

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

Electronically Filed
Jan 04 2022 10:57 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

STATE OF NEVADA,

PLAINTIFF,

vs.

ANTHONY CLARKE,

DEFENDANT.

Sup. Ct. Case No. 83839

Case No. CR19-1352

Dept. 15

RECORD ON APPEAL

VOLUME 2 OF 6

DOCUMENTS

APPELLANT

Anthony Clarke

NNCC

PO Box 7000

Carson City, NV

RESPONDENT

Washoe County District

Attorney's Office

Jennifer P. Noble, Esq. #9446

P.O. Box 30083

Reno, Nevada 89502-3083

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

STATE OF NEVADA,

Plaintiff,

SJDC Case No.:

vs.

SJDC Dept.No.:

ANTHONY CLARKE,

Defendant.

NOTICE OF BINDOVERDEFENDANT'S NAME: Anthony Clarke

AKA's: _____

DATE OF BIRTH: 04/13/1959DATE OF BINDOVER: 8/1/2019JUSTICE COURT: Reno Justice CourtJ/C Case Number: RCR2019-100994 DA Case Number: 19-2491

Co-Defendant(s): _____

DAS Supervision: No

PROSECUTING ATTORNEY: _____ Bar No: _____

DEFENSE COUNSEL: Jarrod Hickman Bar No: 12772☐ BAIL BOND FORFEITURE _____ ☐ BAIL BOND ☐ CASH BAIL
Start Date

1 **Code 3700**

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

9 **THE STATE OF NEVADA,**

10 **Plaintiff,**

Case No. BIND-2019

11 **vs.**

Dept. No.

12 **Anthony Clarke,**

13
14 **Defendant,**

15 _____ /
16 **PROCEEDINGS**
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**IN THE JUSTICE COURT OF RENO TOWNSHIP
IN AND FOR THE COUNTY OF WASHOE
STATE OF NEVADA**

JMS

THE STATE OF NEVADA,

Plaintiff,

RJC Case NO. RCR2019-100994
SJDC Case NO. _____

SJDC DEPT. _____

Defense Counsel: J. Hickman

Bar NO. 12772

Anthony ^{vs} Clarke
Defendant,

Waiver of Preliminary Examination

I, the defendant in the above-entitled action, being fully advised of my rights in the premises, hereby
waive my preliminary examination on the charge of BURGLARY (cat B)

in the above entitled action, and consent that the above matter be transferred to the Second Judicial District
Court of the State of Nevada, for further proceedings therein. A will plea to the

sole charge of BURGLARY. Parties will
stipulate to a sentence of 12-36 months
NDOC.

8/1/19
Date

Anthony Clarke
Defendant Signature

RENO CRIMINAL
CASE SUMMARY
CASE NO. RCR2019-100994

The State of Nevada
vs.
Anthony Clarke

§
§
§
§
§
§
§
§
§

Location: **Reno Criminal**
Judicial Officer: **Hascheff, Pierre**
Filed on: **03/05/2019**
Case Number History: **RPC2019-033533**
Agency Number: **RP19-004180**
District Attorney Number: **19-2491**
Probable Cause Number: **RPD0048360C**
RPD0050563C

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Felony
1. Burglary, 1st	NRS 205.060.2	B	03/02/2019		
ACN: RP19-004180				Case	08/01/2019 Waived
Arrest:	RPD - Reno Police Department			Status:	
Statistical Closures				Case Flags:	In Custody
08/01/2019	Waiver of Preliminary Hearing				

Warrants

Bench Warrant Failure to Appear - Clarke, Anthony (Judicial Officer: Hascheff, Pierre)

07/17/2019	9:03 AM	Returned
07/12/2019	7:51 AM	Executed
04/01/2019	1:00 PM	Issued
04/01/2019	12:34 PM	Pending Clerk Review
Fine:	\$5000	
Bond:	\$0	

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	RCR2019-100994
Court	Reno Criminal
Date Assigned	03/05/2019
Judicial Officer	Hascheff, Pierre



PARTY INFORMATION

Plaintiff	The State of Nevada	<i>Lead Attorneys</i> Kossow, Kelly Ann 775-328-3200(W)
Defendant	Clarke, Anthony	Public Defender <i>Court Appointed</i> 775-337-4800(W)

DATE














EVENTS & ORDERS OF THE COURT

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03/04/2019	Probable Cause Affidavit Reviewed by Judge (Judicial Officer: Sullivan, Ryan)
03/04/2019	 Nevada Pre-trial Risk Assessment High
03/04/2019	 Washoe County Pretrial Services Assessment Report



Instrument#
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RENO CRIMINAL
CASE SUMMARY
CASE NO. RCR2019-100994

03/04/2019	 Own Recognizance PRAT <i>Per Judge Sullivan with medium supervision</i>
03/04/2019	 Court Found Probable Cause
03/04/2019	 Public Defender Appointed
03/05/2019	 Criminal Complaint Filed
03/18/2019	Arraignment (9:30 AM) (Judicial Officer: Sullivan, Ryan) <i>Parties Present: Defendant Clarke, Anthony</i>
03/18/2019	 Waiver of Initial Appearance filed
03/21/2019	 Pretrial Violation Report Received
03/25/2019	CANCELED Mandatory Status Conference (1:30 PM) (Judicial Officer: Dreiling, Derek) <i>Vacated</i>
03/25/2019	Failure to Appear <i>NIC/OBONDS</i>
04/01/2019	 Warrant Issued <i>FIRST BW - \$10,000.00 WITH SUPERVISION - D3</i>
07/12/2019	Arraignment (9:30 AM) (Judicial Officer: Pearson, Scott) <i>FTA FOR MSC. RESET MSC. BAIL SET AT \$10,000.00</i> <i>Parties Present: Defendant Clarke, Anthony</i>
07/12/2019	Warrant Executed
07/12/2019	Bail Set (Judicial Officer: Pearson, Scott) <i>Bail Set at \$10,000.00 or 15% Cash with conditions. Defendant Remanded to the Custody of the Washoe County Sheriff.</i>
07/13/2019	Probable Cause Affidavit Reviewed by Judge (Judicial Officer: Dreiling, Derek)
07/13/2019	 Court Found Probable Cause <i>RPD0050563C</i>
07/13/2019	 Nevada Pre-trial Risk Assessment High
07/13/2019	 Washoe County Pretrial Services Assessment Report
07/13/2019	 Bail Set (Judicial Officer: Dreiling, Derek) <i>Per Judge Dreiling \$10,000.00 as set in warrant with conditions as recommended; no contact with victim</i>
07/17/2019	 Warrant Returned
07/31/2019	 Notice of Appearance Filed

Instrument#
13

RENO CRIMINAL
CASE SUMMARY
CASE NO. RCR2019-100994

08/01/2019	CANCELED Preliminary Hearing (1:30 PM) (Judicial Officer: Hascheff, Pierre) Waived 07/18/2019 Continued to 08/01/2019 - Preliminary Hearing - Other - The State of Nevada; Clarke, Anthony
08/01/2019	 Copy of Waiver of Preliminary Examination Received Charges: 1
08/01/2019	 Notice of Bindover
08/01/2019	Proceedings Certified to the Second Judicial District Court
08/01/2019	Disposition (Judicial Officer: Hascheff, Pierre) 1. Burglary, 1st Waived


**IN THE JUSTICE'S COURT OF RENO TOWNSHIP
COUNTY OF WASHOE, STATE OF NEVADA**

Defendant: Anthony Clarke

Case No.: RCR2019-100994

Department 6

Parties stipulate to set the above case for a Preliminary Hearing on 8/1/2019 at 1:30 PM.

 7-18-19

District Attorney / date

 7-16-19

Defense Counsel / date

V2.180568

19-3321

ORIGINAL

ARREST REPORT AND
DECLARATION OF PROBABLE CAUSE

RPD0048360C

CASE # 19-480

R666603

FILED
COURT OF JURISDICTION
04 Mar 2019 7:33 am

Dexter Thomas

Reno Justice Court

PRINT CLEARLY

ARRESTEE'S (Last, First, Middle)
NAME

CLARKE, ANTHONY

AKA/ALIAS

RESIDENCE (Street, City, State, Zip)
ADDRESS

315 RECORD ST. RENO NV

RACE

☐ White
☒ Black
☐ Unknown☐ Indian
☐ Asian

SEX

☒ Male
☐ Female

ETHNICITY

☐ Hispanic
☐ Non-Hispanic
☐ Unknown

DOB

4-13-59

SS

POB

CALIFORNIA

AGE

58

HT

5'10"

WT

180

HAIR

BLK

EYES

BRD

OCCUPATION &
BUS ADDRESS

UNEMPLOYED

HOME PHONE

DRIV LIC

#

DRIV LIC

STATE

ARRESTEE'S VEH

☐ Stored☐ Left at Scene

BUS PHONE

☒ Not Applicable☐ Impounded☐ Held to Oth Per

NEXT OF KIN

SCARS, MARKS, TATTOOS

NONE

ARREST DATE 3-2-19 TIME 2125

LOCATION

1ST / LAKE ST. RENO NV

OFFENSE DATE 3-2-19 TIME 2111

LOCATION

1ST / LAKE ST. RENO NV

NRS/ORD #

NOC

BAIL

WARRANT # & DATE

CHARGE

F=Felony, G=Gross Misd, M=Misd F-G-M

205.060.2

50424

1 BURGLARY

F

ARRESTING OFFICER(S)
AND ID #

MCGURK 14824

TRANSPORTING OFFICER(S)
AND ID #

Jameson 14896 Callaghan 14788

PRIVATE PERSON MAKING
THE ARREST (Citizen Arrest)

REVIEWING SUPERVISOR

AND ID #

DOWNSIDE 3270

The undersigned, MCGURK, a police officer, of RPD, hereby declares under penalty of perjury, that the above-named defendant has been arrested on probable cause and is subject to detention for the above-listed offense(s). Either personally or upon information and belief this officer learned the following facts and circumstances which support the arrest and detention:

- See Attached -

19 MAR 3 45:02

RELS TO

DATE

BY

DISSEMINATION IS RESTRICTED TO CRIMINAL JUSTICE AGENCIES ONLY.

SECONDARY DISSEMINATION TO NON-CRIMINAL AGENCIES IS PROHIBITED.

WHEREFORE, Declarant requests that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charge is a felony or gross misdemeanor) or for trial (if charge is a misdemeanor).

Page 1 of 2

DECLARANT

I.D.# 14824

REVIEWED FOR PROBABLE CAUSE (PC)

PC FOUND ☒PC NOT FOUND ☐

DATE

TIME

8:35 am, Mar 04 2019

MAGISTRATE

DEFENDANT ORDERED RELEASED, DATE

MAGISTRATE

V2.8

DECLARATION SUPPLEMENT

Page: 2 of 2CASE# 19-4180

On 3/2/19 at approximately 2114 hours Officers arrived in the area of 1st/ Lake St on a report of a fight.

Officers Good and Caprioli arrived on scene and detained an Anthony Clarke. Owner of Taste of Chicago, Steve Peto informed Officers that Anthony entered the business, took money out of his employees tip jar, and then ran out.

Anthony is seen on security footage walking eastbound outside of the business, enter and directly go to the front counter. Anthony waits for a customer to turn her head and then reaches his right hand into the tip jar and quickly leaves the business through the same door.

Anthony was chased by Steve who attempted to stop him until Officers arrived on scene. Steve was not able to hold onto Anthony. Anthony did not attempt to hit or make advances on Steve but continued to run away.

RPD records confirmed Anthony had two convictions for petit larceny through a prior history check. Anthony had a prior arrest on 12/26/15 for petit larceny with a conviction on 12/28/15 out of RMC. Anthony also had an arrest on 10/17/15 for petit larceny with a conviction on 10/20/15 out of RMC.

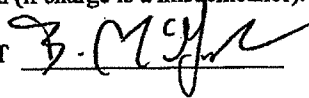
Anthony was arrested for Burglary and transported to WCSO without incident.

WHEREFORE, Declarant requests that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charge is a felony or gross misdemeanor) or for a trial (if charge is a misdemeanor).

REVIEWED FOR PROBABLE CAUSE (PC).

PC FOUND ☐ PC NOT FOUND ☐

DECLARANT

I.D.# 14824DATE: _____, MAGISTRATE PAGE _____ OF _____
DEFENDANT ORDERED RELEASED, DATE: _____, MAGISTRATE

ARREST REPORT AND
DECLARATION OF PROBABLE CAUSE19-10422
D-15056819 JUL 12 12:03
RPD0050563C**FILED**

15 Jul 2019 2:29 pm

COURT OF JURISDICTION

RJC

CASE #

19-4180

PRINT CLEARLY

Reno Justice Court

ARRESTEE'S (Last, First, Middle)
NAME

Clarke, Anthony

AKA/ALIAS

Mason, James

RESIDENCE (Street, City, State, Zip)
ADDRESS

315 Record St Reno, NV

RACE

☐ White ☐ Indian
☒ Black ☐ Asian
☐ Unknown

SEX

☒ Male
☐ Female

ETHNICITY

☐ Hispanic
☒ Non-Hispanic
☐ Unknown

DOB

4-13-59

SSN

POB

CA

AGE

60

HT

5'10"

WT

180

HAIR

Blk

EYES

Bro

OCCUPATION &
BUS ADDRESS

None

HOME PHONE

DRIV #

(FD)

DRIV LIC

CA

ARRESTEE'S VEH

☐ Stolen ☐ Left at Scene
☒ Not Applicable ☐ Impounded ☐ Rtd in Cth Per

BUS PHONE

NEXT OF KIN

SCARS, MARKS, TATTOOS

on File

ARREST DATE 7-11-19 TIME 2246

LOCATION

303 W 2nd St Reno, NV

OFFENSE DATE

TIME

LOCATION

Warrant

NRS/ORD #	NOC	BAIL	WARRANT # & DATE	CHARGE	F=Felony, G=Gross Misd, M=Misd F-G-M
199.335	53002	10,000	RJR 2019.100004	1 FTA	F
		Bondable	4-1-19	2	
		15/3		3	
				4	
				5	
				6	
				7	
				8	

ARRESTING OFFICER(S)
AND ID #

Kent / Espinosa

TRANSPORTING OFFICER(S)
AND ID #

Same

PRIVATE PERSON MAKING
THE ARREST (Citizen Arrest)REVIEWING SUPERVISOR
AND ID #

Hauer #14830

The undersigned, Officer Kent, a police officer, of Reno police, hereby declares under penalty of perjury, that the above-named defendant has been arrested on probable cause and is subject to detention for the above-listed offense(s). Either personally or upon information and belief this officer learned the following facts and circumstances which support the arrest and detention:

See Attached
Declaration

RELS TO _____ DATE _____ BY _____
DISSEMINATION IS RESTRICTED TO CRIMINAL JUSTICE AGENCIES ONLY. SECONDARY DISSEMINATION TO NON-CRIMINAL AGENCIES IS PROHIBITED.

WHEREFORE, Declarant requests that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charge is a felony or gross misdemeanor) or for trial (if charge is a misdemeanor).

Page 1 of 1 DECLARANT [Signature] I.D.# 14830

REVIEWED FOR PROBABLE CAUSE (PC)

PC FOUND ☒ PC NOT FOUND ☐ DATE _____ TIME _____

8:20 am, Jul 13 2019

MAGISTRATE

DEFENDANT ORDERED RELEASED, DATE _____

MAGISTRATE

V2. 11

Clarke

19-4180

2441165

IN THE JUSTICE COURT OF RENO TOWNSHIP,
COUNTY OF WASHOE, STATE OF NEVADA

THE STATE OF NEVADA,

PLAINTIFF,

FIRST

BENCH WARRANT

Case No.: RCR2019-100994

Agency No.: RP19-004180

DA No.: 19-2491

Dept. No.: 3

AGAINST

Anthony Clarke

DEFENDANT,

confirmed for OFF. [unclear]
7-11-19 2247
AS

TO ANY SHERIFF, CONSTABLE, MARSHALL, POLICEMAN, OR PEACE OFFICER IN THE STATE OF NEVADA:

AN ORDER having been heretofore made by a Judge of the Justice Court, Reno Township, Washoe County, Reno, Nevada, commanding the compliance of the above-named Defendant on the charges of:

Burglary, 1st

NRS 205.060.2 (50424)

Felony - Category B

and said Defendant having failed to appear for Mandatory Status Conference on March 25, 2019. NRS 199.335

YOU ARE THEREFORE COMMANDED to arrest the above-named Defendant and bring said Defendant before me forthwith, at my office 1 South Sierra Street Reno Nevada 89501, City of Reno, in said County of Washoe; or in case of my absence or inability to act, before the nearest or most accessible Magistrate in the County.

Date: April 01, 2019

Ryan K. Sullivan
3:33 pm, Apr 01 2019

Justice of the Peace

The Defendant is admitted to bail in the amount of \$ 10,000 bondable or 15% cash

Pre-Trial Supervision ☒ Yes ☐ No☐ As Originally Set

OR

☐ Basic☐ Medium☒ Enhanced

Allison Lang

Deputy Clerk

THIS WARRANT MAY BE SERVED DAY OR NIGHT.

REMOVED FROM FAX

Date 7/11/19 Time 2252 Init [unclear]

DECLARATION SUPPLEMENT

Page: 2CASE# 19-4180

On 7/11/2019 at approximately 2053 hours, Officer Kent and I (Officer Espinosa 14556) were assisting RCSU in executing a search warrant at the Town House Motor Lodge, located at 303 W. 2nd St, Reno, Nevada. During the course of the investigation we contacted a subject inside room #137.

The male, later identified as Anthony Clarke, originally gave the name of "James Mason," which came back as no match. He later was identified via records through physical descriptors and showed to have a felony warrant issued of the Reno Municipal Court. The warrant was confirmed via RPD Records. The Defendant willfully delayed an ongoing investigation by giving false identifying information to avoid being arrested for the above mentioned warrant.

The Defendant was placed under arrest for Obstructing a Peace Officer and the associated Warrant. He was transported to the WCSO without incident.

NFI

WHEREFORE, Declarant requests that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charge is a felony or gross misdemeanor) or for a trial (if charge is a misdemeanor).

REVIEWED FOR PROBABLE CAUSE (PC).

PC FOUND ☐ PC NOT FOUND ☐DECLARANT EspinosaI.D.# 14556

DATE: _____

,MAGISTRATE

PAGE 2OF 2

DEFENDANT ORDERED RELEASED, DATE: _____

,MAGISTRATE

FILED

05 Mar 2019 3:12 pm

Reno Justice Court

DA #19-2491

RPD RP19-004180

IN THE JUSTICE COURT OF RENO TOWNSHIP

IN AND FOR THE COUNTY OF WASHOE, STATE OF NEVADA

* * *

THE STATE OF NEVADA,

Plaintiff,

Case No.: RCR2019-100994

v.

Dept. No.: 6

ANTHONY CLARKE,

Defendant.

/

CRIMINAL COMPLAINT

KELLY ANN KOSSOW of the County of Washoe, State of Nevada, verifies and declares upon information and belief and under penalty of perjury, that ANTHONY CLARKE, the defendant above-named, has committed the crime(s) of:

BURGLARY, a violation of NRS 205.060, a category B felony,
(50424) in the manner following, to wit:

That the said defendant, ANTHONY CLARKE, on or about March 2, 2019, within the County of Washoe, State of Nevada, did willfully and unlawfully enter Taste of Chicago, located at 1st and Lake Street, Reno, Nevada, with the intent then and there to commit larceny therein after being convicted of petit larceny on December 28, 2015 out of the Reno Municipal Court and after having been

///

///

///

///

1 convicted of petit larceny on October 20, 2015 out of the Reno
2 Municipal Court.

3
4
5
6 AFFIRMATION PURSUANT TO NRS 239B.030

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

9
10 DATED this 5th day of March, 2019.

11
12 
13 _____
14 KELLY ANN KOSSOW
15 CHIEF DEPUTY DISTRICT ATTORNEY
16
17
18
19
20
21
22

23 PCN: RPD0048360C-CLARKE

24 Custody:
25 Bailed: X
26 Warrant:

*


District Court Dept:
District Attorney: SMITH
Defense Attorney:
Bail 03/04/2019 OR (RS)
Restitution:
J

1 remain silent at the preliminary hearing. However, it is my understanding that I
2 am not required to present any evidence at the preliminary hearing, nor can I be
3 compelled to testify at the preliminary hearing if I chose not to do so.

4 Having discussed these matters with my counsel of record, I waive my right
5 to testify at preliminary hearing and request the Court waive my appearance at
6 the scheduled preliminary hearing.

7 DATED this 31th day of July, 2019.

8
9 
10 ANTHONY CLARKE
11 DEFENDANT


12 
13 KENDRA G. BERTSCHY
14 Deputy Public Defender
15 ATTORNEY FOR THE DEFENDANT

16 AFFIRMATION PURSUANT TO NRS 239B.030

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

19 DATED this 31th day of July, 2018.

20 JOHN L. ARRASCADA
21 WASHOE COUNTY PUBLIC DEFENDER

22 By: 
23 KENDRA G. BERTSCHY
24 Deputy Public Defender
25
26

CERTIFICATE OF SERVICE

I, Kendra G. Bertschy, hereby certify that I am an employee of the Washoe County Public Defender's Office, Reno, Washoe County, Nevada, and that on this date I forwarded a true copy of the foregoing document through inter-office mail and emailed to:

GEORGE SMITH, Deputy District Attorney
District Attorney's Office

DATED this 31sh day of July, 2019.


KENDRA G. BERTSCHY

PSO: RJ Prior Supervising PSO: MS**PRETRIAL RELEASE FORM**
☐ 2JDC ☒ RJC ☐ SJC ☐ IVJC ☐ WJC ☐ RMC ☐ SMC
NAME: Clarke, AnthonyDOB: 04/13/1959BK #: 19-03321CASE #: RPD19-4180

CHARGE(s):

NPR FINAL RISK LEVEL: HigherBurglaryPURSUANT TO THE WASHOE COUNTY SUPERVISION MATRIX, RECOMMENDED CONDITIONS ARE:

(NOTE: If the defendant has multiple charges, the highest supervision level will be recommended.)

- ☐ BASIC SUPERVISION
- ☐ MEDIUM SUPERVISION
- ☒ ENHANCED SUPERVISION

~~~~~

**JUDICIAL RESPONSE** – CHOOSE ONE ACTION (A, B OR C);

CHOOSE:

- A) ☒ OWN RECOGNIZANCE RELEASE
- B) ☐ BAIL TO BE SET BY JUDGE AT NEXT IN-PERSON HEARING
- C) ☐ IMPOSE MONEY BAIL \$ \_\_\_\_\_
- ☐ CASH ONLY

**IMPOSED** CONDITIONS ARE:

- ☐ AS RECOMMENDED    **OR**    ☐ BASIC SUPERVISION
- ☒ MEDIUM SUPERVISION
- ☐ ENHANCED SUPERVISION

☐ No Contact with victim \_\_\_\_\_
LIST REASON IF THE SUPERVISION LEVEL IMPOSED IS DIFFERENT THAN WHAT WAS RECOMMENDED:

\_\_\_\_\_

\_\_\_\_\_

*Ryan K. Sullivan*

8:36 am, Mar 04 2019

DATE

JUDGE



**SECOND JUDICIAL DISTRICT COURT  
STATE OF NEVADA  
WASHOE COUNTY**

PRETRIAL SERVICES  
75 COURT STREET  
ROOM 127  
RENO, NV 89520  
(775) 325-6600

**PRETRIAL VIOLATION REPORT**

Date of Offense: 3/20/19

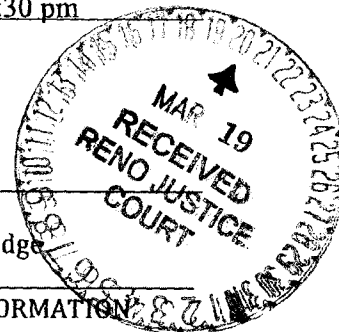
NAME: Anthony Clarke Pretrial Officer: Lori Pitt *LP*

☐ SMC ☐ RMC ☐ SJC ☒ RJC ☐ IVJC ☐ WJC ☐ DC Dept. ☐ Other \_\_\_\_\_

CASE #: RCR2019-100994 NEXT COURT DATE / TIME: MSC: 3/25/19 @ 1:30 pm

**VIOLATION**

- ☐ Never initially checked in (limited jurisdiction courts)  
☒ Missed check-in(s) 3/11 3/18  
☐ Positive alcohol test - BAC \_\_\_\_\_ ☐ Positive drug test - \_\_\_\_\_  
☐ Self-admitted drug use - \_\_\_\_\_  
☐ Failure to complete In-patient/Out-patient Treatment Program as ordered by the Judge  
☐ Not complying with outside agency - CPS \_\_\_\_\_ Court \_\_\_\_\_ P&P \_\_\_\_\_ Other \_\_\_\_\_  
☐ Re-arrested on additional charges - CONTACT PRETRIAL SERVICES FOR MORE INFORMATION  
☐ Violation of No Contact Order against \_\_\_\_\_



**ACTION TAKEN**

- ☐ Increased check-ins ☐ Mon ☐ Tues ☐ Wed ☐ Thurs ☐ Fri  
☐ Increased PBT's ☐ Mon ☐ Tues ☐ Wed ☐ Thurs ☐ Fri ☐ Sat ☐ Sun ☐ 7-days  
☐ SCRAM / GPS  
☐ Additional drug testing ☐ weekly ☐ bi-monthly ☐ monthly  
☐ Additional counseling ☐ In-patient ☐ Out-patient ☐ AA/NA ☐ Other \_\_\_\_\_  
☐ No action taken  
☐ Per judicial order

**COMMENTS:** The Defendant was released on O/R by Judge Sullivan with Medium supervision. He reported for his initial check in upon release and he hasn't reported since.

**ADMISSION**

I, \_\_\_\_\_, hereby certify that I used \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_  
 in \_\_\_\_\_ County.

\_\_\_\_\_ I have not submitted a urine sample, but admit to the use of the controlled substances(s) noted above. I freely make this admission to the individual whose signature appears below and acknowledge that my admission has been made without duress or undue influence.

Defendant - Signature: \_\_\_\_\_ Print: \_\_\_\_\_

Witness - Signature: \_\_\_\_\_ Print: \_\_\_\_\_

Faxed to: ☒ Court ☐ APD ☒ DA ☒ PD ☐ PRIVATE ATTORNEY

**IN THE JUSTICE COURT OF  
WASHOE COUNTY, STATE OF NEVADA**  
EN EL TRIBUNAL DE JUSTICIA DEL  
CONDADO DE WASHOE, ESTADO DE NEVADA

THE STATE OF NEVADA,  
EL ESTADO DE NEVADA,

Plaintiff/ Demandante,

vs.

ANTHONY CLARKE

Defendant/Acusado

) APPLICATION FOR APPOINTMENT  
) OF PUBLIC DEFENDER

) SOLICITUD DE ASIGNACIÓN DEL DEFENSOR  
) PÚBLICO

) CASE NO. RPD 19-4180

) CAUSA No.

) PCN

I hereby apply for appointment of the Washoe County Public Defender and **declare under penalty of perjury**: (1) I am indigent and I am without financial means to hire an attorney. Mediante la presente solicito la asignación del Defensor Público del Condado de Washoe y **declaro bajo pena de perjurio**: (1) que soy indigente y (2) que no tengo los medios económicos para contratar a un abogado.

I receive government assistance yes no, specifically \_\_\_\_\_.  
Recibo ayuda del gobierno sí no, específicamente \_\_\_\_\_.

My weekly household income is \_\_\_\_\_ the total number of people in my household is \_\_\_\_\_ and my total assets are \_\_\_\_\_.  
Los ingresos semanales de mi familia son de \_\_\_\_\_ el número de personas que viven en mi hogar es \_\_\_\_\_ y mi capital total es de \_\_\_\_\_.

WILL REPRESENT HIMSELF  
DEFENDANT/ACUSADO

WITNESSED: 3-3 2019. PSD R. JACOBSON  
TESTIGO COURT STAFF or JUDGE  
PERSONAL JUDICIAL O JUEZ

**ORDER**

The Court has reviewed this Application executed under penalty of perjury. Good cause appearing it is hereby ordered that:

☐ the Application is DENIED. The Court finds the Defendant is not indigent.

Comment:

☒ the Application is GRANTED. The Court finds that the Defendant is without means to employ an attorney or otherwise determines that representation by the Washoe County Public Defender is required. Reimbursement may be ordered by the Justice Court or District Court at a later time. The Washoe County Public Defender is appointed to represent the Defendant on the following condition(s):

DATED: \_\_\_\_\_ 20\_\_.

Ryan K. Sullivan  
8:36 am, Mar 04 2019  
JUSTICE OF THE PEACE

<sup>1</sup> (\$467/1, \$633/2, \$799/3, \$965/4, \$1,132/5)

**IN THE JUSTICE COURT OF RENO TOWNSHIP  
COUNTY OF WASHOE, STATE OF NEVADA**

FILED  
2019 MAR 18 AM 9:18

ANTHONY CLARKE

Defendant's Name

315 Record ST  
Reno, NV 89512

Defendant's Address

Case No. RCR2019-100994

Defendant's Phone No.

**WAIVER OF INITIAL APPEARANCE ON  
FELONY OR GROSS MISDEMEANOR**

Def's

Initials (req.)

AC 1. I have received a copy of the complaint in the above-referenced case. My name is properly spelled. If my name is incorrect, I have informed the court clerk of my true and correct name.

AC 2. I understand that I have a right to appear before the Justice of The Peace to be informed of the complaint and to be told my rights as follows:

- (a) To retain counsel or request appointed counsel;
- (b) To have a preliminary examination on the complaint within FIFTEEN (15) days of today's date; and that I can waive that time and have a later date.
- (c) At the preliminary examination, I will be allowed to cross-examine the state's witnesses, to present evidence of my own and to be represented by an attorney;
- (d) At the conclusion of the preliminary examination, if there is probable cause to believe the crime was committed and committed by me, my case will be bound over to the District Court to answer to the charges in the complaint.

AC 3. I hereby waive my right to appear before the Justice of the Peace to be informed of the above rights.

AC 4. I understand that a Mandatory Status Conference has been set for 03/25/2019 at the hour of 01:30 PM and that I am required to attend.

DATE

3/18/23

Anthony Clarke

DEFENDANT'S SIGNATURE

DEFENDANT'S NAME PRINTED

**IN THE JUSTICE COURT OF RENO TOWNSHIP,  
COUNTY OF WASHOE, STATE OF NEVADA**

THE STATE OF NEVADA,

PLAINTIFF,

AGAINST

Anthony Clarke

DEFENDANT,

**FIRST****BENCH WARRANT**

Case No.: RCR2019-100994

Agency No.: RP19-004180

DA No.: 19-2491

Dept. No.: 3

TO ANY SHERIFF, CONSTABLE, MARSHALL, POLICEMAN, OR PEACE OFFICER IN THE STATE OF NEVADA:

AN ORDER having been heretofore made by a Judge of the Justice Court, Reno Township, Washoe County, Reno, Nevada, commanding the compliance of the above-named Defendant on the charges of:

Burglary, 1st

NRS 205.060.2 (50424)

Felony - Category B

and said Defendant having failed to appear for Mandatory Status Conference on March 25, 2019. **NRS 199.335**

YOU ARE THEREFORE COMMANDED to arrest the above-named Defendant and bring said Defendant before me forthwith, at my office 1 South Sierra Street Reno Nevada 89501, City of Reno, in said County of Washoe; or in case of my absence or inability to act, before the nearest or most accessible Magistrate in the County.

Date: April 01, 2019

**RYAN K. SULLIVAN**

Justice of the Peace

The Defendant is admitted to bail in the amount of \$ 10,000 bondable or 15% cash.

Pre-Trial Supervision ☒ Yes ☐ No☐ As Originally Set**OR**☐ Basic☐ Medium☒ Enhanced

Allison Lang

Deputy Clerk

THIS WARRANT MAY BE SERVED DAY OR NIGHT.

RETURN

I, \_\_\_\_\_ hereby certify that I have received this Warrant on the \_\_\_\_\_ day  
of \_\_\_\_\_, \_\_\_\_\_, and served same on Defendant \_\_\_\_\_, placing h\_\_\_\_  
in the custody of the Sheriff of Washoe County, Nevada, until bail in the sum of  
\$ \_\_\_\_\_ as set by the Court has been posted.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Arresting Officer



Christopher J. Hicks  
District Attorney

P.O. Box 11130  
Reno, Nevada 89520

775.328.3200  
washoecounty.us/da

REQUEST FOR NCIC AND CJIS ENTRIES  
EXTRADITION AND TRANSPORT AUTHORIZATION

AGENCY: Reno Police CASE NO: 19-4180  
Attention: Warrants DA FILE NO: 19-2491  
DATE: 3/25/19 WARRANT NO: \_\_\_\_\_  
DEFENDANT: Clarke, Anthony  
DOB: 4/13/59 SSN: \_\_\_\_\_

N C I C ENTRIES (Felonies): I will extradite:

\_\_\_\_ Anywhere within USA, except Hawaii and Alaska  
\_\_\_\_ West of Mississippi only MN, IA, MO, AR, LA, ND, SD, NB, KS, OK, TX  
\_\_\_\_ MT, WY, CO, NM, ID, UT, AZ, WA, OR, CA, NV  
☒ Western States only CA, OR, WA, ID, WY, MT, CO, UT, AZ, NM, NV  
\_\_\_\_ Adjacent States only CA, OR, ID, UT, AZ, NV  
\_\_\_\_ California and Nevada only  
\_\_\_\_ Other: \_\_\_\_\_

C J I S ENTRIES (Gross/Simple Misdemeanors): I will transport:

\_\_\_\_ Within Nevada only  
\_\_\_\_ Within Region 2 (Western NV counties)  
\_\_\_\_ Other: \_\_\_\_\_

Any special instructions to be entered on NCIC or CJIS:

CHRISTOPHER J. HICKS  
DISTRICT ATTORNEY

By: 

244116518

**IN THE JUSTICE COURT OF RENO TOWNSHIP,  
COUNTY OF WASHOE, STATE OF NEVADA**

THE STATE OF NEVADA,

PLAINTIFF,

AGAINST

Anthony Clarke

DEFENDANT,

**FIRST****BENCH WARRANT**

Case No.: RCR2019-100994

Agency No.: RP19-004180

DA No.: 19-2491

Dept. No.: 3



TO ANY SHERIFF, CONSTABLE, MARSHALL, POLICEMAN, OR PEACE OFFICER IN THE STATE OF NEVADA:

AN ORDER having been heretofore made by a Judge of the Justice Court, Reno Township, Washoe County, Reno, Nevada, commanding the compliance of the above-named Defendant on the charges of:

Burglary, 1st

NRS 205.060.2 (50424)

Felony - Category B

and said Defendant having failed to appear for Mandatory Status Conference on March 25, 2019. **NRS 199.335**

YOU ARE THEREFORE COMMANDED to arrest the above-named Defendant and bring said Defendant before me forthwith, at my office 1 South Sierra Street Reno Nevada 89501, City of Reno, in said County of Washoe; or in case of my absence or inability to act, before the nearest or most accessible Magistrate in the County.

Date: April 01, 2019

*Ryan K. Sullivan*  
3:33 pm, Apr 01 2019

Justice of the Peace

The Defendant is admitted to bail in the amount of \$ 10,000 bondable or 15% cash.

Pre-Trial Supervision

☒ Yes☐ No☐ As Originally Set**OR**☐ Basic☐ Medium☒ Enhanced

Allison Lang

Deputy Clerk

THIS WARRANT MAY BE SERVED DAY OR NIGHT.

RECEIVED

APR 03 2019

RETURN

I, OFFICER BUTLER hereby certify that I have received this Warrant on the 12<sup>th</sup> day  
of July, 2019, and served same on Defendant Anthony Clarke, placing him  
in the custody of the Sheriff of Washoe County, Nevada, until bail in the sum of  
\$ 10,000.<sup>00</sup> bondable or as set by the Court has been posted.  
15% Cash

DATED this 12<sup>th</sup> day of July, 2019.

Bellin #14060

Arresting Officer

2587

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

**STATE OF NEVADA,**

**Plaintiff,**

**Case No. CR19-1352**

**vs.**

**Dept No. D15**

**ANTHONY CLARKE**

**Defendant.**

**NOTICE OF SETTING**

**TYPE OF ACTION:**

Criminal

**MATTER TO BE HEARD:**

Arraignment

**DATE OF APPLICATION:**

8/1/2019

**COUNSEL FOR DEFENDANT(S):**

Jarrold T. Hickman, Esq.

Setting at 09:00:00 on 8/14/2019

## Return Of NEF

### Recipients

**JARROD HICKMAN, ESQ.** - Notification received on 2019-08-01 15:09:06.133.

**KELLY KOSSOW, ESQ.** - Notification received on 2019-08-01 15:09:06.086.

**DIV. OF PAROLE & PROBATION** - Notification received on 2019-08-01 15:09:06.149.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

08-01-2019:15:07:49

**Clerk Accepted:**

08-01-2019:15:08:32

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

Notice of Setting

**Filed By:**

Deputy Clerk CVera

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

KELLY ANN KOSSOW, ESQ. for STATE OF  
NEVADA

DIV. OF PAROLE & PROBATION

JARROD T. HICKMAN, ESQ. for ANTHONY  
CLARKE

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

## Return Of NEF

### Recipients

**JARROD HICKMAN, ESQ.** - Notification received on 2019-08-02 10:28:35.922.

**KELLY KOSSOW, ESQ.** - Notification received on 2019-08-02 10:28:35.875.

**DIV. OF PAROLE & PROBATION** - Notification received on 2019-08-02 10:28:35.953.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

08-02-2019:10:27:26

**Clerk Accepted:**

08-02-2019:10:28:06

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

Pretrl Srvcs Assessment Report

**Filed By:**

Deputy Clerk JHults

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

KELLY ANN KOSSOW, ESQ. for STATE OF  
NEVADA

DIV. OF PAROLE & PROBATION

JARROD T. HICKMAN, ESQ. for ANTHONY  
CLARKE

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

CODE 4075  
 Christopher J. Hicks  
 #7747  
 1 South Sierra St.  
 Reno, NV. 89501  
 (775)328-3200  
 Attorney for Plaintiff

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

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

Case No. CR19-1352

v.

Dept. No. 15

ANTHONY CLARKE,

Defendant.

\_\_\_\_\_ /

SUBSTITUTION OF COUNSEL FOR THE STATE

Comes now, MARIAH NORTHINGTON, Deputy District Attorney,  
 and hereby substitutes in as the Deputy District Attorney handling  
 the above-entitled matter on behalf of the State of Nevada in place  
 of KELLY ANN KOSSOW, Chief Deputy District Attorney. This  
 substitution of counsel is being made as a matter of courtesy to

///

///

///

///

///

///

comply with the requirements of the court's e-filing system and to assure that MARIAH NORTHINGTON will receive proper e-filing notifications in this case.

AFFIRMATION PURSUANT TO NRS 239B.030

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

Dated this 5th day of August, 2019.

CHRISTOPHER J. HICKS  
District Attorney  
Washoe County, Nevada

By/s/Mariah M. Northington  
MARIAH M. NORTHINGTON  
14247  
Deputy District Attorney

CERTIFICATE OF SERVICE BY E-FILING

I certify that I am an employee of the Washoe County District Attorney's Office and that, on this date, I electronically filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

Jarrold Hickman, Esq.

DATED this 5th day of August, 2019.

/s/ Janelle Yost  
Janelle Yost

**Return Of NEF****Recipients**

**JARROD HICKMAN, ESQ.** - Notification received on 2019-08-05 12:01:50.551.

**KELLY KOSSOW, ESQ.** - Notification received on 2019-08-05 12:01:50.239.

**DIV. OF PAROLE & PROBATION** - Notification received on 2019-08-05 12:01:50.582.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

08-05-2019:11:59:11

**Clerk Accepted:**

08-05-2019:12:01:12

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

Substitution of Counsel

**Filed By:**

Mariah Northington

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

KELLY ANN KOSSOW, ESQ. for STATE OF  
NEVADA

DIV. OF PAROLE & PROBATION

JARROD T. HICKMAN, ESQ. for ANTHONY  
CLARKE

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

**IN THE JUSTICE COURT OF RENO TOWNSHIP  
IN AND FOR THE COUNTY OF WASHOE  
STATE OF NEVADA**

FILED  
Electronically  
CR19-1352  
2019-08-06 08:29:49 AM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7412796 : cvera

CR19-1352 DIS

THE STATE OF NEVADA,

Plaintiff,

RJC Case NO. RCR2019-100994

SJDC Case NO. \_\_\_\_\_

SJDC DEPT. \_\_\_\_\_

Defense Counsel: J. Hickman

Bar NO. \_\_\_\_\_

Anthony <sup>vs</sup> Clarke  
Defendant,

**Waiver of Preliminary Examination**

I, the defendant in the above-entitled action, being fully advised of my rights in the premises, hereby  
waive my preliminary examination on the charge of BURGLARY (cat B)

in the above entitled action, and consent that the above matter be transferred to the Second Judicial District

Court of the State of Nevada, for further proceedings therein. Δ will Pk to the  
sole charge of Burglary. Parties will  
stipulate to a sentence of 12-36 months  
NDOC.

8/1/19  
Date

Anthony Clarke  
Defendant Signature

CODE 1800  
 Christopher J. Hicks  
 #7747  
 One South Sierra Street  
 Reno, NV 89501  
 (775) 328-3200

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

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

Case No.: CR19-1352

v.

Dept. No.: D15

ANTHONY CLARKE,

Defendant.

\_\_\_\_\_/

INFORMATION

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

BURGLARY, a violation of NRS 205.060, a category B felony,  
 (50424) in the manner following, to wit:

That the said defendant, ANTHONY CLARKE, on or about March 2, 2019, within the County of Washoe, State of Nevada, did willfully and unlawfully enter Taste of Chicago, located at 1st and Lake Street, Reno, Nevada, with the intent then and there to commit larceny therein after being convicted of petit larceny on December

28, 2015 out of the Reno Municipal Court and after having been convicted of petit larceny on October 20, 2015 out of the Reno Municipal Court.

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

CHRISTOPHER J. HICKS  
District Attorney  
Washoe County, Nevada

By: /s/ Mariah Northington  
MARIAH NORTHINGTON  
14247  
DEPUTY DISTRICT ATTORNEY

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

CHRIS CAPRIOLI, RENO POLICE DEPARTMENT,  
CHRISTOPHER A. GOOD, RENO POLICE DEPARTMENT,  
KATHERINE MARIE TYRRELL,  
DANIEL NICOLINI, RENO POLICE DEPARTMENT,  
BRIGIT MCGURK, RENO POLICE DEPARTMENT,  
STEVE PETO,  
SHERI MARTINOVICH,  
TASTE OF CHICAGO,

AFFIRMATION PURSUANT TO NRS 239B.030

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

CHRISTOPHER J. HICKS  
District Attorney  
Washoe County, Nevada

By: /s/ Mariah Northington  
MARIAH NORTHINGTON  
14247  
DEPUTY DISTRICT ATTORNEY

PCN: RPD0048360C; RPD0050563C-CLARKE

CODE 3870  
Christopher J. Hicks  
#7747  
One South Sierra Street  
Reno, NV 89501  
(775) 328-3200

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

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

Case No: CR19-1352

v.

Dept: D15

ANTHONY CLARKE,

Defendant.

\_\_\_\_\_/

REQUEST FOR DISCOVERY PURSUANT TO NRS 174.245

The State hereby requests notice and disclosure of evidence relating to the defense in the above-entitled case pursuant to NRS 174.245, including any:

(a) Written or recorded statements made by a witness the defendant intends to call during the case in chief of the defendant, or copies thereof, within the possession, custody or control of the defendant, the existence of which is known, or by the exercise of due diligence may become known, to the defendant;

(b) Results or reports of physical or mental examinations, scientific tests or scientific experiments that the defendant intends to introduce in evidence during the case in chief of the defendant,

or copies thereof, within the possession, custody or control of the defendant, the existence of which is known, or by the exercise of due diligence may become known, to the defendant; and

(c) Books, papers, documents or tangible objects that the defendant intends to introduce in evidence during the case in chief of the defendant, or copies thereof, within the possession, custody or control of the defendant, the existence of which is known, or by the exercise of due diligence may become known, to the defendant.

AFFIRMATION PURSUANT TO NRS 239B.030

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

Dated this 5th day of August, 2019.

CHRISTOPHER J. HICKS  
District Attorney  
Washoe County, Nevada

By: /s/ Mariah Northington  
MARIAH NORTHINGTON  
14247  
DEPUTY DISTRICT ATTORNEY

CERTIFICATE OF SERVICE BY E-FILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Washoe County District Attorney's Office and that, on this date, I electronically filed the foregoing with the Clerk of the Court. A notice will be sent electronically to the following:

PUBLIC DEFENDER  
JARROD T. HICKMAN, ESQ.

Dated this 6th day of August, 2019.

/s/JANELLE YOST  
JANELLE YOST

**Return Of NEF****Recipients**

**MARIAH** - Notification received on 2019-08-06 08:48:53.534.  
**NORTHINGTON,**  
**ESQ.**

**JARROD HICKMAN,** - Notification received on 2019-08-06 08:48:53.877.  
**ESQ.**

**DIV. OF PAROLE &** - Notification received on 2019-08-06 08:48:53.487.  
**PROBATION**

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

08-06-2019:08:29:49

**Clerk Accepted:**

08-06-2019:08:48:04

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

Waiver of Preliminary Exam  
Information  
Request

**Filed By:**

Mariah Northington

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

DIV. OF PAROLE & PROBATION  
MARIAH NORTHINGTON, ESQ. for STATE OF  
NEVADA  
JARROD T. HICKMAN, ESQ. for ANTHONY  
CLARKE

**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

1 CODE 4075  
2 WASHOE COUNTY PUBLIC DEFENDER  
3 LORENA VALENCIA, #14292  
4 350 S. CENTER ST., 5TH FL  
5 RENO, NV 89501  
6 (775) 337-4800  
7 ATTORNEY FOR: DEFENDANT

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

12 THE STATE OF NEVADA,  
13 Plaintiff,

14 vs.

Case No. CR19-1352

15 ANTHONY CLARKE,  
16 Defendant.

Dept. No. 15

17  
18 **SUBSTITUTION OF COUNSEL WITHIN PUBLIC DEFENDER'S OFFICE**

19 LORENA VALENCIA, Deputy Public Defender, hereby substitutes in as the  
20 Deputy Public Defender handling the above-entitled matter on behalf of the  
21 Defendant in place of JARROD HICKMAN, Deputy Public Defender. This  
22 Substitution of Counsel is being made to comply with the requirements of District  
23 Court Rule 23 and to assure that we will receive proper e-filing notifications in this  
24 case.

25 **AFFIRMATION PURSUANT TO NRS 239B.030**

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

28 Dated this 12th day of August, 2019.

JOHN L. ARRASCADA  
Washoe County Public Defender

By /s/LORENA VALENCIA  
LORENA VALENCIA  
Deputy Public Defender

**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of the Washoe County Public Defender's Office, Reno, Washoe County, Nevada; that on this 12th day of August, 2019, I electronically filed the foregoing documents with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

DEPUTY DISTRICT ATTORNEY

/s/ Linda Gray  
LINDA GRAY

**Return Of NEF****Recipients**

**MARIAH** - Notification received on 2019-08-12 09:51:00.947.  
**NORTHINGTON,**  
**ESQ.**

**JARROD HICKMAN,** - Notification received on 2019-08-12 09:51:01.306.  
**ESQ.**

**DIV. OF PAROLE &** - Notification received on 2019-08-12 09:51:00.885.  
**PROBATION**

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

08-12-2019:09:48:41

**Clerk Accepted:**

08-12-2019:09:50:11

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

Substitution of Counsel

**Filed By:**

Lorena Valencia

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

DIV. OF PAROLE & PROBATION

MARIAH NORTHINGTON, ESQ. for STATE OF  
NEVADA

JARROD T. HICKMAN, ESQ. for ANTHONY  
CLARKE

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

1  
2 Code: 3937  
3  
4  
5

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

7 IN AND FOR THE COUNTY OF WASHOE  
8

9 STATE OF NEVADA,

10 Plaintiff(s),

Case No. CR19-1352

11 vs


Dept. No. 15

12 ANTHONY CLARKE  
13

14 Defendant(s).  
15 \_\_\_\_\_/

16 COURT NOTE – HEARING  
17

18  
19 This document does not contain the Social Security Number of any person.  
20  
21

22 Signature:   
23 \_\_\_\_\_

24 Print: Lori Pitt  
25  
26  
27  
28

Last Name: Clarke Case #: CR19-1352**SJDC HEARING**☒ **IN CUSTODY**  
(Check all that apply)☐ **OUT OF CUSTODY**  
(Check all that apply)☐ **NSP INMATE**  
(See Additional Case Notes below)☒ **CURRENT CASE**Charge(s): FTA - Original Charge - BurglaryBail \$ 10,000.00 ☐ Cash Only☒ PS Supervision ☐ DAS Supervision ☐ No Supervision☒ Conditions of Release: Supervision if bail is posted☐ **TRAILING CASE**

Charge(s): \_\_\_\_\_

Court: \_\_\_\_\_ Case #: \_\_\_\_\_ Next Court Date/Time: \_\_\_\_\_

Bail \$ \_\_\_\_\_ ☐ Cash Only Charge Level: \_\_\_\_\_☐ PS Supervision ☐ DAS Supervision ☐ No Supervision☐ **ADDITIONAL/UNRELATED CASE(S)**☐ Charge(s): \_\_\_\_\_ Top Charge: \_\_\_\_\_☐ Local Court: \_\_\_\_\_ ☐ Outside Jurisdiction (Extraditable): \_\_\_\_\_☐ Pre-adjudication ☐ Post-adjudication Must Release Date: \_\_\_\_\_Bail \$ \_\_\_\_\_ ☐ Cash Only ☐ No Bail Hold☐ Charge(s): \_\_\_\_\_ Top Charge: \_\_\_\_\_☐ Local Court: \_\_\_\_\_ ☐ Outside Jurisdiction (Extraditable): \_\_\_\_\_☐ Pre-adjudication ☐ Post-adjudication Must Release Date: \_\_\_\_\_Bail \$ \_\_\_\_\_ ☐ Cash Only ☐ No Bail Hold☐ Charge(s): \_\_\_\_\_ Top Charge: \_\_\_\_\_☐ Local Court: \_\_\_\_\_ ☐ Outside Jurisdiction (Extraditable): \_\_\_\_\_☐ Pre-adjudication ☐ Post-adjudication Must Release Date: \_\_\_\_\_Bail \$ \_\_\_\_\_ ☐ Cash Only ☐ No Bail Hold

## Additional Case Notes:

The Defendant was arrested on 7/11/2019. He was out on supervision with Pretrial when he failed to appear in court, in this case, while in the lower court. He has had three prior unsuccessful releases in 2016, 2017 and 2019.

**Return Of NEF****Recipients**

**MARIAH** - Notification received on 2019-08-13 07:26:15.145.  
**NORTHINGTON,**  
**ESQ.**

**LORENA VALENCIA,** - Notification received on 2019-08-13 07:26:15.099.  
**PD**

**DIV. OF PAROLE &** - Notification received on 2019-08-13 07:26:15.067.  
**PROBATION**

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

08-13-2019:07:25:08

**Clerk Accepted:**

08-13-2019:07:25:47

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

SJDC Hearing

**Filed By:**

Pretrial Off. LPitt

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

DIV. OF PAROLE & PROBATION

MARIAH NORTHINGTON, ESQ. for STATE OF  
NEVADA

LORENA VALENCIA, PD for ANTHONY  
CLARKE

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

1  
2 Code: 3698  
3  
4  
5

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

7 IN AND FOR THE COUNTY OF WASHOE  
8

9 STATE OF NEVADA,

10 Plaintiff(s),

Case No. CR19-1352

11 vs

Dept. No. 15

12 ANTHONY CLARKE  
13

14 Defendant(s).  
15 \_\_\_\_\_/

16 PRETRIAL SERVICES COURT NOTE – PRIOR SUPERVISION  
17  
18

19 This document does not contain the Social Security Number of any person.  
20  
21

22 Signature: Lori Pitt  
23

24 Print: Lori Pitt  
25  
26  
27  
28

Last Name: Clarke Case #: CR19-1352**PRIOR SUPERVISION FOR THIS CASE**Supervised by: Lori Pitt*(Defendant did NOT comply on this case.)*☐ **OUT OF CUSTODY –**☐ ACTIVE WARRANT (*this case*)☐ REVOKED & POSTED BOND (*this case*)☐ No Supervision ☐ DAS supervision☒ **IN CUSTODY ON** (*check all that apply*):☐ **Revocation** (*this case*)Current Financial Bail \$ \_\_\_\_\_ ☐ Cash Only ☐ NO Bail Hold☐ Supervision Ordered: ☐ None ☐ Pretrial Services ☐ DAS☐ Specific Conditions of Release: \_\_\_\_\_☒ **Warrant** (*this case*)☒ FTA ☐ Non-ComplianceCurrent Financial Bail \$ 10,000.00 BB ☐ Cash Only ☐ NO Bail Hold☐ Supervision Ordered: ☒ None ☐ Pretrial Services ☐ DAS☐ Specific Conditions of Release: \_\_\_\_\_☐ **New / Unrelated Cases**

\* Charge(s): \_\_\_\_\_ Top Charge: \_\_\_\_\_

☐ Local Court: \_\_\_\_\_ ☐ Outside Jurisdiction (Extraditable): \_\_\_\_\_☐ Pre-adjudication ☐ Post-adjudication Must Release Date: \_\_\_\_\_Bail \$ \_\_\_\_\_ ☐ Cash Only ☐ NO Bail Hold

\* Charge(s): \_\_\_\_\_ Top Charge: \_\_\_\_\_

☐ Local Court: \_\_\_\_\_ ☐ Outside Jurisdiction (Extraditable): \_\_\_\_\_☐ Pre-adjudication ☐ Post-adjudication Must Release Date: \_\_\_\_\_Bail \$ \_\_\_\_\_ ☐ Cash Only ☐ NO Bail Hold**REASON DEFENDANT WAS NOT COMPLIANT FOR THIS CASE:**☒ FTA'd Court: RJC Date: 7-12-19☐ Rearrested Date: \_\_\_\_\_ Charge Level: \_\_\_\_\_ Bail: \$ \_\_\_\_\_☐ New Charge(s): \_\_\_\_\_☐ Revoked Date: \_\_\_\_\_☐ Missed check-ins/tests ☐ Positive test(s) ☐ Violation of NCO**ADDITIONAL COURT NOTES:**

The Def was non-compliant with Pretrial while in the lower court. He reported for his initial check in then never reported again. He failed to appear in court and a warrant was issued. He was arrested on the warrant on 7/11/19 and a new charge that was resolved in the lower court with time served.

**Return Of NEF****Recipients**

**MARIAH** - Notification received on 2019-08-19 15:16:06.864.  
**NORTHINGTON,**  
**ESQ.**

**LORENA VALENCIA,** - Notification received on 2019-08-19 15:16:04.617.  
**PD**

**DIV. OF PAROLE &** - Notification received on 2019-08-19 15:16:03.026.  
**PROBATION**

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

08-19-2019:15:12:38

**Clerk Accepted:**

08-19-2019:15:14:20

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

Prior Supervision for this Case

**Filed By:**

Pretrial Off. LPitt

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY  
CLARKE

MARIAH NORTHINGTON, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

V2. 59

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

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

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

9 4. I understand the charge against me and that the  
10 elements of the offense which the State would have to prove beyond a  
11 reasonable doubt at trial are that on March 2, 2019, or thereabout,  
12 in the County of Washoe, State of Nevada, I did, willfully and  
13 unlawfully enter Taste of Chicago, located at 1st and Lake Street,  
14 Reno, Nevada, with the intent then and there to commit larceny  
15 therein after being convicted of petit larceny on December 28, 2015  
16 out of the Reno Municipal Court and after having been convicted of  
17 petit larceny on October 20, 2015 out of the Reno Municipal Court.

18 5. I understand that I admit the facts which support all  
19 the elements of the offense by pleading guilty. I admit that the  
20 State possesses sufficient evidence which would result in my  
21 conviction. I have considered and discussed all possible defenses  
22 and defense strategies with my counsel. I understand that I have the  
23 right to appeal from adverse rulings on pretrial motions only if the  
24 State and the Court consent to my right to appeal in a separate

25 ///

26 ///

1 written agreement. I understand that any substantive or procedural  
2 pretrial issue(s) which could have been raised at trial are waived by  
3 my plea.

4 6. I understand that the consequences of my plea of guilty  
5 are that I may be imprisoned for a period of one to ten years in the  
6 Nevada State Department of Corrections and that I am eligible for  
7 probation. I may also be fined up to \$10,000.

8 7. In exchange for my plea of guilty, the State, my  
9 counsel and I have agreed to recommend the following: Both parties  
10 stipulate to recommend 12 to 36 months in the Nevada State Department  
11 of Corrections.

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

16 9. Where applicable, I additionally understand and agree  
17 that I will be responsible for the repayment of any costs incurred by  
18 the State or County in securing my return to this jurisdiction.

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

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

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

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

26 ///

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

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

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

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

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

4 AFFIRMATION PURSUANT TO NRS 239B.030

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

7 DATED this 21<sup>st</sup> day of August, 2019.

8 Anders Claes  
9 DEFENDANT

10  
11  
12 TRANSLATOR/INTERPRETER

13 Kari  
14 Attorney Witnessing Defendant's Signature

15 [Signature]  
16 Prosecuting Attorney  
17  
18  
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**Return Of NEF****Recipients**

**MARIAH** - Notification received on 2019-08-21 14:40:35.593.  
**NORTHINGTON,**  
**ESQ.**

**LORENA VALENCIA,** - Notification received on 2019-08-21 14:40:34.641.  
**PD**

**DIV. OF PAROLE &** - Notification received on 2019-08-21 14:40:33.456.  
**PROBATION**

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

08-21-2019:14:37:31

**Clerk Accepted:**

08-21-2019:14:39:39

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

Guilty Plea Memo/Agreement

**Filed By:**

Court Clerk JEncallado-Alvarez

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

DIV. OF PAROLE & PROBATION

MARIAH NORTHINGTON, ESQ. for STATE OF  
NEVADA

LORENA VALENCIA, PD for ANTHONY  
CLARKE

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

CASE NO. CR19-1352

STATE OF NEVADA VS. ANTHONY CLARKE

DATE, JUDGE

OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

08/14/2019

ARRAIGNMENT

HONORABLE

BARRY L.

BRESLOW

DEPT. NO. 8

M. Lux

A. DeGayner

(Clerks)

I. Zihn

(Reporter)

Deputy District Attorney Aziz Merchant represented the State. Defendant was present in custody, represented by Deputy Public Defender Maizie Pusich. Specialist Teresa Ogden was present on behalf of the Division of Parole and Probation.

Counsel Pusich advised the Court that the Defendant has questions about the negotiations and Counsel Merchant has directed the Defendant to speak with the assigned DA in the case. Counsel Pusich moved for a one (1) week continuance. Counsel Merchant advised that the Defendant has requested a change in the charges. Counsel Merchant stated no objection to a continuance.

**COURT ORDERED:** This matter is CONTINUED for Arraignment. Defendant is remanded to the custody of the Sheriff.

08/21/2019

9:00 a.m.

Arraignment

**Return Of NEF****Recipients**

**MARIAH** - Notification received on 2019-08-26 08:43:41.517.  
**NORTHINGTON,**  
**ESQ.**

**LORENA VALENCIA,** - Notification received on 2019-08-26 08:43:41.47.  
**PD**

**DIV. OF PAROLE &** - Notification received on 2019-08-26 08:43:41.439.  
**PROBATION**

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

08-26-2019:08:42:16

**Clerk Accepted:**

08-26-2019:08:42:56

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

\*\*\*Minutes

**Filed By:**

Court Clerk MLux

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

DIV. OF PAROLE & PROBATION

MARIAH NORTHINGTON, ESQ. for STATE OF  
NEVADA

LORENA VALENCIA, PD for ANTHONY  
CLARKE

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

CASE NO. CR19-1352

STATE OF NEVADA VS. ANTHONY CLARKE

DATE, JUDGE  
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

08/21/19

HONORABLE  
EGAN

WALKER

DEPT. NO. 7

K. Oates

M. Lux

(Clerks)

S. Koetting

(Reporter)

**ARRAIGNMENT**

Deputy District Attorney Amanda Sage was present in Court, representing the State. Defendant was present in Court with counsel, Deputy Public Defender Lorena Valencia. Jenny Lopez of the Division of Parole and Probation was also present.

TRUE NAME: **ANTHONY CLARKE.**

Defendant was in receipt of a copy of the Information; waived formal reading of the Information.

Defendant was sworn by the Court Clerk.

Defendant entered a plea of Guilty to Burglary, a violation of NRS 205.060, a Category B felony, as contained within the Information. Plea negotiations stated.

Court interrogated the Defendant, advised him of his rights, found that there was a factual basis for the plea, and that the Defendant understood the elements of the offense and the possible punishment therefore; Court further found that the plea was knowing, voluntary and intelligent, that the Defendant was competent to enter the plea and accepted same.

Court ordered Presentence Investigation, and matter continued for entry of judgment and imposition of sentence. Defendant to pay the \$25.00 Administrative Assessment Fee at the time of Sentencing. Defendant is remanded to the custody of the Sheriff.

Sentencing is set  
for October 7,  
2019 at 9:00  
a.m. in D15

**Return Of NEF****Recipients**

**MARIAH** - Notification received on 2019-09-05 13:46:00.258.  
**NORTHINGTON,**  
**ESQ.**  
**LORENA VALENCIA,** - Notification received on 2019-09-05 13:46:00.055.  
**PD**  
**DIV. OF PAROLE &** - Notification received on 2019-09-05 13:46:00.024.  
**PROBATION**

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

09-05-2019:13:44:48

**Clerk Accepted:**

09-05-2019:13:45:28

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

\*\*\*Minutes

**Filed By:**

Court Clerk MLux

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

DIV. OF PAROLE & PROBATION

MARIAH NORTHINGTON, ESQ. for STATE OF  
NEVADA

LORENA VALENCIA, PD for ANTHONY  
CLARKE

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

## Return Of NEF

### Recipients

**MARIAH** - Notification received on 2019-09-23 16:38:12.775.  
**NORTHINGTON,**  
**ESQ.**  
**LORENA VALENCIA,** - Notification received on 2019-09-23 16:38:12.743.  
**PD**  
**DIV. OF PAROLE &** - Notification received on 2019-09-23 16:38:12.712.  
**PROBATION**

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

09-23-2019:16:37:04

**Clerk Accepted:**

09-23-2019:16:37:44

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

PSI - Confidential

**Filed By:**

Div. of Parole & Probation

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

DIV. OF PAROLE & PROBATION

MARIAH NORTHINGTON, ESQ. for STATE OF  
NEVADA

LORENA VALENCIA, PD for ANTHONY  
CLARKE

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

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2 Code: 3698  
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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE  
8

9 STATE OF NEVADA,

10 Plaintiff(s),

Case No. CR19-1352

11 vs


Dept. No. 15

12 ANTHONY CLARKE  
13

14 Defendant(s).  
15 \_\_\_\_\_ /

16 PRETRIAL SERVICES COURT NOTE – PRIOR SUPERVISION  
17

18  
19 This document does not contain the Social Security Number of any person.  
20  
21

22 Signature:   
23

24 Print: Carlos A. Mendoza  
25  
26  
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28

**PRIOR SUPERVISION FOR THIS CASE**Supervised by: L. Pitt*(Defendant did NOT comply on this case.)*☐ **OUT OF CUSTODY –**☐ ACTIVE WARRANT (*this case*)☐ REVOKED & POSTED BOND (*this case*)☐ No Supervision ☐ DAS supervision☒ **IN CUSTODY ON** (*check all that apply*):☒ **Revocation** (*this case*)Current Financial Bail \$ 10,000.00 ☐ Cash Only ☐ NO Bail Hold☒ Supervision Ordered: ☐ None ☒ Pretrial Services ☐ DAS☒ Specific Conditions of Release: No contact with victim.☐ **Warrant** (*this case*)☐ FTA☐ Non-ComplianceCurrent Financial Bail \$ \_\_\_\_\_ ☐ Cash Only ☐ NO Bail Hold☐ Supervision Ordered: ☐ None ☐ Pretrial Services ☐ DAS☐ Specific Conditions of Release: \_\_\_\_\_☐ **New / Unrelated Cases**

\* Charge(s): \_\_\_\_\_ Top Charge: \_\_\_\_\_

☐ Local Court: \_\_\_\_\_☐ Outside Jurisdiction (Extraditable): \_\_\_\_\_☐ Pre-adjudication☐ Post-adjudication Must Release Date: \_\_\_\_\_Bail \$ \_\_\_\_\_ ☐ Cash Only ☐ NO Bail Hold

\* Charge(s): \_\_\_\_\_ Top Charge: \_\_\_\_\_

☐ Local Court: \_\_\_\_\_☐ Outside Jurisdiction (Extraditable): \_\_\_\_\_☐ Pre-adjudication☐ Post-adjudication Must Release Date: \_\_\_\_\_Bail \$ \_\_\_\_\_ ☐ Cash Only ☐ NO Bail Hold**REASON DEFENDANT WAS NOT COMPLIANT FOR THIS CASE:**☒ FTA'd Court: RJC Date: 03/25/19☐ Rearrested Date: \_\_\_\_\_ Charge Level: \_\_\_\_\_ Bail: \$ \_\_\_\_\_☐ New Charge(s): \_\_\_\_\_☐ Revoked Date: \_\_\_\_\_☐ Missed check-ins/tests☐ Positive test(s)☐ Violation of NCO**ADDITIONAL COURT NOTES:**

**Return Of NEF****Recipients**

**MARIAH** - Notification received on 2019-10-04 14:18:42.313.  
**NORTHINGTON,**  
**ESQ.**  
**LORENA VALENCIA,** - Notification received on 2019-10-04 14:18:42.267.  
**PD**  
**DIV. OF PAROLE &** - Notification received on 2019-10-04 14:18:42.235.  
**PROBATION**

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

10-04-2019:14:17:30

**Clerk Accepted:**

10-04-2019:14:18:09

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

Prior Supervision for this Case

**Filed By:**

Pretrial Off. CMendoza

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

DIV. OF PAROLE & PROBATION

MARIAH NORTHINGTON, ESQ. for STATE OF  
NEVADA

LORENA VALENCIA, PD for ANTHONY  
CLARKE

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

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

**STATE OF NEVADA,**

**Case No. CR19-1352**

**Plaintiff,**

**v.**

**Dept. No. 15**

**ANTHONY CLARKE,**

**Defendant.**

**PRO SE YOUNG MOTION PROVIDED AT SENTENCING CONTINUANCE**

SEE ATTACHED

///  
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///

Anthony Clarke #1910622

Washoe County Jail

Reno, NV 89512

In Pro se:

IN THE SECOND JUDICIAL DISTRICT COURT

COUNTY OF WASHOE, STATE OF NEVADA

THE STATE OF NEVADA,

PLAINTIFF,

CR19-1352

v.

Anthony Clarke,

Defendant.

### YOUNG MOTION

To the Judge of the Second Judicial District Court Dept 15. Please take notice I am the Defendant in this case. Around August 21, 2019 appointed counsel claim that I was identified in a line up. This prompted me to accept a plea in this case. To this date, I have not reviewed evidence of a line-up even though I have made several inquiries. Ms. Lorena Valencia who will be representing me at sentencing. Ms. Valencia has also refuse to give any information regarding the alleged line-up. I do not believe a line up took place. In addition, a old PSI was submitted to the court. I requested help from counsel because alot of the arrest history is not correct. Help was not provided. Ms. L. Valencia would not review my prior arrest history to determine if I could be charged as a life criminal which would help me make a choice to accept a plea. I ask the Court to dismiss counsel and grant me Pro-per so I can prepare a defense.

This document has no person's Social Security #.

Anthony Clarke

Date 10.7.19

**Return Of NEF****Recipients**

**MARIAH** - Notification received on 2019-10-07 12:23:08.15.  
**NORTHINGTON,**  
**ESQ.**  
**LORENA VALENCIA,** - Notification received on 2019-10-07 12:23:08.103.  
**PD**  
**DIV. OF PAROLE &** - Notification received on 2019-10-07 12:23:08.088.  
**PROBATION**

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

10-07-2019:12:21:54

**Clerk Accepted:**

10-07-2019:12:22:35

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

Letters ...

**Filed By:**

Judicial Asst. SParke

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

MARIAH NORTHINGTON, ESQ. for STATE OF  
NEVADA

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY  
CLARKE

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

CASE NO. CR19-1352

STATE OF NEVADA VS. ANTHONY CLARKE

DATE, JUDGE

OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

10/7/19

HONORABLE

DAVID A. HARDY

Dept. No. 15

A. Dick

(Clerk)

E. Ferretto

(Reporter)

ENTRY OF JUDGMENT AND IMPOSITION OF SENTENCE

DDA A. Sage represented the State. Defendant was present, in custody, represented by DPD L. Nordvig. SPEC Julie Banes was present on behalf of the Division of Parole and Probation.

DPD Nordvig addressed and advised Court Defendant requests a Young Hearing and has prepared a handwritten pro se motion to that effect. Counsel advised said motion is not appropriate to efile; however, a Young memo should be efiled.

COURT reviewed said motion and also provided it for DDA Sage's review and return to Court.

**COURT FINDINGS:** No good cause basis for Young Hearing.

**COURT ORDERED:** Defendant's pro se motion shall be efiled to this case docket.

*Whereupon, said motion was efiled to the case docket.*

DPD Nordvig requested 1-week continuance to allow time for the preparation and efilng of a proper Young memo; objection(s) stated.

*Trailed.*

*Recalled.*

COURT stated it reviewed statute regarding withdrawal of a guilty plea and it is willing to revisit the issue.

DPD Nordvig indicated she may be Defendant's 5th DPD and further argued in support of a brief continuance.

**COURT ORDERED:** Matter continued for further entry of judgment and imposition of sentence to allow time for DPD Nordvig to privately meet and confer with Defendant or in the alternate prepare and efile a proper Young memo.

Defendant remanded to the custody of the Sheriff.

Oct. 14, 2019  
9:00 a.m.  
Sentencing

**Return Of NEF****Recipients**

**MARIAH** - Notification received on 2019-10-07 13:42:49.457.  
**NORTHINGTON,**  
**ESQ.**  
**LORENA VALENCIA,** - Notification received on 2019-10-07 13:42:49.395.  
**PD**  
**DIV. OF PAROLE &** - Notification received on 2019-10-07 13:42:49.363.  
**PROBATION**

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

10-07-2019:13:41:45

**Clerk Accepted:**

10-07-2019:13:42:17

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

\*\*\*Minutes

**Filed By:**

Court Clerk ADick

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

MARIAH NORTHINGTON, ESQ. for STATE OF  
NEVADA

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY  
CLARKE

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

1 4185  
2 STEPHANIE KOETTING  
3 CCR #207  
4 75 COURT STREET  
5 RENO, NEVADA  
6

7 IN THE SECOND JUDICIAL DISTRICT COURT  
8 IN AND FOR THE COUNTY OF WASHOE  
9 THE HONORABLE EGAN WALKER, DISTRICT JUDGE

10 --oOo--

|                     |   |                    |
|---------------------|---|--------------------|
| 11 STATE OF NEVADA, | ) |                    |
|                     | ) |                    |
| 12 Plaintiffs,      | ) |                    |
|                     | ) |                    |
| 13 vs.              | ) | Case No. CR19-1352 |
|                     | ) |                    |
| 14 ANTHONY CLARKE,  | ) | Department 7       |
|                     | ) |                    |
| 15 Defendant.       | ) |                    |
| _____               | ) |                    |

16  
17  
18 TRANSCRIPT OF PROCEEDINGS

19 ARRAIGNMENT

20 August 21, 2019

21 9:00 a.m.

22 Reno, Nevada  
23

24 Reported by: STEPHANIE KOETTING, CCR #207,  
Computer-Aided Transcription

1 APPEARANCES:

2 For the State:

3 OFFICE OF THE DISTRICT ATTORNEY  
4 By: AMANDA SAGE, ESQ.  
5 P.O. Box 30083  
6 Reno, Nevada

7 For the Defendant:

8 OFFICE OF THE PUBLIC DEFENDER  
9 By: LORENA VALENCIA, ESQ.  
10 350 S. Center  
11 Reno, Nevada  
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1                   RENO, NEVADA, August 21, 2019, 9:00 a.m.

2

3                                   --oOo--

4                   THE CLERK: Case number CR19-1352, State versus  
5 Anthony Clarke. Matter set for arraignment. Counsel and the  
6 Division, please state your appearance.

7                   MS. SAGE: Amanda Sage for the State.

8                   MS. LOPEZ: Jenny Lopez for the Division.

9                   MS. VALENCIA: Good morning, your Honor. Lorena  
10 Valencia for Mr. Clarke, who is present.

11                  THE COURT: Good morning, Ms. Valencia. Good  
12 morning, again, Mr. Clarke. This is the time and date set  
13 for continued arraignment. Ms. Valencia, what is your  
14 client's intention?

15                  MS. VALENCIA: Your Honor, my client is intending  
16 to plead guilty. However, if I may have the Court's  
17 indulgence, he had a couple of questions?

18                  THE COURT: Take a moment.

19                  MS. VALENCIA: Okay. Thank you, your Honor.  
20 Thank you, your Honor.

21                  THE COURT: Can you confirm if you're in receipt  
22 of the information, I think we did it last time, and that his  
23 name is correctly spelled and whether or not he'll waive a  
24 formal reading?

1 MS. VALENCIA: Yes, your Honor. We are in receipt  
2 of the information. His name is spelled correctly on line 12  
3 and he understands the contents and waives a formal reading.  
4 I do have a copy of the guilty plea memorandum.

5 THE COURT: If you could briefly summarize the  
6 negotiations, please?

7 MS. VALENCIA: Yes, your Honor. Mr. Clarke will  
8 plead guilty to the sole count of burglary. He understands  
9 that it is a minimum and maximum of one to ten years in the  
10 Nevada State Department of Corrections, he's eligible for  
11 probation, and he may be fined up to \$10,000.

12 In exchange for his plea, both parties will  
13 stipulate to recommend 12 to 36 months in the Nevada State  
14 Department of Corrections. Your Honor, Court's indulgence?  
15 I apologize. There was some writing on the front, we would  
16 like it to be clear.

17 THE COURT: No problem. Things are going fine.  
18 Don't worry about it. Ms. Sage, did that correctly state the  
19 negotiations?

20 MS. SAGE: It did, your Honor.

21 THE COURT: Sir, would you please raise your right  
22 hand and take the oath of a witness?

23 (Mr. Clarke sworn at this time.)

24 THE COURT: Sir, is your true and correct name

1 Anthony Clarke?

2 THE DEFENDANT: Yes.

3 THE COURT: Mr. Clarke, I have in front of me the  
4 information you heard Ms. Valencia and I just discuss. It  
5 accuses you of the crime of burglary. How do you wish to  
6 plead to that allegation?

7 THE DEFENDANT: Guilty.

8 THE COURT: Before I can accept your plea of  
9 guilty, let's talk about the constitutional rights you waive,  
10 that is, you give up when you plead guilty. Please  
11 understand that you have the right to have this allegation  
12 proven beyond a reasonable doubt by the State at a speedy and  
13 public jury trial right here in this room where 12 jurors  
14 have to unanimously agree that you are in fact guilty. When  
15 you plead guilty, no trial is going to happen. Do you  
16 understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: Ms. Valencia is with you this morning.  
19 She or someone from her office would be with you if you  
20 wanted to go to trial, even if you can't afford an attorney.  
21 Do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: If you wanted to go to trial, Ms.  
24 Valencia could help you confront witnesses and evidence

1 against you. All that means is you could look people in the  
2 eye during direct and cross examination, ask questions  
3 through her and examine items of evidence. You could even  
4 make people come to court and bring evidence with them, even  
5 if they don't want to come, through a court order called a  
6 subpoena. Again, when you plead guilty, no trial is going to  
7 happen and so none of that confrontation will occur. Do you  
8 understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: You have the right to remain silent  
11 this morning and throughout trial. You can literally say  
12 nothing. No one can comment on your silence or use it  
13 against you in any way. You can even go to trial and testify  
14 on your own behalf if you want. When you plead guilty this  
15 morning, however, you tell me from your own lips, judge, I  
16 did exactly what they say I did, and you give up the right to  
17 remain silent. Is that what you want to do?

18 THE DEFENDANT: Yes.

19 THE COURT: Has anybody promised you anything or  
20 threatened you in any way to force you to enter a plea of  
21 guilty?

22 THE DEFENDANT: No.

23 THE COURT: Tell me what you did to commit this  
24 offense.

1 MS. VALENCIA: Your Honor, he would like me to  
2 speak on his behalf, but he did commit the underlying  
3 elements.

4 THE COURT: The elements are on or about  
5 March 2nd, 2019, he did willfully and unlawfully enter Taste  
6 of Chicago located at First and Lake with the intent then and  
7 there to commit larceny therein after being convicted of  
8 petty larceny on December 28th, 2015, out of Reno Muni Court,  
9 and after having been convicted of petty larceny on October  
10 20, out of Reno Muni Court.

11 So are you prepared to state as an officer of the  
12 court there is proof that you're aware of adequate to prove  
13 those elements beyond a reasonable doubt?

14 MS. VALENCIA: Yes, your Honor.

15 THE COURT: I will accept that representation.  
16 Mr. Clarke, what's your understanding of the penalty I can  
17 impose in this case?

18 THE DEFENDANT: 1 to 10 or 12 to 36 months.

19 THE COURT: It is between 1 and 10 years. The  
20 maximum sentence, if you will, is 40 to 120 months that I can  
21 give. It's actually a little more than 40. It can be a  
22 range. But you're hoping for the sentence you gave me, I  
23 understand. I just want you to know that nobody can promise  
24 that to you. The attorneys have made an agreement, it's a

1 contract about what they're going to represent to me, but up  
2 to the maximum, I can give you any penalty. Do you  
3 understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: It's a fine up the \$10,000 I think you  
6 mentioned as well. I have in front of me a different  
7 document. I saw you sign it. It's the guilty plea  
8 memorandum. Were you able to read this document before you  
9 signed it?

10 THE DEFENDANT: Yes.

11 THE COURT: Was your attorney able to answer any  
12 questions you had about this document?

13 THE DEFENDANT: Yes.

14 THE COURT: Are you satisfied with her services?

15 THE DEFENDANT: Yes.

16 THE COURT: Is it still your desire to enter a  
17 plea of guilty?

18 THE DEFENDANT: Yes.

19 THE COURT: There's a factual basis for your plea,  
20 it's freely, knowingly and intelligently entered, and I'll  
21 accept your plea of guilty. We'll set a date and time for  
22 sentencing.

23 THE CLERK: Yes, your Honor. Sentencing scheduled  
24 for October 7th at 9:00 a.m. in Department 15.

1 MS. VALENCIA: Your Honor, Mr. Clarke was  
2 wondering if he could waive his PSI and go forward sooner.

3 THE COURT: Unfortunately, Mr. Clarke, no. As to  
4 sooner, you can raise that issue with Judge Hardy if you  
5 want. But this is a serious offense, particularly for the  
6 judge making a decision. What I mean by that is this is a  
7 petty larceny, it's a multiple petty larceny that became a  
8 burglary because of the priors.

9 But Judge Hardy needs the best information before  
10 he decides whether to give you a prison sentence, and if so,  
11 how long, or to make a probation decision. So I would not  
12 allow that to occur. We'll set a sentencing date. The door  
13 is always open for you to seek a more expeditious sentencing  
14 with Judge Hardy if he disagrees with me about the waiver of  
15 the PSI. I invite you to raise that issue with him.

16 MS. VALENCIA: Thank you, your Honor.

17 --oOo--

18

19

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21

22

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24

1 STATE OF NEVADA           )  
                                  ) ss.  
2 County of Washoe        )

3       I, STEPHANIE KOETTING, a Certified Court Reporter of the  
4 Second Judicial District Court of the State of Nevada, in and  
5 for the County of Washoe, do hereby certify;

6       That I was present in Department No. 7 of the  
7 above-entitled Court on August 21, 2019, at the hour of 9:00  
8 a.m., and took verbatim stenotype notes of the proceedings  
9 had upon the arraignment in the matter of THE STATE OF  
10 NEVADA, Plaintiff, vs. ANTHONY CLARKE, Defendant, Case  
11 No. CR19-1352, and thereafter, by means of computer-aided  
12 transcription, transcribed them into typewriting as herein  
13 appears;

14       That the foregoing transcript, consisting of pages 1  
15 through 10, both inclusive, contains a full, true and  
16 complete transcript of my said stenotype notes, and is a  
17 full, true and correct record of the proceedings had at said  
18 time and place.

19  
20       DATED: At Reno, Nevada, this 26th day of September 2019.

21  
22                               S/s Stephanie Koetting  
23                               STEPHANIE KOETTING, CCR #207  
24

**Return Of NEF****Recipients**

**MARIAH** - Notification received on 2019-10-08 14:55:24.246.  
**NORTHINGTON,**  
**ESQ.**  
**LORENA VALENCIA,** - Notification received on 2019-10-08 14:55:24.199.  
**PD**  
**DIV. OF PAROLE &** - Notification received on 2019-10-08 14:55:24.168.  
**PROBATION**

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

10-08-2019:14:54:06

**Clerk Accepted:**

10-08-2019:14:54:45

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

Transcript

**Filed By:**

Stephanie Elaine Koetting

You may review this filing by clicking on the following link to take you to your cases.

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-

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NEVADA

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY  
CLARKE

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

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

**STATE OF NEVADA,**

**Case No. CR19-1352**

**Plaintiff,**

**v.**

**Dept. No. 15**

**ANTHONY CLARKE,**

**Defendant.**

---

**PRO SE YOUNG MOTION PROVIDED AT SENTENCING CONTINUANCE**

SEE ATTACHED

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Anthony Clarke #1910622

Washoe County Jail

Reno, NV 89512

In Pro se:

IN THE SECOND JUDICIAL DISTRICT COURT

COUNTY OF WASHOE, STATE OF NEVADA

THE STATE OF NEVADA,

PLAINTIFF,

CR19-1352

v.

Anthony Clarke,

Defendant.

YOUNG MOTION

To the Judge of the Second Judicial District Court Dept 15. Please take notice I am the Defendant in this case. Around August 21, 2019 appointed counsel claim that I was identified in a line up. This prompted me to accept a plea in this case. To this date, I have not reviewed evidence of a line-up even though I have made several inquiries. Ms. Lorena Valencia who will be representing me at sentencing. Ms. Valencia has also refuse to give any information regarding the alleged line-up. I do not believe a line up took place. In addition, a old PSI was submitted to the court. I requested help from counsel because alot of the arrest history is not correct. Help was not provided. Ms. L. Valencia would not review my prior arrest history to determine if I could be charged as a life criminal which would help me make a choice to accept a plea. I ask the Court to dismiss counsel and grant me Pro-per so I can prepare a defense.

This document has no person's Social Security #.

Anthony Clarke

Date 10.7.19

**Return Of NEF****Recipients**

**MARIAH** - Notification received on 2019-10-10 09:12:41.85.  
**NORTHINGTON,**  
**ESQ.**

**LORENA VALENCIA,** - Notification received on 2019-10-10 09:12:41.507.  
**PD**

**DIV. OF PAROLE &** - Notification received on 2019-10-10 09:12:41.476.  
**PROBATION**

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

10-10-2019:09:09:32

**Clerk Accepted:**

10-10-2019:09:12:01

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

Inmate Request Form Filed

**Filed By:**

Judicial Asst. SParke

You may review this filing by clicking on the following link to take you to your cases.

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-

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**The following people were served electronically:**

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NEVADA

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY  
CLARKE

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

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

THE STATE OF NEVADA,

Plaintiff,

Case No. CR19-1352

vs.

ANTHONY CLARKE,

Dept. No. 15

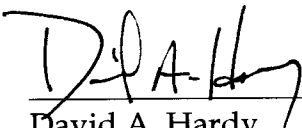
Defendant.

**ORDER REGARDING INNMATE REQUEST**

This Court is in receipt of Mr. Clarke's Inmate Request Form filed October 10, 2019, in the above-captioned cases. A defendant who is represented by counsel may not file pro se motions. United States v. Gallardo, 915 F. Supp. 216, 217-18 (D. Nev. 1995) *aff'd*, 92 F.3d 1194 (9<sup>th</sup> Cir. 1996). Mr. Clarke is currently represented by the Washoe County Public Defender. Accordingly, the Washoe County Public Defender may file any motion it deems appropriate based on Mr. Clarke's written correspondence.

**IT IS SO ORDERED.**

Dated: October 10, 2019.

  
\_\_\_\_\_  
David A. Hardy  
District Court Judge

**Return Of NEF****Recipients**

**MARIAH** - Notification received on 2019-10-10 15:16:09.118.  
**NORTHINGTON,**  
**ESQ.**  
**LORENA VALENCIA,** - Notification received on 2019-10-10 15:16:07.074.  
**PD**  
**DIV. OF PAROLE &** - Notification received on 2019-10-10 15:16:04.578.  
**PROBATION**

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

10-10-2019:15:13:06

**Clerk Accepted:**

10-10-2019:15:14:29

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

Order...

**Filed By:**

Judicial Asst. SParke

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

MARIAH NORTHINGTON, ESQ. for STATE OF  
NEVADA

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY  
CLARKE

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

1 CODE 2490  
2 WASHOE COUNTY PUBLIC DEFENDER  
3 LORENA VALENCIA, BAR NO. 14292  
4 350 S. CENTER ST., 5TH FLOOR  
5 RENO, NV 89501  
6 (775)337-4800  
7 ATTORNEY FOR DEFENDANT

8  
9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
10  
11 IN AND FOR THE COUNTY OF WASHOE  
12

13 STATE OF NEVADA,

14 Plaintiff,

15 vs.

Case No. CR19-1352

16 ANTHONY CLARKE,

Dept. No. 15

17 Defendant.  
18 \_\_\_\_\_/

19 **MOTION FOR SELF-REPRESENTATION AND AFFIDAVIT**

20 COMES NOW, ANTHONY CLARKE, at present by and through counsel,  
21 JOHN L. ARRASCADA, Washoe County Public Defender, and LORENA  
22 VALENCIA Deputy Public Defender, and hereby moves this Court for an Order  
23 permitting Mr. Clarke to represent himself. This Motion is made and based upon  
24 the Sixth Amendment to the United States Constitution, and Article 1, Section 8 of  
25 the Nevada Constitution, as interpreted in *Faretta v. California*, 422 U.S. 806, 95  
26 S.Ct. 2525, 45 L.Ed.2d 562 (1975); and *Harris v. State*, 113 Nev. 799, 942 P.2d 151  
(1997) and *Hooks v. State*, 124 Nev. 48, 176 P.3d 1081 (2008).

///

## POINTS AND AUTHORITIES

### I. Statement of the Case

Mr. Clarke has been accused of Burglary, a felony. Mr. Clarke waived his preliminary hearing on August 1, 2019. Mr. Clarke entered his plea of guilty on August 21, 2019, and sentencing was scheduled for October 7, 2019. At the sentencing hearing, Mr. Clarke informed the Court and counsel that he wanted to represent himself. Mr. Clarke's sentencing hearing was moved to October 14, 2019. Mr. Clarke, through counsel is also filing a Motion for a Young Hearing as well as this Motion for Self-Representation.

### II. Statement of Facts

On October 10, 2019, Mr. Clarke confirmed with the undersigned during an I-Web visit that he wants to move forward and represent himself. He believes there is a conflict of interest between himself and the Public Defender's office, alleging that he was misled by counsel causing him to waive his preliminary hearing.

### III. Argument

The accused in a criminal case has the right to represent himself, if he chooses to do so knowingly. Faretta v. California, *supra*. Mr. Clarke need not show that he has the skill and expertise of an attorney, but must make his choice knowingly and voluntarily, aware of the dangers of self-representation. Denial of the right of self-representation for a defendant who makes a timely, unequivocal request is reversible error. McKaskle v. Wiggins, 465 U.S. 168, 104 S.Ct. 944, 79 L.Ed.2d 122 (1984).

1 Mr. Clarke is making his request before being sentenced in this case. His  
2 request is timely because it has been made before sentencing and is not being  
3 made to obtain an improper delay.  
4

5 Mr. Clarke has previously represented himself in California in 1990, and  
6 was approved to represent himself by Department 3 of the Second Judicial District  
7 Court in CR17-1138 in 2017. Furthermore, Mr. Clark has displayed the ability to  
8 read, write, and understand the English language. Mr. Clarke has been present  
9 and engaged in every stage of his Court proceedings.  
10

#### 11 IV. Conclusion


12 At the request of the Defendant, it is respectfully requested this Court  
13 conduct a canvass of the Defendant to determine if he unequivocally, voluntarily,  
14 and intelligently waives his right to the assistance of counsel.  
15

#### 16 AFFIRMATION PURSUANT TO NRS 239B.030

17 The undersigned does hereby affirm that the following document does not  
18 contain the social security number of any person.  
19

20 Dated this 11th day of October, 2019.

21 JOHN L. ARRASCADA  
22 Washoe County Public Defender

23 By:   
24 LORENA VALENCIA  
25 Deputy Public Defender  
26

AFFIDAVIT OF COUNSEL

STATE OF NEVADA     )  
                                  )ss.  
COUNTY OF WASHOE    )

I, LORENA VALENCIA, having been duly sworn hereby depose and state the following to be true under penalty of perjury, except as to those matters stated upon information and belief. As to those matters, I believe them to be true:

1. Your Affiant is a licensed Nevada attorney, in good standing, and presently counsel of record for Mr. Clarke in CR19-1352;
2. Your Affiant was told by Mr. Clarke over an I-Web visit that he wished to represent himself at which time the foregoing Motion was filed;
3. Your Affiant has been informed and believes that Mr. Clarke represented himself in CR17-1138.
4. Your Affiant has been informed and believes that Mr. Clarke represented himself in 1990 in a California Criminal Case and that he reads, writes and understands the English language, and has been

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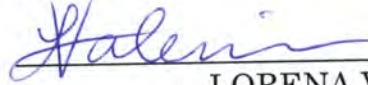
///

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///

1 engaged in all prior proceedings in this case and wishes to represent  
2 himself.

3 Further your affiant sayeth naught.

4 

5 LORENA VALENCIA

6  
7 Subscribed and sworn to before me this 11<sup>th</sup> day of October, 2019.

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10 NOTARY PUBLIC



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**CERTIFICATE OF SERVICE**

I certify that I am an employee of the WASHOE COUNTY PUBLIC DEFENDER'S OFFICE, and that on the 11th day of October, 2019, I electronically served, a true copy of the attached document, addressed to:

DEPUTY DISTRICT ATTORNEY  
Electronic Service

/s/Brianda Gomez  
BRIANDA GOMEZ

1 CODE 2490  
2 WASHOE COUNTY PUBLIC DEFENDER  
3 LORENA VALENCIA, BAR NO. 14292  
4 350 S. CENTER ST., 5<sup>TH</sup> FLOOR  
5 RENO, NV 89501  
6 (775)337-4800  
7 ATTORNEY FOR DEFENDANT

8  
9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
10  
11 IN AND FOR THE COUNTY OF WASHOE  
12

13 THE STATE OF NEVADA,

14 Plaintiff,

15 v.

CASE NO. CR19-1352

16 ANTHONY CLARKE,

DEPT NO. 15

17 Defendant.  
18 \_\_\_\_\_/

19 **MOTION FOR A YOUNG HEARING**

20 COMES NOW, ANTHONY CLARKE, at present by and through counsel,  
21 JOHN L. ARRASCADA, Washoe County Public Defender, and LORENA  
22 VALENCIA, Deputy Public Defender, and hereby moves this Court for a closed  
23 hearing to determine whether a conflict exists between Mr. Clarke and appointed  
24 counsel. This Motion is made and based upon the Sixth Amendment and  
25 Fourteenth Amendment to the United States Constitution, Article 1, Section 8 of  
26 the Nevada Constitution, the attached Points and Authorities, and any oral or  
documentary evidence as may be presented at a hearing on this matter.

///

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## POINTS AND AUTHORITIES

### I. Summary of Facts

Mr. Clarke has been accused of Burglary, a felony. Mr. Clarke waived his Preliminary hearing on August 1, 2019. Mr. Clarke entered his plea of guilty on August 21, 2019, and sentencing was scheduled for October 7, 2019. His Sentencing hearing was continued to allow for motions to be filed regarding Mr. Clarke's request for a Young Hearing and to represent himself. Mr. Clarke's Sentencing hearing was moved to October 14, 2019.

Mr. Clarke alleges insufficient performance by his assigned counsel and alleges that he was misled by counsel at the Justice Court stage of his proceedings, which led to him waiving his preliminary hearing. Therefore, Mr. Clarke is filing this Motion for a Young Hearing along with a Motion for Self-Representation.

### II. Statement of Law and Argument

Rather than simply assigning new counsel or transferring the case to another office upon the mere allegation by a defendant of insufficient performance by assigned counsel, the trial court has an obligation to hold a hearing on the record to establish if a true conflict exists. See generally Young v. State, 120 Nev. 963 (2004). At the hearing, the Court must conduct an inquiry into the alleged conflict, although the attorney-client privilege should not be invaded unless absolutely necessary. In Young, the Court stated, “. . . the district court need not invade the attorney-client privilege unless absolutely necessary; however, the district court's respect for the privilege should not prevent it from engaging in a genuine inquiry into the quality of defense counsel's representation.” Id., at 971. Appellate review of a trial court's decision on the issue contains a three-part analysis: (1) the extent of the conflict between the defendant and counsel, (2) the adequacy of the trial court's inquiry into the defendant's complaint, and (3) the timeliness of the motion and the extent of any inconvenience or delay. Id., at 965.

1           The burden is on the defendant to show sufficient cause to be entitled to a  
2 substitution of court-appointed counsel at public expense. See Garcia v. State, 121  
3 Nev. 327, 337 (2005)("[A] defendant in a criminal trial does not have an unlimited  
4 right to the substitution of counsel. Absent a showing of sufficient cause, a  
5 defendant is not entitled to the substitution of court-appointed counsel at public  
6 expense.").

7           Here, the Defendant has requested the Court remove his present appointed  
8 counsel alleging conflicts of interest. The Defendant does not request that new  
9 counsel be appointed at public expense, but requests leave to represent himself.  
10 The trial court should review his request in light of the above criteria and citations  
11 to law. The case law is clear that a defendant is not entitled to a specific attorney  
12 of his choosing. Young, at 969. Nor can the defendant create a conflict by his own  
13 intransigence, refusal to communicate or engage in meaningful discussion with  
14 counsel, or otherwise unilaterally bootstrap a change of counsel. Indeed, the  
15 Nevada Supreme Court has stressed that a defendant "may not, as a matter of  
16 law, create a conflict requiring substitution of appointed counsel." Id., at 971. It  
17 seems clear from this comment that the Supreme Court wanted to discourage  
18 defendants from being able to delay criminal proceedings simply by refusing to  
19 deal with their court-appointed counsel. The Supreme Court has also stated "[a]  
20 defendant cannot base a claim of inadequate representation upon his refusal to  
21 cooperate with appointed counsel. Such a doctrine would lead to absurd results."  
22 Gallego v. State, 117 Nev. 348, 363 (2001)(citing Thomas v. State, 94 Nev. 605, 608  
23 (1978) and Shaw v. United States, 403 F.2d 528, 529 (8th Cir. 1968)).

24           In order for the trial court to grant a substitution of counsel at tax-payer  
25 expense it must make a finding that "counsel and defendant are so at odds as to  
26 prevent presentation of an adequate defense." Gallego, at 363 (citing State v.  
Stenson, 132 Wash.2d 688, 940 P.2d 1239 (1997)). The level of acrimony must be

1 more than a disagreement over strategy or tactics. In United States v. Moore, 159  
2 F.3d 1154, 1160 (9th Cir. 1998), the Court found that there was a conflict but  
3 described it as “irreconcilable.” In United States v. D’Amore, 56 F.3d 1202, 1206  
4 (9th Cir. 1995), the Court found there was a conflict but stated that the  
5 relationship between counsel and the appellant “showed a complete breakdown of  
6 communications which substantially interfered with the presentation of an  
7 adequate defense.”

8 Not every disagreement between counsel and a defendant should rise to the  
9 level of a conflict necessitating new counsel. The United States Supreme Court in  
10 Morris v. Slappy, 461 U.S. 1, 103 S.Ct. 1610 (1983), stated that the Sixth  
11 Amendment to the United States Constitution, applicable to the States via the  
12 Fourteenth Amendment, does not guarantee “a right to a meaningful attorney-  
13 client relationship.” Id., at 13. The Court goes on to say “[n]o court could possibly  
14 guarantee that a defendant will develop the kind of rapport with his attorney –  
15 privately retained or provided by the public – that the Court of appeals thought  
16 part of the Sixth Amendment guarantee of counsel.” Id., at 13-14. In Gallego, the  
17 Nevada Supreme Court held that disagreements over trial strategies are not  
18 conflicts of interest necessitating substitution of counsel. Gallego v. State, 117  
19 Nev. at 363. “The mere loss of confidence in . . . appointed counsel does not  
20 establish ‘good cause’. Good cause is not ‘determined solely according to the  
21 subjective standard of what the defendant perceives’.” Gallego, at 363 (citing  
22 Thomas v. State, supra.).

23 Here, in the event the Defendant seeks appointment of new County  
24 provided counsel upon the ground of a conflict of interest alleged or perceived by  
25 him to exist between himself and appointed counsel, the Court should determine  
26 the question of whether to appoint new counsel in accordance with the guidance  
provided in the legal authorities cited herein.

1 Other legal citations and points which the Court may wish to consider  
2 include the following:

3 Nevada Rule of Professional Conduct 2.1, entitled “Advisor”, reads:

4 “In representing a client, a lawyer shall exercise independent  
5 professional judgment and render candid advice. In rendering advice,  
6 a lawyer may refer not only to law but to other considerations such as  
7 moral, economic, social and political factors that may be relevant to  
8 the client's situation.”

9 Thus, the assigned defense counsel should exercise independent judgment,  
10 not merely act as a conduit for any argument or legal theory which the client  
11 insists on presenting, especially if the argument of legal theory which the client  
12 insists upon is not based in law or fact (see Rule 3.1, below). The defense counsel  
13 should also be candid when rendering advice or assessments to the client, even  
14 where the client disagrees with the candid advice or assessment of the attorney or  
15 even where the client becomes agitated or upset upon hearing the candid advice or  
16 assessment. (That said, note that the defense counsel, under Rule 3.1 may, even  
17 when in disagreement with the position of the client, “so defend the proceeding as  
18 to require that every element of the case be established.”).

19 Nevada Rule of Professional Conduct 3.1, entitled “Meritorious Claims and  
20 Contentions,” reads as follows:

21 “A lawyer shall not bring or defend a proceeding, or assert or  
22 controvert an issue therein, unless there is a basis in law and  
23 fact for doing so that is not frivolous, which includes a good faith  
24 argument for an extension, modification or reversal of existing  
25 law. A lawyer for the defendant in a criminal proceeding, or the  
26 respondent in a proceeding that could result in incarceration,  
may nevertheless so defend the proceeding as to require that  
every element of the case be established.”

27 Thus, under Rule 3.1, the assigned defense counsel may, and should, “so  
28 defend the proceeding as to require that every element of the case be established,”  
29 but should balance that obligation with the prohibition against frivolous assertions

1 or arguments for which there is no basis in law or fact. A defense attorney's  
2 refusal to abide by a client's insistence on pursuing a defense or legal position  
3 which has no substantial basis in law or fact does not of itself create a conflict of  
4 interest necessitating substitution of counsel.

5 Nevada Rule of Professional Conduct 3.3, entitled "Candor Toward the  
6 Tribunal," provides that "a lawyer shall not knowingly:

7 (1) Make a false statement of fact or law to a tribunal or fail to correct  
8 a false statement of material fact or law previously made to the tribunal by the  
9 lawyer;

10 (2) Fail to disclose to the tribunal legal authority in the controlling  
11 jurisdiction known to the lawyer to be directly adverse to the position of the client  
and not disclosed by opposing counsel."

12 Thus, under Rule 3.3, the assigned defense counsel must not knowingly  
13 mislead the Court on a legal or factual issue. A defense attorney's refusal to abide  
14 by a client's request to knowingly mislead a Court as to a legal or factual issue  
15 does not of itself create a conflict of interest necessitating substitution of counsel.

16 Due to Mr. Clarke's allegations of insufficient representation and  
17 allegations of being misled by his appointed counsel, an inherent conflict exists. No  
18 assessment of these allegations has been made, and a hearing on whether one  
19 exists is appropriate in this matter.

### 20 III. Conclusion

21 At the request of the Defendant, it is respectfully requested this Court set a

22 ///

23 ///

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1 hearing to determine whether a true conflict exists between appointed counsel and  
2 Mr. Clark.

3 **AFFIRMATION PURSUANT TO NRS 239B.030**

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

6 Respectfully submitted.

7  
8 Dated this 11th day of October, 2019.

9  
10 JOHN L. ARRASCADA  
11 Washoe County Public Defender

12 By: /s/ Lorena Valencia  
13 LORENA VALENCIA  
14 Deputy Public Defender  
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**CERTIFICATE OF SERVICE**

I certify that I am an employee of the WASHOE COUNTY PUBLIC DEFENDER'S OFFICE, and that on the 11th day of October, 2019, I electronically served, a true copy of the attached document, addressed to:

DEPUTY DISTRICT ATTORNEY  
Electronic Service

/s/Brianda Gomez  
BRIANDA GOMEZ

**Return Of NEF****Recipients**

**MARIAH** - Notification received on 2019-10-11 13:56:54.001.  
**NORTHINGTON,**  
**ESQ.**

**LORENA VALENCIA,** - Notification received on 2019-10-11 13:56:53.954.  
**PD**

**DIV. OF PAROLE &** - Notification received on 2019-10-11 13:56:53.923.  
**PROBATION**

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**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

10-11-2019:13:53:57

**Clerk Accepted:**

10-11-2019:13:56:26

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

Motion

**Filed By:**

Lorena Valencia

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NEVADA

DIV. OF PAROLE & PROBATION

LORENA VALENCIA, PD for ANTHONY  
CLARKE

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**MARIAH** - Notification received on 2019-10-11 13:57:11.363.  
**NORTHINGTON,**  
**ESQ.**

**LORENA VALENCIA,** - Notification received on 2019-10-11 13:57:11.332.  
**PD**

**DIV. OF PAROLE &** - Notification received on 2019-10-11 13:57:11.301.  
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**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

10-11-2019:13:55:06

**Clerk Accepted:**

10-11-2019:13:56:42

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

Motion

**Filed By:**

Lorena Valencia

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LORENA VALENCIA, PD for ANTHONY  
CLARKE

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

CASE NO. CR19-1352

STATE OF NEVADA VS. ANTHONY CLARKE

DATE, JUDGE

OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

10/14/19

HONORABLE

DAVID A. HARDY

Dept. No. 15

A. Dick

(Clerk)

T. Amundson

(Reporter)

ENTRY OF JUDGMENT AND IMPOSITION OF SENTENCE

DDA N. MacLellan represented the State. Defendant was present, in custody, represented by DPD L. Valencia. SPEC M. Barnreiter was present on behalf of the Division of Parole and Probation.

*State's Exhibit 1 and Exhibit 2 marked for identification, no objection; ADMITTED.*

**COURT ORDERED:** Pursuant to Defendant's written motion work matter continued for a special set Young Hearing. Defendant remanded to the custody of the Sheriff.

Oct. 23, 2019

3:30 p.m.

Young Hearing ///  
Sentencing

\*\*\*Special Set\*\*\*

**Exhibits**

HEARING: 10/14/19 SENTENCING CONTINUANCE

TITLE: STATE OF NEVADA VS. ANTHONY CLARKE

PLTF: STATE OF NEVADA

DDA: N. MacLellan

DEFT: ANTHONY CLARKE

DPD: L. Valencia

Case No: CR19-1352

Dept. No: 15

Clerk: A. Dick

Date: 10/14/19

| Exhibit No. | Party | Description            | Marked   | Offered         | Admitted |
|-------------|-------|------------------------|----------|-----------------|----------|
| 1           | STATE | Prior Conviction Misdo | 10/14/19 | NO<br>OBJECTION | 10/14/19 |
| 2           | STATE | Prior Conviction Misdo | 10/14/19 | NO<br>OBJECTION | 10/14/19 |

**Return Of NEF****Recipients**

**MARIAH** - Notification received on 2019-10-16 08:48:57.617.  
**NORTHINGTON,**  
**ESQ.**  
**LORENA VALENCIA,** - Notification received on 2019-10-16 08:48:57.57.  
**PD**  
**DIV. OF PAROLE &** - Notification received on 2019-10-16 08:48:57.539.  
**PROBATION**

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**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

10-16-2019:08:47:55

**Clerk Accepted:**

10-16-2019:08:48:27

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

\*\*\*Minutes

**Filed By:**

Court Clerk ADick

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NEVADA

LORENA VALENCIA, PD for ANTHONY  
CLARKE

DIV. OF PAROLE & PROBATION

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1 **CODE: 1696**

2  
3  
4  
5  
6  
7 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,**  
8 **IN AND FOR THE COUNTY OF WASHOE**  
9

10 **STATE OF NEVADA,**

**Case No. CR19-1352**

11 **Plaintiff,**

12 **vs.**

**Dept. No. 15**

13 **ANTHONY CLARKE,**

14 **Defendant.**

15 \_\_\_\_\_/

16 **10/14/19 SENTENCING CONTINUANCE EXHIBIT**

17

18 **SEE ATTACHED**

19 **///**

20 **///**

21 **///**

22 **///**

23 **///**

24 **///**

25 **///**

26 **///**

27 **///**

28 **///**

intentionally Blank

**Exhibits****HEARING: 10/14/19 SENTENCING CONTINUANCE****TITLE: STATE OF NEVADA VS. ANTHONY CLARKE****PLTF: STATE OF NEVADA****DDA: N. MacLellan****DEFT: ANTHONY CLARKE****DPD: L. Valencia****Case No: CR19-1352****Dept. No: 15****Clerk: A. Dick****Date: 10/14/19**

| <b>Exhibit No.</b> | <b>Party</b> | <b>Description</b>     | <b>Marked</b> | <b>Offered</b>  | <b>Admitted</b> |
|--------------------|--------------|------------------------|---------------|-----------------|-----------------|
| 1                  | STATE        | Prior Conviction Misdo | 10/14/19      | NO<br>OBJECTION | 10/14/19        |
| 2                  | STATE        | Prior Conviction Misdo | 10/14/19      | NO<br>OBJECTION | 10/14/19        |

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RENO MUNICIPAL COURT  
**CASE SUMMARY**  
**CASE NO. 15CR-15211**

**CITY OF RENO**  
**vs.**  
**ANTHONY CLARKE**

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§

Location: **Citation**  
 Filed on: **10/19/2015**  
 Booking Number: **15-17171**  
 Process Control Number: **RPD1512936C**

**CASE INFORMATION**

| Offense                                          | Citation | Deg | Date       | Case Type:         |
|--------------------------------------------------|----------|-----|------------|--------------------|
| 1. 8.10.040 Petit Larceny, Value Less than \$650 | 15-22978 | M   | 10/17/2015 | Misdemeanor Arrest |

**Statistical Closures**  
 10/20/2015 Guilty Plea with Sentence (before trial)

**PARTY INFORMATION**

|                  |                                                   |
|------------------|---------------------------------------------------|
| <b>Plaintiff</b> | <b>CITY OF RENO</b>                               |
| <b>Defendant</b> | <b>CLARKE, ANTHONY</b><br>DOB: 04/13/1959 Age: 56 |



**DATE** **EVENTS & ORDERS OF THE COURT**

**DISPOSITIONS**

|            |                                                                                                                                                |
|------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| 10/20/2015 | <b>Plea</b> (Judicial Officer: Nash Holmes, Dorothy)<br>1. 8.10.040 Petit Larceny, Value Less than \$650<br>Nolo Contendere                    |
| 10/20/2015 | <b>Disposition</b> (Judicial Officer: Nash Holmes, Dorothy)<br>1. 8.10.040 Petit Larceny, Value Less than \$650<br>Found Guilty                |
| 10/20/2015 | <b>Imposed</b> (Judicial Officer: Nash Holmes, Dorothy)<br>1. 8.10.040 Petit Larceny, Value Less than \$650<br>10/17/2015 (M) 8.10.040 (56404) |

Sentence to Confinement  
 Agency: Washoe County Jail  
 Term: 45 Days  
 Comment: CTS, C/C

**EVENTS**

|            |                                                                                                                                            |
|------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| 10/17/2015 | Bail Set At: \$<br>500.00                                                                                                                  |
| 10/19/2015 |  Formal Complaint Filed With the Court                  |
| 10/20/2015 | Rights Explained<br><i>Defendant appeared, explained his/her rights by the Judge and indicated that he/she understood them completely.</i> |
| 10/20/2015 |  Judges Notes                                           |

**HEARINGS**

|            |                                                                                                                                            |
|------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| 10/19/2015 | <b>CANCELED In Custody Video Arraignments (8:30 AM)</b> (Judicial Officer: Nash Holmes, Dorothy)<br>Arraignment/Hearing Continued by Court |
| 10/20/2015 | <b>In Custody Video Arraignments (8:30 AM)</b> (Judicial Officer: Nash Holmes, Dorothy)<br>Held                                            |

No. CR19-1352  
STATE  
vs.  
Anthony Clarke  
State Ex. 1  
Admitted: 10/19, 20 19  
JACQUELINE BRYANT, CLERK  
By adick  
Deputy

I hereby certify this as a true and correct copy of the original in the records of the Reno Municipal Court, Reno, Washoe County, Nevada, and that the Clerk of the Court is the custodian of the original record and that I am authorized to make this certification.

RENO MUNICIPAL COURT

By [Signature]  
Deputy Clerk of the Court



**CASE SUMMARY****CASE No. 15CR-18116**

**CITY OF RENO**  
**vs.**  
**ANTHONY CLARKE**

§  
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 §

Location: **Citation**  
 Filed on: **12/28/2015**  
 Booking Number: **15-20865**  
 Process Control Number: **RPD1516400C**

**CASE INFORMATION**

| Offense                                          | Citation | Deg | Date       | Case Type:         |
|--------------------------------------------------|----------|-----|------------|--------------------|
| 1. 8.10.040 Petit Larceny, Value Less than \$650 | 15-27286 | M   | 12/26/2015 | Misdemeanor Arrest |

**Statistical Closures**

12/29/2015 Guilty Plea with Sentence (before trial)

**PARTY INFORMATION**

**Plaintiff** **CITY OF RENO**  
**Defendant** **CLARKE, ANTHONY**  
 DOB: 04/13/1959 Age: 56

**DATE****EVENTS & ORDERS OF THE COURT****DISPOSITIONS**

12/28/2015 **Plea** (Judicial Officer: Gardner, William)  
 1. 8.10.040 Petit Larceny, Value Less than \$650  
 Nolo Contendere


12/28/2015 **Disposition** (Judicial Officer: Gardner, William)  
 1. 8.10.040 Petit Larceny, Value Less than \$650  
 Found Guilty


12/28/2015 **Imposed** (Judicial Officer: Gardner, William)  
 1. 8.10.040 Petit Larceny, Value Less than \$650  
 12/26/2015 (M) 8.10.040 (56404)

Sentence to Confinement  
 Agency: Washoe County Jail  
 Term: 90 Days  
 Comment: CTS

**EVENTS**

12/26/2015 Bail Set At: \$  
 500.00

12/28/2015  Formal Complaint Filed With the Court

12/28/2015  Pre-trial Services Assessment Report

12/28/2015 Judges Notes

12/28/2015 Rights Explained  
*Defendant appeared, explained his/her rights by the Judge and indicated that he/she understood them completely.*

12/28/2015 Present in Court:  
**FOR THE CITY OF RENO: FOR THE DEFENSE: CONWAY**

12/29/2015 Case Completely Closed

**HEARINGS**

12/28/2015 In Custody Video Arraignments (8:30 AM) (Judicial Officer: Gardner, William)

I hereby certify this as a true and correct copy of the original in the records of the Reno Municipal Court, Reno, Washoe County, Nevada, and that the Clerk of the Court is the custodian of the original record and that I am authorized to make this certification.

RENO MUNICIPAL COURT

By

  
Deputy Clerk of the Court

RENO MUNICIPAL COURT  
**CASE SUMMARY**  
**CASE No. 15CR-18116**

| *Held*

No. CR19-1352  
STATE

vs.

Anthony Clarke  
State Ex. 2

Admitted: 10/14, 2019  
JACQUELINE BRYANT, CLERK

By ADUCK  
Deputy

I hereby certify this as a true and correct copy of the original in the records of the Reno Municipal Court, Reno, Washoe County, Nevada, and that the Clerk of the Court is the custodian of the original record and that I am authorized to make this certification.

RENO MUNICIPAL COURT

By [Signature]  
Deputy Clerk of the Court



**Return Of NEF****Recipients**

**MARIAH** - Notification received on 2019-10-16 13:53:34.855.  
**NORTHINGTON,**  
**ESQ.**  
**LORENA VALENCIA,** - Notification received on 2019-10-16 13:53:34.465.  
**PD**  
**DIV. OF PAROLE &** - Notification received on 2019-10-16 13:53:34.433.  
**PROBATION**

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**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

10-16-2019:13:52:17

**Clerk Accepted:**

10-16-2019:13:52:52

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

Hrg Exhibits Maintnd in File

**Filed By:**

Court Clerk ADick

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NEVADA

LORENA VALENCIA, PD for ANTHONY  
CLARKE

DIV. OF PAROLE & PROBATION

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1  
2 Code: 3698  
3  
4  
5

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

9 STATE OF NEVADA,

10 Plaintiff(s),

Case No. CR19-1352

11 vs

Dept. No. 15

12 ANTHONY CLARKE  
13

14 Defendant(s).  
15 \_\_\_\_\_/

16 PRETRIAL SERVICES COURT NOTE – PRIOR SUPERVISION  
17

18  
19 This document does not contain the Social Security Number of any person.  
20  
21

22 Signature: \_\_\_\_\_  
23 

24 Print: KARLYE HUTCHINSON  
25  
26  
27  
28

**PRIOR SUPERVISION FOR THIS CASE**(Defendant did NOT comply on this case.)Supervised by: L. PITT☐ **OUT OF CUSTODY –**☐ ACTIVE WARRANT (*this case*)☐ REVOKED & POSTED BOND (*this case*)☐ No Supervision ☐ DAS supervision☒ **IN CUSTODY ON** (*check all that apply*):☐ **Revocation** (*this case*)Current Financial Bail \$ \_\_\_\_\_ ☐ Cash Only ☐ NO Bail Hold☐ Supervision Ordered: ☐ None ☐ Pretrial Services ☐ DAS☐ Specific Conditions of Release: \_\_\_\_\_☒ **Warrant** (*this case*)☒ FTA ☐ Non-ComplianceCurrent Financial Bail \$ 10,000.00 ☐ Cash Only ☐ NO Bail Hold☒ Supervision Ordered: ☐ None ☒ Pretrial Services ☐ DAS☐ Specific Conditions of Release: \_\_\_\_\_☐ **New / Unrelated Cases**

\* Charge(s): \_\_\_\_\_ Top Charge: \_\_\_\_\_

☐ Local Court: \_\_\_\_\_ ☐ Outside Jurisdiction (Extraditable): \_\_\_\_\_☐ Pre-adjudication ☐ Post-adjudication Must Release Date: \_\_\_\_\_Bail \$ \_\_\_\_\_ ☐ Cash Only ☐ NO Bail Hold

\* Charge(s): \_\_\_\_\_ Top Charge: \_\_\_\_\_

☐ Local Court: \_\_\_\_\_ ☐ Outside Jurisdiction (Extraditable): \_\_\_\_\_☐ Pre-adjudication ☐ Post-adjudication Must Release Date: \_\_\_\_\_Bail \$ \_\_\_\_\_ ☐ Cash Only ☐ NO Bail Hold**REASON DEFENDANT WAS NOT COMPLIANT FOR THIS CASE:**☒ FTA'd Court: RJC Date: 03/25/19☐ Rearrested Date: \_\_\_\_\_ Charge Level: \_\_\_\_\_ Bail: \$ \_\_\_\_\_☐ New Charge(s): \_\_\_\_\_☐ Revoked Date: \_\_\_\_\_☐ Missed check-ins/tests ☐ Positive test(s) ☐ Violation of NCO**ADDITIONAL COURT NOTES:**

The Defendant was previously supervised on this case by Lori Pitt. The Defendant failed to appear in the lower Court on 3/25/19 and a bench warrant was issued for \$10,000.00 bb w/ PS supervision. He was arrested on the warrant on 7/11/19 and remains in custody at the WCJ.

**Return Of NEF****Recipients**

**MARIAH** - Notification received on 2019-10-21 11:35:39.757.  
**NORTHINGTON,**  
**ESQ.**  
**LORENA VALENCIA,** - Notification received on 2019-10-21 11:35:39.695.  
**PD**  
**DIV. OF PAROLE &** - Notification received on 2019-10-21 11:35:39.398.  
**PROBATION**

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-

**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

10-21-2019:11:34:18

**Clerk Accepted:**

10-21-2019:11:34:53

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

Prior Supervision for this Case

**Filed By:**

Pretrial Off. KHutchinson

You may review this filing by clicking on the following link to take you to your cases.

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If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

MARIAH NORTHINGTON, ESQ. for STATE OF  
NEVADA

LORENA VALENCIA, PD for ANTHONY  
CLARKE

DIV. OF PAROLE & PROBATION

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

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

STATE OF NEVADA,

Plaintiff,

Case No.: CR19-1352

vs.

ANTHONY CLARKE,

Dept. No.: 15

Defendant.

**ORDER GRANTING MOTION FOR SELF-REPRESENTATION**

Before this Court is Defendant Anthony Clarke's Motion for Self-Representation, dated October 11, 2019. On October 23, 2019, this Court held a hearing for the purpose of conducting a canvass to determine if Mr. Clarke unequivocally, voluntarily, and intelligently waives his right to counsel. This Court has considered all moving papers and the evidence presented at the hearing; it now finds and orders as follows:

**I. Background**

Mr. Clarke is charged with the offense of Burglary, in violation of NRS 205.060. The State alleges that on March 2, 2019, Mr. Clarke entered the Taste of Chicago restaurant with the intent to commit larceny therein after having been convicted of petit larceny on two prior occasions. On August 21, 2019, Mr. Clarke pled guilty to the offense, subject to an agreement that the State recommend a sentence of 12 to 36 months imprisonment. At his intended sentencing hearing, Mr. Clarke orally informed this Court he wished to

1 represent himself. Subsequently, Mr. Clarke filed a written motion stating there is a  
2 conflict between himself and the Washoe County Public Defender's Office and requesting  
3 his defense counsel be released without substitution of new counsel. In addition, during  
4 the October 24, 2019, hearing, Mr. Clarke indicated his intent to seek the withdrawal of his  
5 guilty plea and, if it is granted, proceed to trial.

6 Mr. Clarke previously represented himself in California in 1990, and was approved  
7 to represent himself by Department 3 of the Second Judicial District Court in case number  
8 CR17-1138 in 2017.

## 9 II. Principles of Law and Analysis

### 10 A. Self-Representation

11 A criminal defendant has the right to self-representation under the Sixth  
12 Amendment of the United States Constitution and the Nevada Constitution. U.S. Const.  
13 amend. VI; Faretta v. California, 422 U.S. 806, 818-19 (1975); Nev. Const. art. 1, § 8, cl. 1.

14 This right is unqualified, so long as the defendant can satisfy the court that his or her  
15 waiver of the right to counsel is knowing and voluntary. Baker v. State, 97 Nev. 634, 636,  
16 637 P.2d 1217, 1218 (1981); Faretta, 422 U.S. at 835; see also Vanisi v. State, 117 Nev. 330,  
17 337, 22 P.3d 1164, 1169-70 (2001). In making this determination, the court may consider  
18 whether the case is so complex that permitting the defendant to represent him or herself  
19 would amount to a denial of a fair trial. Vanisi, 117 Nev. 341, 22 P.3d 1171-72. "In  
20 deciding whether a defendant has knowingly and intelligently decided to represent  
21 himself, the trial court is to look not to the quality of his representation, but rather the  
22 quality of his decision." Id. at 341, 22 P.3d at 1172 (quoting Bribiesca v. Galaza, 215 F.3d  
23 1015, 1020 (9th Cir. 2000)). "In order for a defendant's waiver of right to counsel to  
24 withstand constitutional scrutiny, the judge need only be convinced that the defendant  
25 made his decision with a clear comprehension of the attendant risks." Graves v. State, 112  
26 Nev. 118, 124, 912 P.2d 234, 238 (1996) (citing Faretta, 422 U.S. at 835-36). Thus, the record  
27 should establish the accused was "made aware of the dangers and disadvantages of self-  
28

1 representation," such that he "knows what he is doing and his choice is made with eyes  
2 open." Faretta, 422 U.S. at 835.

3 A court may also deny a request for self-representation if the request is untimely,  
4 equivocal, or made solely for purposes of delay. Vanisi, 117 Nev. at 338, 22 P.3d at 1170  
5 (citing Tanksley v. State, 113 Nev. 997, 1001, 946 P.2d 148, 150 (1997)). In addition, the  
6 court may consider the defendant's pretrial activity if it indicates he or she will be  
7 disruptive in the courtroom. Tanksley, 113 Nev. at 1001, 946 P.2d at 150.

8 In the present case, Mr. Clarke is unequivocal is his request to be permitted to  
9 represent himself. This Court has had the opportunity to observe his demeanor during  
10 multiple hearings and concludes he has been prepared, articulate, and respectful, without  
11 any notable disruptions. While Mr. Clarke's request to represent himself was first made at  
12 what would have been his hearing on the imposition of sentence, this Court does not find  
13 it to be untimely or made for the purpose of delay as it was made in a reasonable time  
14 before trial, if any, and is unlikely to cause a significant change in the timeline of the  
15 proceedings. See Lyons v. State, 106 Nev. 438, 445, 796 P.2d 210, 214 (1990), *abrogated on*  
16 *other grounds by* Vanisi, 117 Nev. 341, 22 P.3d at 1172. Thus, this Court's primary focus is  
17 on whether Mr. Clarke's waiver of his right to counsel is knowing and voluntary.

18 On October 24, 2019, this Court conducted a Faretta canvass to apprise Mr. Clarke  
19 "fully of the risks of self-representation and of the nature of the charged crime so that [his]  
20 decision [was] made with a clear comprehension of the attendant risks." Johnson v. State,  
21 117 Nev. 153, 164, 17 P.3d 1008, 1016 (2001). Pursuant to SCR 253(1), this Court made a  
22 "specific, penetrating, and comprehensive inquiry" to determine whether Mr. Clarke  
23 understood these potential consequences. This Court noted concern regarding  
24 Mr. Clarke's limited formal education, but also observed him reading, writing, and  
25 communicating clearly during the hearing. In addition, this Court noted Mr. Clarke's  
26 previous experience with legal proceedings, including representing himself on two prior  
27 occasions.

28

1 Mr. Clarke indicated he had previously discussed the consequences of self-  
2 representation with appointed defense counsel. This Court warned Mr. Clarke it was  
3 unwise to represent himself and listed the dangers and disadvantages associated with this  
4 choice. Based upon Mr. Clarke's answers, this Court concludes he is competent to waive  
5 his constitutional right to be represented by an attorney and is waiving that right freely,  
6 voluntarily, and knowingly. Finally, this Court concludes Mr. Clarke has a full  
7 appreciation and understanding of the waiver and its consequences. Accordingly,  
8 Mr. Clarke's Motion for Self-Representation is granted.

9 B. Standby Counsel

10 This Court concludes it is appropriate to appoint standby counsel so there will be  
11 no delay should this Court later terminate Mr. Clarke's self-representation. During the  
12 October 24, 2019, hearing, Mr. Clarke indicated his preference that standby counsel not be  
13 a member of the Washoe County Public Defender's Office. As such, this Court also  
14 initiated a closed Young hearing at the conclusion of the Faretta canvas.

15 A defendant in a criminal trial does not have an unlimited right to substitution of  
16 counsel. Gallego v. State, 117 Nev. 348, 362, 23 P.3d 227, 237 (2001), *abrogated on other*  
17 *grounds by Nunnery v. State*, 127 Nev. 749, 263 P.3d 235. Absent a showing of adequate  
18 cause, a defendant is not entitled to reject court-appointed counsel and request  
19 substitution of other counsel at public expense. *Id.* However, where there is a "complete  
20 collapse of the attorney-client relationship," a refusal to substitute counsel violates a  
21 defendant's Sixth Amendment rights. Young v State, 120 Nev. at 968-69, 102 P.3d at 576  
22 (citing United States v. Moore, 159 F.3d 1154, 1158 (9th Cir. 1998)).

23 Mere loss of confidence in appointed counsel does not establish good cause for  
24 substitution. Gallego, 117 Nev. at 363, 23 P.3d at 27. Rather, good cause exists under  
25 circumstances where there is a "complete breakdown of communication, or an  
26 irreconcilable conflict which could lead to an apparently unjust verdict." *Id.* (quoting 3  
27 LaFave, Criminal Procedure, § 11.4(b), at 555). "Attorney-client conflicts justify the grant  
28

1 of a substitution motion only when counsel and defendant are so at odds as to prevent  
2 presentation of an adequate defense." Id.

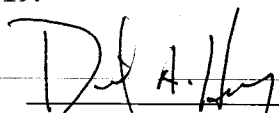
3 While Mr. Clarke articulated a loss of confidence in his appointed counsel, the  
4 issues he described during the hearing on this matter did not rise to the level of an actual  
5 conflict sufficient to warrant substitution. Counsel has been in contact with Mr. Clarke on  
6 multiple occasions, and they remain able to professionally communicate and discuss his  
7 legal options. While this Court acknowledges Mr. Clarke's concerns, it does not find such  
8 a lack of communication or animosity exists as to prevent standby counsel from providing  
9 advice upon request. Further, counsel is willing and able to advocate on behalf of  
10 Mr. Clarke should such a role become necessary. Accordingly, Mr. Clarke's request for  
11 substitution of standby counsel is denied. The Washoe County Public Defender's Office is  
12 appointed to provide standby counsel in this matter.

13 C. Motion to Withdraw Guilty Plea

14 Mr. Clarke indicated that if his Motion for Self-Representation was granted, he  
15 would seek to withdraw his plea of guilt. If Mr. Clarke intends to pursue this course of  
16 action, he shall file an appropriate motion no later than November 1, 2019, at 5:00 p.m.  
17 The State shall respond no later than November 8, 2019, at 5:00 p.m.

18 **IT IS SO ORDERED**

19 **DATED** this 24 day of October, 2019.

20  
21   
22 DAVID A. HARDY  
23 District Judge  
24  
25  
26  
27  
28

**Return Of NEF****Recipients**

**MARIAH** - Notification received on 2019-10-24 17:17:04.484.  
**NORTHINGTON,**  
**ESQ.**  
**LORENA VALENCIA,** - Notification received on 2019-10-24 17:17:04.422.  
**PD**  
**DIV. OF PAROLE &** - Notification received on 2019-10-24 17:17:04.406.  
**PROBATION**

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

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**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

10-24-2019:17:15:57

**Clerk Accepted:**

10-24-2019:17:16:33

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

Ord Granting Mtn

**Filed By:**

Judicial Asst. SParke

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**The following people were served electronically:**

MARIAH NORTHINGTON, ESQ. for STATE OF  
NEVADA

LORENA VALENCIA, PD for ANTHONY  
CLARKE

DIV. OF PAROLE & PROBATION

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

Anthony Clarke # 1910622

FILED

Washoe County Jail

2019 NOV -1 PM 3:54

Reno, Nevada 89512

JACQUELINE  
CLERK OF COURT

BY

Petitioner In Pro se:

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

PETITION FOR WRIT OF HABEAS

CASE NO CR19-1352

CORPUS:

RCR19-100494

DECLARATION OF Anthony ATTACHED

IN RE: Anthony Clarke,

NRS 34.430. NRS 34.390

Petitioner.

PETITION FOR WRIT OF HABEAS CORPUS

AD TESTIFICANDUM

Petitioner Clarke is a pretrial detainee - his liberty is restrained  
by Darin Balaam, Washoe County Sheriff, at 911 E Parr Blvd Reno, NV.

I. Background

Clarke is charged with the offense of Burglary, in violation of N.R.S.  
205.060. The State alleges that on March 2, 2019, Clarke entered the Taste  
of Chicago restaurant with the intent to commit larceny therein after  
been convicted of petit larceny on two prior occasions.

GROUND 1

PETITIONER ALLEGES A DEPRIVATION OF RIGHTS "GUARANTEED" BY THE DUE  
PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT

STATEMENT OF LAW AND ARGUMENT

CR19-1352  
STATE VS. ANTHONY CLARKE (D1 5 Pages  
District Court 11/01/2019 01:54 PM  
Washoe County 3585  
RRI (01/19)  
NOC

1. It is insufficient evidence to support a burglary charge. The  
 2. evidence only show that Clarke entered the restaurant and that at one  
 3. point asked a customer if the restaurant was open. Surveillance footage  
 4. inside the restaurant revealed Clarke waited for the customer to  
 5. turn her head wherein he reached into the tip jar, obtain cash and  
 6. depart the scene.

7. State's contention that he entered with the intent to commit larceny  
 8. therein is pure speculation given that he had \$ 377.00 on his person when  
 9. entering the restaurant.

#### 10. AUTHORITY

11. Criminal intent formulated after lawful entry will not satisfy burglary  
 12. statute. NRS 205.060 State v. Adams, 1979. 581 P.2d

13.  
 14. One of the essential elements of burglary is the entry of a building with the  
 15. intent to commit grand or petit larceny or any other felony NRS 205.060. subd. 1  
 16. Sheriff, Clark County, v. Hicks, 1973 506 P.2d 766. 89 Nev. 78.

#### 17. 18. GROUND 2

19. PETITIONER ALLEGES A DEPRIVATION OF RIGHTS "GUARANTEED" BY THE DUE PROCESS

#### 20. CLAUSE OF THE FOURTEENTH AMENDMENT

#### 21. STATEMENT OF THE LAW AND ARGUMENT

22. Clarke alleges: "obstruction of justice" by his previously assigned counsel  
 23. Kendra G. Bertschy, bond # NV 13071 and alleges that he was misled by counsel  
 24. at the justice level of proceedings, which induced him waiving his statutory right  
 25. to a preliminary hearing.

#### 26. Sequence of Events:

27. Ms. Bertschy on July 30, 2019 during a I-Web visit with Clarke at WCS  
 28. discussed details of the line-up. It was revealed counsel was reading from

1. work product. I was agreed by both sides to go forward with the line-up,  
2. and waive appearance at preliminary.

3. July 31, 2019, counsel visited Clarke at WCT in order have him sign a notice  
4. of waiver of appearance for preliminary hearing. We were still in agreement  
5. line-up prior to preliminary hearing."

6. August 1, 2019 Clarke was transported to Reno Justice Court Dept<sup>#</sup> 4  
7. wherein he was placed in the hallway near Department<sup>#</sup> 4. Moments before  
8. the start of prelim counsel entered the room from the court room door and  
9. said to Clarke you were identified in a line-up and the witnesses are hear,  
10. do you want to sign the waiver? Clarke signed thinking he was identified  
11. in a line-up and witnesses were present at court.

12. On October 23, 2019, Ms. Valencia, advised this Court that it was no line -  
13. up conducted and Clarke was advised as such. Clarke was never advised.  
14. If Clarke had been told the truth he would had not signed the waiver.  
15. Moreover, it simply is no proof Clarke was advised of no line-up was  
16. conducted as attested by appointed attorney of record Ms. Bertschy.  
17. Due Process is violated and Clarke is prejudice.

18. CONCLUSION

19. VERIFICATION

20. This Court should dismiss all charges in this case.

21. I declare under penalty of perjury that the above is true and correct.

22. DATE Nov 1, 2019

151 Anthony Clarke  
ANTHONY Clarke Petitioner  
IN PRO SE NATURAL PERSON

24. This document does not contain the social security number of any person.

25. DATED Nov 1, 2019

151 Anthony Clarke  
Petitioner IN PRO SE  
Natural Person

27.

28.

DECLARATION IN SUPPORT OF HABEAS CORPUS

1. I am the Petitioner in this action, and declare the following:  
2. On March 2, 2019, I entered Taste of Chicago restaurant to order food  
3. and drink at one point I asked a customer Sheri Martinovich, if the  
4. restaurant was open. She replied IDK "Nigger". Surveillance inside  
5. the restaurant show me waiting for the customer to turn her head  
6. then I reached into the tip jar removed the cash and walked out  
7. the door, out of retaliation for what was said to me. (see Ex - A.)  
8. Obstruction of Justice by appointed counsel Kendra G. Bertsch.  
9. I was advised by counsel that I would have a line-up prior to  
10. preliminary hearing in the RJC August 1, 2019. Counsel walked into  
11. the hallway behind Deot #4 moments before the prelim and said to  
12. me You were identified in a line-up and witness are hear. I  
13. signed the waiver. thinking I was identified in a line up and witnesses  
14. were at the court. I learn later while in court October 23, 2019  
15. it was no line-up held and according to Ms. Valencia, I was informed of  
16. this. I was never told the truth. If I was armed with that information  
17. prior to signing the waiver I would have not signed, but went to  
18. prelim. If it is any doubt the Surveillance footage of 8.1.19 will  
19. show what happened.

20. I declare under penalty of perjury that the above is true and correct.

21. DATE Nov 1, 2019

151 Anthony Clarke  
Anthony Clarke Petitioner



## RENO POLICE DEPARTMENT STATEMENT

FOR POLICE USE ONLY:

CASE NO: 19-4180

TAKEN BY: McGook 14824

## PERSON MAKING STATEMENT

NAME OF PERSON MAKING STATEMENT:

Sher. Martinovich

OTHER NAMES USED:

RESIDENCE / STREET ADDRESS:

CITY:

Reno

STATE:

NV

ZIP:

8951

RACE:

☒ WHITE  
☐ BLACK  
☐ OTHER

SEX:

☐ MALE  
☒ FEMALE

HEIGHT:

WEIGHT:

HAIR:

EYES:

OCCUPATION AND WHERE EMPLOYED:

Store Mgr

WORK/SCHOOL ADDRESS:

WORK HOURS:

DAYS OFF:

INVOLVEMENT:

☐ DRIVER  
☐ PASSENGER  
☐ COMPLAINANT  
☐ VICTIM  
☒ WITNESS

MY LOCATION WHEN EVENT OCCURRED:

180 E 1st St Reno

## WRITTEN STATEMENT

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CR19-1352  
STATE VS. ANTHONY CLARKE (01 2 Pages)  
District Court 11/01/2019 01:54 PM  
Washoe County 2045  
DC-09900089179-148  
DAI ALICE

1. Anthony Clarke # 1910622

2. Washoe County Jail

3. Reno Nevada 89512

FILED

2019 NOV -1 PM 3:54

4. IN Pro se:JACQUELINE H. JAMES  
CLERK OF DISTRICT COURT

BY

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

7. IN AND FOR THE COUNTY OF WASHOE

9. STATE OF NEVADA,

CASE No. CR19-1352

10. Plaintiff,

11. v.

12. Anthony Clarke Natural Person,

13. Defendant.

14. DISCOVERY

15. Comes Now Anthony Clarke, the natural person in pro-se hereby  
16. move the District Attorney office of Washoe County and or Mariah  
17. Northington, Deputy District Attorney of Washoe County to turn over  
18. all Brady Material to Anthony Clarke, who is representing him -  
19. self in the above mentioned criminal case number.

20. 1. The names of persons who were prosecution witnesses at the  
21. scheduled preliminary hearing in the Reno Justice Court on  
22. August 1, 2019 in Department # 4.

23. 2. A full and complete copy of "Definition Pertaining to habitual  
24. criminals (not NRS 207.010).

25. 3. All body camera evidence regarding Clarke's arrest on 3-2-19  
26. by Reno Police Department.

27. //

1, 4) The names of all prosecution witnesses the District Attorney's office  
2, intend to use at trial. Along with any exculpatory evidence that  
3, may exonerate a defendant and could be used to impeach a govern-  
4, ment witness. Brady, 373 U.S. 83 (1963).

5, 5) A complete copy of the Mandatory Status Conference for Reno  
6, Justice Court.

7,  
8, DATED: November 1, 2019

9, Anthony Clarke #1910622  
10, Anthony Clarke Defendant in Prose.  
Natural Person

11,  
12, AFFIRMATION PURSUANT TO NRS 239B.030

13,  
14, This document does not have the social security numbers of any  
15, person

16,  
17, DATED: November 1, 2019

18, Anthony Clarke  
Anthony Clarke #1910622  
19, Defendant in Pro Se  
Natural Person



DC-09900089179-149  
STATE VS. ANTHONY CLARKE (D1 2 Pages  
District Court 11/01/2019 01:54 PM  
Washoe County 2290  
RRI/ALP  
NAC

1. Anthony Clarke #1910622

2. Washoe County Jail

3. Reno Nevada 89512

4.

5. Defendant In Pro se:

6.

7. IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

8.

IN AND FOR THE COUNTY OF WASHOE

9.

10. THE STATE OF NEVADA

11.

Plaintiff,

12.

v.

CASE NO CR 19-1352

13. Anthony Clarke. Natural Person,

Dept NO: 15

14.

Defendant.

15.

16. MOTION TO DISMISS

17.

Comes Now, Anthony Clarke the natural person acting in pro se, hereby moves this

18. Court for an Order for a Dismissal of the above entitled case based on insufficient

19. evidence to support a charge of burglary.

20. This Motion is made and based upon the attached Points and Authorities, and

21. any oral or documentary evidence as may be presented at the hearing on

22. this matter.

23. I. Background

24. Clarke is charged with the offense of Burglary, in violation of N.R.S. 205.060. The

25. State alleges that on March 2, 2019, Clarke entered the Taste of Chicago resta-

26. urant with the intent to commit larceny therein after having been convicted

27. of petit larceny on two prior occasions, but evidence only show that he

28. //

1. entered the restaurant and that at one point asked a customer if  
 2. the restaurant was open. Surveillance footage inside the restaurant  
 3. revealed Clarke waited for the customer to turn her head wherein  
 4. he reached into the tip jar, obtained the cash and depart the  
 5. scene.

6. State's contention that he entered with the intent to commit larceny  
 7. therein is pure speculation given that he had \$ 377.00 on his  
 8. person when entering the restaurant.

#### 9. AUTHORITY IN SUPPORT

10. Criminal intent formulated after lawful entry will not satisfy burglary  
 11. statute, N.R.S. 205.060 State v. Adams, 1978, 581 P.2d 868. 94 Nev. 503.

12.  
 13. One of the essential elements of burglary is the entry of a building with  
 14. the intent to commit grand or petit larceny, or any felony N.R.S 205.060,  
 15. subd. 1. Sheriff. Clark County v. Hicks, 1973 506 P.2d 766. 89 Nev. 78.

16. Clarke has suffered prejudice

#### 17. CONCLUSION

18. Charges should be dismissed with prejudice.

19. DATE Nov. 1, 2019

151 Anthony Clarke

Anthony Clarke Defendant  
 IN PRO SE Natural Person

21. I declare under penalty of perjury that the above is true and correct.

22. DATED Nov 1, 2019

151 Anthony Clarke

Anthony Clarke Defendant  
 In Pro Se Natural Person

24. This document does not contain the social security numbers of any person.

25. DATE Nov, 1 2019

Respectfully Submitted,

Anthony Clarke

Anthony Clarke Defendant  
 IN PRO SE Natural Person

CR19-1352  
STATE VS. ANTHONY CLARKE (D1 4 Pages  
District Court 11/01/2019 01:54 PM  
Washoe County 2485  
nrc

1. Anthony Clarke #1910622

2. Washoe County Jail

3. Reno, NV 89512

4. Defendant In Pro se :

FILED

2019 NOV -1 PM 3:54

JACQUELINE B.  
CLERK OF THE COURT

BY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

9. STATE OF NEVADA

10. Plaintiff,

11. v. CASE NO: CR19-1352

12. Anthony Clarke,

Dept No 15

13. Defendant,

16. Motion to Withdraw Guilty Plea

17. COMES NOW, Anthony Clarke, a natural person, hereby moves

18. this Court for an Order permitting Clarke to withdraw Guilty Plea. This

19. motion is based on any oral or documentary evidence as may be presented

20. at a hearing on this matter. And authority attached.

21. POINTS AND AUTHORITIES

22. 1. Statement of the case

23. Clarke is accused of Burglary, a felony. Clarke waived his preliminary

24. hearing on August 1, 2019. Clarke entered his plea of guilty on August 21, 2019,

25. and sentencing was scheduled for October 7, 2019. At the sentencing

26. hearing, Clarke informed the Court and counsel that he wanted to represent

27.

1. himself. Clarke's sentencing hearing was moved to October 14, 2019.

2. INTRODUCTION:

3. Clarke alleges insufficient performance by his assigned counsel Kendra G. Ber-  
4. tschy, NV Bond # 13071, and alleges that he was misled by appointed counsel at  
5. the Justice Court stage of his proceedings, which led to him waiving his prelim-  
6. inary hearing. Therefore, Clarke is filing this motion to Withdraw Guilty Plea.

7. Sequence of Events:

8. Declaration of Anthony Clarke

9. Ms. Bertschy and Clarke came into contact July 30, 2019 during an I-Web  
10. visit. We discussed in detail the line-up. Ms. Bertschy advised me she was reading  
11. notes about the line-up from another attorney. We both agreed the line-up and  
12. waiver to be present in the preliminary hearing was a good idea.

13. On July 31, 2019, Ms. Bertschy visited me at the Washoe County Jail. During this visit  
14. I signed the notice of waiver of appearance for preliminary hearing. I and Ms. Ber-  
15. tschy were in agreement that a line-up will be conducted prior to the preliminary  
16. hearing.

17. August 1, 2019, I was transported to RJC Dept #4 wherein I was placed  
18. in the hallway next to the courtroom. Moments before Preliminary hearing, Ms. Ber-  
19. tschy entered the room from the courtroom and said to me you were identified in a  
20. line-up and the witnesses are here, do you want to sign the waiver? I signed  
21. the waiver thinking I was identified in a line-up and the witnesses were  
22. there.

23. August 21, 2019, I entered my guilty plea in the Second Judicial District Court.  
24. I asked the newly assigned attorney Ms. Valencia if I could see the line up  
25. evidence and who were the witnesses at the preliminary hearing. I was told this is  
26. not available.

Sentencing was scheduled for October 7, 2019. Ms Maizie Pusich, was the attorney of record. I asked her the same questions, but got no answer but : I dont have that information.

On October 23, 2019. Ms. Valencia, advised this Court that it was no line-up conducted and Mr. Clarke was so advised. This is a misrepresentation of the facts. I was not advised a line-up was not conducted.

If I had Known a line-up never happened, I would not had signed the waiver in the Justice Court. After all of this I became suspicious, as to why appointed counsel would "promise" me a line-up prior to the prelim and then mislead me into thinking I was identified in a line-up that never took place. I was coerced. I decided to withdraw my plea as soon as possible because I was misled by a state appointed counsel because they want to move me through the process as fast as possible forget about due process.

I declare under penalty of perjury that the above is true and correct.

Date 11-23-19

151 Anthony Clarke  
Anthony Clarke Natural Person  
Defendant In Pro se

Coercion occurs when a defendant is induced by promises or threats which deprives the plea of the nature of a voluntary act."

Citina: Doe v. Woodford, 508 F.3d 563, 570 (9th Cir. 2007).

Clarke should be allowed to withdraw his plea.

Request that the district court conduct a evidentiary hearing into the issue raised.

This document does not contain the social security no# of any person.

11-13-19

151 Anthony Clarke  
Anthony Clarke Natural Person  
Defendant In Pro se.

DECLARATION OF ANTHONY CLARKE

1 I am the defendant in this case and declare the following:  
 2 Evidence is insufficient to support a charge of burglary, charge was  
 3 alleged as defendant on March 2, 2019, entered the Taste of Chicago  
 4 restaurant with the intent to commit larceny therein after having  
 5 been convicted of petit larceny on two prior occasions, but  
 6 evidence only show that I entered the restaurant and at one point  
 7 asked a customer if the restaurant was open. The customer said IDK  
 8 "Nigger". Surveillance show me waiting for the customer to turn her  
 9 head then I reached into the tip jar, removed the cash and left  
 10 the restaurant.

11 I entered the restaurant to see if it was open, so I could order food  
 12 and drink, but after being called a name inside, I decided retaliate  
 13 and take the money out the tip jar. However, it was given back to Mr. Peto  
 14 when confronted outside the restaurant.

15 The States contention that I entered the restaurant with intent  
 16 to commit larceny therein is pure speculation given the fact no  
 17 evidence support this claim and, I had \$ 377.00 on my person  
 18 when entering the restaurant.

19 Without late discovery this exculpatory evidence would had not  
 20 been revealed.

21 I declare under penalty of perjury that the above is true and  
 22 correct.

23 Date 11.13.2019

151 Anthony Clarke

Defendant In Pro se, Natural Person

24 This document does not contain the social security number of any person.

25 Date 11.13.2019

151 Anthony Clarke

DEFENDANT IN PRO SE  
 Natural Person

1  
2  
3  
4  
5  
6 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,**  
7 **IN AND FOR THE COUNTY OF WASHOE**  
8

9 **THE STATE OF NEVADA,**

10 **Plaintiff,**

**Case No. CR19-1352**

11 **vs.**

**Dept. No. 15**

12 **ANTHONY CLARKE,**

13 **Defendant.**  
14 \_\_\_\_\_/

15 **NOTICE OF FILINGS RECIEVED**

16 Please take notice, on November 1, 2019, this Court received the attached pro se  
17 document(s), as follows:  
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CR19-1352  
DC-09900089-179-147  
STATE VS. ANTHONY CLARKE (D1 5 Pages  
District Court 11/01/2019 01:54 PM  
3585  
Washoe County  
RRI/ALP

Anthony Clarke #1910622

FILED

Washoe County Jail

2019 NOV -1 PM 3:54

Reno, Nevada 89512

JACQUELINE  
CLERK OF DISTRICT COURT

BY

Petitioner In Pro se:

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

PETITION FOR WRIT OF HABEAS

CASE NO CR19-1352

CORPUS:

CLR19-100494

DECLARATION OF Anthony ATTACHED

IN RE: Anthony Clarke,

NRS 34.430. NRS 34.390

Petitioner.

PETITION FOR WRIT OF HABEAS CORPUS

AD TESTIFICANDUM

Petitioner Clarke is a pretrial detainee - his liberty is restrained  
by Darin Balaram, Washoe County Sheriff, at 911 E Parr Blvd Reno, NV.

I. Background

Clarke is charged with the offense of Burglary, in violation of N.R.S.  
205.060. The State alleges that on March 2, 2019, Clarke entered the Taste  
of Chicago restaurant with the intent to commit larceny therein after  
been convicted of petit larceny on two prior occasions.

GROUND 1

PETITIONER ALLEGES A DEPRIVATION OF RIGHTS "GUARANTEED" BY THE DUE  
PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT

STATEMENT OF LAW AND ARGUMENT

(1 of 3 pg.)

1. It is insufficient evidence to support a burglary charge. The  
2. evidence only show that Clarke entered the restaurant and that at one  
3. point asked a customer if the restaurant was open. Surveillance footage  
4. inside the restaurant revealed Clarke waited for the customer to  
5. turn her head wherein he reached into the tip jar, obtain cash and  
6. depart the scene.

7. State's contention that he entered with the intent to commit larceny  
8. therein is pure speculation given that he had \$ 377.00 on his person when  
9. entering the restaurant.

#### 10. AUTHORITY

11. Criminal intent formulated after lawful entry will not satisfy burglary  
12. statute. NRS 205.060 State v. Adams, 1979. 581 P.2d

13.  
14. One of the essential elements of burglary is the entry of a building with the  
15. intent to commit grand or petit larceny or any other felony NRS 205.060. subd. 1  
16. Sheriff, Clark County, v. Hicks, 1973 506 P.2d 766. 89 Nev. 78.

#### 17. 18. GROUND 2

19. PETITIONER ALLEGES A DEPRIVATION OF RIGHTS "GUARANTEED" BY THE DUE PROCESS

#### 20. CLAUSE OF THE FOURTEENTH AMENDMENT

#### 21. STATEMENT OF THE LAW AND ARGUMENT

22. Aldiken alleges: "obstruction of justice" by his previously assigned counsel  
23. Kendra G. Bertschy, bond # NV 13071 and alleges that he was misled by counsel  
24. at the justice level of proceedings, which induced him waiving his statutory right  
25. to a preliminary hearing.

#### 26. Sequence of Events:

27. Ms. Bertschy on July 30, 2019 during a I-Web visit with Clarke at WCI  
28. discussed details of the line-up. It was revealed counsel was reading from

1. work product. I was agreed by both sides to go forward with the line-up,  
2. and waive appearance at preliminary.

3. July 31, 2019, counsel visited Clarke at WCJ in order have him sign a notice  
4. of waiver of appearance for preliminary hearing. We were still in agreement  
5. line-up prior to preliminary hearing."

6. August 1, 2019 Clarke was transported to Reno Justice Court Dept #4  
7. wherein he was placed in the hallway near Department #4. Moments before  
8. the start of prelim counsel entered the room from the court room door and  
9. said to Clarke you were identified in a line-up and the witnesses are hear,  
10. do you want to sign the waiver? Clarke signed thinking he was identified  
11. in a line-up and witnesses were present at court.

12. On October 23, 2019, Ms. Valencia, advised this Court that it was no line -  
13. up conducted and Clarke was advised as such. Clarke was never advised.  
14. If Clarke had been told the truth he would had not signed the waiver.  
15. Moreover, it simply is no proof Clarke was advised of no line-up was  
16. conducted as attested by appointed attorney of record Ms. Bertschy.  
17. Due Process is violated and Clarke is prejudice.

18. CONCLUSION

19. VERIFICATION

20. This Court should dismiss all charges in this case.

21. I declare under penalty of perjury that the above is true and correct.

22. DATE Nov 1, 2019

151 Anthony Clarke  
ANTHONY Clarke Prisoner  
IN PRO SE NATURAL Person

23. This document does not contain the social security number of any person.

24. DATED Nov 1, 2019

151 Anthony Clarke  
PETITIONER IN PRO SE  
NATURAL Person

25.

26.

27. (3 of 3 pg)

## DECLARATION IN SUPPORT OF HABEAS CORPUS

1. I am the Petitioner in this action, and declare the following:  
2. On March 2, 2019, I entered Taste of Chicago restaurant to order food  
3. and drink at one point I asked a customer Sheri Martinovich, if the  
4. restaurant was open. She replied IDK "Nigger". Surveillance inside  
5. the restaurant show me waiting for the customer to turn her head  
6. then I reached into the tip jar removed the cash and walked out  
7. the door, out of retaliation for what was said to me. (see Ex - A.)  
8. Obstruction of Justice by appointed counsel Kendra G. Bertsch.  
9. I was advised by counsel that I would have a line-up prior to  
10. preliminary hearing in the RJC August 1, 2019. Counsel walked into  
11. the hallway behind Deot #4 moments before the prelim and said to  
12. me You were identified in a line-up and witness are hear. I  
13. signed the waiver. thinking I was identified in a line up and witnesses  
14. were at the court. I learn later while in court October 23, 2019  
15. it was no line-up held and according to Ms. Valencia, I was informed of  
16. this. I was never told the truth. If I was armed with that information  
17. prior to signing the waiver I would have not signed, but went to  
18. prelim. If it is any doubt the Surveillance footage of 8-1-19 will  
19. show what happened.

20. I declare under penalty of perjury that the above is true and correct.

21. DATE Nov 1, 2019

1st Anthony Clarke

Anthony Clarke Petitioner



## RENO POLICE DEPARTMENT STATEMENT

FOR POLICE USE ONLY:

CASE NO: 19-480

TAKEN BY: McGook 14824

## PERSON MAKING STATEMENT

NAME OF PERSON MAKING STATEMENT:

Sher. Martinovich

OTHER NAMES USED:

RE:

CITY:

Reno

STATE:

NV

ZIP:

8951

RACE:

☒ WHITE ☐ INDIAN  
☐ BLACK ☐ ASIAN  
☐ OTHER

SEX:

☒ MALE  
☐ FEMALE

HEIGHT:

WEIGHT:

HAIR:

EYES:

OCCUPATION AND WHERE EMPLOYED:

Store Mgr

WORK/SCHOOL ADDRESS:

WORK HOURS:

DAYS OFF:

INVOLVEMENT:

☐ DRIVER ☐ COMPLAINANT  
☐ PASSENGER ☐ VICTIM  
☒ WITNESS

MY LOCATION WHEN EVENT OCCURRED:

180 E 1st St Reno

## WRITTEN STATEMENT

1 I came out of the bar exiting the  
 2 restaurant w/ my food. stopped  
 3 at hostess station, to ask for a  
 4 spoon. Hostess went to the back  
 5 to get one. to my right a man came  
 6 in (black) & asked me if the  
 7 restaurant was open, I looked at  
 8 him & said I DK. 7 next thing  
 9 hostess returns from my left w/  
 10 my spoon & yells: "Where's my  
 11 tips?" "I'm stunned" IDK?  
 12 Guy is gone. I ran after him  
 13 outside & others from inside stopped  
 14 him. Police arrive.

DATE &amp; TIME OF STATEMENT:

3/2/19 9:40pm

NO PAGES IN STATEMENT:

SIGNATURE OF PERSON MAKING STATEMENT:

FOR POLICE USE ONLY: REL. TO:

DATE:

3/2/19

BY:

DISSEMINATION RESTRICTED TO CRIMINAL JUSTICE AGENCIES ONLY. SECONDARY DISSEMINATION IS PROHIBITED.

Printed 2/12/15

CR19-1352  
DC-0960089175-148  
STATE VS. ANTHONY CLARKE (01 2 Pages)  
District Court 11/01/2019 01:54 PM  
Washoe County  
CLERK

1 Anthony Clarke #1910622

2 Washoe County Jail

3 Reno Nevada 89512

FILED

2019 NOV -1 PM 3:54

4 IN PRO SE:  
5JACQUELINE  
CLERK OF DISTRICT COURT

BY

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

7 IN AND FOR THE COUNTY OF WASHOE

8  
9 STATE OF NEVADA,

10 Plaintiff,

CASE No. CR19-1352

11 v.

12 Anthony Clarke Natural Person,

13 Defendant. 1

14 DISCOVERY

15 Comes Now Anthony Clarke, the natural person in pro-se hereby  
16 move the District Attorney office of Washoe County and or Mariah  
17 Northington, Deputy District Attorney of Washoe County to turn over  
18 all Brady Material to Anthony Clarke, who is representing him -  
19 self in the above mentioned criminal case number.

20 1. The names of persons who were prosecution witnesses at the  
21 scheduled preliminary hearing in the Reno Justice Court on  
22 August 1, 2019 in Department # 4.

23 2. A full and complete copy of "Definition Pertaining to habitual  
24 criminals (not NRS 207.010).

25 3. All body camera evidence regarding Clarke's arrest on 3-2-19  
26 by Reno Police Department.

27 //

(1 of 2 pages)

1, 4) The names of all prosecution witnesses the District Attorney's office  
2, intend to use at trial. Along with any exculpatory evidence that  
3, may exonerate a defendant and could be used to impeach a govern-  
4, ment witness. Brady, 373 U.S. 83 (1963).

5, 5) A complete copy of the Mandatory Status Conference for Reno  
6, Justice Court.

7,  
8, DATED: November 1, 2019

9, Anthony Clarke #1910622  
10, Anthony Clarke Defendant in Pro Se.  
Natural Person

11,  
12, AFFIRMATION PURSUANT TO NRS 239B.030

13,  
14, This document does not have the social security numbers of any  
15, person

16,  
17, DATED: November 1, 2019

Anthony Clarke  
Anthony Clarke #1910622  
Defendant in Pro Se  
Natural Person

CR19-1352  
STATE VS. ANTHONY CLARKE (D1 2 Pages  
District Court 11/01/2019 01:54 PM  
Washoe County  
2280  
rpt nrls

1. Anthony Clarke #1910622

2. Washoe County Jail

3. Reno Nevada 89512

4.

5. Defendant In Pro se:

6.

7. IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

8.

IN AND FOR THE COUNTY OF WASHOE

9.

10. THE STATE OF NEVADA

11.

Plaintiff,

12.

v.

CASE NO CR 19-1352

13. Anthony Clarke. Natural Person,

Dept No: 15

14.

defendant.

15.

16.

### MOTION TO DISMISS

17. Comes Now, Anthony Clarke the natural person acting in pro se, hereby moves this  
18. Court for an Order for a Dismissal of the above entitled case based on insufficient  
19. evidence to support a charge of burglary.

20. This Motion is made and based upon the attached Points and Authorities, and  
21. any oral or documentary evidence as may be presented at the hearing on  
22. this matter.

23.

### I. Background

24. Clarke is charged with the offense of Burglary, in violation of N.R.S. 205.060. The  
25. State alleges that on March 2, 2019, Clarke entered the Taste of Chicago resta-  
26. urant with the intent to commit larceny therein after having been convicted  
27. of petit larceny on two prior occasions, but evidence only show that he

28. 11

1 entered the restaurant and that at one point asked a customer if  
 2 the restaurant was open. Surveillance footage inside the restaurant  
 3 revealed Clarke waited for the customer to turn her head wherein  
 4 he reached into the tip jar, obtained the cash and depart the  
 5 scene.

6 State's contention that he entered with the intent to commit larceny  
 7 therein is pure speculation given that he had \$ 377.00 on his  
 8 person when entering the restaurant.

#### 9 AUTHORITY IN SUPPORT

10 Criminal intent formulated after lawful entry will not satisfy burglary  
 11 statute. N.R.S. 205.060 State v. Adams, 1978, 581 P.2d 868. 94 Nev. 503.

12  
 13 One of the essential elements of burglary is the entry of a building with  
 14 the intent to commit grand or petit larceny, or any felony N.R.S. 205.060,  
 15 subd. 1. Sheriff. Clark County v. Hicks, 1973 506 P.2d 766. 89 Nev. 78.

16 Clarke has suffered prejudice

#### 17 CONCLUSION

18 Charges should be dismissed with prejudice.

19 DATE Nov. 1, 2019

151 Anthony Clarke

Anthony Clarke Defendant  
 IN PRO SE Natural Person

21 I declare under penalty of perjury that the above is true and correct.

22 DATED Nov 1, 2019

151 Anthony Clarke

Anthony Clarke Defendant  
 In Pro Se Natural Person

24 This document does not contain the Social Security numbers of any person.

25 DATE Nov, 1 2019

Respectfully submitted,

Anthony Clarke

Anthony Clarke Defendant  
 IN PRO SE Natural Person

CR19-1352  
STATE VS. ANTHONY CLARKE (01 4 Pages)  
District Court 11/01/2019 01:54 PM  
Washoe County  
2485  
for  
rcl/clerk

1. Anthony Clarke #1910622

2. Washoe County Jail

3. Reno, NV 89512

FILED

2019 NOV -1 PM 3:54

JACQUELINE  
CLERK OF THE COURT

BY: [Signature]

4. Defendant In Pro se:

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

7. IN AND FOR THE COUNTY OF WASHOE

8. STATE OF NEVADA

9. Plaintiff,

10. CASE NO: CR19-1352

11. Anthony Clarke,

Dept No 13

12. Defendant,

13. Motion to Withdraw Guilty Plea

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15. this Court for an Order permitting Clarke to withdraw Guilty Plea. This  
16. motion is based on any oral or documentary evidence as may be presented  
17. at a hearing on this matter. And authority attached.

18. POINTS AND AUTHORITIES

## 19. 1. Statement of the case

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21. hearing on August 1, 2019. Clarke entered his plea of guilty on August 21, 2019,  
22. and sentencing was scheduled for October 7, 2019. At the sentencing  
23. hearing, Clarke informed the Court and counsel that he wanted to represent

1 himself. Clarke's Sentencing hearing was moved to October 14, 2019.

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3 Clarke alleges insufficient performance by his assigned counsel Kendra G. Ber-  
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11 notes about the line-up from another attorney. We both agreed the line-up and  
12 waiver to be present in the preliminary hearing was a good idea.

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21 the waiver thinking I was identified in a line-up and the witnesses were  
22 there.

23 August 21, 2019, I entered my guilty plea in the Second Judicial District Court.  
24 I asked the newly assigned attorney Ms. Valencia if I could see the line up  
25 evidence and who were the witnesses at the preliminary hearing. I was told this is  
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I declare under penalty of perjury that the above is true and correct.

Date 11-23-19

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Anthony Clarke Natural Person  
Defendant In Pro se

Coercion occurs when a defendant is induced by promises or threats which deprives the plea of the nature of a voluntary act."

Citina: Doe v. Woodford, 508 F.3d 563, 570 (9th Cir. 2007).

Clarke should be allowed to withdraw his plea.

Request that the district court conduct a evidentiary hearing into the issue raised.

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11-13-19

151 Anthony Clarke  
Anthony Clarke Natural Person  
Defendant In Pro se.

DECLARATION OF ANTHONY CLARKE

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 5 been convicted of petit larceny on two prior occasions, but  
 6 evidence only show that I entered the restaurant and at one point  
 7 asked a customer if the restaurant was open. The customer said IDK  
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 9 head then I reached into the tip jar, removed the cash and left  
 10 the restaurant.  
 11

12 I entered the restaurant to see if it was open, so I could order food  
 13 and drink, but after being called a name inside, I decided retaliate  
 14 and take the money out the tip jar. However, it was given back to Mr. Peto  
 15 when confronted outside the restaurant.

16 The States contention that I entered the restaurant with intent  
 17 to commit larceny therein is pure speculation given the fact no  
 18 evidence support this claim and, I had \$ 377.00 on my person  
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20 Without late discovery this exculpatory evidence would had not  
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22 I declare under penalty of perjury that the above is true and  
 23 correct.

24 Date 11.13.2019

151 Anthony Clarke

Defendant In Pro se, Natural Person

25 This document does not contain the social security number of any person.

26 Date 11.13.2019

151 Anthony Clarke

DEFENDANT IN PRO SE  
 Natural Person

**Return Of NEF****Recipients**

**MARIAH** - Notification received on 2019-11-04 08:51:09.221.  
**NORTHINGTON,**  
**ESQ.**

**LORENA VALENCIA,** - Notification received on 2019-11-04 08:51:09.174.  
**PD**

**DIV. OF PAROLE &** - Notification received on 2019-11-04 08:51:09.128.  
**PROBATION**

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE: CR19-1352**

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

11-04-2019:08:45:45

**Clerk Accepted:**

11-04-2019:08:50:35

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

Notice

**Filed By:**

Judicial Asst. SParke

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

MARIAH NORTHINGTON, ESQ. for STATE OF  
NEVADA

LORENA VALENCIA, PD for ANTHONY  
CLARKE

DIV. OF PAROLE & PROBATION

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

CODE  
Christopher J. Hicks  
#7747  
One South Sierra Street  
Reno, NV 89501  
(775) 328-3200  
Attorney for Plaintiff

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

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

Case No: CR19-1352

v.

Dept: D15

ANTHONY CLARKE,

Defendant

\_\_\_\_\_ /

**STATE'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS**

COMES NOW, the State of Nevada, by and through CHRISTOPHER J. HICKS, District Attorney of Washoe County, and MARIAH NORTHINGTON, Deputy District Attorney, and hereby opposes Defendant's Motion to Dismiss. Said opposition is based upon the following points and authorities and all pleadings, papers and documents on file herein and any testimony taken at a hearing on the matter.

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**POINTS AND AUTHORITIES**

**I. STATEMENT OF RELEVANT PROCEDURAL HISTORY**

This matter stems from the events that occurred on March 2, 2019, when ANTHONY CLARKE ("Defendant") entered the Taste of Chicago restaurant and stole the tip money out of the tip jar. On March 4, 2019, Judge Sullivan of Reno Justice Court found Probable Cause to hold the Defendant. On March 5, 2019, the Defendant was charged via Criminal Complaint with Burglary, a violation of NRS 205.060, a category B felony.

On March 25, 2019, the Defendant failed to appear for the Mandatory Status Conference ("MSC"), and a Bench Warrant was issued. On July 12, 2019, that Bench Warrant was executed, and an MSC was set for July 18, 2019. At that MSC, the defense set this matter for a Preliminary Hearing for August 1, 2019. On August 1, 2019, the Defendant executed a Preliminary Hearing Waiver. Pursuant to negotiations, the Defendant was to plead guilty to Burglary and the parties would jointly recommend a sentence of 12 to 36 months in the Nevada Department of Corrections.

The Information and Waiver were filed in District Court on August 6, 2019. At the August 21, 2019 continued Arraignment, the Defendant was canvassed by the Court and entered his guilty plea. The Defendant signed the Guilty Plea Memorandum on August 21, 2019. Sentencing is currently scheduled on November 25, 2019. On November 1, 2019, the Defendant filed the following documents: Motion to Withdraw Guilty Plea, Motion to Dismiss Case, Motion for Discovery, and Petition for Writ of Habeas Corpus Ad Testificandum.

**II. ARGUMENT**

The Defendant's contention is that there is insufficient evidence to support the Burglary charge. The State is unsure what procedural mechanism the Defendant's Motion is based upon. This matter did not proceed to a Preliminary Hearing due to the Defendant's Waiver, and therefore there has not yet been an evidentiary based hearing in this matter to establish whether there is sufficient evidence to hold the Defendant for trial, given his acceptance of plea negotiations and subsequent guilty plea. Therefore, it would be the State's position that this requested relief be denied at this time, or held in abeyance, until this Court rules on the Motion to Withdraw Guilty Plea, at which time the procedural posture of this case will be settled.

**III. CONCLUSION**

Based on the current procedural posture of this case, the State respectfully requests that this Motion be denied, or alternatively, that this Motion be held in abeyance pending this Court's ruling on the Motion to Withdraw Plea.

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AFFIRMATION PURSUANT TO NRS 239B.030

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

Dated this 8<sup>th</sup> day of November, 2019

CHRISTOPHER J. HICKS  
District Attorney  
Washoe County, Nevada

By: /s/ Mariah Northington  
MARIAH NORTHINGTON  
14247  
DEPUTY DISTRICT ATTORNEY

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Washoe County District Attorney's Office and that, on this date, I deposited for mailing at Reno, Washoe County, Nevada, a true copy of the foregoing document, addressed to:

Washoe County Detention Facility  
Anthony Clarke, Inmate #1910622  
911 Parr Blvd.  
Reno, NV 89512

DATED this 8th day of November, 2019.

\_/s/ Janelle Yost\_  
JANELLE YOST

CODE  
Christopher J. Hicks  
#7747  
One South Sierra Street  
Reno, NV 89501  
(775) 328-3200  
Attorney for Plaintiff

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

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

Case No: CR19-1352

v.

Dept: D15

ANTHONY CLARKE,

Defendant

\_\_\_\_\_ /

**STATE'S RESPONSE TO DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS**

COMES NOW, the State of Nevada, by and through CHRISTOPHER J. HICKS, District Attorney of Washoe County, and MARIAH NORTINGTON, Deputy District Attorney, and hereby responds to Defendant's Petition for Writ of Habeas Corpus. Said Response is based upon the following points and authorities and all pleadings, papers and documents on file herein and any testimony taken at a hearing on the matter.

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POINTS AND AUTHORITIES

**I. STATEMENT OF RELEVANT PROCEDURAL HISTORY**

This matter stems from the events that occurred on March 2, 2019, when ANTHONY CLARKE ("Defendant") entered the Taste of Chicago restaurant and stole the tip money out of the tip jar. On August 1, 2019, the Defendant executed a Preliminary Hearing Waiver. Pursuant to negotiations, the Defendant was to plead guilty to Burglary and the parties would jointly recommend a sentence of 12 to 36 months in the Nevada Department of Corrections. The Information and Waiver were filed in District Court on August 6, 2019. The initial Arraignment was held on August 14, 2019, at which time the Defendant requested a one-week continuance. At the August 21, 2019 Arraignment, the Defendant was canvassed by the Court and entered his guilty plea. The Defendant signed the Guilty Plea Memorandum on August 21, 2019. Sentencing is currently scheduled on November 25, 2019. On November 1, 2019, the Defendant filed several documents, including this Petition for Writ of Habeas Corpus Ad Testificandum.

**II. ARGUMENT**

NRS 34.700(1) provides, in pertinent part, that "...a pretrial petition for a writ of habeas corpus based on alleged lack of probable cause or otherwise challenging the court's right or jurisdiction to proceed to the trial of a criminal charge **may not be considered unless**...(a) The petition and all supporting documents are **filed within 21 days after the first appearance** of the accused in the district court..." (emphasis added).

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The Defendant had his first District Court appearance at his August 14, 2019 Arraignment, which was continued to August 21, 2019 at the defense's request. Therefore, the Defendant had until **September 4, 2019** to file a pretrial Petition for Writ of Habeas Corpus. This filing, on November 1, 2019, is therefore barred.

Further, procedurally, it is the State's position that this Petition cannot be considered because, as demonstrated by the language of NRS 34.700, such pretrial Petitions are to be filed prior to the entry of the guilty plea and when a matter is set for a trial. There have not yet been any evidentiary based hearings in this case, given the Defendant's waiver of his Preliminary Hearing. Therefore, it would be the State's position that this requested relief be denied at this time, or held in abeyance, until this Court rules on the Motion to Withdraw Guilty Plea.

### III. CONCLUSION

Based on the current procedural posture of this case, the State respectfully requests that this Petition be denied as untimely pursuant to NRS 34.700, or alternatively, that this Petition be held in abeyance pending this Court's ruling on the Motion to Withdraw Plea.

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AFFIRMATION PURSUANT TO NRS 239B.030

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

Dated this 8<sup>th</sup> day of November, 2019

CHRISTOPHER J. HICKS  
District Attorney  
Washoe County, Nevada

By: /s/ Mariah Northington  
MARIAH NORTHINGTON  
14247  
DEPUTY DISTRICT ATTORNEY

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Washoe County District Attorney's Office and that, on this date, I deposited for mailing at Reno, Washoe County, Nevada, a true copy of the foregoing document, addressed to:

Washoe County Detention Facility  
Anthony Clarke, Inmate #1910622  
911 Parr Blvd.  
Reno, NV 89512

DATED this 8th day of November, 2019.

\_\_\_\_/s/ Janelle Yost\_\_\_\_  
JANELLE YOST

CODE  
Christopher J. Hicks  
#7747  
One South Sierra Street  
Reno, NV 89501  
(775) 328-3200  
Attorney for Plaintiff

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

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

Case No: CR19-1352

v.

Dept: D15

ANTHONY CLARKE,

Defendant

\_\_\_\_\_ /

**STATE'S RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY**

COMES NOW, the State of Nevada, by and through CHRISTOPHER J. HICKS, District Attorney of Washoe County, and MARIAH NORTHINGTON, Deputy District Attorney, and hereby responds Defendant's Motion for Discovery. Said response is based upon the following points and authorities and all pleadings, papers and documents on file herein and any testimony taken at a hearing on the matter.

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**POINTS AND AUTHORITIES**

**I. STATEMENT OF RELEVANT PROCEDURAL HISTORY**

This matter stems from the events that occurred on March 2, 2019, when ANTHONY CLARKE ("Defendant") entered the Taste of Chicago restaurant and stole the tip money out of the tip jar. On August 1, 2019, the Defendant executed a Preliminary Hearing Waiver. Pursuant to negotiations, the Defendant was to plead guilty to Burglary and the parties would jointly recommend a sentence of 12 to 36 months in the Nevada Department of Corrections. The Information and Waiver were filed in District Court on August 6, 2019. The initial Arraignment was held on August 14, 2019, at which time the Defendant requested a one-week continuance. At the August 21, 2019 Arraignment, the Defendant was canvassed by the Court and entered his guilty plea. The Defendant signed the Guilty Plea Memorandum on August 21, 2019. Sentencing is currently scheduled on November 25, 2019. On November 1, 2019, the Defendant filed several documents, including this Motion for Discovery.

**II. ARGUMENT**

The State has provided discovery to Defendant in compliance with NRS 174.235 and *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194 (1963). To date, the following items have been discovered to the defense: Certified Copies of the Defendant's Petit Larceny convictions, the Body Camera Footage from all responding Officers, the Probable Cause Sheet, the Police Report, the video surveillance from Taste of Chicago, the Evidence Release relating to the \$35, and the Witness Statements of Katherine Tyrrell, Steve Peto, and Sheri Martinovich.

There has been no further evidence generated or received. The State recognizes its continuing duty to disclose discovery.

As to the Defendant's specific requests, the State will address each of them below:

1. Defendant's request for the names of the prosecution's witnesses for the August 1, 2019 Preliminary Hearing - The defense is aware of all the State's witnesses from the Police Reports and Witness Statements, as well as the Witness List that is provided as part of the August 6, 2019 Information.
2. Defendant's request for the definition of Habitual Criminal other than NRS 207.010 - The State is unsure what evidence the Defendant is requesting.
3. Defendant's request for the body camera footage - All body camera footage was provided to the Defendant through his previously appointed counsel. Given that the Defendant is now representing himself with the Public Defender's Office as stand-by counsel, the undersigned attorney is unsure, procedurally speaking, how the Defendant himself now views that evidence. The undersigned spoke with the Washoe County Jail, and they have indicated that is something the Defendant would have to facilitate with Jail Staff.
4. Defendant's request for the names of all the prosecution's witnesses - Please see Item 1. Defendant's request for all exculpatory and impeachment evidence - The State is aware of its obligations under NRS 174.235 and *Brady*.

5. Defendant's request for a "complete copy of the Mandatory Status Conference for Reno Justice Court" - The State is unsure what exactly the Defendant is requesting.

### III. CONCLUSION

Due to the disclosure of all discovery in this case, as well as the fact that the State is aware of its duties pursuant to NRS 174.235 and *Brady*, the State respectfully requests that this Motion be denied.

#### AFFIRMATION PURSUANT TO NRS 239B.030

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

Dated this 8<sup>th</sup> day of November, 2019

CHRISTOPHER J. HICKS  
District Attorney  
Washoe County, Nevada

By: /s/ Mariah Northington  
MARIAH NORTHINGTON  
14247  
DEPUTY DISTRICT ATTORNEY

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Washoe County District Attorney's Office and that, on this date, I deposited for mailing at Reno, Washoe County, Nevada, a true copy of the foregoing document, addressed to:

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DATED this 8th day of November, 2019.

\_/s/ Janelle Yost\_  
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CODE  
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One South Sierra Street  
Reno, NV 89501  
(775) 328-3200  
Attorney for Plaintiff

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

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

Case No: CR19-1352

v.

Dept: D15

ANTHONY CLARKE,

Defendant

\_\_\_\_\_ /

**OPPOSITION TO DEFENDANT'S MOTION TO WITHDRAW PLEA**

COMES NOW, the State of Nevada, by and through CHRISTOPHER J. HICKS, District Attorney of Washoe County, and MARIAH NORTHINGTON, Deputy District Attorney, and hereby opposes Defendant's Motion to Withdraw Plea. Said opposition is based upon the following points and authorities and all pleadings, papers and documents on file herein and any testimony taken at a hearing on the matter.

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**POINTS AND AUTHORITIES**

**I. STATEMENT OF THE CASE**

This matter stems from the events that occurred on March 2, 2019, when ANTHONY CLARKE ("Defendant") entered the Taste of Chicago restaurant and stole the money out of the tip jar. On March 4, 2019, Reno Justice Court found probable cause to hold the Defendant. On March 5, 2019, the Criminal Complaint was filed, charging Burglary, a violation of NRS 205.060, a category B felony.

On March 25, 2019, the Defendant failed to appear for the Mandatory Status Conference ("MSC"), and a Bench Warrant was issued. On July 12, 2019, that Bench Warrant was executed, and an MSC was set for July 18, 2019. At that MSC, the defense set this matter for a Preliminary Hearing for August 1, 2019. On July 31, 2019, the defense a Notice of Waiver of Appearance for Preliminary Hearing, pursuant to NRS 178.388 and *State vs. Sargent*, 122 Nev. 210, 128 P.3d 1052 (2006), waving the Defendant's right to be present at the Preliminary Hearing. On August 1, 2019, the Defendant executed a Preliminary Hearing Waiver. Pursuant to negotiations, the Defendant was to plead to Burglary and the parties would jointly recommend a sentence of 12 to 36 months in the Nevada Department of Corrections.

The Information and Waiver were filed in District Court on August 6, 2019. The initial Arraignment was held on August 14, 2019, at which time the Defendant requested a one-week continuance. At the August 21, 2019 Arraignment, the Defendant was canvassed by the Court and entered his guilty plea. The Defendant signed the Guilty Plea Memorandum on August 21, 2019.

Sentencing was set for October 7, 2019. At the October 7, 2019 Sentencing hearing, the Defendant indicated he wanted a *Young* Hearing. Defense counsel requested a one-week continuance to allow further discussion with the Defendant. Sentencing was continued to October 14, 2019. On October 11, 2019, defense counsel filed a Motion for Self-Representation and a Motion for *Young* Hearing. On October 14, 2019, the Court set a *Young* Hearing on October 23, 2019.

At the October 23, 2019 hearing, the Court executed a *Faretta* canvass, and then held a closed *Young* Hearing. The Court then filed its Order on October 24, 2019, granting the Defendant's request to represent himself. The Court's Order then instructed that any Motion seeking to withdraw his guilty plea must be filed no later than November 1, 2019. On November 1, 2019, the Defendant filed the following documents: Motion to Withdraw Guilty Plea, Motion to Dismiss Case, Motion for Discovery, and Petition for Writ of Habeas Corpus Ad Testificandum.

## II. ARGUMENT

NRS 176.165 allows a Defendant to withdraw a plea of guilty prior to the imposition of sentence. A District Court's ruling on a motion to set aside a guilty plea is discretionary and will not be reversed absent a clear abuse of discretion. *Bryant v. State*, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986); *Wilson v. State*, 99 Nev. 362, 664 P.2d 328 (1983). The Nevada Supreme Court has changed its rulings over the years regarding exactly what the Court can consider when determining whether to allow a Defendant to withdraw a guilty plea prior to sentencing. The law has been, since 1969, that the Court may

grant such a motion “where for any substantial reason the granting of the privilege seems ‘fair and just’.” *State v. Second Judicial District Court*, 85 Nev. 381, 455 P.2d 923 (1969).

However, the inquiry into what is “fair and just” has change over time. In *Crawford v. State*, 117 Nev. 718, 30 P.3d 1123 (2001), the Nevada Supreme Court focused on ‘fair and just’ in the context of whether the plea was knowing, intelligent and voluntary. In 2015, the Nevada Supreme Court abrogated their decision in *Crawford* in *Stevenson v. State*, 131 Nev. Adv. Op. 61, 354 P.3d 1277, (2015). In *Stevenson*, the Nevada Supreme Court stated that they were disavowing *Crawford’s* exclusive focus on the validity of the entry of a plea and found that a court should consider the totality of the circumstances to determine whether permitting withdrawal of a guilty plea before sentencing would be fair and just.

**a. DEFENDANT VOLUNTARILY, KNOWINGLY, AND INTELLIGENTLY ENTERED HIS GUILTY PLEA, AND THERE IS NO SUBSTANTIAL FAIR OR JUST REASON TO ALLOW WITHDRAWAL OF HIS GUILTY PLEA**

The Defendant’s contention is that he was misled by his attorney. The Defendant asserts that his attorney promised him a line-up that would occur prior to or at the time of the Preliminary Hearing. The Defendant further asserts that on August 1, 2019, he was transported to the hallway next to a courtroom in the Reno Justice Court, and was told by his attorney that he was identified in that hallway in a lineup, and that is the only reason he signed the Preliminary Hearing Waiver. Then, in the Declaration attached to the Motion, the Defendant asserts that on March 2, 2019, he did enter the Taste of Chicago restaurant,

but only stole the money from the tip jar as retaliation after being purportedly offended by a customer in the store.

The State would like to note certain irregularities in the Defendant's Motion. First, in the Reno Justice Court, in-custody Defendants are never taken into the hallways. They are transported from the cells directly to the courtrooms via sally ports. As such, the State is unsure how this allegedly fabricated hallway line up actually occurred. Additionally, the State is unsure why a line up would have been promised or even requested, given that in his own Declaration, the Defendant contends his only dispute with the charge is that he did not form the intent to steal the money until after he was offended by a customer in the store. Therefore, given the facts of the charge and the Defendant's own statements, the State cannot see any potential relevance of a line up.

**b. DEFENDANT FAILS TO DEMONSTRATE HIS COUNSEL WAS INEFFECTIVE**

It seems to the State that the Defendant's Motion might be based upon an assertion of ineffective assistance of counsel. The Nevada Supreme Court addressed the issue of ineffective assistance of counsel as a basis to withdraw a guilty plea in *Molina v. State*, 120 Nev. 185, 87 P.3d 533 (2004) in which the court stated:

The question of whether a criminal defendant has received ineffective assistance of counsel presents mixed questions of law and fact, and is subject to independent review. We review claims of ineffective assistance of counsel under the two-part test set forth in *Strickland v. Washington*. (citations omitted). Under *Strickland*, the defendant must demonstrate that his counsel's performance was deficient, i.e. it fell below an objective standard of reasonableness, and that the deficient

performance prejudiced the defense. However, in order to eliminate the distorting effects of hindsight, courts indulge in a strong presumption that counsel's representation falls within the broad range of reasonable assistance. *Id* at 190.

In *Molina* the Defendant based his motion to withdraw his guilty plea on the fact that he only met with his defense counsel once, that they only discussed the evidence the evening before trial, and that his defense counsel failed to adequately discuss the options of proceeding to trial and failed to provide a defense. At a hearing on the matter, the defense attorney testified to the communications with Molina regarding all of his allegations. The defense attorney testified that he discussed the lack of a defense and that the State's offer was the best he could obtain, and that it was Molina who decided it was in his best interest to accept the plea agreement. The defense attorney then went over the plea agreement and all of its consequences with Molina prior to the plea.

Upon review of *Molina*, the Nevada Supreme Court upheld the denial of the motion to withdraw his guilty plea, finding that the District Court carefully canvassed Molina on his understanding of the proceedings, the nature of the charges, and the possible penalties, and the fact that Molina signed a plea agreement memorializing the negotiations and manifested an understanding of its terms. Also, during the canvass of the defendant, he affirmatively admitted his guilt in connection with the charges and failed to demonstrate that his attorney's performance was deficient under *Strickland*. *Molina* at 191.

In this case, the Defendant waived his preliminary hearing on August 1, 2019, with the understanding that he would enter a guilty plea to the charge of Burglary with a jointly recommended sentence of 12-36 months in the Nevada Department of Corrections. At that point, the Defendant had the video surveillance from the restaurant and made the decision to accept plea negotiations. Then on August 21, 2019, the Defendant was carefully canvassed by this Court and admitted to committing the crime alleged with the intent alleged, and plead guilty, as reflected in this Court's Minutes as well as the Guilty Plea Memorandum. During this canvas, the Defendant admitted his guilt, acknowledged the negotiations, told the Court he was aware of the potential penalty, indicated he had sufficient time to speak to his counsel, and that he was satisfied with the representation of counsel. This Court found that the Defendant's plea was knowing, voluntary and intelligent. See Court Minutes.

There is nothing in the record, or common knowledge, to support the Defendant's contention that he was promised a line up in the hallway of the Reno Justice Court and was told that said line up occurred. Further, there is nothing in the record to support his assertion that an alleged line up is what caused him to waive, given that the crime itself was captured on video surveillance and the Defendant himself concedes that he took that money. Just like in the *Molina* case, the Defendant fails to set out reasonable, credible, or adequate grounds to illustrate that the performance of his attorney fell below an objective standard of reasonableness and that the deficient performance prejudiced the Defendant by allowing

him to enter a guilty plea to the crime committed with a joint recommendation of the minimum sentence.

**C. DEFENDANT'S POTENTIAL CLAIM OF FACTUAL INNOCENCE IS BELIED  
BY THE FACTS**

Although not addressed in the substantive portion of the Defendant's Motion, in his Declaration he asserts that there is insufficient evidence to support a charge of Burglary because, according to the Defendant, he entered the restaurant, asked a customer if it was open, and when the customer allegedly offended him, he then stole the money out of the tip jar. He bases this contention on the sole assertion that he had \$377 dollars on his person when entering the restaurant. However, that is not true.

After leaving the restaurant with the tip money, the owner of the restaurant, Steve Peto, was able to stop the Defendant from getting away until police arrived. After being detained by the police, a search of the Defendant's person found a total of \$35 dollars, the \$35 he stole from the tip jar. Per booking records, the Defendant had \$0 on his person when he was booked into the Washoe County Jail. Thus, all the facts establish that, contrary to the Defendant's contention, he had no money on him when he entered that restaurant. Further, even if he did, the video surveillance shows the Defendant walking by the restaurant on the sidewalk, peering through the large windows, where it can clearly be seen there is no worker standing behind the counter and there is a tip jar full of cash. After the Defendant walks in the front door of the restaurant, he walks up to the counter, stands next to the

customer, and as soon as the customer turns her head, he reaches in and steals the cash out of the tip jar. This entire series of events, from the moment the Defendant walks into the restaurant until he has the tip money in hand, takes 7 seconds. Although it is possible that the Defendant's statement of events occurred, it is not probable, especially given the fact that the Defendant had no money on him when he entered that restaurant.

The Nevada Supreme Court has established that withdrawal of a guilty plea may be warranted when there is a "credible claim of factual innocence and [a] lack of prejudice to the state." *Mitchell v. State*, 109 Nev. 137, 141, 848 P.2d 1060, 1062 (1993). In this case, there is no credibility to the Defendant's self-serving declaration that there is insufficient evidence to support the Burglary charge.

Additionally, the Defendant's extensive criminal history reveals that he has been through the system on numerous prior occasions and understands the pressures of a pending criminal case. The Court in *Stevenson* made the observation that, "Moreover, time constraints and pressure from interested parties exist in every criminal case and there is no indication in the record that their presence here prevented Stevenson from making a voluntary and intelligent choice among the options available." *Stevenson*, supra at 1281. That is exactly the case here. The Defendant was presented with his options by his defense counsel, including the potential for the imposition of Habitual Criminal Treatment, and he chose to enter a plea with a joint recommendation of the minimum sentence. The Defendant's buyer's

remorse is not a just and fair reason to allow him to withdraw his plea. As pointed out in *Stevenson*, "The guilty plea is not a placeholder that reserves [a defendant's] right to our criminal system's incentives for acceptance of responsibility unless or until a preferable alternative later arises...[r]ather, it is a grave and solemn act, which is accepted only with care and discernment."

### III. CONCLUSION

Based on the totality of the circumstances as described above, ANTHONY CLARKE has failed to carry his burden to demonstrate that his plea was not voluntarily, intelligently and knowingly entered, and that it would be fair and just to allow him to withdraw his plea. There has been no fair and just reason provided that is supported by any evidence which would allow the Defendant to withdraw from his guilty plea. Thus, the State asks the court to deny the Defendant's Motion or, in the alternative, set the matter for an evidentiary hearing so that the Defendant can present evidence to meet his burden to demonstrate a fair and just reason to allow the withdrawal of his guilty plea.

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AFFIRMATION PURSUANT TO NRS 239B.030

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

Dated this 8<sup>th</sup> day of November, 2019

CHRISTOPHER J. HICKS  
District Attorney  
Washoe County, Nevada

By: /s/ Mariah Northington  
MARIAH NORTHINGTON  
14247  
DEPUTY DISTRICT ATTORNEY

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Washoe County District Attorney's Office and that, on this date, I deposited for mailing at Reno, Washoe County, Nevada, a true copy of the foregoing document, addressed to:

Washoe County Detention Facility  
Anthony Clarke, Inmate #1910622  
911 Parr Blvd.  
Reno, NV 89512

DATED this 8th day of November, 2019.

\_/s/ Janelle Yost\_  
JANELLE YOST

**Return Of NEF****Recipients**

**MARIAH** - Notification received on 2019-11-08 11:40:26.197.  
**NORTHINGTON,**  
**ESQ.**  
**LORENA VALENCIA,** - Notification received on 2019-11-08 11:40:26.165.  
**PD**  
**DIV. OF PAROLE &** - Notification received on 2019-11-08 11:40:26.134.  
**PROBATION**

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

11-08-2019:11:14:46

**Clerk Accepted:**

11-08-2019:11:39:50

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

Response

Response

Response

Opposition to

**Filed By:**

Mariah Northington

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

MARIAH NORTINGTON, ESQ. for STATE OF  
NEVADA

LORENA VALENCIA, PD for ANTHONY  
CLARKE

DIV. OF PAROLE & PROBATION

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

CASE NO. CR19-1352

STATE OF NEVADA VS. ANTHONY CLARKE

DATE, JUDGE  
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

10/23/19

EVIDENTIARY HEARING

HONORABLE

DDA M. Northington represented the State. Defendant present,  
in custody, represented by DPD L. Valencia; DPD L. Nordvig  
seated in the gallery. SPEC J. Lopez present on behalf of the  
Division of Parole and Probation.

Nov. 25, 2019

DAVID A. HARDY

3:37 p.m. – Court convened with counsel for Defendant,  
Defendant, and Division present.

9:00 a.m.

Dept. No. 15

*Awaited arrival of DDA.*  
*Sidebar conducted between Court and DPDs; off the record.*

Sentencing

A. Dick

*Brief recess.*  
3:49 p.m. – Court reconvened with all counsel, Defendant, and  
Division present.

(Clerk)

COURT summarized content of sidebar conference on the  
record. Court conducted Faretta canvass.

E. Ferretto

DEFT obo addressed CT answered its questioning; affirmed he  
would like to proceed as a self-represented litigant at all further  
proceedings.

(Reporter)

Defendant sworn.  
Court further conducted Faretta canvass.

DEFT obo further answered Court's questioning; affirmed he  
would like to withdraw his guilty plea and schedule this case for  
trial.

COURT stated its findings pursuant to Faretta, admonished  
Defendant regarding the risk of self-representation; however,  
**COURT ORDERED:** Defendant's Faretta motion GRANTED.

**COURT FURTHER ORDERED:** PD's office shall act as  
Defendant's stand-by counsel for all further proceedings.

**COURT FURTHER ORDERED:** No later than next Friday,  
Defendant shall efile a motion to withdraw guilty plea. No later  
than the following Friday, State shall efile a written response to  
said motion.

COURT indicated if said motion is denied then this case will  
proceed with Defendant acting in proper person at sentencing. If  
said motion is granted then this case will be set for trial. Court  
excused the State and Division from the courtroom.

**COURT ORDERED:** Courtroom CLOSED and transcript  
SEALED.

*Young Hearing conducted.*

**COURT ORDERED:** Courtroom OPENED and transcript UNSEALED.

Court invited State and Division to return to courtroom.

**COURT ORDERED:** All previous oral pronouncements CONFIRMED WITH THE EXCEPTION OF STAND-BY COUNSEL. Further, ruling regarding stand-by counsel UNDER ADVISEMENT; a written order will be entered [see Ord Granting Motion entered 10/24/19].

**COURT ORDERED:** Matter continued for further sentencing.

4:44 p.m. – Court stood in recess.

Defendant remanded to the custody of the Sheriff.

**Return Of NEF****Recipients**

**MARIAH** - Notification received on 2019-11-12 15:11:35.898.  
**NORTHINGTON,**  
**ESQ.**

**LORENA VALENCIA,** - Notification received on 2019-11-12 15:11:35.851.  
**PD**

**DIV. OF PAROLE &** - Notification received on 2019-11-12 15:11:35.82.  
**PROBATION**

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

11-12-2019:15:10:00

**Clerk Accepted:**

11-12-2019:15:10:42

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

\*\*\*Minutes

**Filed By:**

Court Clerk ADick

You may review this filing by clicking on the following link to take you to your cases.

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-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

MARIAH NORTHINGTON, ESQ. for STATE OF  
NEVADA

LORENA VALENCIA, PD for ANTHONY  
CLARKE

DIV. OF PAROLE & PROBATION

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

CODE 3870  
WASHOE COUNTY PUBLIC DEFENDER  
LORENA VALENCIA, #14292  
350 S. CENTER ST., 5TH FL  
RENO, NV 89501  
(775) 337-4800  
Standby Attorney for Defendant

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

THE STATE OF NEVADA,

Plaintiff,

vs.

Case No. CR19-1352

ANTHONY CLARKE,

Dept. No. 15

Defendant.

\_\_\_\_\_/

**REQUEST FOR CLARIFICATION**

COMES NOW, Deputy Public Defender, LORENA VALENCIA, as standby counsel for Defendant, ANTHONY CLARKE, hereby requests from the court clarification on duties required as standby counsel. Please see the attached email.

**AFFIRMATION**

The undersigned hereby affirms, pursuant to NRS 239B.030, that this document does not contain the social security number of any person.

DATED this 20th day of November, 2019

JOHN L. ARRASCADA  
WASHOE COUNTY PUBLIC DEFENDER

/s/ Lorena Valencia  
LORENA VALENCIA  
Chief Deputy Public Defender

**CERTIFICATE OF SERVICE**

I, CARINNE M. GLINES, hereby certify that I am an employee of the Washoe County Public Defender's Office, Reno, Washoe County, Nevada, and that on this date I electronically filed the foregoing, with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

Deputy District Attorney

Dated this 20th day of November, 2019.

/s/ Carinne Glines  
CARINNE M. GLINES

Valencia, Lorena

---

**From:** Valencia, Lorena  
**Sent:** Wednesday, November 20, 2019 11:08 AM  
**To:** Dick, Amanda  
**Subject:** Anthony Clarke Pro Per

Good morning Amanda,

I have a couple quick questions about logistics for Mr. Clarke as a pro per.

How does Mr. Clarke file motions? As a courtesy, we filed his motion to withdraw because there was a due date associated with it. Since then, the State filed their opposition, and Mr. Clarke said he sent his reply to the court. I don't know if you are in receipt of it. Are we supposed to be filing things for Mr. Clarke as standby counsel?


Also, does he need to file a request to submit for his motion to withdraw? I believe it is due tomorrow and his sentencing is set for Monday.

If these are not appropriate questions to ask you, I apologize and would appreciate any direction on where to get these questions answered.

Thank you in advanced for your help and direction.

Best,



**Lorena Valencia**  
**Deputy | Public Defender**  
[lvalencia@washoecounty.us](mailto:lvalencia@washoecounty.us) | Office: 775.337.4816  
350 S. Center St., 5<sup>th</sup> Floor  
PO Box 11130, Reno, NV 89520-0027  


**Return Of NEF****Recipients**

**MARIAH** - Notification received on 2019-11-20 16:47:28.0.  
**NORTHINGTON,**  
**ESQ.**  
**LORENA VALENCIA,** - Notification received on 2019-11-20 16:47:27.641.  
**PD**  
**DIV. OF PAROLE &** - Notification received on 2019-11-20 16:47:27.61.  
**PROBATION**

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR19-1352

**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

11-20-2019:16:44:04

**Clerk Accepted:**

11-20-2019:16:46:50

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

Request

**Filed By:**

Lorena Valencia

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

MARIAH NORTHINGTON, ESQ. for STATE OF  
NEVADA

LORENA VALENCIA, PD for ANTHONY  
CLARKE

DIV. OF PAROLE & PROBATION

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

CR19-1352  
STATE VS. ANTHONY CLARKE  
District Court  
Washoe County  
DC-03900089193-722  
11/21/2019 12:37 PM  
2845

FILED

2019 NOV 21 PM 12:37

JACQUE  
CLERK

BY

1. Anthony Clarke # 1910622

2. Washoe County Jail

3. Reno NV 89512

4. Defendant In Pro se:

5.  
6. IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7. IN AND FOR THE COUNTY OF WASHOE

8. THE STATE OF NEVADA,

9. Plaintiff,

CASE No. CR19-1352

10. v.

DEPT No. 15

11. Anthony Clarke,

12. Defendant.

13. OPPOSITION TO STATES MOTION OF DEFENDANT'S MOTION TO WITHDRAW PLEA

14. Comes Now, Anthony Clarke, in pro se who moves this Court for an Order granting  
15. his request to Withdraw his plea. This Motion is made and based upon the Sixth  
16. and Fourteenth Amendment to the United States Constitution, and the Declaration  
17. of Anthony Clarke, the attached Points and Authorities, and any oral or documen-  
18. tary evidence as may be presented at a hearing on this matter.

19. 1. Background

20. Clarke is charged with the offense of Burglary in violation of NRS 205.060. The  
21. State alleges that on March 2, 2019 Clarke entered the Taste of Chicago restaurant  
22. with the intent to commit larceny therein after having been convicted on two  
23. prior occasions. August 1, 2019 Clarke waived his Preliminary hearing on  
24. appointed counsel's advice. August 21, 2019 Clarke plead guilty to the offense  
25. on the advise of appointed counsel, subjected to an agreement that the State rec-  
26. ommended a sentence of 12 to 36 months imprisonment. At his intended Sentencing

1 hearing Clarke orally informed this Court he wishes to represent himself. Subsequently,  
2 Clarke filed a written Motion stating there is a conflict of interest between him-  
3 self and the Washoe County Public Defender's office.

4 And requesting his appointed counsel be released without substitution  
5 of new counsel. In addition, during the October 23, 2019, Clarke indicated  
6 his intent to seek the withdrawal of his plea and if granted,  
7 proceed to trial.

8 In the Young hearing October 23, 2019, Clarke alleged insufficient  
9 performance by his assigned Public Defender and alleged he was misled  
10 by counsel at the Justice Court Stage of proceedings, which led him waiving  
11 his Preliminary hearing.  
12

13 This Court held a Faretta canvas. Subsequently, Clarke's Motion for Self-  
14 Representation was granted. And this Court appointed standby counsel.  
15 During the hearing Clarke indicated his preference that standby counsel  
16 not be a member of Washoe County Public Defender's office.  
17 Subsequently, Clarke request for substitution of standby counsel was  
18 denied. Washoe County Public Defender's office was appointed.  
19  
20  
21  
22  
23  
24  
25  
26  
27

GROUND ONE

PETITIONER ALLEGES HE WAS DENIED EFFECTIVE ASSISTANCE OF COUNSEL AS  
"GUARANTEED" BY THE UNITED STATES CONSTITUTION SIXTH AND FOURTEENTH  
AMENDMENTS.

Introduction:

The Sixth Amendment provides that a criminal defendant shall have the right  
to "the Assistance of Counsel for his defense." This right has been accorded, we <sup>①</sup>  
have said, "not for its own sake, but because of the effect it has on the ability  
of the accused to receive a fair trial." United States v. Cronie, 466 U.S. 648, 658  
(1984). It follows from this that assistance which is ineffective in pres-  
erving fairness does not meet the constitutional mandate, see Strickland v.  
Washington, 466 U.S. 668, 685-686 (1984); and it also follows that defects  
in assistance that have no probable effect upon the trial's outcome do not  
establish a constitutional violation. As a general matter, a defendant  
alleging a Sixth Amendment violation must demonstrate "a reasonable  
probability that but for counsel's unprofessional errors, the result of  
the proceedings would have been different." *Id.*, at 694.

There is an exception to this general rule. We have spared the defendant the  
need of showing probable effect upon the outcome, and have simply presumed  
such effect, where assistance of counsel has been denied entirely or during  
a critical stage of the proceeding. When that has occurred, the likelihood  
that the verdict is unreliable is so high that a case-by-case inquiry is un-  
necessary. See Cronie, *supra*, at 658-659; see also Geders v. United States,  
425 U.S. 80, 91 (1976); Gideon v. Wainwright, 372 U.S. 335, 344-345 (1963). But  
only in "circumstances of that magnitude" do we forgo individual inquiry  
into whether counsel's inadequate performance undermined the

<sup>①</sup> Citing Mickens v. Taylor, Warden, 535 U.S. 162, 152 L.Ed.2d 291 (2002).

1. reliability of the verdict, Cronic, *supra*, at 659, n. 26. We have held in several  
 2. cases that "circumstances of that magnitude" may also arise when the  
 3. defendant's attorney actively represented conflicting interest.

#### 4. II Statement of Law and Argument

5. Mr. Jarrod Hickman, was appointed counsel August 2, 2019. He reviewed Clarke's  
 6. case files and conducted what is called a Mandatory Status Conference ("MSC")  
 7. without Clarke consent. As of this date, Clarke has not spoke to Mr. Hickman, about  
 8. this case.

9. Appointed counsel Ms. Bertschy, contacted Clarke for the first and only time on  
 10. July 30, 2019. during an I-Web visit at WCT. The line-up was discussed in some  
 11. detail. Clarke and appointed counsel agreed a line-up will be conducted prior to  
 12. the Preliminary hearing on 8-1-19. Ms. Bertschy, was reading from another PD's  
 13. computer screen meaning it was "common Knowledge", to support Clarke's  
 14. contention that he was promised a line-up prior to the scheduled Preliminary  
 15. on 8-1-19. However, this exculpatory evidence is being withheld from Clarke by  
 16. both Washoe County Public Defender's office and the Washoe County District  
 17. attorney's office.

18. On July 31, 2019, Ms. Bertschy, visited Clarke at WCT wherein he signed a document  
 19. entitled: Notice of Waiver of Appearance in Preliminary hearing with the full  
 20. understanding that a line-up would be held prior to Preliminary hearing.

21. August 1<sup>st</sup> 2019, Clarke was transported to the Reno Justice Court. Placed in a  
 22. holding area with other prisoners - Clarke was then directed by Sheriff Deputies  
 23. to get on a elevator - leading up stairs to Department #4 were he sat  
 24. down. Moments later Ms. Bertsch appeared from the side door leading from  
 25. Department #4 and said to Clarke "you were identified in a line-up and  
 26. the witnesses are hear. Do you want to sign the waiver. Clarke signed —  
 27. thinking he was identified in a line-up and prosecution witnesses was present.  
 28. Clarke was subjected to undue coercion. See: Doe v. Woodford, 508 F.3d 563, 570 (9th cir.  
 2007) (Video surveillance from the courtroom back area will show the truth)

Clarke learned later that it was no line-up<sup>①</sup> Why would Mr. Clarke waive appearance at Prelim? Because he didn't want to be identified in the courtroom by the witness. August 21, 2019, Clarke entered his plea with newly assigned Public Defender Ms. Valencia. Clarke explained how he was treated by Ms. Bertschy. Ms. Valencia said "I know her she is a good attorney she would not do that". Clarke also asked about the prosecution witness who appeared at Prelim on 8-1-19. Clarke was told that was not available. You would have to ask the state referring to Ms. M. Northington. As of this date, Clarke has no idea who if anyone, was at the Preliminary hearing as a prosecution witness. Clarke filed Discovery requesting this very information which is filed with this Court. The States response is also filed with this Court. It appears the state is overlooking its obligations under NRS 174.235 and Brady.

Oct 7, 2019 Ms. Pusich was representing Clarke. Clarke inquired about the issues raised with counsel Valencia. Ms. Pusich became upset and said: Maybe you should represent yourself and talk to the Judge yourself. Clarke responded by saying I have no problem with that, I don't need you or your office to send me to prison I can do that."

Nov 1, 2019, Ms. Valencia explained that she did not review his case files Mr. Hickman did. Nonetheless, during the Oct 23, 2019, hearing Appointed counsel explained to this Court that it was no "exculpatory evidence" in Clarke's discovery which was provided to him 71 days after he signed the waiver in Justice Court. How can she know if she didn't review the files? See Court Minutes. Oct 23.

Nevada Rules of Professional Conduct 3.3, entitled "candor Towards the Tribunal" provides that "a lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer. Under Rule 3.3, the assigned defense counsel must not knowingly mislead the Court on legal or factual issue ...

Clarke alleges that it is a conflict of interest between himself and the entire Public Defender's office which affected counsel's performance.

① Appointed Standby Counsel advised this Court that there was no line-up and Clarke was advised. See October 23, 2019 Court's Minutes. The truth is he was not advised. Why would he have to be advised if he was not promised a line-up prior to preliminary?

1. This is an "Actual Conflict" for Sixth Amendment purposes. See *Covler v. Sullivan*,  
2. 446 U.S. 335 (1980).

3. *Amiel v. United States*, 209 F.3d 195, 199 (2d Cir. 2000)

4. ("To show a lapse in representation, a defendant need not demon-  
5. strate prejudice - that the outcome of the proceedings would  
6. have different but for the conflict - but only that some plausible  
7. alternative defense strategy or tactic might have been pursued  
8. but was not and that the alternative defense was in conflict with or not  
9. undertaken due to the attorney's other loyalties or interests,").

10. In this case Clarke alleges that appointed counsel failed to subject the  
11. prosecution's case to meaningful adversarial testing.

12. (See *United States v. Cronin*, 466 U.S. 648-59, 80 L.Ed.2d 657 (1984))

13. (counsel's absence at critical stage of proceedings state Sixth Amend-  
14. ment claim; remanding for a hearing).

15. *Olden v. United States* 224 F.3d 561, 568-70 (6th Cir. 2000).

16. (constructive denial of counsel where attorney-client relationship  
17. was so poor, counsel was unable to prepare defense for trial or  
18. penalty phase). *Daniel v. Woodford*, 428 F.3d 1181 (9th Cir. 2005).

## 20. II.

21. DUE PROCESS IS VIOLATED PURSUANT TO THE UNITED STATES  
22. CONSTITUTION FOURTEENTH AMENDMENT WHICH IS GUARA-  
23. NTEED, DEFENDANT DID NOT VOLUNTARILY, KNOWINGLY AND  
24. INTELLIGENTLY ENTER HIS GUILTY PLEA, AND THERE IS SUB-  
25. STANTIAL FAIR AND JUST REASON TO ALLOW WITHDRAWAL OF HIS  
26. GUILTY PLEA

1. INTRODUCTION:

2 It is clear from the State Opposition Motion they willfully Misrepresent  
3 fact in this case. The State contend that Clarke on August 1, 2019,  
4 was transported to the hallway next to the courtroom, in the Reno  
5 Justice Court and was told by his attorney that he was identified  
6 in that hallway in a line up. (see p. 9 Opps Mot. lines 21-23).

7 Clarke's Declaration which is attached to his Motion to withdraw  
8 Plea is clear. Clarke did not declare the above, as claimed by the  
9 State.

10 As to certain irregularities noted in the States Opposition Motion  
11 Yes, Clarke made the mistake by using the word hallway posed  
12 to "Sally Port". The facts are still the same. Clarke was misled by  
13 counsel in the "Sally Port" leading to Department #4 at the Reno  
14 Justice Court on August 1, 2019. The only Fabrication hear is the  
15 State contention. This constroversy can be resolved by viewing  
16 surveillance footage in the "Sally Port" leading to Dept # 4  
17 at the RJC at approx 9:00 am or conduct a evidentiary  
18 hearing wherein these individuals have to swear under penalty  
19 of perjury.

20 The State asserts that it is unsure why a line up would had been  
21 promised or even requested. First of all if the attorney did not  
22 want to conduct a line up that should had been made clear from  
23 the start. Second, since appointed counsel had NO DEFENSE, Clarke  
24 decided to request a line up. Perhaps the passage of time would  
25 increase Clarke not being identified in Preliminary hearing.  
26

1. As to Clarke's Declaration attached to his Motion to Withdraw Plea this was  
2. after reviewing Discovery on October 8, 2019.

3. I was under the false impression appointed counsel was on a Defense  
4. team now in retrospect the Promise of a line up was only a pretense  
5. to subject him to undue coercion. The PD and DA's office used Clarke's  
6. Notice of waiver of Appearance for Preliminary hearing to ensure he would  
7. not have the physical ability to see who would be present at the  
8. Preliminary hearing. The line-up pretense was used to claim he was  
9. identified in a line up when in truth, it was No line up. But what  
10. was not anticipated is that Clarke would go Pro se, and start asking  
11. hard question about his representation. The plan is not working  
12. out so well for them now. What happen to Fundamental Fairness in  
13. these criminal proceedings?  
14.

15. In any event appointed counsel agreed to the line up and so did the prior  
16. Public Defender or it would not be on the computer Ms. Bertschy  
17. was reading from during the first and only I-Web visit with Clarke at  
18. WCS on July 30, 2019. The promised line up didn't happen based on a conflict  
19. of interest and ineffective assistance of counsel.

20. The State relied upon Malina v. State, 120 Nev. 185, 87 P.3d 533 (2004). This  
21. case is dissembler to Clarke case.

22. In Clarke's case, Appointed counsel <sup>Did not</sup> discussed any evidence at any point  
23. with Clarke. According to Ms. Valencia, she did not review Clarke's case  
24. files Mr. Hickman did - whom Clarke has never spoke to or seen,

25. Appointed counsel never discussed any options with Clarke only prison time,  
26. Appointed counsel did not have a defense,  
27.  
28.

1 Appointed counsel never went over the guilty plea Memorandum with  
 2 Clarke or its consequences prior to entering his plea.  
 3 Proof of this fact can be certified through video surveillance in the  
 4 Second Judicial District Court. Department 15 August 21, 2019 at  
 5 approx 9:00 am. The then appointed counsel Ms. Valencia for the  
 6 first, and last time, handed Clarke the Guilty Plea Memorandum;  
 7 it was handed back through a lady Bailiff minutes before Clarke  
 8 before Clarke entered his plea. As such Clarke's plea was not Knowing,  
 9 Voluntary and intelligent. ①

11 As to the State's assertion that Clarke waived his Preliminary hearing  
 12 on August 1, 2019 with the understanding that he would enter a guilty  
 13 plea to the charge of Burglary... At that time the Defendant had the  
 14 video surveillance from the restaurant and made the decision to  
 15 accept plea negotiation. This is pure conjecture. Why? It is conclusive  
 16 evidence Clarke did not receive Discovery until October 8, 2019.  
 17 See Court's Minutes of Oct. 23, 2019 1:00 p.m. Also see Exhibit A attached.  
 18 During the canvass Clarke was under Duress. His plea was not Knowing,  
 19 Voluntary and intelligent.

21 The State further assumed there is nothing in the record, or common  
 22 knowledge, to support the Defendant's contention that he was promised  
 23 a line up... and was told that said line up occurred. And there  
 24 is nothing in the record to support his assertion that an alleged  
 25 line up is what caused him to waive preliminary hearing. How does  
 26 the State know this?

① Boykin v. Alabama, 395 U.S. 238, 23 L.Ed. 2d 274 (1969).

1 if there is no common knowledge to support Clarke's contention. Why  
 2 then was appointed counsel Ms. Bertschy reading computer notes from  
 3 another Public Defenders computer on July 30, 2019 discussing a line  
 4 up with Clarke.? (cf: I-Web dated July 30, 2019, at Washoe County Jail).<sup>①</sup>

5 Clarke alleges that the Deputy District Attorney Mariah Northington and  
 6 prior appointed Public Defender Ms. Bertschy, conspired to withhold this  
 7 exculpatory evidence from Clarke as a matter of custom and habit.

8 Clarke has set out reasonable, credible and adequate grounds to illustrate  
 9 that the performance of his assigned attorney was ineffective assistance and  
 10 actively representing conflicting interest under Taylor and Sullivan.  
 11

### 12 GROUND III

#### 13 CLARKE'S CLAIM OF FACTUAL INNOCENCE IS SUPPORTED BY THE FACTS

##### 14 Introduction :

15 The Nevada Supreme Court has established that withdrawal of a  
 16 guilty plea may be warranted when there is a "credible claim of  
 17 factual innocence and [a] lack of prejudice to the State." Mitchell v. State,  
 18 109 Nev. 137, 141, 848 P.2d 1060, 1062 (1993).  
 19

20 In this case, there is credibility to Clarke's contention that he is  
 21 factually innocent of Burglary.  
 22

23

24

25

26 <sup>①</sup> On July 31, 2019 defense filed a Notice of Waiver of Appearance for Preliminary  
 Hearing pursuant to 178.388 and State v. Sargent, 122 Nev. 210, 128 P.3d 1052  
 (2006). Why? Why wasn't the reason for the Motion not memorialized  
 in any record? Is it possible it is memorialized in the Attorney-Client privilege?

Argument:

Clarke is charged with the offense of Burglary, in violation of N.R.S. 205.060.

The State alleges that on March 2, 2019 Clarke entered the Taste of Chicago restaurant with the intent to commit larceny therein after having been convicted of petit larceny on two prior occasions. but evidence ONLY show that he entered the restaurant and that at one point asked a customer if it was open, and when the customer offended him by calling him a "Nigger" he then took the tip jar money out of retaliation.

Clarke point out the surveillance footage inside the restaurant reveal Clarke waited for the customer to turn her head wherein he reached into the tip jar, obtained the cash and depart the scene.

State's Contention that he entered with the intent to commit larceny therein is pure speculation given that he had \$ 377 dollars on his person when entering the restaurant.

The state claim it is not true that Clarke had \$377 dollars on his person when entering the restaurant. And that after leaving the restaurant with the tip money, the owner of the restaurant, Steve Peto, was able to stop him from getting away until Police arrived. After being detained by Police, a search of Defendant's person found a total of \$35 dollars. the \$35 he stole from the tip jar. Per booking records, the Defendant had \$0 on his person when he was booked into the Washoe County Jail. Thus, all the facts establish that, contrary to the Defendant's contention, he had no money on him when he entered that restaurant. Further, even if he did, the video surveillance shows the

1 Defendant walking by the restaurant on the sidewalk, peering through  
2 the large windows, where it can clearly be seen there is no worker standing  
3 behind the counter and there is a tip jar full of cash. After the Defendant  
4 walks in the front door of the restaurant, he walks up to the counter, stands  
5 next to the customer, and as soon as the customer turns her head, he  
6 reaches in and steals the cash out of the tip jar. This entire series of  
7 events; from the moment the Defendant walks into the restaurant until he  
8 has the tip money in hand. takes 7 seconds. Although it is possible that  
9 the Defendant's statement of events occurred it is not possible, especially  
10 given the facts that the Defendant had no money on him when he entered  
11 that restaurant.  
12

13 (See Opp. Mot to Def's Mot to Withdraw Plea pp. 8. p. 9-1-7.)  
14

15 Question: How does the State know that Clarke could see no worker standing  
16 behind the counter and there is a tip jar full of cash?

17 In terms of Clarke having \$ 377 dollars on his person when booked into  
18 Washoe County Jail. Clarke have conclusive evidence from an employee  
19 of the Washoe County Sheriff's Department who can attest to the fact  
20 Clarke was book into Washoe County Jail on March 3, 2019, with \$ 377  
21 dollars on his person. This is the employees ID# at Washoe County  
22 jail W3783. The State has attempted to alter the facts of the case by with-  
23 holding Brady Material. The State has submitted to this Court a request to  
24 deny Clarke request for discovery; However, the State has not upheld its  
25 constitutional obligation under Brady v. Maryland, 373 U.S. 83, 83 S.Ct 1194  
26 (1963). States request to deny Clarke's Motion for discovery that request  
27 should be denied.  
28

1 The State's suppression of the \$ 377 dollars is a violation of the Due Process  
2 Clause of the Fourteenth Amendment.

3 See Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194 (1963).

4 Criminal intent formulated after lawful entry will not satisfy burglary  
5 statute N.R.S. 205.060 State v. Adams, 1978 581 P.2d 868. 94 Nev. 503.

6  
7 One of the essential elements of burglary is the entry of a building  
8 with the intent to commit grand or petit larceny, or any felony N.R.S. 205  
9 060. subd. 1 Sheriff. Clark County v. Hicks, 1973 506 P.2d 766. 89 Nev. 78.  
10 also see: Sheriff, Clarke Co. Nev. v. Stevens, 1981 630 P.2d 256, 97 Nev. 316.

11 Based on the totality of the circumstances as described above,  
12 Clarke has carried his burden to demonstrate that his plea was not  
13 voluntarily, intelligently and knowingly entered and that it would  
14 be fair and just to allow him to withdraw his plea. There has been  
15 a fair and just reason provided that is supported by evidence which  
16 would allow the Defendant to withdraw his guilty plea.

17  
18 It is alleged that the Washoe County Public Defender's office  
19 including standby counsel refuse to reveal attorney work  
20 product to resolve the issue about the line-up. This evidence  
21 is vital.  
22  
23  
24  
25  
26

## GROUND IV

PETITIONER ALLEGES A DEPRIVATION OF RIGHTS "GUARANTEED" BY THE DUE

PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT

STATEMENT OF LAW AND ARGUMENT

Conclusive evidence show that on March 2, 2019 officer Good's body  
came show him removing unknown amount of money from Clarke's  
jacket pocket allegedly \$35.00 stolen from tip jar<sup>①</sup>. This amount of  
money is not shown on Good's body cam.

Conclusive evidence show officer Caprioli reported that on March 2, 2019  
he returned three \$5.00 bills, two \$10.00 bills to Ms. Tyrrell, as the  
tip jar money. No body cam footage support those bills were re-  
moved from Clarke's jacket pocket. See Exh A

What is also not on body cam, is officer McGurk removed a unknown  
amount of money from Clarke's right pants pocket joined it with  
monies removed from jacket pocket and claimed it was the stolen  
tip jar money. The report is distorted.

WITNESS TO THE FIGHT:

"I ran after him outside and others from inside stopped him."  
(See Sheri Martinovich statement)

This is in conflict with Steve Peto statement. The fact is, a employee  
of his, physically confronted Clarke beat and robbed him - then ran  
in to Mr. Peto's restaurant when RPD arrived. Martinovich, Peto and  
Tyrrell witnessed the fight, but worked in concert to suppress it.

Conclusive evidence show a call was made reporting a fight. Witness  
reports reveal the fight was ant between Clarke and Peto. It is safe to  
deduce another person was involved other than Peto grabbing Clarke  
as reported in Peto's witness statement and Police report.

① How do You know how much money was in the tip jar? What happen to dollar bills?

1. Restaurant surveillance: should show Peto, Martinorch and the unknown  
 2. employee coming and going the night (3-2-19) Clarke was arrested.  
 3. Why? Ms. Tyrell stated:

4. ... The lady customer (Martinorch) went out  
 5. the door yelling at him (Clarke) to give my  
 6. money back. I told my boss (Peto) and he also  
 7. went outside... (Cf: at Tyrell statement).

8. Clarke gave the money back to Peto who accepted it but failed to report  
 9. this to RPD and allowed his employee to beat and rob Clarke then run in  
 10. the restaurant when RPD arrived. Again Ms. Tyrell statement was sanitized.  
 11. The police report read that Clarke was being yelled at for taking the money,  
 12. the same was done with the PSI. Unfortunately, this exculpatory evidence  
 13. will not be presented to a jury. Why? "Clarke was not allowed to view all  
 14. restaurant surveillance or body cam evidence due to time limits at WCI.  
 15. (Cf: with Investigator for PD's office iweb Oct 8, 2019)

16. ONE WITNESS STATED SHE SAW CLARKE LEAVE THE Restaurant:

17. ... I saw the male (Clarke) quickly leave out the front...  
 18. (Cf: statement of Tyrell).

19. Probable cause declaration, Police report, PSI indicate Clarke "ran  
 20. out the door". Restaurant surveillance show Clarke walking out the door.  
 21. Words mean something in burglary prosecution context. "Run Out" suggest  
 22. FLIGHT = GUILT. Clarke was in flight from assault and robbery.

23. MODIFICATION OF WITNESS STATEMENT:

24. Probable cause, Police and PSI reports indicate Peto informed officers  
 25. that Clarke entered the business took money out of his employees tip  
 26. jar, and ran out. "Mr Peto did not give this statement."

27. It appears each individual is obstructing justice & operating under a Code of Silence.

1. Prosecutors have the absolute discretion to refuse to prosecute case if  
 2. they suspect police misconduct. Brady v. Maryland, 373 U.S. 83 (1963).  
 3. requires the prosecutor to disclose evidence that may exonerate  
 4. a defendant and could be used to impeach a government witness,  
 5. so a prosecutor has greater motivation to look behind the curtain.  
 6. The State has withheld Brady Material that is favorable to the defense  
 7. and material to questions of guilt or to punishment.  
 8. [Due process] tends to secure equality of law in the sense that it makes  
 9. a required minimum of protection for every one's right of life, liberty  
 10. and property which the Congress or the legislature may not with-  
 11. hold. Our whole system of law is predicated on the general,  
 12. fundamental principle of equality of application of the law.  
 13. Truax v. Corrigan, 257 U.S. 312, 331 (1921).

14. "Due process of law requires that the proceedings shall be fair...  
 15. Snyder v. Massachusetts, 291 U.S. 97, 116, 117 (1934). Buchalter v. New York,  
 16. 319 U.S. 427, 429 (1943),  
 17. Conversely, "as applied to a criminal trial, denial of due process is the  
 18. failure to observe that fundamental fairness essential to the very concept  
 19. of justice." In order to declare a denial of it... [the Court] must  
 20. find that the absence of that fairness fatally infected the trial; the  
 21. acts complained of must be of such quality as necessarily prevents a  
 22. fair trial. Lisenba v. California, 314 U.S. 219, 236 (1941).

### 23. CONCLUSION

24. ① All charges be dismissed with prejudice, ② Order a Evidentiary Hearing or ③  
 25. and any other relief this Court deems just and proper. Withdrawal of Plea.

26. I declare under penalty of perjury that the above is true and correct.

27.

28. DATE: 11.19.19

151 Anthony Clarke  
 Anthony Clarke In Prose  
 Petitioner

AFFIRMATION NRS 239B.030

2. This document does not contain the social security numbers of any person

4. DATE 11.19.19

151. Anthony Clarke

Anthony Clarke #1910622

Petitioner In Pro se

Washo County Jail.

DECLARATION OF ANTHONY CLARKE

1 I, Anthony Clarke, is the Defendant in this action and declare the following:

2 1. On March 2, 2019 I was arrested and charged by Reno Police Department  
3 for Burglary.

4 2. In this process officer Good's body cam show him removing unknown  
5 amount of money from my jacket pocket allegedly \$ 35.00 stolen from tip jar.

6 3. That money was not \$ 35.00 from the tip jar. In fact, money removed from  
7 my jacket was less that \$ 10.00.

8 4. The tip jar money I gave back to Peto, when confronted by him and  
9 witness Martinovich outside restaurant which was less than \$ 35.00,  
10 more like \$ 11.00.

11 5. Officer Caprioli reported March 2, 2019 he returned three \$ 5.00 bills, two  
12 \$ 10.00 bills to Tyrrell as the stolen tip jar money.

13 6. There is no body cam footage to support those bills were removed from  
14 my jacket pocket. Why?

15 7. The fact is that I witnessed arresting officer McGurk remove unknown  
16 amount of money from my right front pants pocket join it with money from  
17 my jacket then reported on his official report the stolen tip jar money was  
18 found in my jacket pocket which was on body cam. footage.

19 8. Why was'ant anything recorded on body cam about money being taken  
20 out my pants pocket?

21 9. Why didn't the arresting officer report he removed money not only  
22 from my jacket pocket, but my pants pocket as well?

23 10. I personally have never witnessed a tip jar only contain \$ 5.00 bills  
24 and \$ 10.00 bills - with no one dollar bills or coins.

25 11. Witness Katherine reported no money was in the tip jar as she returned  
26 to the front counter.

27 I declare under penalty of perjury that the above is true and correct.

28 DATE 11. 19. 19

SI Anthony Clarke

PROOF OF SERVICE

I, Anthony Clarke, am the Defendant in this action and that on the 19th day of November, 2019 I served a true copy of attached document. addressed to:

Second Judicial Court

Attention: Clerk

75 Court St

Reno NV 89512

I declare under penalty of perjury that the above is true and correct.

Date: 19th day of November, 2019



**RENO POLICE DEPARTMENT  
EVIDENCE PHOTO RELEASE CERTIFICATE**

**CASE NUMBER:** 19-4180

**APPLICABLE USE**

- A.** [REDACTED]
- B. Felony Crimes Against Property (grand larceny, destruction of property, burglary, etc.)**  
In cases where the actual evidence does not need to be collected for trial or lab analysis, the reporting officer will have CSI respond, photograph the evidence items and release them to the rightful owner. The reporting officer will complete and submit this form with original police report.
- C. Other Felony Cases**  
When evidence is to be processed for forensic analysis (i.e. latent prints, tool mark comparison, DNA, etc.) items will be placed into the evidence facility by the reporting officer. This will almost always be the situation in serious cases involving crimes against persons such as murder, robbery, sexual assault, kidnap, etc. In those cases it will be the responsibility of the Detective Division to review the evidence and arrange for photographing and release of the evidence, if applicable. The assigned detective will complete this form when the property is released. In these types of cases evidence may be photographed and released to the rightful owner at the scene on a case-by-case basis and only if approved by an on-scene Reno Police Department supervisor or detective.

**CRIME:** BURGLARY

**DAS CASE NUMBER:**

**DEFENDANT:** CLARKE, Anthony

**VICTIM:** Taste of Chicago

**TO WASHOE COUNTY DISTRICT ATTORNEY OR OTHER APPROPRIATE PROSECUTOR: PURSUANT TO AND IN COMPLIANCE WITH NRS 52.385, SECTIONS 1, 2 AND 3, THE FOLLOWING PROPERTY HAS BEEN PHOTOGRAPHED AND RELEASED TO THE OWNER OR PERSON ENTITLED TO POSSESS SAID PROPERTY.**

**PROPERTY:** Describe in detail each item by color, size, brand, serial number, etc. If price tags are attached to the property, the price tag showing the retail price should be displayed clearly in the photograph(s) or retained on the original item.

• Three \$5.00 bills

• Two \$10.00 bills

**Property photographed by: (Print name & employee no.)**

MANVING #14653

**Date:**

3/2/2019

**Person Receiving Evidence: (Print name)**

Mathewna Tyrell

**Signature:**

[Signature]

**Address:**

180 E. 1st St. Reno, NV

**Phone No:**

970-4463

**Explain if property released to a person other than victim/owner:**

N/A

**UNDER PENALTY OF PERJURY, I CERTIFY THAT PHOTOGRAPH(S) OF THIS PROPERTY HAVE BEEN TAKEN AND THE DESCRIPTION OF THE PROPERTY IS ACCURATE.**

**Releasing Peace Officer/Evidence Custodian: (Print name & employee no.)**

**Signature:**

[Signature]

#14653

**Date:**

3/2/2019



# RENO POLICE DEPARTMENT STATEMENT

FOR POLICE USE ONLY:

CASE NO: 19-4180

TAKEN BY: McGinnis 14824

## PERSON MAKING STATEMENT

|                                                                                                                                                                                                           |  |                                                                                     |  |                                                       |  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-------------------------------------------------------------------------------------|--|-------------------------------------------------------|--|
| NAME OF PERSON MAKING STATEMENT:<br><u>Katherine Tyrrell</u>                                                                                                                                              |  |                                                                                     |  | OTHER NAMES USED:                                     |  |
| RESIDENCE (STREET) ADDRESS:                                                                                                                                                                               |  |                                                                                     |  | HOME PHONE:                                           |  |
| CITY:<br><u>Reno</u>                                                                                                                                                                                      |  | STATE:<br><u>NV</u>                                                                 |  | ZIP:<br><u>89501</u>                                  |  |
| RACE:<br><input checked="" type="checkbox"/> WHITE <input type="checkbox"/> INDIAN<br><input type="checkbox"/> BLACK <input type="checkbox"/> ASIAN<br><input type="checkbox"/> OTHER                     |  | SEX:<br><input type="checkbox"/> MALE<br><input checked="" type="checkbox"/> FEMALE |  | DATE OF BIRTH:                                        |  |
| SOCIAL SEC. NO.:                                                                                                                                                                                          |  | HEIGHT:<br><u>5' 8"</u>                                                             |  | WEIGHT:<br><u>140</u>                                 |  |
| HAIR:<br><u>brn</u>                                                                                                                                                                                       |  | EYES:<br><u>grn</u>                                                                 |  | FAX/CELL/PAGER:                                       |  |
| OCCUPATION AND WHERE EMPLOYED:<br><u>Taste of Chicago</u>                                                                                                                                                 |  |                                                                                     |  | EMAIL ADDRESS:                                        |  |
| WORK/SCHOOL ADDRESS:<br><u>180 E. 1st Street</u>                                                                                                                                                          |  |                                                                                     |  | WORK HOURS: <u>10am-9pm</u> DAYS OFF: <u>mon/wed.</u> |  |
| INVOLVEMENT:<br><input type="checkbox"/> DRIVER <input type="checkbox"/> COMPLAINANT<br><input type="checkbox"/> PASSENGER <input checked="" type="checkbox"/> VICTIM<br><input type="checkbox"/> WITNESS |  | MY LOCATION WHEN EVENT OCCURRED:<br><u>180 E. 1st St. Reno NV</u>                   |  |                                                       |  |

## WRITTEN STATEMENT

1 I walked from my front register back to the kitchen  
2 to grab my lady customer a plastic spoon. I  
3 came back to my register and on my way  
4 back I saw the male quickly leave out  
5 the front and noticed my money from  
6 my tip jar was gone. I said he just  
7 stole my money!  
8  
9 The lady customer went  
10 out the door yelling at him to give  
11 my money back. I told my boss  
12 and he also went outside.  
13 Few minutes later police  
14 arrived and got ahold of the man  
who took my money.

|                                                    |                        |                                                                   |
|----------------------------------------------------|------------------------|-------------------------------------------------------------------|
| DATE & TIME OF STATEMENT:<br><u>3/2/19 9:30 pm</u> | NO PAGES IN STATEMENT: | SIGNATURE OF PERSON MAKING STATEMENT:<br><u>Katherine Tyrrell</u> |
| FOR POLICE USE ONLY: RELS. TO:                     | DATE:                  | BY:                                                               |

DISSEMINATION RESTRICTED TO CRIMINAL JUSTICE AGENCIES ONLY. SECONDARY DISSEMINATION IS PROHIBITED.

Printed 2/12/15



## RENO POLICE DEPARTMENT STATEMENT

FOR POLICE USE ONLY:

CASE NO: 19-4180

TAKEN BY: McGook 14824

## PERSON MAKING STATEMENT

NAME OF PERSON MAKING STATEMENT:

Sheri Martinovich

OTHER NAMES USED:

RE:

CITY:

Reno

STATE:

NV

ZIP:

8951

RACE:

☒ WHITE  
☐ BLACK  
☐ OTHER

☐ INDIAN  
☐ ASIAN

SEX:

☒ MALE  
☐ FEMALE

HEIGHT:

WEIGHT:

HAIR:

EYES:

OCCUPATION AND WHERE EMPLOYED:

Store Mgr

WORK/SCHOOL ADDRESS:

WORK HOURS:

DAYS OFF:

INVOLVEMENT:

☐ DRIVER  
☐ PASSENGER

☐ COMPLAINANT  
☐ VICTIM  
☒ WITNESS

MY LOCATION WHEN EVENT OCCURRED:

180 E 1st St Reno

## WRITTEN STATEMENT

1 I came out of the bar exiting the  
 2 restaurant w/ my food. stopped  
 3 at hostess station to ask for a  
 4 spoon. Hostess went to the back  
 5 to get one. to my right a man came  
 6 in (black) & asked me if the  
 7 restaurant was open. I looked at  
 8 him & said IDK. next thing  
 9 hostess returns from my left w/  
 10 my spoon & yells: "Where's my  
 11 tip?" "I'm stunned" IDK?  
 12 Guy is gone. I ran after him  
 13 outside & others from inside stopped  
 14 him. Police Arrive.

DATE &amp; TIME OF STATEMENT:

3/2/19 940pm

NO PAGES IN STATEMENT:

SIGNATURE OF PERSON MAKING STATEMENT:

FOR POLICE USE ONLY: RELY TO:

DATE:

3/2/19

BY:

DISSEMINATION RESTRICTED TO CRIMINAL JUSTICE AGENCIES ONLY. SECONDARY DISSEMINATION IS PROHIBITED.

Printed 2/12/15



## RENO POLICE DEPARTMENT STATEMENT

FOR POLICE USE ONLY:

CASE NO:

19-4180

TAKEN BY:

McGoff 14824

## PERSON MAKING STATEMENT

NAME OF PERSON MAKING STATEMENT:

Steve Peto

OTHER NAMES USED:

RESIDENCE (STREET) ADDRESS:

HOME PHONE:

CITY:

Sparks

STATE:

NV

ZIP:

89431

WORK PHONE:

RACE:

SEX:

DATE OF BIRTH:

SOCIAL SEC. NO.:

FAX/CELL/PAGER:

☒ WHITE ☐ INDIAN  
☐ BLACK ☐ ASIAN  
☐ OTHER

☒ MALE  
☐ FEMALE

HEIGHT:

6'2

WEIGHT:

185

HAIR:

BR

EYES:

BR

OTHER NO. TO CALL:

OCCUPATION AND WHERE EMPLOYED:

owner - Taste of Chicago

EMAIL ADDRESS:

WORK/SCHOOL ADDRESS:

180 E 1st St Reno 89501

WORK HOURS:

DAYS OFF:

NONE

INVOLVEMENT:

☐ DRIVER ☐ COMPLAINANT  
☐ PASSENGER ☐ VICTIM  
☒ WITNESS

MY LOCATION WHEN EVENT OCCURRED:

Bartending the bar @ 180 E 1st St, Reno 89501

## WRITTEN STATEMENT

1 Waitress in dining room yelled "He stole my tips!"  
 2 I came from behind bar & ran outside. A  
 3 customer who saw the suspect steal the tips  
 4 from the tip jar pointed out the suspect. I  
 5 ran up to him & confronted him. He tried  
 6 to run so I grabbed him & tried to restrain  
 7 him. He tried to run again so I grabbed  
 8 him & threw him to the ground. He kept  
 9 trying to get up & run & I kept grabbing  
 10 him & 2+ times throwing him down to  
 11 defend myself. He ran North up Lake  
 12 Street & the RPD officers showed up.  
 13  
 14

DATE &amp; TIME OF STATEMENT:

3-2-2019 9:43

NO PAGES IN STATEMENT:

1

SIGNATURE OF PERSON MAKING STATEMENT:

FOR POLICE USE ONLY: RELS. TO:

DATE:

BY:

DISSEMINATION RESTRICTED TO CRIMINAL JUSTICE AGENCIES ONLY. SECONDARY DISSEMINATION IS PROHIBITED.

Printed 2/12/15



# WASHOE COUNTY

## PUBLIC DEFENDER

350 S. CENTER ST.  
RENO, NV 89501-2103

(775) 337-4800

(800) 762-8031

FAX: (775) 337-4856

[www.washoecounty.us/defender](http://www.washoecounty.us/defender)

October 8, 2019

Anthony Clarke  
Washoe County Jail  
Reno, NV 89512

Re: Case No. CR19-1352  
PD No. 19-2128

### FOR HAND DELIVERY

Dear Mr. Clarke:

Your **Sentencing Hearing** is scheduled for **October 14, 2019 at 9:00 AM** in the **Second Judicial District Court, Department 15, Reno, Nevada.**

Please find enclosed a copy of your discovery. Pursuant to law and office policy, the dates of birth, addresses, phone numbers and social security numbers have been blacked out.

**Because these reports contain information that may be used against you, please keep them in a secure place. Please do not share them with anyone except your attorney and investigator.**

If you have any questions, please contact me at (775) 337-4816.

Sincerely,

LORENA VALENCIA  
Deputy Public Defender

:bg  
Enc.

## PRESENTENCE INVESTIGATION REPORT

Page 11

Anthony Clarke

CC#: CR19-1352

V. OFFENSE SYNOPSIS

Records provided by the arresting agency and the prosecuting agency reflect that the instant offense occurred substantially as follows:

On March 2, 2019, officers of the Reno Police Department responded to a local restaurant on a report of a fight.

Upon arrival, officers detained Anthony Clarke, the defendant. The owner of the victim restaurant informed officers that the defendant entered the business and took approximately \$35.00 out of his employee's tip jar and ran out. Surveillance footage revealed the defendant waited for a customer to turn her head wherein he reached into the tip jar, obtained the cash and departed the scene.

A witness then ran after the defendant yelling at him for taking the money. A restaurant employee recalled seeing no money in the tip jar as she was returning to the front counter to assist a customer and also saw the defendant quickly leave through the front door.

- A search of the defendant's person yielded the money stolen from the tip jar in the defendant's jacket pocket.
- The defendant informed officers the money was his and denied taking money out of the tip jar. The recovered cash was returned to the restaurant. A records check revealed that the defendant had two prior convictions for petit larceny.

The defendant was taken to Renown Hospital by REMSA to be medically cleared prior to being transported to jail. The defendant was medically cleared from the Hospital. The defendant was then arrested for and transported to the Washoe County Jail where he was booked accordingly.

VI. DEFENDANT'S STATEMENT

☐ See Attached ☒ Defendant interviewed, no statement submitted ☐ Defendant not interviewed

The Division interviewed the defendant on September 10, 2019 at the Washoe County Jail. He was presented with his Nevada criminal history and agreed with all of its contents. Due to time constraints, the defendant's California history was not presented. When asked about the instant offense, the defendant stated he needed money for drugs and that he was under the influence of alcohol and drugs. He also stated he had been awake for 24 hours at the time of the instant offense. The defendant would like to be sent to a treatment program.

VII. VICTIM INFORMATION/STATEMENT

VC2249686: The money that the defendant stole from the tip jar of this restaurant was recovered and returned. Loss: \$0.00

ARREST REPORT AND  
DECLARATION OF PROBABLE CAUSE

RPD0048360C

COURT OF JURISDICTION RJCCASE # 19-4180

PHOTO # \_\_\_\_\_

R6666603

PRINT CLEARLY

ARRESTEE'S (Last, First, Middle)  
NAME

AKA/ALIAS

CLARKE, ANTHONYRESIDENCE (Street, City, State, Zip)  
ADDRESSRENO NVRACE  
☐ White ☐ Indian  
☒ Black ☐ Asian  
☐ UnknownSEX  
☒ Male  
☐ FemaleETHNICITY  
☐ Hispanic  
☐ Non-Hispanic  
☐ UnknownAGE 58 " 5'10" " 180POB CALIFORNIA  
HAIR BLK EYES BRNOCCUPATION &  
BUS ADDRESSUNEMPLOYED

HOME PHONE

DRIV LIC

DRIV LIC  
STATEARRESTEE'S VEH ☐ Stored ☐ Left at Scene  
☐ Not Applicable ☐ Impounded ☐ Field to Off Per

BUS PHONE

NEXT OF KIN

SCARS, MARKS, TATTOOS

NONEARREST DATE 3-2-19 TIME 2125LOCATION 1ST / LAKE ST. RENO NVOFFENSE DATE 2-2-19 TIME 2111LOCATION 1ST / LAKE ST. RENO NV

NRS/ORD #

NOC

BAIL

WARRANT # &amp; DATE

CHARGE

F=Felony, G=Gross Misd, M=Misd F-G-M

205.060.2504241 BURGLARYFARRESTING OFFICER(S)  
AND ID #McGURK 14824TRANSPORTING OFFICER(S)  
AND ID #Jameson 14890 Callaghan 14788PRIVATE PERSON MAKING  
THE ARREST (Citizen Arrest)REVIEWING SUPERVISOR  
AND ID #DONNETTE 8370

The undersigned, McGURK, a police officer, of RPD, hereby declares under penalty of perjury, that the above-named defendant has been arrested on probable cause and is subject to detention for the above-listed offense(s). Either personally or upon information and belief this officer learned the following facts and circumstances which support the arrest and detention:

- See Attached -19 MAR 3 PM 5:42

RELS TO

DATE

BY

DISSEMINATION IS RESTRICTED TO CRIMINAL JUSTICE AGENCIES ONLY.

SECONDARY DISSEMINATION TO NON-CRIMINAL AGENCIES IS PROHIBITED.

WHEREFORE, Declarant requests that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charge is a felony or gross misdemeanor) or for trial (if charge is a misdemeanor).

Page 1 of 2DECLARANT B. McGurkI.D.# 14824

REVIEWED FOR PROBABLE CAUSE (PC)

PC FOUND ☐PC NOT FOUND ☐

DATE

TIME

MAGISTRATE

DEFENDANT ORDERED RELEASED, DATE

MAGISTRATE

## DECLARATION SUPPLEMENT

Page: 2 of 2CASE# 19-4180

On 3/2/19 at approximately 2114 hours Officers arrived in the area of 1st/ Lake St on a report of a fight.

Officers Good and Caprioli arrived on scene and detained an Anthony Clarke. Owner of Taste of Chicago, Steve Peto informed Officers that Anthony entered the business, took money out of his employees tip jar, and then ran out.

Anthony is seen on security footage walking eastbound outside of the business, enter and directly go to the front counter. Anthony waits for a customer to turn her head and then reaches his right hand into the tip jar and quickly leaves the business through the same door.

Anthony was chased by Steve who attempted to stop him until Officers arrived on scene. Steve was not able to hold onto Anthony. Anthony did not attempt to hit or make advances on Steve but continued to run away.

RPD records confirmed Anthony had two convictions for petit larceny through a prior history check. Anthony had a prior arrest on 12/26/15 for petit larceny with a conviction on 12/28/15 out of RMC. Anthony also had an arrest on 10/17/15 for petit larceny with a conviction on 10/20/15 out of RMC.

Anthony was arrested for Burglary and transported to WCSO without incident.

WHEREFORE, Declarant requests that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charge is a felony or gross misdemeanor) or for a trial (if charge is a misdemeanor).

REVIEWED FOR PROBABLE CAUSE (PC).  
PC FOUND ☐ PC NOT FOUND ☐

DECLARANT

I.D.# 14824

DATE: \_\_\_\_\_, MAGISTRATE PAGE \_\_\_\_\_ OF \_\_\_\_\_  
DEFENDANT ORDERED RELEASED, DATE: \_\_\_\_\_, MAGISTRATE

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

STATE OF NEVADA,

Plaintiff,

Case No.: CR19-1352

vs.

ANTHONY CLARKE,

Dept. No.: 15

Defendant.

**ORDER DENYING MOTION TO WITHDRAW GUILTY PLEA**

Before this Court is Defendant Anthony Clarke's opposed Motion to Withdraw Guilty Plea, dated November 1, 2019. This Court has considered all moving papers and the evidence presented at the hearing; it now finds and orders as follows:

**I. Background and Procedural History**

On March 2, 2019, police officers detained Mr. Clarke following a report of a fight. Police interviewed Steve Peto, the owner of the Taste of Chicago restaurant. Mr. Peto alleged Mr. Clarke entered the restaurant, stole money from the tip jar, then attempted to run away. Mr. Clarke is charged with the offense of Burglary, in violation of NRS 205.060. The State alleges Mr. Clarke entered the Taste of Chicago restaurant with the intent to commit larceny therein, after having been convicted of petit larceny on two prior occasions.

1 On August 6, 2019, Mr. Clarke waived his preliminary examination. Subsequently,  
2 on August 21, 2019, he pled guilty to the offense, subject to an agreement that both  
3 Mr. Clarke and the State stipulate to recommend a sentence of 12 to 36 months  
4 imprisonment in the Nevada State Department of Corrections. However, at his intended  
5 sentencing hearing, Mr. Clarke orally informed this Court he wished to represent himself  
6 and withdraw his plea of guilt. Following a Faretta canvas, this Court granted  
7 Mr. Clarke's motion for self-representation and appointed the Washoe County Public  
8 Defender's Office as standby counsel.

## 9 II. Principles of Law and Analysis

10 NRS 176.165 permits a defendant to move to withdraw his or her plea of guilt  
11 before sentence is imposed. In determining whether such a plea may be withdrawn, a  
12 court must consider the totality of the circumstances to determine whether permitting  
13 withdrawal would be "fair and just." Stevenson v. State, 131 Nev. 598, 603, 354 P.3d 1277,  
14 1281 (2015); see also State v. Dist. Ct., 85 Nev. 381, 385, 455 P.2d 923, 926 (1969) ("granting  
15 of the motion to withdraw one's plea before sentencing is proper where for any substantial  
16 reason the granting of the privilege seems fair and just.").

17 Mr. Clarke argues he was misled by his defense counsel, improperly inducing his  
18 guilty plea. Specifically, Mr. Clarke alleges he pled guilty based upon defense counsel's  
19 representation prior to his preliminary hearing waiver that witnesses were prepared to  
20 testify he had been identified in a lineup. However, no lineup was conducted. Mr. Clarke  
21 states he would not have pled guilty had he known no lineup evidence existed. During a  
22 closed Young hearing, defense counsel asserted there were no case notes indicating  
23 Mr. Clarke was advised regarding the existence of a lineup.

24 As an attachment to his motion, Mr. Clarke provided a declaration in which he  
25 argues the evidence is insufficient to support the charge of burglary. He acknowledges he  
26 took tip money from the Taste of Chicago restaurant, but asserts he did not enter the  
27 establishment with the intent to do so. Rather, he states he entered the restaurant to see if  
28 it was open, but decided to take the money after he was called a racial slur once inside.

1       After considering the record in this action as a whole, this Court concludes there is  
2 not a substantial fair and just reason supporting withdrawal of Mr. Clarke's plea. On  
3 August 21, 2019, Mr. Clarke signed a guilty plea memorandum indicating he had  
4 considered and discussed all possible defenses and defense strategies with his counsel. He  
5 further affirmed his plea was made freely, voluntarily, knowingly, and with a full  
6 understanding of all matters set forth in the Information. During his arraignment on the  
7 same day, Mr. Clarke affirmed he understood his rights, his attorney was able to answer  
8 any questions he had, and he was satisfied with her services. He appeared to be aware  
9 and engaged during this exchange, as shown when he prompted defense counsel to ask if  
10 he would be permitted to waive his PSI and proceed to sentencing early. At no point did  
11 he raise concerns that he had been unable to review discovery related to a lineup. During  
12 his presentence investigation interview, performed on September 10, 2019, Mr. Clarke  
13 admitted to committing the offense to which he pled, stating he needed money for drugs.  
14 He indicated he would like to be sent to a treatment program. Again, he did not mention  
15 any issues arising from his plea, information not relayed to him by counsel, or an alleged  
16 lineup.

17       The first time Mr. Clarke mentioned the existence of a lineup was in the context of a  
18 motion for substitution of counsel on October 7, 2019, the day he was scheduled to be  
19 sentenced. At this point, Mr. Clarke listed a number of disagreements with defense  
20 counsel, including her refusal to provide him with lineup evidence. However, he did  
21 not indicate his plea turned on the existence of such a lineup. Subsequently, in a pro se  
22 Petition for Writ of Habeas Corpus filed on November 1, 2019, Mr. Clarke indicated he  
23 had been told his counsel and the State agreed to perform a lineup before his preliminary  
24 hearing occurred, which caused him to waive his originally scheduled preliminary  
25 hearing. In this petition, Mr. Clarke appears to express frustration that counsel did not  
26 follow through with arranging such a lineup but, confusingly, later told him the  
27 lineup had actually occurred. When considered within the context of the entire  
28

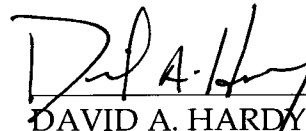
1 record, these communications raise questions as to consistency of Mr. Clarke's beliefs  
2 regarding the centrality of the lineup evidence to his plea.

3 Finally, there are significant logical inconsistencies in Mr. Clarke's argument.  
4 Mr. Clarke was represented by a different public defender when he waived his  
5 preliminary hearing than when he entered his guilty plea. It is unlikely two counsel were  
6 similarly mistaken as to the existence of a lineup when a third counsel has stated no such  
7 notation exists in either counsel's notes. In addition, a lineup could not have been  
8 conducted outside of Mr. Clarke's presence. It is difficult to understand how Mr. Clarke,  
9 who has significant experience with law enforcement, would have believed he was  
10 identified in a lineup when he never participated in one. Finally, police records indicate  
11 Mr. Clarke was immediately chased and held by the owner of the restaurant and  
12 there is surveillance video showing him committing the alleged theft. This evidence is  
13 consistent with Mr. Clarke's arguments that the primary issue at trial would be his intent  
14 rather than mistaken identity. Thus, it is not apparent why Mr. Clarke's decision to plead  
15 guilty would have turned upon the existence of a lineup identification.

16 After considering the totality of the circumstances, this Court finds there is  
17 insufficient evidence to conclude Mr. Clarke entered his plea of guilt due to a mistaken  
18 belief additional inculpatory evidence existence. Accordingly, there is no substantial fair  
19 and just reason to permit Mr. Clarke to withdraw his plea prior to sentencing.  
20 Mr. Clarke's Motion to Withdraw Guilty Plea is denied.

21 **IT IS SO ORDERED**

22 **DATED** this 21 day of November, 2019.

23  
24   
25 DAVID A. HARDY  
26 District Judge  
27  
28

**Return Of NEF****Recipients**

**MARIAH** - Notification received on 2019-11-21 14:26:01.356.  
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**Judge:**

HONORABLE DAVID A. HARDY

**Official File Stamp:**

11-21-2019:14:24:56

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11-21-2019:14:25:30

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. ANTHONY CLARKE (D15)

**Document(s) Submitted:**

Ord Denying Motion

**Filed By:**

Judicial Asst. SParke

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