior Deputy Attorney General

6 Office of the Attorney General

7 555 E. Washington Avenue, Ste. 3900

8 Las Vegas, NV 89101

9 Telephone: (702) 486-3149

10 Facsimile: (702) 486-3773

11 E-Mail: ftoddre@ag.nv.gov

12 *Attorneys for Specially Appearing Party*

13 *Nevada Department of Corrections*

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 **THE STATE OF NEVADA,**

17 Plaintiff,

18 v.

19 **JOHN DOE HDSP DENTIST, et al.,**

20 Defendants.

Case No. C-18-333335-2

Dept. No. XX

21 **STATUS REPORT**

22 The Specially Appearing Party, Nevada Department of Corrections, by and through  
23 counsel, Aaron D. Ford, Nevada Attorney General, and Frank A. Toddre II, Senior Deputy  
24 Attorney General, hereby submit their Status Report in compliance with the Court's Order  
25 stemming from the January 8, 2019 Minute Order on Defendant Shan Kittredge's Motion  
26 for Medical Treatment.

27 Defendant Kittredge is currently housed at High Desert State Prison, in the lawful  
28 custody of Nevada Department of Corrections ("NDOC"). The NDOC is not a party to this  
case. Kittredge filed a motion for medical treatment, or alternatively transport to an  
outside contractor doctor's office for treatment.

Senior Deputy Attorney General Frank A. Toddre II appeared at the oral arguments  
on January 8, 2019, but NDOC had not prepared an opposition. At the hearing, Counsel

1 agreed to submit a request to High Desert State Prison medical for an update of Kittredge's  
2 medical file and if necessary, request immediate attention.

3 The NDOC submits the attached Declaration from Director of Nursing Bob Faulkner  
4 as Exhibit A. Pursuant to request of Counsel and the motion, Kittredge was treated for his  
5 alleged wounds and follow up tests, and x-rays have been ordered. The undersigned has  
6 advised Counsel Mace Yampolsky of the results of treatment. If necessary, the NDOC can  
7 make the medical records available to the Court for *in camera* review.

8 DATED: January 23, 2019.

9 Respectfully submitted,

10 AARON D. FORD  
11 Nevada Attorney General

12 By: /s/ Frank A. Toddre II  
13 Frank A. Toddre II (Bar No. 11474)  
14 Senior Deputy Attorney General

15 *Attorneys for Defendants*  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

Mace Yampolsky,  
625 South Sixth Street  
Las Vegas, NV 89101

/s/ Barbara Fell  
Barbara Fell, an employee of the  
Office of the Nevada Attorney General