

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

2
3 **No. 85782**

Electronically Filed
Oct 05 2023 07:26 PM
Elizabeth A. Brown
Clerk of Supreme Court

4 **JUSTIN D. PORTER**

5
6 Appellant,

7 v.

8 **THE STATE OF NEVADA**

9 Respondent.

10
11 Appeal from a Judgment of Conviction
12 Eighth Judicial District Court, Clark County
13 The Honorable Jacqueline Bluth, District Court Judge
14 District Court Case No. 01C174954

15 **APPELLANT’S APPENDIX**
16 **VOLUME XI**

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1 to him first, before he could run. Consciousness of guilt.

2 Mr. Gill talks about the credibility instruction as it
3 pertains to the -- all witnesses. Which is accurate. The
4 victims, the detectives, everything as well. But do you
5 really think that the victims are gonna make any of this up?
6 Think about that.

7 Why would Teresa Tyler make it up? Why would Ramona Leva
8 make it up? Why would Marlene Livingston make it up? Why
9 would the Rumbaugh's make it up? Why would the Lopez and
10 Zazueta's make it up? Why would Leroy Fowler make it up? Why
11 would Joni Hall make it up? They have no reason to.

12 And when Joni Hall, at preliminary hearing, sat in the
13 witness stand, after swearing to tell the truth, and described
14 for the Court what had happened to her, and she looked across
15 the courtroom and she pointed to the Defendant and said, "He's
16 the one what did it to me." Why would she make that up? Why?
17 All those things that happened to her.

18 Don't you think that she wanted the person who did it to
19 be held accountable? Because if he's not the one who did it,
20 that would mean the person who actually did is sitting on the
21 street right now.

22 And Leona Case. She came to court. She sat right here.
23 She swore that she would tell the whole truth. And she talked
24 about how he beat her, knocked her down. And you saw the

1 injuries to her face. And to her head. About how he
2 strangled her into unconsciousness with the phone cord. About
3 how she hid the knife because she was so scared and then he
4 got another knife. About how he burned her apartment down.

5 There, but for the grace of God and the adrenalin that
6 she had and the ability to push that door open with the
7 dresser against it, she would have been dead. And she looked
8 across the courtroom and she pointed at him, the Defendant,
9 Justin Porter, and said, "He did it to me."

10 Remember, Joni Hall and Leona Case were the two people
11 who said he was in her -- their apartment for an extended
12 period of time. They are the only two who said he was in
13 their apartment for an extended period of time. And they are
14 the only two who identified him in court.

15 The other ones, he was in their apartment for a
16 relatively short period of time. And in that relatively short
17 time they were focused on a knife being held to their face,
18 body, head, whatever.

19 Listen to the words that came out of his mouth on that
20 tape. You're gonna have it back there in the jury
21 deliberation room. The facts of that event came out of his
22 mouth. He was calm; he was composed; he had explained
23 everything. At no point did he sound upset or disturbed or
24 afraid.

1 Instruction number 44 tells you if you believe he has
2 lied about any material fact, you can disregard everything he
3 said. And, therefore, you should disregard everything he said
4 from that stand. What happened, he talked about on the tape,
5 not on that stand.

6 There are a couple of little details that Mr. Gill talked
7 to you about. Like I said, the people who didn't identify the
8 Defendant -- remember Teresa Tyler? He tied her up. He left
9 her on the floor after putting his penis in her vagina and in
10 her mouth. Remember on the tape he said he put it in her
11 vagina and her mouth. You know, she didn't want to admit that
12 here, but I mean, that's understandable. She's religious.
13 She just doesn't want to admit that. But she had before.

14 The Rumbaughs, the Livingstons, no -- Marlene Livingston,
15 Ramona Leva didn't identify him. But short period of time.
16 The Lopez and Zazuetas, remember he -- sorry. It's so much
17 easier when I have that.

18 He told you on the tape that, yeah, he jumped out the
19 window. Remember, the window and there's all the glass there?

20 Remember his mother testified, Angela Porter-Smith. And,
21 you know, I -- I did not want to distress her. I absolutely
22 did not. However, she had information that was very relevant.
23 And she told the police, when she talked to them the night of
24 August 10th into August 11th, that she saw scratches on him.

1 Now, as she sat here she wanted you to believe, oh, that
2 was from his girlfriend or something about an accident. But
3 she saw scratches on him right after this incident, right
4 after the incident where he jumped out the window. She also
5 said that he looked injured, like he had fallen and hurt
6 himself, just like the Lopez -- the Guadalupe Lopez and Laura
7 Zazueta told you he jumped over the balcony, not like down the
8 stairs that he wanted to say on tape, but over the balcony.

9 And Guadalupe Lopez, remember, told you when he got up
10 he kind of, like, hobbled off a bit. That's what Angela was
11 talking about, although she didn't want to tell you.

12 I mean, and, come on, when we're talking about the --
13 Angela Porter wanting to help her son. Come on. This is the
14 consent to search card, Exhibit 181. And it's the one where
15 they got his buccal. Her signature is clearly there. Even
16 the Defendant said that's her signature.

17 But she refused to admit that she spoke to the police at
18 her home. She refused to admit that she signed this. Because
19 somehow she thinks that it's gonna help her son. It doesn't.
20 It just make -- makes her look like she's trying to help her
21 son. Which I understand. But while doing that, she was not
22 being entirely forthcoming.

23 Exhibit 439 is the map. And the map shows you how, in
24 this area of the Downtown Area Command, all -- oopsy. Again,

1 upside down -- all of these things happened. The Defendant's
2 home is right in the middle. Right here. The Defendant's
3 home is right in the middle of every event, walking distance.

4 Remember, they thought he was walking 'cause he stole two
5 cars. And the two cars that he stole were dropped off not far
6 from where he lives. All of the apartments were not far from
7 where he lives. Everything was not far from where he lives.

8 And when we talk about Leroy Fowler, Leroy Fowler was
9 down the street from him. Leroy Fowler chased him right to
10 13th Street where he lives. That was a door kick.

11 The first one, Teresa Tyler, wasn't a door kick. Because
12 her door was opened and she let him in. But remember, she
13 told you, she didn't want him to stay there. She tried to get
14 him out. And even on the tape he said, "She was scared, tried
15 to get me out."

16 But Leona Case was a door kick. Ramona Leva was a door
17 kick. Joni Hall was a door kick. The Rumbaughs, the door was
18 open so he couldn't kick it. But he still forced entry by
19 cutting through the -- the hole -- the screen door -- sorry.
20 The Zazueta and Lopez, there was not a door kick, but they
21 didn't know if they had closed the door properly before.
22 Everything else was a door kick.

23 And it was in the same week, in the same area. So,
24 clearly, Leroy Fowler was part of this series. Go back, look

1 at the evidence, listen to what he said. There is no doubt
2 whatsoever what happened here.

3 I can't hold the Defendant accountable for the crimes he
4 committed. Even the Court can't hold the Defendant
5 accountable for the crimes he committed. Only you can. By
6 going back there, sorting through this, and coming to the only
7 appropriate conclusion. There's a rapist in the courtroom --

8 MR. GILL: Your Honor, can we approach?

9 THE COURT: Yeah.

10 [BENCH CONFERENCE BEGIN]

11 MR. GILL: I just have to object to that. I'm sorry
12 to interrupt, but I -- I think that's out -- out of line.

13 THE COURT: State?

14 MS. LUZAICH: I don't think there's anything -- the
15 evidence showed that he committed a bunch of rapes.

16 THE COURT: I mean, I -- you know, I'm gonna agree
17 with the State on this one. Because, you know, we -- we do
18 attach a stigma to the term "rapist," (indiscernible) probably
19 should, I mean, that's the State's allegation; right? And I
20 guess you could say "sexual assaulter" or something like that,
21 but this -- the term "rape" has been used over and over again.
22 In fact, it's been alleged one -- by one of the victims that
23 the Defendant used --

24 MS. LUZAICH: Raped her.

1 THE COURT: -- that word --

2 MR. GILL: Okay.

3 THE COURT: -- with her. So I'm gonna overrule it.

4 [BENCH CONFERENCE END]

5 THE COURT: Ms. Luzaich?

6 MS. LUZAICH: Thank you.

7 As I said, the evidence has shown, more than beyond a
8 reasonable doubt, there is a rapist in the room. He's sitting
9 right there. Only you can hold him accountable by finding him
10 guilty because the evidence has shown that he is guilty of all
11 of these charges.

12 Thank you.

13 THE COURT: Thank you, Ms. Luzaich.

14 Ms. Brown, as it is time for the jury to deliberate.
15 Could you please swear Officer Kennis and Ms. Jacobs in,
16 please.

17 [The Clerk swore in the officers to take charge of
18 the jury during deliberations.]

19 THE COURT: Thank you.

20 All right. Ladies and gentlemen, if you remember when we
21 were doing the jury selection process, I discussed the fact
22 that 12 of you would be jurors and then four of you would be
23 alternates. About the second day of trial I think we lost
24 Juror Number 5, which means that my first alternate will then

1 go into that seat and I'll only have three alternates now.

2 So my alternates at this point in time are [JUROR NO.
3 14], [JUROR NO. 15], and [JUROR NO. 16]. Which means [JUROR
4 NO. 13], you will now be Juror Number 5 and will be part of
5 the deliberations.

6 So in a moment I'm going to hand you over to
7 Officer Kennis to go back into the jury deliberation room and
8 start your jury deliberations. This could be the last time
9 that we see the alternates.

10 So on behalf of myself, as well as my staff, as well as
11 the State and the Defense, I just wanted to thank you -- say
12 thank you to [JUROR NO. 14], [JUROR NO. 15], and [JUROR NO.
13 16] for the time and the attention and the hard work that I
14 know it took to come here and listen and pay attention. So we
15 appreciate you being here.

16 If you could please just make sure to stay by your
17 phones. Because it does happen quite often, more than people
18 would think, that we lose a juror for one reason or another
19 and we have to insert one of our alternates in. So just make
20 sure that we have updated information and that you have your
21 phone with you at all times.

22 The admonishment that I read every recess, that still is
23 in effect for the three of you. So you can't talk about the
24 case with anyone until my marshal calls you and either says

1 please come back -- we need you as a juror to deliberate or
2 the jury has found a verdict. And then at that point in time
3 you are released.

4 For the rest of you, that admonishment is no longer in
5 effect. The admonishment that's in the jury instructions is
6 now in effect. That says now that the case has been given
7 over to you, closing arguments have been -- closing arguments
8 have concluded, the case is now in your hands. You can talk
9 about it, but only with one another and only when you're in
10 the deliberation room.

11 All right. So for my alternates, during this recess,
12 please do not discuss or communicate with anyone, including
13 fellow jurors, in any way regard the case or its merits either
14 by voice, phone, e-mail, text, internet, or other means of
15 communication or social media. Please do not read, watch, or
16 listen to any news, media accounts, or comments about the
17 case; do any research, such as consulting dictionaries, using
18 the internet, or using reference materials.

19 Please do not make any investigation, test a theory of
20 the case, recreate any aspect of the case, or in any other way
21 attempt to learn or investigate the case on your own. And
22 please do not form or express any opinion regarding the case
23 until it's formally submitted to you.

24 Thank you very much.

1 Officer Kennis, if you could take everybody back there.
2 Just make sure we have our alternates' information, sir.

3 THE MARSHAL: Yes, ma'am.

4 THE COURT: Thank you.

5 THE MARSHAL: All rise.

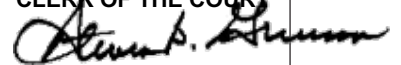
6 [DISCUSSION OFF THE RECORD]

7 [Hearing concluding at 2:27 p.m.]

8 *****

9
10 ATTEST: I do hereby certify that I have truly and
11 correctly transcribed the audio/video proceedings in the
12 above-entitled case to the best of my ability.

13 
14 ALLISON SWANSON, CSR NO. 13377
15 CERTIFIED SHORTHAND REPORTER
16 FOR THE STATE OF CALIFORNIA
17
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24



RTRAN

DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA,)	
)	
Plaintiff(s),)	CASE NO. 01C174954
)	
vs.)	
)	DEPT. NO. VI
PORTER, JUSTIN D.,)	
)	
Defendant(s) .)	
)	

BEFORE THE HONORABLE JACQUELINE M. BLUTH,

DISTRICT COURT JUDGE

TUESDAY, SEPTEMBER 20, 2022

RECORDER'S TRANSCRIPT OF HEARING:
JURY TRIAL - DAY 12

APPEARANCES:

For the Plaintiffs:	ELISSA LUZAICH
For the Defendants:	ADAM L. GILL
	CHARLES R. GOODWIN

RECORDED BY: DE'AWNA TAKAS, COURT RECORDER
TRANSCRIBED BY: ALLISON SWANSON, CSR No. 13377

1 Las Vegas, Nevada, Tuesday, September 20, 2022

2 [Case called at 2:39 p.m.]

3 *****

4 [OUTSIDE THE PRESENCE OF THE JURY]

5 [DISCUSSION OFF THE RECORD]

6 THE COURT: We are on the record in State of Nevada
7 versus Justin Porter, C174954. Mr. Porter is present in
8 custody. Mr. Goodwin as well as Mr. Gill present on behalf of
9 the State [sic]. Ms. Luzaich present on behalf of the
10 State -- or Mr. Goodwin and Mr. Gill present on behalf of
11 Mr. Porter.

12 MR. GILL: Yes.

13 THE COURT: Ms. Luzaich present on behalf of the
14 State.

15 We did receive three jury questions. I did do conference
16 calls with Ms. Luzaich as well as Mr. Gill on each of those
17 questions. Those were made Court exhibits and the attorneys'
18 answers to those questions were written out by me, signed by
19 me, sent back to the jury. And, like I said, we marked those
20 as Court's exhibits and they are --

21 MR. GILL: You -- Your Honor, do you mind, just for
22 my client's edification, reading those really quickly --

23 THE COURT: Yeah.

24 MR. GILL: -- what those were and what the answers

1 were? Thank you.

2 THE COURT: The first question was, "Does
3 instruction 24 apply to count 33, even though it was an
4 attempt?"

5 And that is, "Yes, it still applies." Because they were
6 asking if robbery --

7 THE MARSHAL: Judge, bring 'em back?

8 THE COURT: Just one second, Chris.

9 THE MARSHAL: Okay.

10 THE COURT: If robbery -- if it -- if the law on
11 robbery still applies even though it's an attempt. And it
12 does.

13 "Because Guadalupe got hurt, does it matter how the gun
14 went off?"

15 And we said, "For attempt murder, yes. Please refer to
16 jury instructions number 28. For battery, yes. Please refer
17 to jury instructions number 32."

18 And the other one says, "Can we consider other injuries
19 by the deadly weapon that -- or -- weapon not specified within
20 count 35?" I think they were talking about the butt of the
21 gun to the top of the head.

22 And we said, "No, because it wasn't pled like that." So
23 they could only consider the gunshot wound to the leg.

24 MR. GILL: Thank you, Your Honor.

1 THE COURT: You're welcome.

2 Okay, Chris. Thank you.

3 THE MARSHAL: All rise.

4 [IN THE PRESENCE OF THE JURY]

5 THE COURT: All right. Welcome back, ladies and
6 gentlemen.

7 We are on the record in State of Nevada versus
8 Justin Porter, C174954. Mr. Porter is present with Mr. Gill
9 as well as Mr. Goodwin. Ms. Luzaich is present on behalf of
10 the State.

11 It's my understand, ladies and gentlemen, at this point
12 in time has the jury selected a foreperson?

13 FOREPERSON: Yes, Your Honor.

14 THE COURT: Okay. And has the jury selected -- or
15 excuse me. Has the jury returned a verdict at this point in
16 time?

17 FOREPERSON: Yes, Your Honor.

18 THE COURT: All right. Would you please hand that
19 paperwork to my marshal? I appreciate that.

20 Thank you, Officer Kennis.

21 THE MARSHAL: Sure.

22 THE COURT: Clerk of the Court will now read the
23 verdict. If Mr. Porter and his counsel would please stand.

24 Ms. Brown.

1 THE CLERK: District Court, Clark County, Nevada,
2 State of Nevada, Plaintiff, versus Justin D. Porter, AKA Jug
3 Dupree Porter, Defendant. Case number 01C174954, Department
4 Number 6.

5 Verdict, we the jury in the above entitled case find the
6 Defendant, Justin D. Porter, AKA Jug Dupree Porter, as
7 follows: Count 1, burglary while in possession of a deadly
8 weapon, Teresa Tyler. Guilty of burglary while in possession
9 of a deadly weapon.

10 Count 2, first degree kidnapping with use of a deadly
11 weapon, Teresa Tyler. Guilty of first degree kidnapping
12 with use of a deadly weapon.

13 Count 3, sexual assault with use of a deadly weapon,
14 Teresa Tyler. Guilty of sexual assault with use of a deadly
15 weapon.

16 Count 4, sexual assault with use of a deadly weapon,
17 Teresa Tyler. Not guilty.

18 Count 5, sexual assault with use of a deadly weapon,
19 Teresa Tyler. Guilty of sexual assault with use of a deadly
20 weapon.

21 Count 6, sexual assault with use of a deadly weapon,
22 Teresa Tyler. Not guilty.

23 Count 7, robbery with use deadly weapon, Teresa Tyler.
24 Not guilty.

1 Count 8, burglary while in possession of a deadly weapon,
2 Leona Case. Guilty of burglary while in possession of a
3 deadly weapon.

4 Count 9, first degree kidnapping with use of a deadly
5 weapon with substantial bodily harm, Leona Case. Guilty of
6 first degree kidnapping with use of a deadly weapon with
7 substantial bodily harm.

8 Count 10, sexual assault with use of a deadly weapon with
9 substantial bodily harm, Leona Case. Guilty of sexual assault
10 with use of a deadly weapon with substantial bodily harm.

11 Count 11, attempt murder with use of a deadly weapon,
12 Leona Case. Guilty of attempt murder with use of a deadly
13 weapon.

14 Count 12, sexual assault with use of a deadly weapon with
15 substantial bodily harm, Leona Case. Guilty of assault with
16 use of a deadly weapon with substantial bodily harm.

17 Count 13, robbery with use of a deadly weapon,
18 Leona Case. Guilty of robbery with use of a deadly weapon.

19 Count 14, first degree arson, Leona Case. Guilty of
20 first degree arson.

21 Count 15, burglary while in possession of a deadly
22 weapon, Ramona Leva. Guilty of burglary while in possession
23 of a deadly weapon.

24 Count 16, first degree kidnapping with use of a deadly

1 weapon, Ramona Leva. Guilty of first degree kidnapping
2 with use of a deadly weapon.

3 Count 17, sexual assault with use of a deadly weapon,
4 Ramona Leva. Guilty of sexual assault with use of a deadly
5 weapon.

6 Count 18, robbery with use of a deadly weapon,
7 Ramona Leva. Guilty of robbery with use of a deadly weapon.

8 Count 19, burglary while in possession of a deadly
9 weapon, Marlene Livingston. Guilty of burglary while in
10 possession of a deadly weapon.

11 Count 20, sexual assault with use of a deadly weapon,
12 victim 65 years of age or older, Marlene Livingston. Guilty
13 of sexual assault with use of a deadly weapon, victim 65 years
14 of age or older.

15 Count 21, robbery with use of a deadly weapon, victim
16 65 years of age or older, Marlene Livingston. Guilty of
17 robbery with use of a deadly weapon, victim 65 years of age or
18 older.

19 Count 22, burglary while in possession of a deadly
20 weapon, Clarence and Francis Rumbaugh. Guilty of burglary
21 while in possession of a deadly weapon.

22 Count 23, robbery with use of a deadly weapon, victim
23 65 years of age or older, Clarence Rumbaugh. Guilty of
24 robbery with use of a deadly weapon, victim -- victim 65 years

1 of age or older.

2 Count 24, robbery with use of a deadly weapon, victim 65
3 years of age or older, Francis Rumbaugh. Guilty of robbery
4 with use of a deadly weapon, victim 65 years of age or older.

5 Count 25, burglary while in possession of a deadly
6 weapon, Leroy Fowler. Not guilty.

7 Count 26, burglary while in possession of a deadly
8 weapon, Joni Hall. Guilty of burglary while in possession of
9 a deadly weapon.

10 Count 27, first degree kidnapping with use of a deadly
11 weapon, Joni Hall. Guilty of second degree kidnapping with
12 use of a deadly weapon.

13 Count 28, sexual assault with use of a deadly weapon,
14 Joni Hall. Guilty of sexual assault with use of a deadly
15 weapon.

16 Count 29, robbery with use of a deadly weapon, Joni Hall.
17 Guilty of robbery with use of a deadly weapon.

18 Count 30, burglary while in possession of a deadly
19 weapon, Laura Zazueta, Guadalupe Lopez, Beatriz Zazueta.
20 Guilty of burglary while in possession of a deadly weapon.

21 Count 31, robbery with use of a deadly weapon,
22 Laura Zazueta. Guilty of robbery with use of a deadly weapon.

23 Count 32, attempt robbery with use of a deadly weapon,
24 Guadalupe Lopez. Guilty of attempt robbery with use of a

1 deadly weapon.

2 Count 33, attempt robbery with use of a deadly weapon,
3 Beatriz Zazueta. Guilty of attempt robbery with use of a
4 deadly weapon.

5 Count 34, attempt murder with use of a deadly weapon.
6 Not guilty.

7 Count 35, battery with use of a deadly weapon,
8 Guadeloupe Lopez. Guilty of battery.

9 Dated this 20th day of September 2022. Signed by
10 foreperson Juror Number 7.

11 Ladies and gentlemen of the jury, is this your verdict as
12 read, so say you one so say you all.

13 THE JURY: Yes.

14 THE COURT: Mr. Gill, would you like this -- would
15 you like the individual jurors polled?

16 MR. GILL: My client would, yes, Your Honor.

17 THE COURT: Okay.

18 THE CLERK: Juror Number 1, is this your verdict as
19 read?

20 JUROR NO. 1: Yes, it is.

21 THE CLERK: Juror Number 2, is this your verdict as
22 read?

23 JUROR NO. 2: Yes, it is.

24 THE CLERK: Juror Number 3, is this your verdict as

1 read?

2 JUROR NO. 3: Yes, it is.

3 THE CLERK: Juror Number 4, is this your verdict as
4 read?

5 JUROR NO. 4: Yes, it is.

6 THE CLERK: Juror Number 5, is this your verdict as
7 read?

8 JUROR NO. 5: Yes, it is.

9 THE CLERK: Juror Number 6, is this your verdict as
10 read.

11 JUROR NO. 6: Yes, it is.

12 THE CLERK: Juror Number 7, is this your verdict as
13 read?

14 JUROR NO. 7: Yes, it is.

15 THE CLERK: Juror Number 8, is this your verdict as
16 read?

17 JUROR NO. 8: Yes, it is.

18 THE CLERK: Juror Number 9, is this your verdict as
19 read?

20 JUROR NO. 9: Yes, it is.

21 THE CLERK: Juror Number 10, is this your verdict as
22 read.

23 JUROR NO. 10: Yes, it is.

24 THE CLERK: Juror Number 11, is this your verdict as

1 read?

2 JUROR NO. 11: Yes.

3 THE CLERK: And Juror Number 12, is this your
4 verdict as read?

5 JUROR NO. 12: Yes, it is.

6 MR. GILL: Thank you, Your Honor.

7 Thank you, Madam Clerk.

8 THE COURT: Thank you. Thank you.

9 All right. Ladies and gentlemen, at this point in the
10 process, a lot of jurors ask, so at this point in time can,
11 you know, we speak to others about our jury duty -- jury
12 service duty? And the answer is yes. You can speak to
13 whomever you would like to about your service as jurors and
14 about this case.

15 But the opposite of that is true as well, in that you
16 don't have to talk to anybody you don't want to about it. I
17 have never -- I think this is -- now I've lost track. I think
18 this is my 90th jury -- jury trial, either as an attorney or a
19 judge, and I've never one time had any jurors have any issues
20 with someone being, like, contacting them and wanting to get
21 ahold of them.

22 But if it does happen, which I know it won't because I
23 know these attorneys, just contact Department 6. We'll take
24 care of it right away. We will also contact the alternates

1 and let them know that you guys have reached a verdict so they
2 are no longer needed. Because alternates always are
3 wondering, you know, like what happened? I sat there and I
4 didn't get a say in -- in the end. So we'll make sure and
5 update them.

6 I want to thank you so much for your time and attention.
7 I know that this was, you know, a difficult trial. Some of
8 these things were difficult to hear and watch and look at
9 pictures and stuff. But I appreciate the diligence in which
10 you did it and your willingness to serve.

11 Sometimes attorneys wish to speak to the jury or the jury
12 wishes to speak to attorneys afterwards so they can ask
13 specific questions. I know that when I was an attorney that
14 was so helpful for me to be able to go back and talk to the
15 jurors and find out what I was doing right, what was I doing
16 it [sic] wrong. What was effective, what was not effective.

17 So if you would be willing to do that, that would be
18 great. But if you don't want to, that's fine as well.

19 I -- we -- just so you guys know, we have had lunch
20 ordered from you -- for you. It was supposed to be delivered
21 at 12:00, so I feel so badly. And of course they delivered
22 right when you guys said you had a verdict.

23 So Chris is going to take you back right now just to get
24 some, like, the admin stuff out of the way and there is lunch

1 back there if you, you know, want to grab some.

2 But, again, thank you so much. I really appreciate your
3 willingness to serve and you are excused at this time.

4 MR. GILL: Your Honor, can I ask one quick question?

5 THE COURT: Yes.

6 MR. GILL: Is it -- is it gonna be allowed if we --
7 if they do want to speak, can we speak to them while they're
8 eating? I don't want to impose on the --

9 THE COURT: Yeah. Yeah. I'll -- so I'll talk to
10 them in a moment.

11 MR. GILL: Okay.

12 THE COURT: And then we'll figure it out.

13 MR. GILL: Thank you, Your Honor.

14 THE COURT: You're welcome.

15 THE MARSHAL: All rise.

16 [OUTSIDE THE PRESENCE OF THE JURY]

17 THE COURT: All right, guys. We --

18 MR. GILL: Just need a sentencing date.

19 THE COURT: Yep. And --

20 THE DEFENDANT: I was gonna say, if -- I'm -- I'm
21 not -- I don't really want to -- I'm not gonna talk to --
22 okay.

23 THE COURT: Okay.

24 MR. GILL: Whatever he has to say, Judge, we're

1 gonna discuss it.

2 THE DEFENDANT: Yeah, I don't want to --

3 MR. GILL: If it's okay with you.

4 THE DEFENDANT: -- come back down.

5 MR. GILL: I understand.

6 THE DEFENDANT: I'm not coming back down for
7 sentencing.

8 MR. GILL: I understand.

9 THE DEFENDANT: I don't want to come back down for
10 sentencing.

11 THE COURT: Okay. So he wants --

12 THE DEFENDANT: You have to sentence without me. I
13 have nothing to say as far as sentencing. I don't want to be
14 here for sentencing.

15 THE COURT: So you want to waive your appearance?

16 THE DEFENDANT: I want to waive my appearance for
17 sentencing.

18 MR. GILL: And if that changes --

19 MS. LUZAICH: Can he do that?

20 THE DEFENDANT: It's not gonna change.

21 MR. GILL: And -- and --

22 THE COURT: No.

23 MS. LUZAICH: It's -- I mean, it's a --

24 THE COURT: I don't -- because both the victims and

1 defendants have a right at sentencing. I don't think under
2 the --

3 MR. GILL: Can --

4 THE COURT: -- intent of Marsy's law, a Defendant
5 cannot be present.

6 MR. GILL: Okay.

7 THE DEFENDANT: I'm -- well --

8 MS. LUZAICH: He can be BlueJeans, maybe?

9 MR. GILL: I'll talk to the prison about some
10 other --

11 MS. LUZAICH: I don't know. Okay.

12 THE COURT: Sure.

13 MR. GILL: -- means.

14 THE DEFENDANT: Well, the -- the scope -- Skype
15 camera, whatever. 'Cause I don't -- I don't want to come
16 back --

17 MR. GILL: Well, if you do that then you can
18 (indiscernible).

19 THE DEFENDANT: Yeah.

20 MR. GILL: I'll -- we'll talk to the prison.

21 THE DEFENDANT: 'Cause I'd rather be --

22 MR. GILL: I know.

23 THE DEFENDANT: On account of instead of coming down
24 here.

1 MR. GILL: Gotcha.

2 THE DEFENDANT: I --

3 MR. GILL: I'll work on it.

4 THE DEFENDANT: Mentally, I'm not prepared to come
5 down here.

6 MR. GILL: I understand.

7 MS. LUZAICH: Well, you got 90 days.

8 THE COURT: All right. So PSI, 90 days.

9 THE CLERK: November 3rd --

10 THE COURT: Oh, 45.

11 THE CLERK: Yeah. Forty-five. November 3rd at 9:30
12 for sentencing.

13 MR. GILL: November 3rd at 9:30. Justin, we'll
14 talk.

15 THE DEFENDANT: Yes, sir. All right. Y'all have a
16 nice day, ma'am.

17 MS. LUZAICH: Thank you.

18 THE COURT: Thank you.

19 [Hearing concluding at 2:54 p.m.]

20 *****
21
22
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24

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

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ALLISON SWANSON, CSR NO. 13377
CERTIFIED SHORTHAND REPORTER
FOR THE STATE OF CALIFORNIA

SEP 20 2022 02:39pm

1 VER

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

BY, Kristen Brown
KRISTEN BROWN, DEPUTY

5 THE STATE OF NEVADA,
6 Plaintiff,

7 -vs-

8 JUSTIN D. PORTER,
9 aka Jug Capri Porter,

10 Defendant.

CASE NO: 01C174954

DEPT NO: VI

01C174954
VER
Verdict
5006682



11 VERDICT

12
13 We, the jury in the above-entitled case, find the Defendant JUSTIN D. PORTER,
14 aka Jug Capri Porter, as follows:

15 COUNT 1 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON
16 (TERESA TYLER)
17

18 *(Please check the appropriate box, select only one)*

- 19 ☒ Guilty of BURGLARY WHILE IN POSSESSION OF A DEADLY
20 WEAPON
21 ☐ Guilty of BURGLARY
22 ☐ Not Guilty

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 **COUNT 2 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON**
2 **(TERESA TYLER)**

3
4 *(Please check the appropriate box, select only one)*

- 5 ☒ Guilty of FIRST-DEGREE KIDNAPPING WITH USE OF A
6 DEADLY WEAPON
7 ☐ Guilty of FIRST-DEGREE KIDNAPPING
8 ☐ Guilty of SECOND-DEGREE KIDNAPPING WITH USE OF A
9 DEADLY WEAPON
10 ☐ Guilty of SECOND-DEGREE KIDNAPPING
11 ☐ Not Guilty

12 **COUNT 3 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON (TERESA**
13 **TYLER)**

14
15 *(Please check the appropriate box, select only one)*

- 16 ☒ Guilty of SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON
17 ☐ Guilty of SEXUAL ASSAULT
18 ☐ Not Guilty

19 **COUNT 4 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON (TERESA**
20 **TYLER)**

21
22 *(Please check the appropriate box, select only one)*

- 23 ☐ Guilty of SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON
24 ☐ Guilty of SEXUAL ASSAULT
25 ☒ Not Guilty

26 ///

27 ///

28 ///

COUNT 5 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON (TERESA TYLER)

(Please check the appropriate box, select only one)

- ☒ Guilty of SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON
☐ Guilty of SEXUAL ASSAULT
☐ Not Guilty

COUNT 6 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON (TERESA TYLER)

(Please check the appropriate box, select only one)

- ☐ Guilty of SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON
☐ Guilty of SEXUAL ASSAULT
☒ Not Guilty

COUNT 7 - ROBBERY WITH USE OF A DEADLY WEAPON (TERESA TYLER)

(Please check the appropriate box, select only one)

- ☐ Guilty of ROBBERY WITH USE OF A DEADLY WEAPON
☐ Guilty of ROBBERY
☒ Not Guilty

COUNT 8 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (LEONA CASE)

(Please check the appropriate box, select only one)

- ☒ Guilty of BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON
☐ Guilty of BURGLARY
☐ Not Guilty

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**COUNT 9 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON
WITH SUBSTANTIAL BODILY HARM (LEONA CASE)**

(Please check the appropriate box, select only one)

- ☒ Guilty of FIRST-DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON WITH SUBSTANTIAL BODILY HARM
- ☐ Guilty of FIRST-DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON
- ☐ Guilty of FIRST-DEGREE KIDNAPPING WITH SUBSTANTIAL BODILY HARM WITH SUBSTANTIAL BODILY HARM
- ☐ Guilty of FIRST-DEGREE KIDNAPPING
- ☐ Guilty of SECOND-DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON WITH SUBSTANTIAL BODILY HARM
- ☐ Guilty of SECOND-DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON
- ☐ Guilty of SECOND-DEGREE KIDNAPPING WITH SUBSTANTIAL BODILY HARM
- ☐ Guilty of SECOND-DEGREE KIDNAPPING
- ☐ Not Guilty

**COUNT 10 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON WITH
SUBSTANTIAL BODILY HARM (LEONA CASE)**

(Please check the appropriate box, select only one)

- ☒ Guilty of SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON WITH SUBSTANTIAL BODILY HARM
- ☐ Guilty of SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON
- ☐ Guilty of SEXUAL ASSAULT WITH SUBSTANTIAL BODILY HARM
- ☐ Guilty of SEXUAL ASSAULT
- ☐ Not Guilty

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1 **COUNT 11** - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (**LEONA**
2 **CASE**)

3 *(Please check the appropriate box, select only one)*

- 4 ☒ Guilty of ATTEMPT MURDER WITH USE OF A DEADLY
WEAPON
5 ☐ Guilty of ATTEMPT MURDER
6 ☐ Not Guilty

7 **COUNT 12** - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON WITH
8 SUBSTANTIAL BODILY HARM (**LEONA CASE**)

9 *(Please check the appropriate box, select only one)*

- 10 ☒ Guilty of SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON
WITH SUBSTANTIAL BODILY HARM
11 ☐ Guilty of SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON
12 ☐ Guilty of SEXUAL ASSAULT WITH SUBSTANTIAL BODILY
HARM
13 ☐ Guilty of SEXUAL ASSAULT
14 ☐ Not Guilty

15 **COUNT 13** - ROBBERY WITH USE OF A DEADLY WEAPON (**LEONA CASE**)

16 *(Please check the appropriate box, select only one)*

- 17 ☒ Guilty of ROBBERY WITH USE OF A DEADLY WEAPON
18 ☐ Guilty of ROBBERY
19 ☐ Not Guilty

20 **COUNT 14** - FIRST DEGREE ARSON (**LEONA CASE**)

21 *(Please check the appropriate box, select only one)*

- 22 ☒ Guilty of FIRST DEGREE ARSON
23 ☐ Not Guilty

24 ///

25 ///

26 ///

**COUNT 15 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON
(RAMONY LEYVA)**

(Please check the appropriate box, select only one)

- ☒ Guilty of BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON
☐ Guilty of BURGLARY
☐ Not Guilty

**COUNT 16 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON
(RAMONY LEYVA)**

(Please check the appropriate box, select only one)

- ☒ Guilty of FIRST-DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON
☐ Guilty of FIRST-DEGREE KIDNAPPING
☐ Not Guilty

COUNT 17 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON (RAMONY LEYVA)

(Please check the appropriate box, select only one)

- ☒ Guilty of SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON
☐ Guilty of SEXUAL ASSAULT
☐ Not Guilty

COUNT 18 - ROBBERY WITH USE OF A DEADLY WEAPON (RAMONY LEYVA)

(Please check the appropriate box, select only one)

- ☒ Guilty of ROBBERY WITH USE OF A DEADLY WEAPON
☐ Guilty of ROBBERY
☐ Not Guilty

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**COUNT 19 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON
(MARLENE LIVINGSTON)**

(Please check the appropriate box, select only one)

- ☒ Guilty of BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON
- ☐ Guilty of BURGLARY
- ☐ Not Guilty

COUNT 20 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON, VICTIM 65 YEARS OF AGE OR OLDER (MARLENE LIVINGSTON)

(Please check the appropriate box, select only one)

- ☒ Guilty of SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON, VICTIM 65 YEARS OF AGE OR OLDER
- ☐ Guilty of SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON
- ☐ Guilty of SEXUAL ASSAULT VICTIM 65 YEARS OF AGE OR OLDER
- ☐ Guilty of SEXUAL ASSAULT
- ☐ Not Guilty

COUNT 21 - ROBBERY WITH USE OF A DEADLY WEAPON, VICTIM 65 YEARS OF AGE OR OLDER (MARLENE LIVINGSTON)

(Please check the appropriate box, select only one)

- ☒ Guilty of ROBBERY WITH USE OF A DEADLY WEAPON, VICTIM 65 YEARS OF AGE OR OLDER
- ☐ Guilty of ROBBERY WITH USE OF A DEADLY WEAPON
- ☐ Guilty of ROBBERY VICTIM 65 YEARS OF AGE OR OLDER
- ☐ Guilty of ROBBERY
- ☐ Not Guilty

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**COUNT 22 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON
(CLARENCE AND FRANCIS RUMBAUGH)**

(Please check the appropriate box, select only one)

- ☒ Guilty of BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON
- ☐ Guilty of BURGLARY
- ☐ Not Guilty

COUNT 23 - ROBBERY WITH USE OF A DEADLY WEAPON, VICTIM 65 YEARS OF AGE OR OLDER (CLARENCE RUMBAUGH)

(Please check the appropriate box, select only one)

- ☒ Guilty of ROBBERY WITH USE OF A DEADLY WEAPON, VICTIM 65 YEARS OF AGE OR OLDER
- ☐ Guilty of ROBBERY WITH USE OF A DEADLY WEAPON
- ☐ Guilty of ROBBERY VICTIM 65 YEARS OF AGE OR OLDER
- ☐ Guilty of ROBBERY
- ☐ Not Guilty

COUNT 24 - ROBBERY WITH USE OF A DEADLY WEAPON, VICTIM 65 YEARS OF AGE OR OLDER (FRANCIS RUMBAUGH)

(Please check the appropriate box, select only one)

- ☒ Guilty of ROBBERY WITH USE OF A DEADLY WEAPON, VICTIM 65 YEARS OF AGE OR OLDER
- ☐ Guilty of ROBBERY WITH USE OF A DEADLY WEAPON
- ☐ Guilty of ROBBERY VICTIM 65 YEARS OF AGE OR OLDER
- ☐ Guilty of ROBBERY
- ☐ Not Guilty

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1 **COUNT 25** - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON
2 **(LEROY FOWLER)**

3 *(Please check the appropriate box, select only one)*

- 4 ☐ Guilty of BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON
- 5 ☐ Guilty of BURGLARY
- 6 ☒ Not Guilty

7 **COUNT 26** - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON **(JONI HALL)**

8 *(Please check the appropriate box, select only one)*

- 9 ☒ Guilty of BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON
- 10 ☐ Guilty of BURGLARY
- 11 ☐ Not Guilty

12 **COUNT 27** - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON
13 **(JONI HALL)**

14 *(Please check the appropriate box, select only one)*

- 15 ☐ Guilty of FIRST-DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON
- 16 ☐ Guilty of FIRST-DEGREE KIDNAPPING
- 17 ☒ Guilty of SECOND-DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON
- 18 ☐ Guilty of SECOND-DEGREE KIDNAPPING
- 19 ☐ Not Guilty

20 **COUNT 28** - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON **(JONI HALL)**

21 *(Please check the appropriate box, select only one)*

- 22 ☒ Guilty of SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON
- 23 ☐ Guilty of SEXUAL ASSAULT
- 24 ☐ Not Guilty

COUNT 29 - ROBBERY WITH USE OF A DEADLY WEAPON (JONI HALL)

(Please check the appropriate box, select only one)

- ☒ Guilty of ROBBERY WITH USE OF A DEADLY WEAPON
☐ Guilty of ROBBERY
☐ Not Guilty

**COUNT 30 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON
(LAURA ZAZUETA, GUADALUPE LOPEZ, BEATRIZ ZAZUETA)**

(Please check the appropriate box, select only one)

- ☒ Guilty of BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON
☐ Guilty of BURGLARY
☐ Not Guilty

COUNT 31 - ROBBERY WITH USE OF A DEADLY WEAPON (LAURA ZAZUETA)

(Please check the appropriate box, select only one)

- ☒ Guilty of ROBBERY WITH USE OF A DEADLY WEAPON
☐ Guilty of ROBBERY
☐ Not Guilty

**COUNT 32 - ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON
(GUADALUPE LOPEZ)**

(Please check the appropriate box, select only one)

- ☒ Guilty of ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON
☐ Guilty of ATTEMPT ROBBERY
☐ Not Guilty

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1 **COUNT 33** - ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON (**BEATRIZ**
2 **ZAZUETA**)

3 *(Please check the appropriate box, select only one)*

- 4 ☒ Guilty of ATTEMPT ROBBERY WITH USE OF A DEADLY
WEAPON
5 ☐ Guilty of ATTEMPT ROBBERY
6 ☐ Not Guilty

7
8 **COUNT 34** - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
(**GUADALUPE LOPEZ**)

9 *(Please check the appropriate box, select only one)*

- 10 ☐ Guilty of ATTEMPT MURDER WITH USE OF A DEADLY
WEAPON
11 ☐ Guilty of ATTEMPT MURDER
12 ☒ Not Guilty

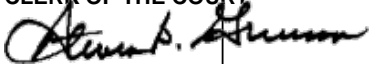
13
14 **COUNT 35** - BATTERY WITH USE OF A DEADLY WEAPON (**GUADALUPE**
LOPEZ)

15 *(Please check the appropriate box, select only one)*

- 16 ☐ Guilty of BATTERY WITH USE OF A DEADLY WEAPON
17 ☒ Guilty of BATTERY
18 ☐ Not Guilty

19
20 DATED this 20th day of September, 2022.

21
22
23 
24 FOREPERSON
25
26
27
28



1 **MEMO**

2 CHARLES R. GOODWIN, ESQ
3 Nevada Bar No. 14879
4 GOODWIN LAW GROUP, PLLC
5 3100 W. Charleston Blvd
6 Las Vegas, NV 89102
(702) 472-9594
charles@goodwinlawgroup.net
Attorney for Defendant

7 **EIGHTH JUDICIAL DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

9 STATE OF NEVADA,)

10 Plaintiff,)

11 vs.)

12 JUSTIN D. PORTER)

13 Defendant,)

CASE NO.: C174954

DEPT: VI

14)
15)
16 **DEFENDANT'S SENTENCING MEMORANDUM**

17 Date of Sentencing: November 2, 2020

Time of Sentencing: 12:00 p.m.

18 COMES NOW, the Defendant, JUSTIN D. PORTER, by and through his attorneys of
19 record, ADAM L. GILL and CHARLES R. GOODWIN, ESQ. and pursuant to NRS 176.015 files
20 this Sentencing Memorandum.

21 This Memorandum is made and based upon all the papers and pleadings on file herein, the
22 attached Points and Authorities and Arguments for Sentencing Leniency.

23 DATED this 1st day of November 2022.

24
25 /s/Charles R Goodwin

26 CHARLES R. GOODWIN, ESQ.

27 Nevada Bar No. 14879

Attorney for Defendant

28 **POINTS AND AUTHORITIES**

1
2 **I. SUMMARY OF ARGUMENT**

3 On September 20th, 2022 Mr. Porter was found guilty by a jury of his peers of Burglary
4 while in possession of a deadly weapon, First Degree Kidnapping with use of a Deadly Weapon,
5 Sexual Assault with use of a Deadly Weapon, Robbery with use of a Deadly Weapon, First Degree
6 Kidnapping with use of a Deadly Weapon resulting in Substantial Bodily Harm, Sexual Assault
7 with use of a Deadly Weapon with Substantial Bodily Harm, Sexual Assault with use of a Deadly
8 weapon with Substantial Bodily Harm, Attempt Murder with use of a Deadly Weapon, First
9 Degree Arson, Sexual Assault with use of a Deadly Weapon, Victim 65 Years of Age or Older,
10 Robbery with use of a Deadly Weapon, Victim 65 Years of Age or Older, Attempt Robbery with
11 use of a Deadly Weapon, and Battery with use of a Deadly Weapon.
12

13 Mr. Porter respectfully asks this Honorable Court to consider the following as mitigation
14 in sentencing:
15

- 16 1. Mr. Porter was a juvenile at the time of these crimes.
17 2. Mr. Porter has already been incarcerated for over 20 years.
18 3. Mr. Porter is aging out of his criminal phase.
19

20 The sentencing recommendation for Mr. Porter assumes that there will be consecutive
21 counts based on the enhancements but argues that they should be concurrent to all other counts,
22 and only run consecutive to the count they were enhancing. Additionally, Mr. Porter requests this
23 Court sentence him concurrently to his Second Degree Murder with Use of a Deadly Weapon. As
24 set forth more fully the arguments that follow, Mr. Porter respectfully requests that this Honorable
25 Court sentence him to the following:
26

27 **Counts 1, 8, 15, 19, 22, 26, & 30: Burglary While in Possession of a Deadly Weapon**
28 - to a term of imprisonment of 2-5 years, concurrent among counts.

1 **Counts 2 & 16: First Degree Kidnapping with Use of a Deadly Weapon** - to a term of
2 imprisonment of 5 – 15 years, concurrent among counts, and an enhancement of 5 – 15 years,
3 concurrent among counts.

4 **Counts 3, 5, 17, & 28: sexual Assault with Use of a Deadly Weapon** - to a term of
5 imprisonment of 10 – 25 years, concurrent among counts, and an enhancement of 10 – 25 years,
6 concurrent among counts.

7 **Count 9: First Degree Kidnapping with Use of a Deadly Weapon with Substantial**
8 **Bodily Harm** - to a term of imprisonment of 15 – 40 years, concurrent among counts, and an
9 enhancement of 15 – 40 years, concurrent among counts.

10 **Counts 10 & 12: Sexual Assault with Use of a Deadly Weapon with Substantial Bodily**
11 **Harm** - to a term of imprisonment of 15 – 40 years, concurrent among counts, and an enhancement
12 of 15 – 40 years, concurrent among counts.

13 **Count 11: Attempt Murder with Use of a Deadly Weapon** - to a term of imprisonment
14 of 2 – 5 years, concurrent among counts, and an enhancement of 2 – 5 years, concurrent among
15 counts.

16 **Counts 13, 18, 29, & 31: Robbery with Use of a Deadly Weapon** – to a term of
17 imprisonment of 2 – 5 years concurrent among counts with an enhancement of 2 – 5 years
18 concurrent among counts.

19 **Count 14: First Degree Arson** – to a term of imprisonment of 2 – 5 years, concurrent
20 among counts.

21 **Count 20: Sexual Assault with Use of a Deadly weapon, Victim 65 Years of Age or**
22 **Older** – to a term of imprisonment of 10 – 25 years, concurrent among counts, and a deadly

1 weapon enhancement, 10 – 25 years, concurrent among counts, and for victim 65 years or older,
2 10 – 25 concurrent among counts.

3 **Counts 21, 23, & 24: Robbery with Use of a Deadly Weapon, Victim 65 Years of Age**
4 **or Older** – To a term of imprisonment of 2 – 5 years, concurrent among counts, and for a term of
5 imprisonment, 2 – 5 years, concurrent among counts.
6

7 **Count 27: Second Degree Kidnapping with Use of a Deadly Weapon** – To a term of 2
8 – 5 years, concurrent among counts, with the enhancement being a term of 2 – 5 years, concurrent
9 among counts.
10

11 **Counts 32 & 33: Attempt Robbery with Use of a Deadly Weapon** – For a term of 12 –
12 36 months, concurrent among counts, and a term of 12 - 36 months, concurrent among counts.

13 **I. MEMORANDUM OF LAW**

14 **A. Applicable Law**

15 Nevada law provides the court with broad discretion in sentencing, so long as the penalty
16 comports with the sentencing range delineated by NRS 176.033(1)(b). However, in utilizing this
17 broad discretion, the court has a duty to assign penalties that are fair in order to maintain the dignity
18 of the law. In Nevada, the court is charged with making its determination based on “the gravity of
19 the particular offense and of the character of the individual defendant.” *See* NRS 176.033(1)(b)
20 (describing sentencing in the Gross Misdemeanor context). Persuasively, the Federal sentencing
21 guidelines advocate considerations such as the seriousness of the offense, respect for the law, just
22 punishment, deterrence and protecting the public. 18 USC §3553(a)(2).
23

24
25 Constitutionally, the issue of fairness in sentencing is addressed by the Eighth Amendment
26 prohibition against cruel and unusual punishment. Under this prohibition, a sentence that is within
27 statutory limits may be unconstitutional if “it is so unreasonable or disproportionate to the crime
28 as to shock the conscious.” Allred v. State, 120 Nev. 410, 420; 92 P.3d 1246,1253 (2004),

1 *overruled on other grounds by* Knipes v. State, 192 P.3d 1178; 124 Nev. Adv. Rep. 79 (2008).
2 Furthermore, the United States Supreme Court has recognized that a sentence is excessive when
3 the sentence imposed serves no penal purpose more effectively than a less severe punishment.
4 Furman v. Georgia, U.S. 238, 279; 92 S.Ct.2726, 2747 (1972). Finally, in addition to fairness, the
5 United States Supreme Court has recognized “reasonableness as a component of sentencing
6 determination. As Justice Breyer stated in United States v. Booker, “we think it fair to assume
7 judicial familiarity with a reasonableness standard.” United States v. Booker, 543 U.S. 220, 262;
8 125 S. Ct. 738, 160 L. Ed. 2d 621 (2005).

9
10 While there is not a Nevada statutory requirement of fairness or reasonableness in
11 sentencing, it is clear that the United States Supreme Court has established a minimum
12 constitutional threshold that must be adhered to. Accordingly, the court must balance the goals of
13 sentencing with protecting the defendant from excess punishment.
14

15 **B. Standard of Review**

16 The Nevada Supreme Court affords a district court wide discretion in its sentencing
17 decision. Houk v. State, 103 Nev. 659, 664; 747 P. 2d 1376, 1379 (1987). The Nevada Supreme
18 Court will refrain from interfering with the sentence imposed “[s]o long as the record does not
19 demonstrate prejudice resulting from consideration of information or accusations founded on facts
20 supported only by impalpable or highly suspect evidence.” Silks v. State, 92 Nev. 91, 94; 545 P.
21 2d 1159, 1161 (1976).
22
23

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1 **II. ARGUMENTS FOR SENTENCING LENIENCY**

2 **THE DEFENDANT SHOULD BE ACCORDED LENIENCY BASED ON THE**
3 **FACTS AND CIRCUMSTANCES OF THE CASE AT BAR.**

4 The Defense respectfully submits that this Court should give Mr. Porter an opportunity at
5 a new life after he has served time. He has been in custody since he was 17 years old. The world
6 has changed. Mr. Porter has changed. This does not grant Mr. Porter absolution, but it does give
7 him the chance to once more be free and attempt to become a contributing member to society. If
8 he were released, it would be when he was an old man. Even now, Mr. Porter's aging him out of
9 criminality. Studies have shown that those released between the ages of 45 and 54 had only a 4%
10 recidivism rate, and if they were released after the age of 55, they had a 1% recidivism rate.¹
11 Allowing Mr. Porter to become parole eligible in those age ranges is best for both society and Mr.
12 Porter.
13

14 The sentence being imposed on Mr. Porter has the appropriate punishment to fulfill the
15 goals of deterrence and to protect the community Mr. Porter is going to have to register as a sex
16 offender as soon as sentencing is completed. The stigma that goes along with that is going to follow
17 him no matter where he goes or what he does. The community will always be aware of who he is
18 and where he is at. Additionally, Mr. Porter's time in prison, his convictions, and his life choices
19 will ensure that when he is released, he will not have any easy life. Mr. Porter's life is no longer
20 limitless in its possibilities. It will forever be defined and shaped by the punishment of this
21 Honorable Court.
22
23
24
25
26

27 ¹ The Older You Get: Why Incarcerating the Elderly makes us Less Safe. Families for Justice
28 Reform. Retrieved on 11/1/2022 from: [Aging-out-of-crime-FINAL.pdf \(famm.org\)](#)

We now humbly ask this Honorable Court to follow the sentence recommendations laid out above.

DATED this 11th day of November 2022.

RESPECTFULLY SUBMITTED BY:

/s/Charles R Goodwin
Charles R. Goodwin, Esq.
Nevada Bar No. 14879
Attorneys for Defendant

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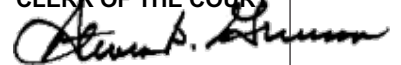
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that service of the foregoing **DEFENDANT’S SENTENCING MEMORANDUM** was made this 11th day of November upon the appropriate parties hereto by facsimile or electronic transmission to:

CLARK COUNTY DISTRICT ATTORNEY’S OFFICE C/O
MOTIONS@CLARKCOUNTYDA.COM

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Attorneys for Plaintiff

/s/Charles R Goodwin
An Employee of Goodwin Law Group, PLLC.



1 RTRAN

3 DISTRICT COURT

4 CLARK COUNTY, NEVADA

5 STATE OF NEVADA,)
6 Plaintiff(s),) CASE NO. 01C174954
7 vs.)
8 PORTER, JUSTIN D.,) DEPT. NO. VI
9 Defendant(s).)
10 _____)

11 BEFORE THE HONORABLE JACQUELINE M. BLUTH,

12 DISTRICT COURT JUDGE

13 THURSDAY, NOVEMBER 3, 2022

14 RECORDER'S TRANSCRIPT OF HEARING:
15 SENTENCING

16
17
18 APPEARANCES:

19 For the Plaintiffs: ELISSA LUZAICH

20 For the Defendants: T. ERICSON
21 ADAM L. GILL
22 CHARLES R. GOODWIN

23 RECORDED BY: DE'AWNA TAKAS, COURT RECORDER
24 TRANSCRIBED BY: ALLISON SWANSON, CSR No. 13377

1 Las Vegas, Nevada, THURSDAY, NOVEMBER 3, 2022

2 [Case called at 9:57 a.m.]

3 *****

4 THE COURT: So we are going to page 15, Mr. Porter's
5 case.

6 State of Nevada versus Justin Porter, C174954. He is
7 present in custody. Mr. Ericsson present on his behalf.
8 Ms. Luzaich present on behalf of the State. Mr. Gill will
9 remain on for sentencing purposes for today. Mr. Ericsson is
10 appointed for Appellant.

11 So, Mr. Porter, this is your new attorney for Appellate
12 purposes, Mr. Ericsson, that has been appointed by the Office
13 of Appointed Counsel.

14 THE DEFENDANT: Okay.

15 THE COURT: Thank you, Mr. Ericsson.

16 MR. ERICSSON: Thank you, Your Honor.

17 MS. LUZAICH: And then do you still think 10:45-ish?

18 THE COURT: Yeah.

19 Ms. Pelzar (phonetic), where are we with you?

20 [RECESS AT 9:57 A.M.; PROCEEDINGS RESUMED AT
21 11:51 A.M.]

22 [DISCUSSION OFF THE RECORD]

23 THE COURT: All right. Page 15 is State of Nevada
24 versus Justin Porter, 01C174954. Present in custody.

1 Mr. Gill present on his behalf. Ms. Luzaich present on behalf
2 of the State. This is the time and date set for sentencing.

3 This was a guilty verdict to a trial on several of the
4 counts 1, 8, 15, 19, 22, 26, and 30, burglary while in
5 possession of a deadly weapon; 2 and 16, first degree
6 kidnapping with use of a deadly weapon; 3, 5, 17, and 28,
7 sexual assault with use of a deadly weapon; 9, first degree
8 kidnapping with use of a deadly weapon with substantial bodily
9 harm; counts 10 and 12, sexual assault with use of a deadly
10 weapon with substantial bodily harm; count 11, attempt murder
11 with use of a deadly weapon; count 13, 18, 29, and 31, robbery
12 with use of a deadly weapon; count 14, first degree arson;
13 count 20, sexual assault with use of a deadly weapon, victim
14 65 years of age or older; count 21, 23, and 24, robbery with
15 use of a deadly weapon, victim 65 years of age or older; 27,
16 second degree kidnapping with use of a deadly weapon; Counts 32
17 and 33, attempt robbery with use of a deadly weapon.

18 The State will, obviously, retains [sic] the right to
19 argue as it was a guilty verdict on those counts.

20 Ms. Luzaich, I will turn it over to you at this point in
21 time.

22 MS. LUZAICH: Thank you, Judge.

23 You know I went through the PSI and -- his prior criminal
24 history and it does not reflect a felony as a juvenile, which

1 is kind of unfortunate. That is one of the reasons that he
2 was able to be a direct file way back in 2000. Because when
3 he was 13 he committed a carjacking with a weapon and was
4 adjudicated as -- on a violent felony. And that's not in
5 here.

6 But it's important because it demonstrates that -- it --
7 it -- what he had been doing was just evolving. He was 13 in
8 Chicago and he committed that offense. There was another
9 offense, after that, that was not a violent offense, so that I
10 was not able to use it to support direct file.

11 But he came here when he was 16, maybe 17. And not long
12 after coming here, he committed a series of home invasions.
13 Obviously, the Court listened to the entire trial so I'm not
14 gonna go through all of the facts. But the bottom line is he
15 was convicted in this trial of eight incidents. We know there
16 was a ninth incident, the murder. And then there were at
17 least three others that, during the preliminary hearing phase,
18 the victims either didn't show up or were not able to
19 communicate to get it bound over. So there were at least 13
20 events.

21 MR. GILL: And, Your Honor, I'm gonna -- I'm just
22 gonna -- sorry, Lisa -- object as to this Court concerning
23 anything that didn't make it up to this Court or -- or the
24 trial.

1 THE COURT: Ms. Luzaich?

2 MS. LUZAICH: The Court can consider any reliable,
3 palpable evidence.

4 THE COURT: At sentencing, yes.

5 MS. LUZAICH: Police reports were filed, statements
6 were taken, DNA and fingerprints were recovered and
7 footprints, shoe -- shoe prints connecting him to the murder
8 and then one of the incidents that was not bound up.

9 But what's interesting is his level of violence was
10 escalating. And his propensity to do this got -- I can't
11 think of how to phrase it. I'm sorry.

12 THE COURT: That's okay.

13 MS. LUZAICH: But, in the beginning, the incidents
14 were, you know, maybe months apart. Then it was weeks apart.
15 And by the end, it was every day. The Joni Hall case and the
16 Lopez Zazueta case -- well, Leroy Fowler was not found --
17 found guilty, but --

18 THE COURT: Right.

19 MS. LUZAICH: -- I mean, that event happened that
20 same week. Joni Hall, Leroy Fowler, the Zazuetas, and the
21 murder and one of the ones that weren't bound up were all days
22 in a row, was what I was trying to say.

23 THE COURT: Okay.

24 MS. LUZAICH: He is extraordinarily violent and

1 these individuals were strangled. You know, they were in
2 their home, minding their own business, when somebody kicked
3 in the door and did these incredibly horrible things to them.

4 And I suggest to the Court that, for these victims to get
5 justice, that one count for each victim should run
6 consecutive. If the Defendant were not a juvenile, several of
7 these counts would be punishable by life without the
8 possibility of parole. And he has earned life without the
9 possibility of parole. But the Court is precluded from doing
10 that. So, obviously, I wouldn't ask for that.

11 How -- interestingly, in the sentencing memo that the
12 Defense filed yesterday at 4:58, they say that Mr. Porter has
13 changed while living in -- or staying in prison. And I
14 suggest, apparently not.

15 While testifying, we know that he was not truthful.
16 Whether or not one of the detectives in Chicago told him that
17 he was gonna -- I don't know what he said -- hit him upside
18 the head with a phonebook or, you know, take him to the docks
19 and kill him, I suggest that that was untruthful.

20 But he said that he did not commit any of these acts.
21 And we know that that is not true because his fingerprints
22 were found on Marlene Livingston's railing, on the Rumbaugh's
23 coin things --

24 THE COURT: Right.

1 MS. LUZAICH: -- his DNA was found in Teresa Tyler's
2 vagina, as well as Ramona Leva's. So we know that he is not
3 being truthful. So he has not changed.

4 What I would ask the Court to do -- but, also, I suggest,
5 based on what he did and I believe the likelihood that if he
6 gets out he would do it again, on count -- well, I'll group
7 Teresa Tyler together. Count 1, burglary with deadly weapon,
8 I would ask you to sentence 6 to 15.

9 Count 1, the first degree -- or 2 -- sorry -- the first
10 degree kidnapping with deadly weapon, I -- I believe that --
11 the 5 to 15 is absolutely not appropriate. I would ask to
12 sentence 5 to life with an equal and consecutive 5 to life.

13 The two sexual assaults with deadly weapon, I would ask
14 that they be 10 to life plus 10 to life, the 25 is not
15 appropriate.

16 And if the Court -- I believe that every single count
17 should run consecutive.

18 THE COURT: Okay.

19 MS. LUZAICH: That's me. But, at a minimum, what I
20 would ask the Court to do is, when you come to Leona Case, run
21 her sexual assault with deadly weapon with substantial bodily
22 harm 15 to life plus 15 to life, consecutive to Teresa Tyler's
23 counts.

24 So Leona's were counts 8 through 15. Count 8, I would

1 ask you to sentence him to 6 to 15.

2 Count 9, the first degree kidnapping with deadly weapon
3 with substantial bodily harm, 15 to life with an equal and
4 consecutive 15 to life.

5 He burned this woman's house down. He strangled her into
6 unconsciousness on more than one occasion. He has earned at
7 least the 15 to life plus 15 to life, if not a second 15 to
8 life plus 15 to life consecutive.

9 For Ramona Leva, her counts -- oh, I'm sorry. The
10 attempt murder with deadly weapon, I would ask 8 to 20 with an
11 equal and consecutive 8 to 20. Eleven.

12 Count 12, the sexual assault the with deadly weapon with
13 substantial, 15 to life, plus 15 to life.

14 The robbery with deadly weapon, count 3, a 6 to 15 with
15 consecutive 6 to 15.

16 And the arson a 6 to 15.

17 Counts 15 through 18 are Ramona Leva. And I suggest that
18 her sexual assault with deadly weapon, at a minimum, count 17,
19 10 to life plus 10 to life, consecutive, run consecutive to
20 Leona's an Teresa Tyler's.

21 Count 15, burglary with deadly weapon, I would ask 6 to
22 15.

23 Count 16, first degree kidnapping with deadly weapon, 5
24 to life with a consecutive 5 to life. And as I indicated, the

1 10 to life plus 10 to life consecutive to the other victims.

2 And count 18, robbery with deadly weapon, 6 to 15, plus 6
3 to 15.

4 Marlene Livingston's counts were 19 through 21. I would
5 ask Marlene's essay, sexual assault with a deadly weapon,
6 victim over 65. Obviously, you could only utilize or sentence
7 on one enhancement, whichever the Court is happy with, the --
8 over the age or ten -- deadly weapon. I'm sorry. But 10 to
9 life with an equal and consecutive 10 to life.

10 And I would ask, at a minimum, that that count run
11 consecutive to Ramona Leva, Leona Case, and Teresa Tyler.

12 So count 19, 6 to 15.

13 I would ask the Court for the burglary with deadly weapon
14 and count 21, robbery with deadly weapon, victim over 65.
15 Obviously just one enhancement. But I would ask for 6 to 15,
16 with a consecutive 6 to 15.

17 Counts 23 through 24 are Francis and Clarence Rumbaugh.
18 I would ask the burglary be six to -- with a deadly weapon, be
19 6 to 15. And because there are two victims here, two elderly
20 victims who were both injured as a result of this, I would ask
21 that the robbery with deadly weapon, victim over 65, either
22 enhancement that the Court likes, but that each one, 6 to 15
23 plus 6 to 15.

24 Count 23, 6 to 15, plus 6 to 15.

1 Count 24, I would ask that they run consecutive to each
2 other. And that they run consecutive to Marlene Livingston,
3 Ramona Leva, Leona Case, and Teresa Tyler.

4 Joni Hall's counts are 26 through 29. Count 26,
5 burglary, I would ask -- with a deadly weapon. Sorry. I
6 would ask for the 6 to 15.

7 Count 27, secondary kidnapping with deadly weapon, I would
8 ask 6 to 15, with a consecutive 6 to 15.

9 The sexual assault with deadly weapon, count 28, I would
10 ask for a 10 to life, plus a consecutive 10 to life. And I'll
11 ask that, at a minimum, that count run consecutive to the
12 Rumbaugh's, Marlene Livingston, Ramona Leva, Leona Case, and
13 Teresa Tyler.

14 And then, finally, the Zazueta Lopez counts are 30
15 through 35. Count 30, the burglary with deadly weapon, I
16 would ask for 6 to 15.

17 Count 31, robbery with deadly weapon, that was
18 Laura Zazueta, I would ask for a 6 to 15 plus a consecutive 6
19 to 15. And I would ask that that count run consecutive to
20 Joni Hall, the Rumbaugh's, Marlene Livingston, Ramona Leva,
21 Leona Case, and Teresa Tyler.

22 Count -- counts 32 and 33. Count 32 pertains to
23 Guadeloupe Lopez, count 33 pertains to Beatriz Zazueta. I
24 would ask that each of those counts be sentenced 4 to 10 with

1 a consecutive 4 to 10 and that each of those counts run
2 consecutive to each other, consecutive to Laura Zazueta, and
3 consecutive to Joni Hall, the Rumbaughs, Marlene Livingston,
4 Ramona Leva, Leona Case, and Teresa Tyler.

5 The battery, obviously, I suggest that that run
6 concurrent. And I -- I think that the Defendant has -- and I
7 ask that these run consecutive to the murder. He was
8 fortunate that he was able to have the first degree murder
9 with a deadly weapon, a guilty verdict of second degree
10 murder.

11 I know that he's already served -- or paroled on the
12 second degree murder and is serving the deadly weapon. So I'd
13 ask that all the credits run to that and that the Court
14 sentences as I indicated.

15 THE COURT: Okay. Let me just see if I have any
16 questions.

17 So I -- I do have a question in regards -- when sexual
18 assault with use of a deadly weapon, victim 55 -- 65 years of
19 age or older, you only can do one enhancement, either for the
20 weapon or for the elderly; correct?

21 MS. LUZAICH: Correct. All -- all the cases where
22 there are double enhancements -- weapon, and victim over 65 --
23 only one.

24 THE COURT: Okay. That's -- just want to make sure

1 I have that right.

2 All right. Mr. Porter, in a moment I'm going to have a
3 opportunity to hear from Mr. Gill on your behalf. What if
4 any -- oh, and Mr. Goodwin has joined us. Good morning -- or
5 afternoon.

6 What would you like to say at this point in time, if
7 anything, sir?

8 THE DEFENDANT: First off. Thank you for allowing
9 me to speak.

10 THE COURT: Sure.

11 THE DEFENDANT: Ms. Lisa, you're a wonderful person.
12 At the same time, you can be wrong some things you say. And
13 I'm not saying that --

14 MS. LUZAICH: Never.

15 THE DEFENDANT: -- to be disrespectful or any type
16 of way.

17 THE COURT: I know what you're saying.

18 THE DEFENDANT: But I -- I didn't come out here when
19 I was 17 and I started doing all this -- what she say.

20 THE COURT: Okay.

21 THE DEFENDANT: I came out here when I was, like,
22 15.

23 THE COURT: Okay.

24 THE DEFENDANT: Maybe turning 15. I was 14 turning

1 15.

2 THE COURT: Okay.

3 THE DEFENDANT: So first off, like -- like I said
4 the first time, Your Honor, with all due respect to my
5 counsel, he was (indiscernible) my attorney, I felt like my
6 defense was inappropriate and I felt my counsel was -- my
7 trial counsel was ineffective for failure to bring up the fact
8 of my alibi witnesses.

9 THE COURT: So sorry, sir. This is your point in
10 time to -- so anything in regards to your appeal, that stuff's
11 going to come in at a later date. So this is anything to do
12 about future plans, remorse --

13 THE DEFENDANT: Okay. Well, as far as, like I said,
14 ma'am, first of all, as far as them believing that I'm gonna
15 get out there and -- and do, you know, whatever she think I'm
16 gonna do, crazy stuff. I did 22 years in prison, in --
17 incarcerated.

18 THE COURT: Okay.

19 THE DEFENDANT: So as far as her belief of me
20 getting out there and doing something crazy sounding like --
21 no -- no judgment towards the -- the guy. No. I haven't
22 lived life. I've been locked up longer than I've been free
23 alive on the street. I can't even tell you what the streets
24 look like anymore.

1 THE COURT: It's true.

2 THE DEFENDANT: Because I was a juvenile when I came
3 in. So as far as her speaking of certain things, I -- I
4 disagree with her because I lost my grandfather, I lost my
5 father here. Steady losing family members. And I've been
6 trying to say, before the trial, that this area, downtown area
7 wasn't -- I don't know, it's -- crimes that happened there
8 that I was never accused of that they still ain't solved that
9 they know -- I believe they know it wasn't me.

10 And as I was trying to explain, Your Honor, I know that
11 this is a time for sentencing and remorse and everything.
12 But, you know, I understand the law allows me a right to
13 speak. I didn't know nothing of the law. I had to learn
14 things as I became incarcerated. I -- I had to pick up a much
15 different, clearer understanding than I ever did on the
16 streets.

17 I believe strongly in God. I believe that God is
18 truly -- he's real. I believe that everything that you do in
19 life, you're gonna be held accountable for. I believe, even
20 when it come to the justice system, even when prosecutors tell
21 lies themselves just to try to make a defendant look bad, that
22 they will be held accountable.

23 I'm not saying this because it's just something people
24 say that's getting sentenced or -- or going through something,

1 call upon God and say, hey, listen -- whatever show that you
2 believe that I'm putting on, I'm not putting on. I believe
3 that I'm gonna die. I know I'm gonna die one day. There's
4 nothing I can do about that. There's nothing I can do about
5 that.

6 But I do believe in God. I believe in a second chance.
7 I believe in -- I believe in a lot of stuff that's good. I
8 don't believe in, you know -- whatever person she's talking
9 about, I don't know that person. And lot of things that I --
10 I've been saying that I wasn't guilty of, I'm -- I'm trying to
11 tell you, I wasn't guilty of.

12 And I understand that there's nothing I can say to
13 Ms. Lisa to convince her of anything because she gonna feel,
14 in her heart, that I'm guilty because of -- I don't have the
15 ability to hire expert witnesses to -- to defend me in a
16 particular way to point out things that she didn't never
17 investigate herself particularly, but she took the word of
18 others.

19 So at this point, I would just rest upon the Court and
20 Your Honor. I mean, I can't tell you what to do. All I can
21 ask you for is some type of mercy in my life. As far as
22 giving me all these sentence, I understand that's something
23 you -- you might do. I already got a life sentence. I
24 already got two 10 to life I'm dealing with. I'm in prison.

1 I strongly believe that I'm innocent, that I will not go
2 to PC. Because I believe in my innocence. I know what I was
3 doing out there and I know what I wasn't doing. I know the
4 people that I was hanging around. Know particularly someone
5 was doing some stuff.

6 Like I say, you know, that was my life. That's -- that's
7 where I grew up. Particularly, partially I grew up in the
8 downtown area. And these things that was going on was -- it
9 was wicked over there. And I -- and I grew up amongst
10 wickedness.

11 You know, my momma would like to say that we grew up in
12 an area that was fairly good, but it ain't always been like
13 that in my life.

14 I have anything else to say. But thank you.

15 THE COURT: Thank you, sir.

16 Mr. Gill.

17 MR. GILL: And -- and, Judge, I'll -- I'll follow up
18 with -- with something he said. He mentioned that he doesn't
19 know the 17-year-old who did all of this or who was accused of
20 all of this. And I don't know that person either. I've --
21 I've known Mr. Porter four or five years now, being on the
22 case.

23 Obviously, a very unique situation with these events
24 being 22 years ago. And he's been in custody for those

1 22 years, as Your Honor is well aware.

2 Your Honor's gotten to know him a little bit. Not quite
3 as well as I have. And -- and, Judge, I've been doing this
4 for only 13 years, but I don't see many people quite like
5 Mr. Porter who -- who I truly do believe, if ever given a
6 chance to get out, would not revert back to his
7 17-year-oldself.

8 He'll be 40 next month, Your Honor. And -- and he
9 doesn't know -- there's things that we've talked about during
10 visits -- you know, cell phones, smart phones, things like
11 that, that he's just completely foreign to. It's completely
12 foreign to him. So I -- I don't think -- Judge, I understand
13 the State's concerns. I understand the State's position
14 regarding, you know, we can't let him out ever. And I
15 expected those arguments, Your Honor.

16 THE COURT: Sure.

17 MR. GILL: And Your Honor can absolutely fashion a
18 sentence here to where that -- that takes place. But I -- I
19 don't share those concerns. And I would be forthright with
20 this Court if I did.

21 I -- I do think Mr. Porter is somebody who -- who had --
22 and I don't want this to come across as though I'm trying to
23 explain away anything, Judge. 'Cause he's been found guilty
24 by a jury of his peers, whether -- whether he accepts that or

1 not. But -- but we're talking mean streets of Chicago, you
2 know, violent streets of Chicago, not good areas of Chicago.
3 Move out to downtown Las Vegas. And -- and what kind of
4 chance did -- did he have, Judge? And I don't think that --
5 that he's ever had a chance.

6 Obviously, you know, Ms. Luzaich brought -- Ms. Luzaich
7 brought up the carjacking from when he was 13. And then he
8 moves out here when he's 14 or 15, according to him, and --
9 and then we have, you know, the year 2000, essentially, occur.
10 And that's where all of these events have taken place was in
11 the year 2000.

12 So to -- I think it's incredibly difficult for us to --
13 for any of us to say "you're gonna be the same person at -- at
14 39, 40, or 50, 60 that you were at 17." I think that's an
15 unfair characterization.

16 I -- I know that the allegations here are -- and -- and
17 the convictions here are terrible, Judge. We sat through the
18 trial together. And -- and I know that Your Honor, again, has
19 the ability to sentence him in -- in an extremely punitive
20 way.

21 The best day that he could do walking out of here is,
22 according to my calculations, is a 30 to 80. And that's
23 assuming, I believe it was count -- count 9 carries a 15 to 40
24 plus a 15 to 40. So if you were to run everything else

1 concurrent, the best day he could do -- and I'm asking for 30
2 to 80, Judge.

3 'Cause at what point are we getting justice out of him?
4 Twenty-two years is no short -- short term. And I -- I'm not
5 trying to take anything away from the victims here or any of
6 that. But what more do we need out of him is the question.

7 So I'm asking for 30 to 80. I think that's a -- is a
8 very severe sentence for everything that has occurred.

9 And I'll submit it on those remarks.

10 THE COURT: In accordance with the laws of the State
11 of Nevada, you are hereby adjudicated guilty of the crimes --
12 and I will go through them in a moment line by line -- in
13 20 -- there's a \$25 administrative assessment fee. The \$150
14 DNA's waived 'cause it was previously taken in the second
15 degree murder conviction arising out of this same case number.
16 There is a \$250 indigent defense fee. The fact that you must
17 submit to genetic marker testing as well as a \$3 DNA
18 collection fee.

19 You are sentenced as follows and are judged guilty as
20 follows: Count 1, burglary while in possession of a deadly
21 weapon. A minimum of 6 years to a maximum of 15 years.

22 Two, count 2, first degree kidnapping with use of a
23 deadly weapon. A minimum of 5 years to a maximum of life,
24 with an equal and consecutive minimum -- or excuse me. An

1 equal -- a consecutive term of 5 to 15 years to run
2 concurrent to Count 1.

3 Count 3, sexual assault --

4 MS. LUZAICH: It's -- it's got to be life.

5 MR. GILL: It has to equal.

6 THE COURT: Oh, for the deadly weapon? I apologize.
7 I'm sorry. This is a totally different sentencing scheme for
8 20 years ago. So it's a little bit hard for me to get used
9 to. But it is -- you're right. It is 5 to life with an equal
10 consecutive of 5 to life for the deadly weapon enhancement.

11 Count 3 is sexual assault with use of a deadly weapon.
12 10 to life with an equal and consecutive of 10 to life. That
13 is to run consecutively to count 2 and 1.

14 Count 4 is sexual assault with use of a deadly weapon,
15 Teresa Tyler. And 10 to life, with a consecutive 10 to life.
16 That's to run concurrently to count 3.

17 Count 5, sexual assault with use of a deadly weapon,
18 Teresa Tyler. It'll be 10 to life with an equal and
19 consecutive 10 to life. That's to run concurrently to
20 count 4.

21 Count 6 --

22 MS. LUZAICH: Wait.

23 THE COURT: -- sexual assault with use of --

24 MS. LUZAICH: Judge, count 4 was not guilty.

1 THE COURT: Oh, apologize. Thank you for that.
2 Count 4 and then the second to last one was a not guilty. I
3 apologize.

4 MR. GILL: Yes.

5 THE COURT: So vacate count 4. That was supposed to
6 be for count 5. So that was 10 to life, equal and consecutive
7 that was to run concurrent to count 3.

8 And then count 6 was also a not guilty.

9 MS. LUZAICH: Correct. And seven.

10 THE COURT: And seven was a not guilty.
11 Count 8, burglary while in possession of a deadly weapon.
12 A minimum of two years, a maximum of 15 years. That's to run
13 concurrently.

14 Count 9, first degree kidnapping with use of a deadly
15 weapon with substantial bodily harm. That is a 15 to life,
16 plus a 15 to life. That's to run concurrently.

17 Count 10, sexual assault with use of a deadly weapon with
18 substantial bodily harm. That is a 15 to life plus a
19 consecutive 15 to life for the deadly weapon enhancement. And
20 that's to run consecutively to the previous count.

21 Count 11, attempt murder with use of a deadly weapon, 2
22 to 20 with an equal and consecutive 2 to 20 to run
23 concurrently.

24 Count 12, sexual assault with use of a deadly weapon with

1 substantial bodily harm. That is 15 to life with an equal and
2 consecutive 15 to life to run concurrently.

3 Count 13, robbery with use of a deadly weapon. Two to
4 fifteen plus an equal consecutive two to fifteen to run
5 concurrently.

6 Count 14, first degree arson. Minimum of two years, a
7 maximum of 15. That's to run consecutively.

8 Count 15, burglary while in possession of a deadly
9 weapon. Minimum of 2 years, a maximum of 15 plus an equal
10 minimum of 2 years --

11 MS. LUZAICH: No, it's just --

12 THE COURT: Burglary while in possession of a deadly
13 weapon?

14 MS. LUZAICH: The weapon is included.

15 THE COURT: Oh, just -- it's a 2 to 15.

16 MR. GILL: Correct. Correct.

17 THE COURT: Pardon me. Minimum of 2 years, maximum
18 of 15. That's to run concurrently.

19 Count 16, first degree kidnapping with use of a deadly
20 weapon. Minimum of 5 years to life plus an equal and
21 consecutive 5 to life. That's to run concurrently.

22 Count 17, sexual assault with use of a deadly weapon. A
23 minimum of 10, maximum of life, plus an equal minimum of 10,
24 maximum of life to run consecutively. And that whole count is

1 to run consecutively to the previous count.

2 Count 18, robbery with use of a deadly weapon is a
3 minimum of 2 years, a maximum of 15, plus an equal and
4 consecutive minimum of 2 years to maximum 15 to run
5 concurrently.

6 Marlene Livingston is a minimum of -- sorry. Count 19,
7 burglary while in possession of a deadly weapon is the minimum
8 of 2 years, a maximum of 15. That's to run concurrently.

9 Count 20, sexual assault with use of a deadly weapon,
10 victim 65 years of age or older. A minimum of 10 years, a
11 maximum of life, plus a minimum of 10 years, a maximum of
12 life. This's to run consecutive.

13 Count 21, robbery with use of a deadly weapon, victim
14 65 years of age or alder. Minimum of 2 years, maximum of 15,
15 plus a minimum of 2 years, maximum 15 for the deadly weapon
16 enhancement. That's to run concurrently.

17 Counts 2 [sic], burglary while in possession of a deadly
18 weapon. Minimum of 2 years, a maximum of 15 years to run
19 concurrently.

20 Count 23, robbery with use of a deadly weapon, victim
21 65 years of age or older. Minimum of 2, maximum of 15, plus
22 an equal and consecutive 2 to 15. That's to run consecutive.

23 Count 24, robbery with use of a deadly weapon, victim
24 65 years of age or older. A minimum of 2 years, a maximum of

1 15, plus the minimum of 2 years, maximum of 15 to run
2 concurrently.

3 Twenty-five was a not guilty.

4 Twenty-six, burglary while in possession of a deadly
5 weapon. Minimum of 2 years, maximum of 15 to run
6 concurrently.

7 Count 27, first degree kidnapping with use of a deadly
8 weapon. A minimum of 5 years, maximum of life, plus an equal
9 and consecutive minimum of 5 years, maximum of life.

10 MS. LUZAICH: No, it's second so it's 2 to 15 plus 2
11 to 15.

12 THE COURT: On a first degree kidnapping?

13 MS. LUZAICH: It's second. Count 27 was --

14 MR. GILL: Twenty-seven. Yeah.

15 MS. LUZAICH: -- second degree.

16 THE COURT: Gotch you.

17 MR. GILL: Yep.

18 THE COURT: Two to fifteen or five, fifteen? What
19 is it? Let me look at this.

20 MR. GILL: Two to fifteen, Judge.

21 MS. LUZAICH: Well, you can do whatever you want,
22 but it's --

23 THE COURT: Yeah.

24 MS. LUZAICH: -- 2 to 15 is the --

1 THE COURT: The sentencing --

2 MR. GILL: The range, yes.

3 THE COURT: Yeah. Two to fifteen plus an equal and
4 consecutive two to fifteen to run concurrently.

5 Count 28, sexual assault with use of a deadly weapon.
6 Ten to life with an equal and consecutive ten to life. That's
7 to run consecutive, the previous count.

8 Robbery with use of a deadly weapon, count 29. Two to
9 fifteen plus equal consecutive two to fifteen to run
10 concurrent.

11 Count 30, burglary while in possession of a deadly
12 weapon. That is a minimum of 2 years, a maximum of 15. That
13 is to run concurrently.

14 Thirty-one is robbery with use of a deadly weapon. It is
15 a minimum of 2 years, a maximum of 15 plus equal consecutive 2
16 to 15. That's to run consecutively.

17 Attempt robbery with use of a deadly weapon, count 32.
18 That is a 1 to 10 with a 1 to 10 consecutive. And that's to
19 run concurrently.

20 Count 33, attempt robbery with use of a deadly weapon,
21 one to ten, plus a one to ten. That's to run concurrently.

22 Count 34 was a not guilty.

23 Count 35 was guilty of battery. Six months Clark County
24 Detention Center concurrently.

1 So --

2 MS. LUZAICH: And what about the murder charge?

3 THE COURT: The murder -- oh, they -- so that was a
4 never -- that was what was confusing to me is it was -- he was
5 convicted but not sentenced?

6 MS. LUZAICH: He was. He was convicted and he's
7 serving. He's already paroled on the murder.

8 MR. GILL: I think what her question --

9 THE COURT: Oh, oh, oh, you're asking me for the
10 consecutive.

11 MS. LUZAICH: Yes.

12 THE COURT: Yeah. I'm sorry. I thought you were
13 asking me -- that you were asking me to sentence --

14 MS. LUZAICH: Oh, no. No. No.

15 THE COURT: -- on the --

16 MS. LUZAICH: I was --

17 THE COURT: Yeah. No, I just wasn't at that part
18 yet. I was trying to get you the aggregate. But these are
19 running consecutive to the murder conviction.

20 MS. LUZAICH: Okay.

21 THE COURT: I'm just trying to get you the
22 aggregate. Although, I don't know because it was pre the
23 crime --

24 MS. LUZAICH: Yeah, they didn't do aggregate back

1 then.

2 THE COURT: They didn't do aggregate. So I don't
3 need to do that. Correct. Which is also the same case number
4 but bifurcated.

5 MS. LUZAICH: I know we got to figure out how to do
6 that.

7 THE CLERK: Right. Because I'm gonna be running
8 it --

9 MS. LUZAICH: Two --

10 THE CLERK: Two -- I guess --

11 MS. LUZAICH: -- two count ones.

12 THE CLERK: -- I can run it to a charge versus a
13 count. Normally we run it to a count --

14 THE COURT: Right.

15 THE CLERK: -- but that won't --

16 THE COURT: We can just put it to the murder charge.

17 THE CLERK: Okay.

18 MR. GILL: Because it's the same case number? Is
19 that what you're saying?

20 THE COURT: Yeah.

21 MS. LUZAICH: Yeah. Because there are two
22 count ones, two count twos --

23 THE CLERK: Yes.

24 MS. LUZAICH: -- two count threes.

1 MR. GILL: Right. Yeah.

2 THE CLERK: That becomes the problem.

3 THE COURT: Yeah.

4 THE CLERK: It was never kind of --

5 THE COURT: So it'll be to the murder charge of the
6 second degree murder.

7 THE CLERK: Okay.

8 THE COURT: And then did you say -- what did you say
9 for the CTS?

10 MR. GILL: Eight --

11 MS. LUZAICH: Well --

12 MR. GILL: The PSI's correct, Judge.

13 MS. LUZAICH: -- nothing. Because it's --

14 THE COURT: Oh, because it all --

15 MS. LUZAICH: -- consecutive.

16 THE COURT: -- got credited to the first case.

17 MS. LUZAICH: Yeah.

18 MR. GILL: No, Judge --

19 MS. LUZAICH: Yeah.

20 MR. GILL: -- the --

21 THE COURT: First murder.

22 MR. GILL: Why is he being punished for have --

23 MS. LUZAICH: He's not. He's serving that sentence.

24 MR. GILL: He -- so the State's position is he

1 doesn't get 8,112 days?

2 MS. LUZAICH: No, he got the credit -- whatever
3 credit he got, he got towards the murderer. And he's serving.
4 So this is consecutive to that.

5 THE COURT: I don't know if I -- I feel that's a
6 legal exercise that we need to figure out --

7 MR. GILL: Yeah, I -- I --

8 THE COURT: -- with motion work; right? Because --

9 MR. GILL: I -- I don't see why he would -- I mean,
10 he's been in custody since day one, since --

11 MS. LUZAICH: Right, but --

12 MR. GILL: -- (indiscernible) picked up in Chicago.

13 MS. LUZAICH: -- if he was -- if it was concurrent,
14 then he would get credit. But because it's consecutive, all
15 the credit goes towards the sentence he's serving. Like the
16 time he's sitting in there, he's serving it.

17 THE DEFENDANT: And the Nevada Supreme Court said in
18 Anderson (indiscernible) Boston or Boston versus Anderson
19 that, basically, when I'm being sentenced, the judge has to
20 take in the credit for times -- the credit for the time that
21 is being served, not only that and the fact that I was
22 juvenile at the same time. And you can't give me so much time
23 that it -- it amount to life without.

24 THE COURT: Okay. That's what -- just not what

1 we're talking about right now.

2 MR. GILL: So, Judge, if I may.

3 THE COURT: Yeah.

4 MR. GILL: He -- he's essentially been awaiting
5 trial on these charges for the 22 years in custody.

6 THE COURT: Right.

7 MR. GILL: Why -- how and why take that away from
8 him? Just because --

9 MS. LUZAICH: Because it's consecutive. If it had
10 been concurrent, then he would have gotten the credit.

11 MR. GILL: But I don't think that -- that's the
12 factor --

13 THE COURT: All right. So I'm not -- I'm not
14 issuing anything on (indiscernible) consecutive at this point
15 in time.

16 MR. GILL: Okay.

17 THE COURT: You guys are gonna have to brief it
18 because -- I understand what you're saying regards to
19 consecutive. But playing devil's advocate, it's not two --
20 technically, it's not two different cases; right? I'm running
21 it consecutive to the charge, not consecutive to the case.

22 MS. LUZAICH: Right.

23 THE COURT: So I think, technically, he would get, I
24 think, without researching it, he would get -- because if this

1 were bifurcated -- right? -- he would have gotten the -- all
2 of the credit for all of the charges.

3 MR. GILL: Yeah.

4 THE COURT: And they would have run -- I would have
5 run consecutive to Count 1. You know what I mean?

6 MR. GILL: So he -- and I -- and I -- I hear what
7 Ms. Luzaich is saying, but this -- the consecutive/concurrent
8 is up to the NDOC to decide.

9 MS. LUZAICH: No, it's up to the Court to decide.

10 MR. GILL: As far as -- as when he paroles on each.

11 THE COURT: Yeah. Yeah. Yeah. Yeah. Obviously,
12 yeah.

13 MR. GILL: So I just can't wrap my head around this
14 being any different from somebody who sits -- let's say they
15 sit two years waiting for trial, Judge. And they sit in NCDC.

16 THE COURT: Right.

17 MR. GILL: They're getting credit for those two
18 years without question. So I don't understand --

19 MS. LUZAICH: But not if --

20 MR. GILL: -- how this --

21 MS. LUZAICH: -- they're serving --

22 MR. GILL: Let me just finish --

23 MS. LUZAICH: I'm sorry.

24 MR. GILL: -- please, because I don't understand how

1 this is any different, other than a bifurcation done for God
2 knows what reasons -- right? -- back in '08, '09, whenever
3 that was. 'Cause I know the trial was in '09. But I -- I --
4 it just feels like we're punishing Mr. Porter for
5 Judge Gates's decision to bifurcate the counts.

6 THE COURT: Yeah, I think if I'm thinking about it
7 that it -- that obviously he gets CTS for the case 'cause it's
8 still one case. But does that mean he's getting -- oh, gosh.
9 This is like the worst day of sentencings ever.

10 MR. GILL: Well, I -- and I don't mean to add any
11 more stress to Your Honor, but why -- like, I still haven't
12 heard a good reason why we would deny him of the time that
13 he's been sitting --

14 THE COURT: Yeah, I think --

15 MR. GILL: -- which is the 22 years.

16 THE COURT: No, he gets the credit because if it
17 were unbifurcated he would get the credit for all of them, but
18 it's still -- he's still getting consecutive time to the one
19 he's doing. So he does get the credit.

20 And I'm happy to do a motion to reconsider if you think
21 I'm wrong and there's case law on it. But I think if
22 you're -- just because the case is bifurcated, I still think
23 you get the credit. So what's the credit?

24 MR. GILL: 8,112.

1 THE COURT: Okay.

2 MR. GILL: Eight-one-one-two.

3 THE COURT: Eight-one-one-two CTS. Okay.

4 MR. GILL: And then as far as -- I know you're not
5 going to give an aggregate today. Will the JOC have an
6 aggregate for us? Is that necessary or gonna happen? Or is
7 it something --

8 THE COURT: I can. I can do it to make it easier.

9 MR. GILL: And if it -- if not, Judge, I can just
10 take the JOC and do it myself.

11 THE COURT: Yeah. Yeah. 2008 -- I got to do the
12 restitution. I apologize.

13 MR. GILL: I --

14 THE COURT: So victim one, restitution was already
15 ordered. There is \$2,421.56 to the Nevada State
16 Attorney General's Office in extradition if it hasn't been
17 ordered already.

18 MS. LUZAICH: I assume that would have been ordered
19 in the murder.

20 THE COURT: I would think, but if it wasn't.

21 MR. GILL: I'll check the minutes on that.

22 THE DEFENDANT: It's been ordered. It's been
23 ordered.

24 THE COURT: Okay.

1 MR. GILL: Okay.

2 THE COURT: Okay, guys.

3 MR. GILL: Thank you, Your Honor.

4 THE COURT: Thank you.

5 MS. LUZAICH: Thank you.

6 [Hearing concluding at 12:28 p.m.]

7 *****

8
9 ATTEST: I do hereby certify that I have truly and
10 correctly transcribed the audio/video proceedings in the
11 above-entitled case to the best of my ability.

12
13 
14 ALLISON SWANSON, CSR NO. 13377
15 CERTIFIED SHORTHAND REPORTER
16 FOR THE STATE OF CALIFORNIA
17
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Justin D. Porter, JUC CAPRI #1682627
Clark County Detention Center
330 South Casino Blvd
Las Vegas, NV 89101

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Steven D. Grierson

8th JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

Justin D. Porter,
Defendant,

CASE NO. 01C174954

VS.

Dept. NO. 6

THE STATE OF NEVADA,

Respondent.

NOTICE OF APPEAL

Notice is hereby given that the Defendant, Justin D. Porter, by and through himself in proper person, does now appeal to the Supreme Court of the State of Nevada, the decision of the District Court (JOC) JUDGMENT OF CONVICTION.

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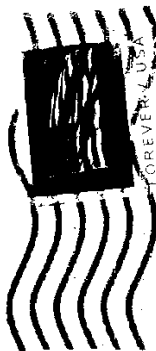
DATED this date, November 27, 2022.

Respectfully Submitted,

Justin D. Porter
In proper person

Justin Porter #1042449
P.O. BOX 650 (HDSR)
Indian Springs, NV 89070

LAS VEGAS NV 890
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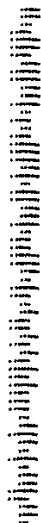


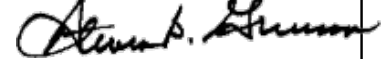
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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JUSTIN D. PORTER,
aka Jug Capri Porter,
#1682627

Defendant.

CASE NO. **01C174954**

DEPT NO. **VI**

FIFTH AMENDED
INFORMATION

STATE OF NEVADA }
COUNTY OF CLARK } ss:

STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That **JUSTIN D. PORTER, aka Jug Capri Porter**, as Defendant above named, has committed the crimes of **BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony - NRS 205.060 - NOC 50426), FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.310, 200.320, 193.165 - NOC 50055), SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.364, 200.366, 193.165 - NOC 50097), ROBBERY WITH USE OF A DEADLY WEAPON (Felony - NRS 200.380, 193.165), FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category A Felony - NRS 200.310, 200.320,**

1 **193.165 - NOC 50056), SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON**
2 **RESULTING IN SUBSTANTIAL BODILY HARM (Category A Felony - NRS 200.364,**
3 **200.366, 193.165 - NOC 50098), ATTEMPT MURDER WITH USE OF A DEADLY**
4 **WEAPON (Category B Felony - NRS 200.010, 200.030, 193.153, 193.165 - NOC 50031),**
5 **FIRST DEGREE ARSON (Felony - NRS FIRST DEGREE ARSON (Category B Felony**
6 **- NRS 205.010 - NOC 50414)), SEXUAL ASSAULT WITH USE OF A DEADLY**
7 **WEAPON, VICTIM 60 YEARS OF AGE OR OLDER (Category A Felony - NRS**
8 **200.364, 200.366, 193.165, 193.167 - NOC 50103), ROBBERY WITH USE OF A**
9 **DEADLY WEAPON, VICTIM 60 YEARS OF AGE OR OLDER (Category B Felony -**
10 **NRS 200.380, 193.165, 193.167 - NOC 50143), ATTEMPT ROBBERY WITH USE OF A**
11 **DEADLY WEAPON (Category B Felony - NRS 200.380, 193.153, 193.165 - NOC 50145),**
12 **BATTERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.481 -**
13 **NOC 50223) and MURDER WITH USE OF A DEADLY WEAPON (Category A Felony**
14 **- NRS 200.010, 200.030, 193.165 - NOC 50001) in the manner following:**

15 That on or between February 1, 2000 and June 9, 2000, within the County of Clark,
16 State of Nevada, contrary to the form, force and effect of statutes in such cases made and
17 provided, and against the peace and dignity of the State of Nevada,

18 COUNT 1 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

19 Defendant did then and there, willfully, unlawfully, and feloniously enter, while in
20 possession of a deadly weapon, to wit: a knife, with intent to commit larceny, and/or a felony,
21 to wit: sexual assault and/or robbery and/or any other felony, that certain building occupied
22 by TERESA TYLER, located at 2895 East Charleston Boulevard, Apartment No. 1016
23 therein, Las Vegas, Clark County, Nevada.

24 COUNT 2 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

25 Defendant did willfully, unlawfully, feloniously, and without authority of law, seize,
26 confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away TERESA TYLER, a
27 human being, with the intent to hold or detain the said TERESA TYLER, against her will,
28 and without her consent, for the purpose of committing robbery and/or sexual assault, said

1 Defendant using a deadly weapon, to wit: a knife, during the commission of said crime.

2 COUNT 3 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

3 Defendant did then and there, willfully, unlawfully, and feloniously sexually assault
4 and subject TERESA TYLER, a female person, to sexual penetration, to-wit: sexual
5 intercourse, by inserting his penis into the vagina of the said TERESA TYLER, against her
6 will, said Defendant using a deadly weapon, to wit: a knife, during the commission of said
7 crime.

8 COUNT 4 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

9 Defendant did then and there, willfully, unlawfully, and feloniously sexually assault
10 and subject TERESA TYLER, a female person, to sexual penetration, to-wit: sexual
11 intercourse, by inserting his penis into the vagina of the said TERESA TYLER, against her
12 will, said Defendant using a deadly weapon, to wit: a knife, during the commission of said
13 crime.

14 COUNT 5 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

15 Defendant did then and there, willfully, unlawfully, and feloniously sexually assault
16 and subject TERESA TYLER, a female person, to sexual penetration, to-wit: fellatio, by
17 placing his penis in or on the mouth of the said TERESA TYLER, against her will, said
18 Defendant using a deadly weapon, to wit: a knife, during the commission of said crime.

19 COUNT 6 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

20 Defendant did then and there, willfully, unlawfully, and feloniously sexually assault
21 and subject TERESA TYLER, a female person, to sexual penetration, to-wit: fellatio, by
22 placing his penis in or on the mouth of the said TERESA TYLER, against her will, said
23 Defendant using a deadly weapon, to wit: a knife, during the commission of said crime.

24 COUNT 7 - ROBBERY WITH USE OF A DEADLY WEAPON

25 Defendant did then and there, willfully, unlawfully, and feloniously take personal
26 property, to wit: lawful money of the United States, from the person of TERESA TYLER, or
27 in her presence, by means of force or violence or fear of injury to, and without the consent and
28 against the will of the said TERESA TYLER, said Defendant using a deadly weapon, to wit:

1 a knife, during the commission of said crime.

2 COUNT 8 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

3 Defendant did then and there, willfully, unlawfully, and feloniously enter, while in
4 possession of a deadly weapon, to wit: scissors and/or a knife, with intent to commit larceny,
5 and/or a felony, to wit: sexual assault and/or robbery and/or any other felony, that certain
6 building occupied by LEONA CASE, located at 2900 East Charleston Boulevard, Apartment
7 No. 50 therein, Las Vegas, Clark County, Nevada.

8 COUNT 9 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON
9 WITH SUBSTANTIAL BODILY HARM

10 Defendant did willfully, unlawfully, feloniously, and without authority of law, seize,
11 confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away LEONA CASE, a
12 human being, with the intent to hold or detain the said LEONA CASE, against her will, and
13 without her consent, for the purpose of committing robbery and/or sexual assault, said
14 Defendant using a deadly weapon, to wit: a knife, during the commission of said crime,
15 resulting in substantial bodily harm to the said LEONA CASE.

16 COUNT 10 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON WITH
17 SUBSTANTIAL BODILY HARM

18 Defendant did then and there, willfully, unlawfully, and feloniously sexually assault
19 and subject LEONA CASE, a female person, to sexual penetration, to-wit: sexual intercourse,
20 by inserting his penis into the vagina of the said LEONA CASE, against her will, said
21 Defendant using a deadly weapon, to wit: a knife, during the commission of said crime,
22 resulting in substantial bodily harm to the said LEONA CASE.

23 COUNT 11 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

24 Defendant did then and there, without authority of law, and with premeditation and
25 deliberation, and with malice aforethought, willfully and feloniously attempt to kill LEONA
26 CASE, a human being, by stabbing at or into the body of the said LEONA CASE with a deadly
27 weapon, to wit: a knife, and by choking the said LEONA CASE around the neck with a phone
28 cord, and/or by Defendant thereafter locking LEONA CASE in her bathroom and setting her

1 apartment on fire, said Defendant using a deadly weapon, to wit: knife, during the commission
2 of said crime.

3 COUNT 12- SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON WITH
4 SUBSTANTIAL BODILY HARM

5 Defendant did then and there, willfully, unlawfully, and feloniously sexually assault
6 and subject LEONA CASE, a female person, to sexual penetration, to-wit: sexual intercourse,
7 by inserting his penis into the vagina of the said LEONA CASE, against her will, said
8 Defendant using a deadly weapon, to wit: a knife, during the commission of said crime,
9 resulting in substantial bodily harm to the said LEONA CASE.

10 COUNT 13 - ROBBERY WITH USE OF A DEADLY WEAPON

11 Defendant did then and there, willfully, unlawfully, and feloniously take personal
12 property, to wit: lawful money of the United States and/or jewelry and/or food stamps, from
13 the person of LEONA CASE, or in her presence, by means of force or violence or fear of
14 injury to, and without the consent and against the will of the said LEONA CASE, said
15 Defendant using a deadly weapon, to wit: a knife, during the commission of said crime.

16 COUNT 14 - FIRST DEGREE ARSON

17 Defendant did then and there, willfully, unlawfully, maliciously and feloniously set fire
18 to, and thereby cause to be burned, a certain apartment, located at 2900 East Charleston
19 Boulevard, Apartment No. 50 therein, Las Vegas, Clark County, Nevada, said property being
20 then and there the property of LEONA CASE, by use of open flame and flammable and/or
21 combustible materials, and/or by manner or means unknown.

22 COUNT 15 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

23 Defendant did then and there, willfully, unlawfully, and feloniously enter, while in
24 possession of a deadly weapon, to wit: a knife, with intent to commit larceny, and/or a felony,
25 to wit: sexual assault and/or robbery and/or any other felony, that certain building occupied
26 by RAMONA LEYVA, located at 600 East Bonanza Avenue, Apartment No. 114 therein, Las
27 Vegas, Clark County, Nevada.

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1 COUNT 16 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

2 Defendant did willfully, unlawfully, feloniously, and without authority of law, seize,
3 confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away RAMONA LEYVA,
4 a human being, with the intent to hold or detain the said RAMONA LEYVA, against her will,
5 and without her consent, for the purpose of committing robbery and/or sexual assault, said
6 Defendant using a deadly weapon, to wit: a knife, during the commission of said crime.

7 COUNT 17 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

8 Defendant did then and there, willfully, unlawfully, and feloniously sexually assault
9 and subject RAMONA LEYVA, a female person, to sexual penetration, to-wit: sexual
10 intercourse, by inserting his penis into the vagina of the said RAMONA LEYVA, against her
11 will, said Defendant using a deadly weapon, to wit: a knife, during the commission of said
12 crime.

13 COUNT 18 - ROBBERY WITH USE OF A DEADLY WEAPON

14 Defendant did then and there, willfully, unlawfully, and feloniously take personal
15 property, to wit: car keys and/or a 1980 Buick, bearing Nevada license no. 657 KMC, from
16 the person of RAMONA LEYVA, or in her presence, by means of force or violence or fear of
17 injury to, and without the consent and against the will of the said RAMONA LEYVA, said
18 Defendant using a deadly weapon, to wit: a knife, during the commission of said crime.

19 COUNT 19 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

20 Defendant did then and there, willfully, unlawfully, and feloniously enter, while in
21 possession of a deadly weapon, to wit: a knife, with intent to commit larceny, and/or a felony,
22 to wit: sexual assault and/or robbery and/or any other felony, that certain building occupied
23 by MARLENE LIVINGSTON, located at 2301 Clifford, Las Vegas, Clark County, Nevada.

24 COUNT 20 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON, VICTIM 65
25 YEARS OF AGE OR OLDER

26 Defendant did then and there, willfully, unlawfully, and feloniously sexually assault
27 and subject MARLENE LIVINGSTON, a female person being 65 years of age or older, to
28 sexual penetration, to-wit: fellatio, by placing his penis in or on the mouth of the said

1 MARLENE LIVINGSTON, against her will, said Defendant using a deadly weapon, to wit:
2 a knife, during the commission of said crime.

3 COUNT 21 - ROBBERY WITH USE OF A DEADLY WEAPON, VICTIM 65 YEARS OF
4 AGE OR OLDER

5 Defendant did then and there, willfully, unlawfully, and feloniously take personal
6 property, to wit: lawful money of the United States and/or jewelry and/or car keys and/or a
7 1991 Dodge, bearing Nevada license no. 728 ENB, from the person of MARLENE
8 LIVINGSTON, a person 65 years of age or older, or in her presence, by means of force or
9 violence or fear of injury to, and without the consent and against the will of the said
10 MARLENE LIVINGSTON, said Defendant using a deadly weapon, to wit: a knife, during
11 the commission of said crime.

12 COUNT 22 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

13 Defendant did then and there, willfully, unlawfully, and feloniously enter, while in
14 possession of a deadly weapon, to wit: a knife, with intent to commit larceny, and/or a felony,
15 to wit: sexual assault and/or robbery and/or any other felony, that certain building occupied
16 by CLARENCE AND FRANCIS RUMBAUGH, located at 436 North 12th Street, Apartment
17 No. B therein, Las Vegas, Clark County, Nevada.

18 COUNT 23 - ROBBERY WITH USE OF A DEADLY WEAPON, VICTIM 65 YEARS OF
19 AGE OR OLDER

20 Defendant did then and there, willfully, unlawfully, and feloniously take personal
21 property, to wit: lawful money of the United States, from the person of CLARENCE
22 RUMBAUGH, a person 65 years of age or older, or in his presence, by means of force or
23 violence or fear of injury to, and without the consent and against the will of the said
24 CLARENCE RUMBAUGH, said Defendant using a deadly weapon, to wit: a knife, during
25 the commission of said crime.

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1 COUNT 24 - ROBBERY WITH USE OF A DEADLY WEAPON, VICTIM 65 YEARS OF
2 AGE OR OLDER

3 Defendant did then and there, willfully, unlawfully, and feloniously take personal
4 property, to wit: lawful money of the United States, from the person of FRANCIS
5 RUMBAUGH, a person 65 years of age or older, or in her presence, by means of force or
6 violence or fear of injury to, and without the consent and against the will of the said FRANCIS
7 RUMBAUGH, said Defendant using a deadly weapon, to wit: a knife, during the commission
8 of said crime.

9 COUNT 25 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

10 Defendant did then and there, willfully, unlawfully, and feloniously enter, while in
11 possession of a deadly weapon, to wit: a knife, with intent to commit larceny, and/or a felony,
12 to wit: sexual assault and/or robbery and/or any other felony, that certain building occupied
13 by LEROY FOWLER, located at 1121 East Ogden, Apartment No. 9 therein, Las Vegas, Clark
14 County, Nevada.

15 COUNT 26 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

16 Defendant did then and there, willfully, unlawfully, and feloniously enter, while in
17 possession of a deadly weapon, to wit: a knife, with intent to commit larceny, and/or a felony,
18 to wit: sexual assault and/or robbery and/or any other felony, that certain building occupied
19 by JONI HALL, located at 624 North 13th Street, Apartment No. B therein, Las Vegas, Clark
20 County, Nevada.

21 COUNT 27 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

22 Defendant did willfully, unlawfully, feloniously, and without authority of law, seize,
23 confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away JONI HALL, a human
24 being, with the intent to hold or detain the said JONI HALL, against her will, and without her
25 consent, for the purpose of committing robbery and/or sexual assault, said Defendant using a
26 deadly weapon, to wit: a knife, during the commission of said crime.

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1 COUNT 28 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

2 Defendant did then and there, willfully, unlawfully, and feloniously sexually assault
3 and subject JONI HALL, a female person, to sexual penetration, to-wit: sexual intercourse,
4 by inserting his penis into the vagina of the said JONI HALL, against her will, said Defendant
5 using a deadly weapon, to wit: a knife, during the commission of said crime.

6 COUNT 29 - ROBBERY WITH USE OF A DEADLY WEAPON

7 Defendant did then and there, willfully, unlawfully, and feloniously take personal
8 property, to wit: a Westinghouse color television and/or a Lenox portable CD player and/or a
9 baby stroller, from the person of JONI HALL, or in her presence, by means of force or violence
10 or fear of injury to, and without the consent and against the will of the said JONI HALL, said
11 Defendant using a deadly weapon, to wit: a knife, during the commission of said crime.

12 COUNT 30 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

13 Defendant did then and there, willfully, unlawfully, and feloniously enter, while in
14 possession of a deadly weapon, to wit: a gun, with intent to commit larceny, and/or a felony,
15 to wit: sexual assault and/or robbery and/or any other felony, that certain building occupied
16 by LAURA ZAZUETA, GUADALUPE LOPEZ and BEATRIZ ZAZUETA, located at 2830
17 East Cedar, Apartment No. 229 therein, Las Vegas, Clark County, Nevada.

18 COUNT 31 - ROBBERY WITH USE OF A DEADLY WEAPON

19 Defendant did then and there, willfully, unlawfully, and feloniously take personal
20 property, to wit: lawful money of the United States, from the person of LAURA ZAZUETA,
21 or in her presence, by means of force or violence or fear of injury to, and without the consent
22 and against the will of the said LAURA ZAZUETA, said Defendant using a deadly weapon,
23 to wit: a gun, during the commission of said crime.

24 COUNT 32 - ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

25 Defendant did then and there, willfully, unlawfully, and feloniously attempt to take
26 personal property, to wit: lawful money of the United States and/or jewelry and/or any other
27 property of LAURA ZAZUETA, GUADALUPE LOPEZ and/or BEATRIZ ZAZUETA, from
28 the person of GUADALUPE LOPEZ, or in his presence, by means of force or violence or fear

1 of injury to, and without the consent and against the will of the said GUADALUPE LOPEZ,
2 said Defendant using a deadly weapon, to wit: a gun, during the commission of said crime.

3 COUNT 33 - ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

4 Defendant did then and there, willfully, unlawfully, and feloniously attempt to take
5 personal property, to wit: lawful money of the United States and/or jewelry and/or any other
6 property of LAURA ZAZUETA, GUADALUPE LOPEZ and/or BEATRIZ ZAZUETA, from
7 the person of BEATRIZ ZAZUETA, or in her presence, by means of force or violence or fear
8 of injury to, and without the consent and against the will of the said BEATRIZ ZAZUETA,
9 said Defendant using a deadly weapon, to wit: a gun, during the commission of said crime.

10 COUNT 34 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

11 Defendant did then and there, without authority of law, and with premeditation and
12 deliberation, and with malice aforethought, willfully and feloniously attempt to kill
13 GUADALUPE LOPEZ, a human being, by pointing a gun at the body of the said
14 GUADALUPE LOPEZ, Defendant thereafter putting the gun to the forehead of the said
15 GUADALUPE LOPEZ and threatening to "start blasting" if he did not receive money,
16 Defendant thereafter firing approximately three shots at the said GUADALUPE LOPEZ,
17 striking him once in the leg, Defendant using a deadly weapon, to wit: a gun, during the
18 commission of said crime.

19 COUNT 35 - BATTERY WITH USE OF A DEADLY WEAPON

20 Defendant did then and there, willfully, unlawfully, and feloniously use force and
21 violence upon the person of another, to wit: GUADALUPE LOPEZ, with use of a deadly
22 weapon, to wit: a gun, by Defendant shooting a gun at the said GUADALUPE LOPEZ,
23 striking him in the leg.

24 COUNT 36 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

25 Defendant did then and there, willfully, unlawfully, and feloniously enter, while in
26 possession of a deadly weapon, to-wit: a gun, with intent to commit larceny, and/or robbery
27 and/or any other felony, that certain building occupied by GYALTSO LUNGTOK, located at
28 415 South 10th Street, Apartment No. H therein, Las Vegas, Nevada, Clark County, Nevada.

1 COUNT 37 - ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

2 Defendant did then and there, willfully, unlawfully, and feloniously attempt to take
3 personal property, to-wit: lawful money of the United States and/or jewelry and/or any other
4 property of GYALTSO LUNGTOK, from the person of GYALTSO LUNGTOK, or in his
5 presence, by means of force or violence or fear of injury to, and without the consent and against
6 the will of the said GYALTSO LUNGTOK, said defendant using a deadly weapon, to-wit: a
7 gun, during the commission of said crime.

8 COUNT 38 - MURDER WITH USE OF A DEADLY WEAPON (OPEN MURDER)

9 Defendant did then and there, willfully, feloniously, without authority of law, and with
10 premeditation and deliberation and malice aforethought, kill GYALTSO LUNGTOK, a
11 human being, by shooting at and into the body of the said GYALTSO LUNGTOK with use of
12 a deadly weapon, to-wit: a gun, Defendant being responsible under one or more of the
13 following theories of criminal liability, to-wit: 1) Premeditation and deliberation: by
14 Defendant directly committing said felony offense as the perpetrator, and/or 2) Felony murder:
15 by Defendant committing said felony offense during the perpetration or attempted perpetration
16 of the crime(s) of burglary and/or robbery.

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

20 BY


21 LISA LUZAICH
22 Chief Deputy District Attorney
23 Nevada Bar #005056
24

25 DA#00F13901X/mlb/hjc/SVU
26 LVMPD EV#0002012429/0003070141
27 0003252971/0004040324/0004122745/
28 0004260197/0005090185/0006050305/
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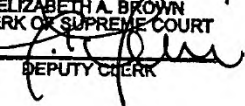
IN THE SUPREME COURT OF THE STATE OF NEVADA

JUSTIN D. PORTER, A/K/A JUG CAPRI
PORTER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 85782

FILED

JAN 24 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

*ORDER DIRECTING ENTRY AND TRANSMISSION OF
WRITTEN JUDGMENT OF CONVICTION*

This is a pro se notice of appeal from a judgment of conviction. The criminal court minutes indicate that the district court orally pronounced sentence on November 3, 2022. Until the entry of a final, written judgment and the timely filing of a notice of appeal, the district court technically retains jurisdiction over appellant's case. In a criminal case, a notice of appeal filed after announcement of the decision, but before entry of the written judgment or order is deemed to have been filed "after such entry and on the day thereof." NRAP 4(b)(2). Thus, a copy of the written judgment is essential to a determination of this court's jurisdiction to consider this appeal.

Accordingly, the district court shall have 30 days from the date of this order within which to (1) enter a written judgment or (2) inform this court that it is reconsidering its decision. In the event the district court enters a written judgment (or has already entered a written judgment of

which this court is unaware), the clerk of the district court shall immediately transmit a certified copy of the judgment to the clerk of this court.

It is so ORDERED.

 Stiglin , C.J.

cc: Hon. Jacqueline M. Bluth, District Judge
Justin D. Porter
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

1 JOC
2
3
4

5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 JUSTIN D. PORTER, aka
12 Jug Capri Porter,
13 #1682627

14 Defendant.
15

CASE NO. 01C174954

DEPT. NO. VI

16 JUDGMENT OF CONVICTION
17 (JURY TRIAL)
18

19 The Defendant previously entered a plea of not guilty to the crimes of COUNT
20 1 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B
21 Felony) in violation of NRS 205.060; COUNT 2 - FIRST-DEGREE KIDNAPPING
22 WITH USE OF A DEADLY WEAPON (Category A Felony) in violation of NRS
23 200.310, 200.320, 193.165; COUNT 3 - SEXUAL ASSAULT WITH USE OF A
24 DEADLY WEAPON (Category A Felony) in violation of NRS 200.364, 200.366,
25 193.165; COUNT 4 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON
26 (Category A Felony) in violation of NRS 200.364, 200.366, 193.165; COUNT 5 -
27 SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON (Category A Felony) in
28

1 violation of NRS 200.364, 200.366, 193.165; COUNT 6 - SEXUAL ASSAULT WITH
2 USE OF A DEADLY WEAPON (Category A Felony) in violation of NRS 200.364,
3 200.366, 193.165; COUNT 7 - ROBBERY WITH USE OF A DEADLY WEAPON
4 (Category A Felony) in violation of NRS 200.380, 193.165; COUNT 8 - BURGLARY
5 WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony) in violation
6 of NRS 205.060; COUNT 9 - FIRST-DEGREE KIDNAPPING WITH USE OF A
7 DEADLY WEAPON WITH SUBSTANTIAL BODILY HARM (Category A Felony) in
8 violation of NRS 200.310, 200.320, 193.165; COUNT 10 - SEXUAL ASSAULT WITH
9 USE OF A DEADLY WEAPON WITH SUBSTANTIAL BODILY HARM (Category A
10 Felony) in violation of NRS 200.364, 200.366, 193.165; COUNT 11 - ATTEMPT
11 MURDER WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of
12 NRS 200.010, 200.030, 193.153, 193.165; COUNT 12 - SEXUAL ASSAULT WITH
13 USE OF A DEADLY WEAPON WITH SUBSTANTIAL BODILY HARM (Category A
14 Felony) in violation of NRS 200.364, 200.366, 193.165; COUNT 13 - ROBBERY
15 WITH USE OF A DEADLY WEAPON (Category A Felony) in violation of NRS
16 200.380, 193.165; COUNT 14 - FIRST DEGREE ARSON (Category B Felony) in
17 violation of NRS 205.010; COUNT 15 - BURGLARY WHILE IN POSSESSION OF A
18 DEADLY WEAPON (Category B Felony) in violation of NRS 205.060; COUNT 16 -
19 FIRST-DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON (Category A
20 Felony) in violation of NRS 200.310, 200.320, 193.165; COUNT 17 - SEXUAL
21 ASSAULT WITH USE OF A DEADLY WEAPON (Category A Felony) in violation of
22 NRS 200.364, 200.366, 193.165; COUNT 18 - ROBBERY WITH USE OF A DEADLY
23 WEAPON (Category A Felony) in violation of NRS 200.380, 193.165; COUNT 19 -
24 BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B
25
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27
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1 Felony) in violation of NRS 205.060; COUNT 20 - SEXUAL ASSAULT WITH USE OF
2 A DEADLY WEAPON, VICTIM 65 YEARS OF AGE OR OLDER (Category A Felony)
3 in violation of NRS 200.364, 200.366, 193.165, 193.167; COUNT 21 - ROBBERY
4 WITH USE OF A DEADLY WEAPON, VICTIM 65 YEARS OF AGE OR OLDER
5 (Category B Felony) in violation of NRS 200.380, 193.165, 193.167; COUNT 22 -
6 BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B
7 Felony) in violation of NRS 205.060; COUNT 23 - ROBBERY WITH USE OF A
8 DEADLY WEAPON, VICTIM 65 YEARS OF AGE OR OLDER (Category B Felony) in
9 violation of NRS 200.380, 193.165, 193.167; COUNT 24 - ROBBERY WITH USE OF
10 A DEADLY WEAPON, VICTIM 65 YEARS OF AGE OR OLDER (Category B Felony)
11 in violation of NRS 200.380, 193.165, 193.167; COUNT 25 - BURGLARY WHILE IN
12 POSSESSION OF A DEADLY WEAPON (Category B Felony) in violation of NRS
13 205.060; COUNT 26 - BURGLARY WHILE IN POSSESSION OF A DEADLY
14 WEAPON (Category B Felony) in violation of NRS 205.060; COUNT 27 - FIRST-
15 DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON (Category A Felony) in
16 violation of NRS 200.310, 200.320, 193.165; COUNT 28 - SEXUAL ASSAULT WITH
17 USE OF A DEADLY WEAPON (Category A Felony) in violation of NRS 200.364,
18 200.366, 193.165; COUNT 29 - ROBBERY WITH USE OF A DEADLY WEAPON
19 (Category A Felony) in violation of NRS 200.380, 193.165; COUNT 30 - BURGLARY
20 WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony) in violation
21 of NRS 205.060; COUNT 31 - ROBBERY WITH USE OF A DEADLY WEAPON
22 (Category A Felony) in violation of NRS 200.380, 193.165; COUNT 32 - ATTEMPT
23 ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of
24 NRS 200.380, 193.153, 193.165; COUNT 33 - ATTEMPT ROBBERY WITH USE OF

1 A DEADLY WEAPON (Category B Felony) in violation of NRS 200.380, 193.153,
2 193.165; COUNT 34 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
3 (Category A Felony) in violation of NRS 200.010, 200.030, 193.153, 193.165; and
4 COUNT 35 – BATTERY WITH USE OF A DEADLY WEAPON (Category B Felony) in
5 violation of NRS 200.481; and the matter having been tried before a jury and the
6 Defendant having been found guilty of the crimes of COUNT 1 - BURGLARY WHILE
7 IN POSSESSION OF A DEADLY WEAPON (Category B Felony) in violation of NRS
8 205.060; COUNT 2 - FIRST-DEGREE KIDNAPPING WITH USE OF A DEADLY
9 WEAPON (Category A Felony) in violation of NRS 200.310, 200.320, 193.165;
10 COUNT 3 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON (Category A
11 Felony) in violation of NRS 200.364, 200.366, 193.165; COUNT 5 - SEXUAL
12 ASSAULT WITH USE OF A DEADLY WEAPON (Category A Felony) in violation of
13 NRS 200.364, 200.366, 193.165; COUNT 8 - BURGLARY WHILE IN POSSESSION
14 OF A DEADLY WEAPON (Category B Felony) in violation of NRS 205.060; COUNT
15 9 - FIRST-DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON WITH
16 SUBSTANTIAL BODILY HARM (Category A Felony) in violation of NRS 200.310,
17 200.320, 193.165; COUNT 10 - SEXUAL ASSAULT WITH USE OF A DEADLY
18 WEAPON WITH SUBSTANTIAL BODILY HARM (Category A Felony) in violation of
19 NRS 200.364, 200.366, 193.165; COUNT 11 - ATTEMPT MURDER WITH USE OF A
20 DEADLY WEAPON (Category B Felony) in violation of NRS 200.010, 200.030,
21 193.153, 193.165; COUNT 12 - SEXUAL ASSAULT WITH USE OF A DEADLY
22 WEAPON WITH SUBSTANTIAL BODILY HARM (Category A Felony) in violation of
23 NRS 200.364, 200.366, 193.165; COUNT 13 - ROBBERY WITH USE OF A DEADLY
24 WEAPON (Category A Felony) in violation of NRS 200.380, 193.165; COUNT 14 -

1 FIRST DEGREE ARSON (Category B Felony) in violation of NRS 205.010; COUNT
2 15 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B
3 Felony) in violation of NRS 205.060; COUNT 16 - FIRST-DEGREE KIDNAPPING
4 WITH USE OF A DEADLY WEAPON (Category A Felony) in violation of NRS
5 200.310, 200.320, 193.165; COUNT 17 - SEXUAL ASSAULT WITH USE OF A
6 DEADLY WEAPON (Category A Felony) in violation of NRS 200.364, 200.366,
7 193.165; COUNT 18 - ROBBERY WITH USE OF A DEADLY WEAPON (Category A
8 Felony) in violation of NRS 200.380, 193.165; COUNT 19 - BURGLARY WHILE IN
9 POSSESSION OF A DEADLY WEAPON (Category B Felony) in violation of NRS
10 205.060; COUNT 20 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON,
11 VICTIM 65 YEARS OF AGE OR OLDER (Category A Felony) in violation of NRS
12 200.364, 200.366, 193.165, 193.167; COUNT 21 - ROBBERY WITH USE OF A
13 DEADLY WEAPON, VICTIM 65 YEARS OF AGE OR OLDER (Category B Felony) in
14 violation of NRS 200.380, 193.165, 193.167; COUNT 22 - BURGLARY WHILE IN
15 POSSESSION OF A DEADLY WEAPON (Category B Felony) in violation of NRS
16 205.060; COUNT 23 - ROBBERY WITH USE OF A DEADLY WEAPON, VICTIM 65
17 YEARS OF AGE OR OLDER (Category B Felony) in violation of NRS 200.380,
18 193.165, 193.167; COUNT 24 - ROBBERY WITH USE OF A DEADLY WEAPON,
19 VICTIM 65 YEARS OF AGE OR OLDER (Category B Felony) in violation of NRS
20 200.380, 193.165, 193.167; COUNT 26 - BURGLARY WHILE IN POSSESSION OF
21 A DEADLY WEAPON (Category B Felony) in violation of NRS 205.060; COUNT 27 -
22 SECOND-DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON (Category A
23 Felony) in violation of NRS 200.310, 200.320, 193.165; COUNT 28 - SEXUAL
24 ASSAULT WITH USE OF A DEADLY WEAPON (Category A Felony) in violation of

1 NRS 200.364, 200.366, 193.165; COUNT 29 - ROBBERY WITH USE OF A DEADLY
2 WEAPON (Category A Felony) in violation of NRS 200.380, 193.165; COUNT 30 -
3 BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B
4 Felony) in violation of NRS 205.060; COUNT 31 - ROBBERY WITH USE OF A
5 DEADLY WEAPON (Category A Felony) in violation of NRS 200.380, 193.165;
6 COUNT 32 - ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON (Category
7 B Felony) in violation of NRS 200.380, 193.153, 193.165; COUNT 33 - ATTEMPT
8 ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of
9 NRS 200.380, 193.153, 193.165; and COUNT 35 – BATTERY (Gross Misdemeanor)
10 in violation of NRS 200.481; **Defendant found not guilty as to Counts 4, 6, 7, 25,**
11 **and 34;** thereafter, on the 3rd day of November, 2022, the Defendant was present in
12 court for sentencing with counsels, ADAM L. GILL, Esq., and CHARLES R.
13 GOODWIN, Esq., and good cause appearing,

14 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in
15 addition to the \$25.00 Administrative Assessment Fee, and \$250.00 Indigent Defense
16 Civil Assessment Fee plus \$3.00 DNA Collection Fee, the Defendant is SENTENCED
17 to the Nevada Department of Corrections (NDC) as follows: COUNT 1 - a MAXIMUM
18 of FIFTEEN (15) YEARS with a MINIMUM parole eligibility of FIVE (5) YEARS in the
19 Nevada Department of Corrections (NDC); COUNT 2 - LIFE with a MINIMUM parole
20 eligibility of FIVE (5) YEARS in the Nevada Department of Corrections (NDC), plus a
21 CONSECUTIVE term of LIFE with a MINIMUM parole eligibility of FIVE (5) YEARS in
22 the Nevada Department of Corrections (NDC) for use of a deadly weapon; COUNT 3
23 - LIFE with a MINIMUM parole eligibility of TEN (10) YEARS in the Nevada
24 Department of Corrections (NDC), plus CONSECUTIVE term of LIFE with a

1 MINIMUM parole eligibility of TEN (10) YEARS in the Nevada Department of
2 Corrections (NDC) for use of a deadly weapon, CONSECUTIVE to Counts 1 and 2;
3 COUNT 5 - LIFE with a MINIMUM parole eligibility of TEN (10) YEARS in the Nevada
4 Department of Corrections (NDC), plus CONSECUTIVE term of LIFE with a
5 MINIMUM parole eligibility of TEN (10) YEARS in the Nevada Department of
6 Corrections (NDC) for use of a deadly weapon, CONCURRENT with Count 3;
7 COUNT 8 - MAXIMUM of FIFTEEN (15) YEARS with a MINIMUM parole eligibility of
8 TWO (2) YEARS in the Nevada Department of Corrections (NDC), CONCURRENT
9 with Count 5; COUNT 9 - LIFE with a MINIMUM parole eligibility of FIFTEEN (15)
10 YEARS in the Nevada Department of Corrections (NDC), plus CONSECUTIVE term
11 of LIFE with a MINIMUM parole eligibility of FIFTEEN (15) YEARS in the Nevada
12 Department of Corrections (NDC) for use of a deadly weapon, CONCURRENT with
13 Count 8; COUNT 10 - LIFE with a MINIMUM parole eligibility of FIFTEEN (15)
14 YEARS in the Nevada Department of Corrections (NDC), plus CONSECUTIVE term
15 of LIFE with a MINIMUM parole eligibility of FIFTEEN (15) YEARS in the Nevada
16 Department of Corrections (NDC) for use of a deadly weapon, CONSECUTIVE to
17 Count 9; COUNT 11 - MAXIMUM of TWENTY (20) YEARS with a MINIMUM parole
18 eligibility of TWO (2) YEARS in the Nevada Department of Corrections (NDC) plus
19 CONSECUTIVE term of a MAXIMUM of TWENTY (20) YEARS with a MINIMUM
20 parole eligibility of TWO (2) YEARS in the Nevada Department of Corrections (NDC)
21 for use of a deadly weapon, CONCURRENT with Count 10; COUNT 12 - LIFE with a
22 MINIMUM parole eligibility of FIFTEEN (15) YEARS in the Nevada Department of
23 Corrections (NDC) plus CONSECUTIVE term of LIFE with a MINIMUM parole
24 eligibility of FIFTEEN (15) YEARS in the Nevada Department of Corrections (NDC)

1 for use of a deadly weapon, CONCURRENT with Count 11; COUNT 13 - a
2 MAXIMUM of FIFTEEN (15) YEARS with a MINIMUM parole eligibility of TWO (2)
3 YEARS in the Nevada Department of Corrections (NDC) plus CONSECUTIVE term
4 of a MAXIMUM of FIFTEEN (15) YEARS with a MINIMUM parole eligibility of TWO
5 (2) YEARS in the Nevada Department of Corrections (NDC) for use of a deadly
6 weapon, CONCURRENT with Count 12; COUNT 14 - a MAXIMUM of FIFTEEN (15)
7 YEARS with a MINIMUM of TWO (2) YEARS in the Nevada Department of
8 Corrections (NDC), CONSECUTIVE to Count 13; COUNT 15 - a MAXIMUM of
9 FIFTEEN (15) YEARS with a MINIMUM of TWO (2) YEARS in the Nevada
10 Department of Corrections (NDC), CONCURRENT with Count 14; COUNT 16 - LIFE
11 with a MINIMUM parole eligibility of FIVE (5) YEARS in the Nevada Department of
12 Corrections (NDC) plus CONSECUTIVE term of LIFE with a MINIMUM parole
13 eligibility of FIVE (5) YEARS in the Nevada Department of Corrections (NDC) for use
14 of a deadly weapon, CONCURRENT with Count 15; COUNT 17 - LIFE with a
15 MINIMUM parole eligibility of TEN (10) YEARS in the Nevada Department of
16 Corrections (NDC) plus CONSECUTIVE term of LIFE with a MINIMUM parole
17 eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC) for use
18 of a deadly weapon, CONSECUTIVE to Count 16; COUNT 18 - a MAXIMUM of
19 FIFTEEN (15) YEARS with a MINIMUM parole eligibility of TWO (2) YEARS in the
20 Nevada Department of Corrections (NDC), plus CONSECUTIVE term of a MAXIMUM
21 of FIFTEEN (15) YEARS with a MINIMUM parole eligibility of TWO (2) YEARS in the
22 Nevada Department of Corrections (NDC) for use of a deadly weapon,
23 CONCURRENT with Count 17; COUNT 19 - a MAXIMUM of FIFTEEN (15) YEARS
24 and a MINIMUM of TWO (2) YEARS in the Nevada Department of Corrections

(NDC), CONCURRENT with Count 18; COUNT 20 - LIFE with a MINIMUM parole eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC) plus CONSECUTIVE term of LIFE with a MINIMUM parole eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC) for use of a deadly weapon, CONSECUTIVE to Count 19; COUNT 21 - a MAXIMUM of FIFTEEN (15) YEARS with a MINIMUM parole eligibility of TWO (2) YEARS in the Nevada Department of Corrections (NDC) plus CONSECUTIVE term of a MAXIMUM of FIFTEEN (15) YEARS with a MINIMUM parole eligibility of TWO (2) YEARS in the Nevada Department of Corrections (NDC) for use of a deadly weapon, CONCURRENT with Count 20; COUNT 22 - a MAXIMUM of FIFTEEN (15) YEARS and a MINIMUM of TWO (2) YEARS in the Nevada Department of Corrections (NDC), CONCURRENT with Count 21; COUNT 23 - a MAXIMUM of FIFTEEN (15) YEARS with a MINIMUM parole eligibility of TWO (2) YEARS in the Nevada Department of Corrections (NDC) plus CONSECUTIVE term of a MAXIMUM of FIFTEEN (15) YEARS with a MINIMUM parole eligibility of TWO (2) YEARS in the Nevada Department of Corrections (NDC) for use of a deadly weapon, CONSECUTIVE to Count 22; COUNT 24 - a MAXIMUM of FIFTEEN (15) YEARS with a MINIMUM parole eligibility of TWO (2) YEARS in the Nevada Department of Corrections (NDC) plus CONSECUTIVE term of a MAXIMUM of FIFTEEN (15) YEARS with a MINIMUM parole eligibility of TWO (2) YEARS in the Nevada Department of Corrections (NDC) for use of a deadly weapon, CONCURRENT with Count 23; COUNT 26 - a MAXIMUM of FIFTEEN (15) YEARS with a MINIMUM of TWO (2) YEARS in the Nevada Department of Corrections (NDC), CONCURRENT with Count 24; COUNT 27 - a MAXIMUM of FIFTEEN (15) YEARS with a MINIMUM parole eligibility of TWO (2) YEARS in the Nevada

1 Department of Corrections (NDC) plus CONSECUTIVE term of a MAXIMUM of
2 FIFTEEN (15) YEARS with a MINIMUM parole eligibility of TWO (2) YEARS in the
3 Nevada Department of Corrections (NDC) for use of a deadly weapon,
4 CONCURRENT with Count 26; COUNT 28 - LIFE with a MINIMUM parole eligibility
5 of TEN (10) YEARS in the Nevada Department of Corrections (NDC) plus
6 CONSECUTIVE term of LIFE with a MINIMUM parole eligibility of TEN (10) YEARS
7 in the Nevada Department of Corrections (NDC) for use of a deadly weapon,
8 CONSECUTIVE to Count 27; COUNT 29 - to a MAXIMUM of FIFTEEN (15) YEARS
9 with a MINIMUM parole eligibility of TWO (2) YEARS in the Nevada Department of
10 Corrections (NDC) plus CONSECUTIVE term of a MAXIMUM of FIFTEEN (15)
11 YEARS with a MINIMUM parole eligibility of TWO (2) YEARS in the Nevada
12 Department of Corrections (NDC) for use of a deadly weapon, CONCURRENT with
13 Count 28; COUNT 30 - a MAXIMUM of FIFTEEN (15) YEARS and a MINIMUM of
14 TWO (2) YEARS in the Nevada Department of Corrections (NDC), CONCURRENT
15 with Count 29; COUNT 31 - a MAXIMUM of FIFTEEN (15) YEARS with a MINIMUM
16 parole eligibility of TWO (2) YEARS in the Nevada Department of Corrections (NDC)
17 plus CONSECUTIVE term of a MAXIMUM of FIFTEEN (15) YEARS with a MINIMUM
18 parole eligibility of TWO (2) YEARS in the Nevada Department of Corrections (NDC)
19 for use of a deadly weapon, CONSECUTIVE to Count 30; and COUNT 32 - a
20 MAXIMUM of TEN (10) YEARS with a MINIMUM parole eligibility of ONE (1) YEAR in
21 the Nevada Department of Corrections (NDC) plus CONSECUTIVE term of a
22 MAXIMUM of TEN (10) YEARS with a MINIMUM parole eligibility of ONE (1) YEAR in
23 the Nevada Department of Corrections (NDC) for use of a deadly weapon,
24 CONCURRENT with Count 31; COUNT 33 - a MAXIMUM of TEN (10) YEARS with a

1 MINIMUM parole eligibility of ONE (1) YEAR in the Nevada Department of
2 Corrections (NDC) plus CONSECUTIVE term of a MAXIMUM of TEN (10) YEARS
3 with a MINIMUM parole eligibility of ONE (1) YEAR in the Nevada Department of
4 Corrections (NDC) for use of a deadly weapon, CONCURRENT with Count 32; and
5 COUNT 35 - SIX (6) MONTHS in the Clark County Detention Center (CCDC),
6 CONCURRENT with Count 33; with EIGHT THOUSAND ONE HUNDRED TWELVE
7 (8,112) DAYS credit for time served. The AGGREGATE TOTAL sentence is a
8 MAXIMUM of LIFE with a MINIMUM of ONE HUNDRED TWENTY-SIX (126) YEARS
9 in the Nevada Department of Corrections (NDC). COURT FURTHER ORDERED,
10 these charges are to run CONSECUTIVE to COUNT 38 – MURDER (SECOND
11 DEGREE) as listed in the Fifth Amended Information. As the \$150.00 DNA Analysis
12 Fee and Genetic Testing has been previously imposed, the Fee and Testing in the
13 current case are WAIVED.
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Dated this 15th day of February, 2023



VP

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Jacqueline M. Bluth
District Court Judge

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5
6 The State of Nevada vs Justin D
7 Porter

CASE NO: 01C174954

DEPT. NO. Department 6

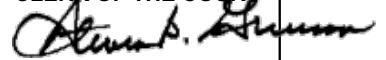
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9 **AUTOMATED CERTIFICATE OF SERVICE**

10 This automated certificate of service was generated by the Eighth Judicial District
11 Court. The foregoing Judgment of Conviction was served via the court's electronic eFile
12 system to all recipients registered for e-Service on the above entitled case as listed below:

13 Service Date: 2/15/2023

14 Carrie Connolly .	connolcm@ClarkCountyNV.gov
15 JACKIE Mosley .	Jaclyn.mosley@clarkcountyda.com
16 Law Clerk .	Dept06LC@clarkcountycourts.us
17 James Oronoz	jim@oronozlawyers.com
18 Thomas Ericsson	tom@oronozlawyers.com
19 Alicia Oronoz	alicia@oronozlawyers.com
20 DeAwna takas	TakasD@clarkcountycourts.us
21 ADAM ESQ.	adam@aisengill.com
22 LISA CHEF DEPUTY DA	lisa.luzach@clarkcountyda.com
23 STACEY Chief Deputy DA	stacey.kollins@clarkcountyda.com

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1 **NOASC**
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3 Nevada Bar No. 4982
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9 tom@oronozlawyers.com
10 *Attorney for Appellant*

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 JUSTIN D. PORTER,
11 Appellant,
12 v.
13 THE STATE OF NEVADA
14 Respondent.

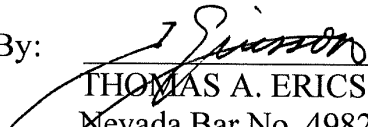
CASE NO.: 01C174954
DEPT. NO.: VI
NOTICE OF APPEAL

15 NOTICE is hereby given that JUSTIN D. PORTER, Appellant above named,
16 hereby appeals to the Nevada Supreme Court from the Judgment of Conviction filed
17 in this action on the 16th day of February 2023.

18 DATED this 16th day of February 2023.

19 Respectfully submitted,

20 By:

21 
22 THOMAS A. ERICSSON, ESQ.
23 Nevada Bar No. 4982
24 ORONOZ & ERICSSON, LLC
25 9900 Covington Cross Drive, Suite 290
26 Las Vegas, Nevada 89144
27 *Attorney for Appellant*
28

1 **CERTIFICATE OF ELECTRONIC SERVICE**

2 The undersigned hereby certifies that electronic service was completed via the
3 Odyssey E-File & Serve System and emailed to the following recipient(s) on this
4 16th day of February 2023.

5 STEVEN B. WOLFSON
6 Clark County District Attorney
7 PDMotions@clarkcountyda.com

8
9
10 /s/ Mariela Ramirez
11 An Employee of Oronoz & Ericsson, LLC
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