

acknowledged that its review of prejudice would implicate a claim's merits. (App. B at 005-006.) The court acknowledged Adkisson had raised a constitutional violation under *Apprendi* and determined that *Apprendi* did not undermine that court's prior decisions finding the weapon statute did not violate double jeopardy. (*Id.*)

REASONS FOR GRANTING THE PETITION

I. The Nevada Department of Corrections is violating Mr. Adkisson's rights to due process and a jury trial under the Fifth, Sixth and Fourteenth Amendments because they are holding him in custody pursuant to an additional consecutive sentence imposed not as a result of the underlying conviction but pursuant to a separate statute which, under the terms of that statute, does not create a separate offense

Adkisson is currently confined pursuant to an equal and consecutive sentence of 10 years to life that was imposed under the use of a deadly weapon statute, Nev. Rev. Stat. 193.165, in existence at the time of the crime. That statute specifically provided the additional penalty did not "create any separate offense but provides an additional penalty for the primary offense." Nev. Rev. Stat. § 193.165(2) (2006).

Under long-standing precedent, the Nevada Supreme Court held the deadly weapon statute did not create a separate conviction. First, in *Woolter v. O'Donnell*, 542 P.2d 1396, 1399-1400 (Nev. 1975), the Nevada Supreme Court addressed whether a sentence imposed under the deadly weapon statute violated the Double Jeopardy Clause. To avoid any double jeopardy implications under the *Blockberger* test, the court adopted the reasoning that the weapon penalty was not a separate conviction but represented just an additional punishment for a single crime. *Id.*



Then, in *Raby v. State*, the Nevada Supreme Court held in more explicit terms that “the use of a firearm or other deadly weapon in the commission of a crime (NRS 198.165) is not a separate criminal offense.” 544 P.2d 895, 896 (Nev. 1976).

Raby and *Woolfer* were then reaffirmed in *Nevada Dep’t of Prisons v. Bowen*, 745 P.2d 697, 699 (Nev. 1987).

However, regardless of the validity of that court’s prior analysis, the constitutional landscape has shifted significantly since those decisions. After *Bowen*, this Court decided *Apprendi v. New Jersey*, 530 U.S. 466 (2000). *Apprendi* held that any fact (other than a prior conviction) that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury and proved beyond a reasonable doubt. *Id.* at 490. The constitutional import of *Apprendi* was that it converted additional penalty provisions into elements of a crime. *See Alleyne v. United States*, 570 U.S. 99, 106 (2013). Put another way, any additional sentence beyond the prescribed statutory range must be imposed pursuant to the equivalent of a conviction that comports with due process and the right to a jury trial.

This intervening precedent establishes that Mr. Adkisson’s current custody violates due process and the right to a jury trial. The Nevada Supreme Court adhered to its prior precedent in *Woolfer* and *Raby* and maintained its holding that the deadly weapon statute did not create a separate offense. But this simply has no legal foundation after *Apprendi*. If the sentence is not imposed pursuant to a conviction, as the Nevada Supreme Court continues to hold, then Mr. Adkisson is not being held

pursuant to a sentence based on a conviction. In this way, the Nevada Department of Corrections is unlawfully detaining him.

This is a novel and important issue for this Court to address as the Nevada Supreme Court acknowledged it has been percolating in other state courts. ~~See App. B at 006 (citing *State v. Stevens*, No. 1 CA-CR 14-0642, 2015 WL 8475986 (Ariz. Ct. App. Dec. 10, 2015), and *State v. Kelley*, 226 P.3d 773 (Wash. 2010). Fundamental principles of due process and the right to jury trial demand that imprisonment be predicated upon conviction for an actual offense. Under *Apprendi's* due process jurisprudence, it is clear that Mr. Adkisson's sole conviction is that of having committed a second-degree murder. There is no, and can be no, second crime of conviction. Both the statute and this Court have made that abundantly clear.~~

It must be emphasized that Nev. Rev. Stat. 193.165 does not work as a typical sentencing enhancement. In general, such an enhancement would increase the sentence imposed on the underlying conviction. That is not what occurs under this statute. Rather, an *additional* consecutive sentence is being imposed. That is what creates the constitutional problem here. That additional sentence must be imposed pursuant to a conviction under *Apprendi*. But the statute itself says that it is not a separate offense. And the Nevada Supreme Court has repeatedly agreed that it is not.

As such, the Nevada Supreme Court's decision here upholding that prior precedent has exacerbated a constitutional tug of war between *Apprendi* and double jeopardy principles. Indeed, the lower court's adherence to its prior precedent in *Woofter*, *Raby*, and *Bowen* has now created an unavoidable conflict that needs to be

addressed by this Court. The weapon statute cannot be viewed as not a separate offense for double jeopardy purposes, but then also a conviction in order to satisfy *Apprendi*. It has to be one or the other. Either it is a conviction or it is not. The Nevada Supreme Court continues to maintain that the weapon statute does not establish a separate conviction. But without a conviction, then Mr. Adkisson is not being held pursuant to a constitutionally valid sentence. Continuing to hold Adkisson in custody means the Department of Corrections is unconstitutionally detaining him.

Put another way, the Nevada Supreme Court's conclusion that there is no conviction under Nev. Rev. Stat. 193.165 means that there is no constitutional justification for the additional consecutive sentence.

And, even if the Nevada Supreme Court is wrong in concluding that there is no conviction under the weapon statute, Mr. Adkisson's current custody remains unconstitutional. Once again, under *Apprendi*, the imposition of the additional consecutive sentence has to be the result of a conviction. However, this conviction creates a clear double jeopardy violation. Second-degree murder is obviously a lesser included offense of second-degree murder with the use of a deadly weapon. Indeed, any "conviction" under the weapon statute is nothing more than the underlying crime plus a finding a weapon was used. Under the *Blockburger*³ test, the lesser included conviction has to be dismissed under the Double Jeopardy Clause. *See Kelley v. State*, 371 P.3d 1052, 1053-54 (Nev. 2016) (acknowledging that under the federal Double

³ *Blockburger v. United States*, 284 U.S. 299 (1932).

Jeopardy Clause a conviction on a lesser included count must be dismissed). Because the underlying murder conviction has to be dismissed, the sentence imposed under Nev. Rev. Stat. 200.080 must be vacated. If Nev. Rev. Stat. 193.165 is a conviction, ~~the only constitutional sentence that can stand is the one imposed under that statute,~~ namely a single sentence of 10 to life.

Apprendi has brought into clear focus the constitutional problems with Nevada's weapon statute. No matter whether the weapon statute creates a conviction or is not considered a conviction enforcement of a sentence pursuant to the statute will run into constitutional problems.

At bottom, characterizing the deadly weapon statute as not a separate offense may have been necessary to spare it from constitutional problems under the Double Jeopardy Clause, but this characterization runs afoul of *Apprendi*. Mr. Adkisson should not be serving a sentence for which there is no underlying conviction. The Department of Corrections does not have the authority to hold him in custody.

This Court should review this important constitutional issue, which was squarely presented and decided in the courts below.

CONCLUSION

The petition for a writ of certiorari should be granted.

Dated February 25, 2021

Respectfully submitted,

Rene L. Valladares
Federal Public Defender

/s/ Jonathon M. Kirshbaum
Jonathan M. Kirshbaum
Assistant Federal Public Defender

(82)



State of Nevada
Department of Corrections

INMATE GRIEVANCE REPORT

ISSUE ID# 20063059385

ISSUE DATE: 01/03/2018

INMATE NAME		NDOC ID	TRANSACTION TYPE	ASSIGNED TO	
[REDACTED]		[REDACTED]	RTRN_INF	LWALSH	
LEVEL	TRANSACTION DATE	DAYS LEFT	FINDING	USER ID	STATUS
IF	03/14/2018	5	Denied	JBUCHANAN	INACTIVE

INMATE COMPLAINT

OFFICIAL RESPONSE

[REDACTED] your Judgment of Conviction was reviewed to ensure it is entered correctly and that you are lawfully being incarcerated. You were sentenced by the court to a life sentence with the possibility of parole after 10 years has been served. You were sentenced to an equal and consecutive sentence for the use of a deadly weapon. Records show you were granted parole by the parole board to your consecutive sentence for the deadly weapon enhancement. This is your current sentence in which you are being incarcerated for. There is no indication your liberty is being denied as you claim, as the NDOC is following the order from the court. The NDOC is not illegally creating a felony charge against you, it merely enters the F category into the system, as the system requires that field to be entered in order to calculate your sentence and credits correctly. It is not being done to confine you to prison as you claim nor is it the reason you have not been released to the community on parole. If you feel you were wrongfully given a consecutive sentence for the deadly weapon enhancement, you will have to address that directly with the court as that is outside of the authority and control of the NDOC. Grievance denied.

THIRTEEN

CS J. Buchanan
GRIEVANCE RESPONDER

RECEIVED

FEB 14 2019
Page 1 of 1

Report Name: NVRIGR
Reference Name: NOTIS-RPT-OR-02174
Run Date: MAR-14-18 10:50 AM

OFFENDER MANAGEMENT
NDOC



State of Nevada
Department of Corrections

10411
83

INMATE GRIEVANCE REPORT

ISSUE ID# 20063053285

ISSUE DATE: 08/24/2017

INMATE NAME		NDOC ID	TRANSACTION TYPE	ASSIGNED TO	
[REDACTED]		[REDACTED]	RTRN INF	BWARD	
LEVEL	TRANSACTION DATE	DAYS LEFT	FINDING	USER ID	STATUS
IF	10/12/2017	5	Denied	JBUCHANAN	INACTIVE
INMATE COMPLAINT					
OFFICIAL RESPONSE					
<p>The NDOC is not arbitrarily assigning a category to your current sentence nor are they creating a felony charge where one does not exist. The UDWE is a continuation of your current charge and therefore you are correct in assuming the NDOC is mirroring your classification from your Murder charge to your Use of Deadly Weapon enhancement. This practice is currently under review by the Offender Management Division. However, this does not appear to have, in any way, impacted your ability to participate in any type of programming within the department, nor have you provided any evidence to support your claim. You have been on this sentence for 11 months and there is no indication you have applied for any specific programming resulting in any type of denial, related to your sentence status or otherwise. Your enhancement sentence was ordered by the court to be an equal and consecutive term, of which, is not grievable per AR 740. Grievance denied.</p>					

"CURRENT CHARGE"

Sole Conviction Discharged through PAROLE

11-1-2016

CCS S. Buchanan
GRIEVANCE RESPONDER

Report Name: NVRIGR
Reference Name: NOTIS-RPT-OR-0217.4
Run Date: OCT-12-17 11:30 AM



State of Nevada
Department of Corrections

101A-4

(84)

INMATE GRIEVANCE REPORT

ISSUE ID# 20063136173

ISSUE DATE: 04/05/2022

INMATE NAME	NDOC ID	TRANSACTION TYPE	ASSIGNED TO		
[REDACTED]	[REDACTED]	RTRN_L1	KOLSEN		
LEVEL	TRANSACTION DATE	DAYS LEFT	FINDING	USER ID	STATUS
1	06/07/2022	4	Denied	SCONLIN	A
INMATE COMPLAINT					
OFFICIAL RESPONSE					
<p>[REDACTED]</p> <p>I am in receipt of your first level grievance claiming you are not being considered for minimum custody is a direct violation of your rights and your remedy is to be immediately classified to minimum custody. You were answered appropriately in the informal response. You further claim that NDOC is displaying an Abuse of Authority by precluding you from minimum by basing the decision on a discharged conviction. There is no abuse of authority found in following AR521. Your conviction/case 200170 consists of 2 counts. Both are considered together as one incarceration or term. You have not presented any addition supporting documentation to support your claims. Denied</p>					

Disagreed
[Signature]

[Signature]
GRIEVANCE RESPONDER



State of Nevada
Department of Corrections

INMATE GRIEVANCE REPORT

85

ISSUE ID# 20063138349

ISSUE DATE: 06/13/2022

INMATE NAME	NDOC ID	TRANSACTION TYPE	ASSIGNED TO		
[REDACTED]	[REDACTED]	RTRN_INF	AVACCARO		
LEVEL	TRANSACTION DATE	DAYS LEFT	FINDING	USER ID	STATUS
IF	06/16/2022		Denied	AVACCARO	A

INMATE COMPLAINT

I am grieving the NDOC for the unlawful violation of my personal liberty by confinement to a state prison without sufficient legal authority by force and threat of death resulting in the act of forced imprisonment without sufficient legal authority cont...

OFFICIAL RESPONSE

[REDACTED], I am in receipt of your grievance #2006-31-38349 signed and dated 5-30-2022 at 10:50 AM regarding your complaint about the Nevada Department of Corrections being in unlawful violation of legal authority by force and threat of death, resulting in the act of forced imprisonment without sufficient legal authority. You claim that this is staff misconduct and should be handled in such way outlined in AR 740. You state in your grievance that NDOC must possess sufficient legal authority in order to incarcerate you. You also claim that the NDOC is concealing the false imprisonment by representing that you suffered a separate distinct second conviction of use of a deadly weapon in the commission of your second-degree murder conviction.

[REDACTED] per your JOC for case# 04C200178 you were found guilty of "Murder in the Second Degree with Use of a Deadly Weapon," and you were sentenced to 10 years to life with a consecutive 10 years to life. With the evidence provided by you, in your grievance, and the documents we have in your file, it is evident that you are correctly incarcerated. NRS 193.165.2 states that you are to be incarcerated exactly the way you are. It's agreeable that the use of a deadly weapon in the commencement of a crime does not warrant a second offense, however you are to be additionally punished with an equal and consecutive sentence to the one you committed. Which is clearly outlined in NRS 193.165. This grievance is DENIED in its entirety as no staff misconduct was proven in your grievance. You are sentenced correctly.

Grievance DENIED.

Not a 2nd offense - But also two counts (see Griev)

Additional punishment without offense

GRIEVANCE RESPONDER

Report Name: NVRIGR
Reference Name: NOTIS-RPT-OR-0217.4
Run Date: JUN-24-22 09:58 AM

86

CENTRAL OFFICE

1677 Old Hot Springs Rd., Ste. A
Carson City, Nevada 89706
<http://parole.nv.gov>
(775) 687-5049
Fax (775) 687-6736

STATE OF NEVADA
STEVE SISOLAK
Governor



LAS VEGAS OFFICE

4000 S. Eastern Ave., Ste.130
Las Vegas, Nevada 89119
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Fax (702) 486-4376

CHRISTOPHER P. DERICCO, *Chairman*
SUSAN JACKSON, *Member*
MARY K. BAKER, *Member*
SCOTT WEISENTHAL, *Member*

CHRISTOPHER P. DERICCO, *Chairman*
ERIC CHRISTIANSEN, *Member*
DONNA VERCHIO, *Member*
LAMICIA BAILEY, *Member*

KATIE FRAKER, *Executive Secretary*

NEVADA BOARD OF PAROLE COMMISSIONERS

December 14, 2021

**PUBLIC RECORDS REQUEST
ACKNOWLEDGEMENT LETTER**

[REDACTED]
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, Nevada 89702

RE: PUBLIC RECORDS REQUEST dated December 8, 2021.

[REDACTED]

On December 13, 2021 the Nevada Board of Parole Commissioners received your request for documents pursuant to Nevada's Public Records Law.

1. Please provide me with the official state record relied upon by the Board in order to determine the category of felony conviction to be assigned to each crime under consideration by the Board. The Board does not determine the category of felony conviction. The category of felony conviction for each crime is determined by the Nevada Legislature and a person is then sentenced accordingly by the judge. The Nevada Department of Corrections enters the sentencing information from an inmate's Judgment of Conviction, along with the category of felony, for the Board's use.

Signed,

Katie Fraker

Katie Fraker
Executive Secretary

Fourteen

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STATE OF NEVADA
CERTIFICATION OF
BOARD OF PAROLE COMMISSIONERS ACTION
ORDER GRANTING PAROLE

Inmate Name	NDOC Number	Booking #	Location	Date
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	01/04/2021

It is the Order of the Board that Parole is GRANTED. The effective date of parole is: When Eligible.

Release to the community or to a consecutive sentence is authorized on the above specified date. If "when eligible" is indicated, release is authorized on or after the date of this hearing upon attaining minimum eligibility, as determined by the Nevada Department of Corrections (NDOC).

You are expected to program and/or work constructively regardless of institutional setting, and you are expected to abide by the rules of the NDOC. Failure to work and/or program constructively, or violation of the rules of the NDOC may result in the rescission of this order and denial of parole.

NOTE: A parolee who violates a condition of his or her parole forfeits all or part of the credits for good behavior earned by the parolee after release on parole at the discretion of the Board. A parolee whose parole is revoked for having violated a condition of parole forfeits all credits for good behavior previously earned to reduce his or her sentence pursuant to NRS 209. The Board may restore any forfeited credits at its discretion.

THIS ACTION APPLIES TO THE FOLLOWING SENTENCE(S):

Controlling sentence denoted by ⁶, Case #: Count: Offense Description:
192963; 4; USE OF DEADLY WEAPON ENHANCEMENT

Reason(s) for action:

- Grant Reason: The inmate has no prior or minimal criminal conviction history
- Grant Reason: There is community and/or family support.
- Grant Reason: The inmate has participated in programs specific to addressing behavior that led to incarceration.
- Grant Reason: The inmate has a positive institutional record.

Recommendation of the panel who conducted the hearing: Grant Parole
Commissioner Mary Baker; Grant Parole
Hearing Representative James Benedetti; Grant Parole

The final action was ratified by the following Members of the Board of Parole Commissioners:

- Commissioner Mary Baker; Grant Parole
- Commissioner Tony Corda; Grant Parole
- Commissioner Susan Jackson; Grant Parole
- Commissioner Eric Christiansen; Grant Parole



FOR THE NEVADA BOARD OF PAROLE COMMISSIONERS

This document was prepared by MARYFLORES on 1/13/2021 3:31 PM

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STATE OF NEVADA
BOARD OF PAROLE COMMISSIONERS
CONDITIONS OF PAROLE SUPERVISION

Inmate Name	NDOC Number	Booking #	Location	Date
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	01/04/2021

The following conditions apply to all active parole cases supervised in the community, including any previously granted sentences not specified on this Order of which these conditions replace and supersede.

- * You must complete a substance abuse evaluation within 30 days of release from NDOC. Participate in treatment as instructed until released by a qualified treatment provider.
- * You may not contact or associate with gang members and you may not possess gang paraphernalia.
- * Directives: You shall follow the rules of the Division of Parole and Probation to include the following:
 - * A. You shall not change your place of residence without first obtaining permission from the Division of Parole and Probation.
 - * B. You shall report in person to the Division of Parole and Probation as instructed by the Division or its agent. You shall submit a written report each month on forms supplied by the Division. This report shall be true and correct in all respects.
 - * C. You shall seek and maintain legal employment, or maintain a program approved by the Division of Parole and Probation and not change such employment or program without first obtaining permission. All terminations of employment or program shall be immediately reported to the Division.
 - * D. You shall pay any court ordered restitution by making payments until the balance is paid in full. The minimum monthly payment shall be established by dividing the balance owed at the time of release on parole by the number of projected months to be served on parole. If, after dividing the total restitution owed by the number of projected months to be served on parole the monthly payment is equal to an amount less than \$50, the monthly payment shall be \$50 until the balance is paid in full.
 - * E. Pay all applicable fines and fees on a schedule determined by the Division of Parole and Probation.
 - * F. You shall not leave the state without first obtaining written permission from the Division of Parole and Probation.
 - * G. You shall not associate with convicted felons, persons who are engaged in criminal activity, or other persons with whom your supervising officer instructs you not to associate.
 - * H. You shall follow all the directives of your assigned Parole Officer.
 - * I. You shall satisfy any outstanding warrants within 90 days of your release from custody.
- * Controlled substances: You shall not use, purchase or possess any illegal drugs, or any prescription drugs, unless first prescribed by a licensed medical professional. You shall immediately notify the Division of Parole and Probation of any prescription received. You shall refrain from the use and possession of any synthetic/designer drug or any mind and/or body altering substance. You shall submit to drug testing as required by the Division or its agent.
- * Recreational Marijuana: You shall not purchase, consume or have under your control marijuana in any form, except when such use is prescribed for use as a medicine in accordance with the provisions of chapter 453A of NRS.
- * Intoxicants: You shall not purchase, consume or have under your control any alcohol beverage, unless specifically permitted by special condition of the Board. Upon the direction of the Division of Parole and Probation or other peace officers, you shall submit to a medically recognized test for blood/breath content.
- * Weapons: You shall not possess, have access to, or have under your control, any type of weapon unless the item is used in conjunction with the duties of legitimate employment and has been approved in writing by the Division of Parole and Probation or its agent.
- * Laws: You shall comply with all institutional rules, municipal, county, state, and federal laws and ordinances.
- * Conduct: You shall comply with all the provisions stated on the parole agreement and your conduct shall justify the opportunity granted to you by this community supervision.
- * No Victim Contact: You may not contact or communicate with the victim or any person directly and proximately harmed by the commission of a criminal offense under any law of this State, or solicit another person to contact or communicate on your behalf with the victim or any person directly and proximately harmed by the commission of a criminal offense under any law of this State unless approved in writing by the Division of Parole and Probation.

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STATE OF NEVADA
CERTIFICATION OF
BOARD OF PAROLE COMMISSIONERS ACTION
PAROLE RISK ASSESSMENT & GUIDELINE

INMATE NAME NDOC Number BOOKING# LOCATION DATE
01/04/2021

Parole Risk Assessment:

Table with 2 columns: Questions, Responses / Scores. Rows include: 1. Age at 1st Arrest (2) 19 years or younger: 2; 2. Prior Revocations (0) No parole or probation revocations: 0; 3. Employment History (1) Less than one year F/T employment: 1; 4. Property Conviction (2) Any property offense, robbery, forgery, etc.: 2; 5. Drug/Alcohol Use/Abuse (1) Some use, no severe disruption of functioning: 1; 6. Gender (0) Male: 0; 7. Number of Prior Felony Convictions (0) Less than 2 prior felony convictions: 0; Static Risk Score 6; 8. Current Age (0) 33 - 39 years of age: 0; 9. Gang Membership (0) No (none or suspect): 0; 10. Programming (current term) (-1) Yes (during current term of incarceration): -1; 11. Disciplinary Conduct (0) No Offenses in Custody: 0; 12. Approved Custody Level (0) CT, Minimum or Medium Custody: 0; Dynamic Risk Score -1; Total Score (Static+Dynamic) 5

Table with 3 columns: Offense (used to determine crime severity for risk assessment), Offense Category, Offense Severity. Row: USE OF DEADLY WEAPON ENHANCEMENT, F, Highest

Table with 3 columns: Total Risk Score, Guideline Risk, Guideline Recommendation. Row: 5, Low Risk, Consider Factors

The Board determined the following Aggravating Factors are applicable in your case:
The extreme or abnormal aspects of the crime.
Impact on victim(s) and/or community.

The Board determined the following Mitigating Factors are applicable in your case:
No prior/minimal criminal conviction or delinquency adjudication history.
Infraction free for two years or more to hearing month and not in disciplinary segregation.
Participation in programs specific to addressing the behavior that led to their incarceration.
Community and/or family support.

The Board determined the following Other Factors are applicable in your case:
No Factors

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STATE OF NEVADA
CERTIFICATION OF
BOARD OF PAROLE COMMISSIONERS ACTION
ORDER GRANTING PAROLE

COPY 90

Inmate Name: [REDACTED]	NIDOC Number: [REDACTED]	Building #: [REDACTED]	Location: [REDACTED]	Date: 09/10/2020
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It is the Order of the Board that Parole is GRANTED. The effective date of parole is: 12/01/2020.

Release to the community or to a consecutive sentence is authorized on the above specified date. If "when eligible" is indicated, release is authorized on or after the date of this hearing upon attaining minimum eligibility, as determined by the Nevada Department of Corrections (NDOC).

You are expected to program and/or work constructively regardless of institutional setting, and you are expected to abide by the rules of the NDOC. Failure to work and/or program constructively, or violation of the rules of the NDOC may result in the rescission of this order and denial of parole.

NOTE: A parolee who violates a condition of his or her parole forfeits all or part of the credits for good behavior earned by the parolee after release on parole at the discretion of the Board. A parolee whose parole is revoked for having violated a condition of parole forfeits all credits for good behavior previously earned to reduce his or her sentence pursuant to NRS 209. The Board may restore any forfeited credits at its discretion.

THIS ACTION APPLIES TO THE FOLLOWING SENTENCE(S):

Controlling sentence denoted by *, Case #: Court: Offense Description:
223709; & USE OF DEADLY WEAPON ENHANCEMENT

Reason(s) for action:

- Grant Reason: The inmate has participated in programs specific to addressing behavior that led to incarceration.
- Grant Reason: There is community and/or family support.
- Grant Reason: The inmate has stable release plans.

Recommendation of the panel who conducted the hearing: Grant Parole
Commissioner Eric Christiansen; Grant Parole
Commissioner Donna Verchio; Grant Parole

The final action was ratified by the following Members of the Board of Parole Commissioners:

- Commissioner Eric Christiansen; Grant Parole
- Commissioner Donna Verchio; Grant Parole
- Commissioner Susan Jackson; Grant Parole
- Commissioner Tony Cordz; Grant Parole

Mary K Baker
FOR THE NEVADA BOARD OF PAROLE COMMISSIONERS

This document was prepared by MBALLING at 9/10/2020 10:00 AM

STATE OF NEVADA
BOARD OF PAROLE COMMISSIONERS
CONDITIONS OF PAROLE SUPERVISION

91

Inmate Name	NDOC Number	Booking #	Location	Date
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	09/10/2020

The following conditions apply to all active parole cases supervised in the community, including any previously granted sentences not specified on this Order of which these conditions replace and supersede.

- * You must complete a substance abuse evaluation within 30 days of release from NDOC. Participate in treatment as instructed until released by a qualified treatment provider.
- * Directives: You shall follow the rules of the Division of Parole and Probation to include the following:
 - * A. You shall not change your place of residence without first obtaining permission from the Division of Parole and Probation.
 - * B. You shall report in person to the Division of Parole and Probation as instructed by the Division or its agent. You shall submit a written report each month on forms supplied by the Division. This report shall be true and correct in all respects.
 - * C. You shall seek and maintain legal employment, or maintain a program approved by the Division of Parole and Probation and not change such employment or program without first obtaining permission. All terminations of employment or program shall be immediately reported to the Division.
 - * D. You shall pay any court ordered restitution by making payments until the balance is paid in full. The minimum monthly payment shall be established by dividing the balance owed at the time of release on parole by the number of projected months to be served on parole. If, after dividing the total restitution owed by the number of projected months to be served on parole the monthly payment is equal to an amount less than \$50, the monthly payment shall be \$50 until the balance is paid in full.
 - * E. Pay all applicable fines and fees on a schedule determined by the Division of Parole and Probation.
 - * F. You shall not leave the state without first obtaining written permission from the Division of Parole and Probation.
 - * G. You shall not associate with convicted felons, persons who are engaged in criminal activity, or other persons with whom your supervising officer instructs you not to associate.
 - * H. You shall follow all the directives of your assigned Parole Officer.
 - * I. You shall satisfy any outstanding warrants within 90 days of your release from custody.
- * Controlled substances: You shall not use, purchase or possess any illegal drugs, or any prescription drugs, unless first prescribed by a licensed medical professional. You shall immediately notify the Division of Parole and Probation of any prescription received. You shall refrain from the use and possession of any synthetic/designer drug or any mind and/or body altering substance. You shall submit to drug testing as required by the Division or its agent.
- * Recreational Marijuana: You shall not purchase, consume or have under your control marijuana in any form, except when such use is prescribed for use as a medicine in accordance with the provisions of chapter 453A of NRS.
- * Intoxicants: You shall not purchase, consume or have under your control any alcohol beverage, unless specifically permitted by special condition of the Board. Upon the direction of the Division of Parole and Probation or other peace officer, you shall submit to a medically recognized test for blood/breath content.
- * Weapons: You shall not possess, have access to, or have under your control, any type of weapon unless the item is used in conjunction with the duties of legitimate employment and has been approved in writing by the Division of Parole and Probation or its agent.
- * Laws: You shall comply with all institutional rules, municipal, county, state, and federal laws and ordinances.
- * Conduct: You shall comply with all the provisions stated on the parole agreement and your conduct shall justify the opportunity granted to you by this community supervision.
- * No Victim Contact: You may not contact or communicate with the victim or any person directly and proximately harmed by the commission of a criminal offense under any law of this State, or solicit another person to contact or communicate on your behalf with the victim or any person directly and proximately harmed by the commission of a criminal offense under any law of this State unless approved in writing by the Division of Parole and Probation.

This document was prepared by MBALLING at 9/16/2020 10:00 AM

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STATE OF NEVADA
 CERTIFICATION OF
 BOARD OF PAROLE COMMISSIONERS ACTION

PAROLE RISK ASSESSMENT & GUIDELINE

INMATE NAME

NDOC Number

BOOKING#

LOCATION

09/10/2020

DATE

Parole Risk Assessment:

Questions	Responses / Scores
1. Age at 1st Arrest	(2) 19 years or younger: 2
2. Prior Revocations	(2) One or more (including gross misdemeanors): 2
3. Employment History	(1) Less than one year R/T employment: 1
4. Property Conviction	(2) Any property offense, robbery, forgery, etc.: 2
5. Drug/Alcohol Use/Abuse	(2) Frequent abuse, serious disruption of functioning: 2
6. Gender	(-1) Female: -1
7. Number of Prior Felony Convictions	(0) Less than 2 prior felony convictions: 0
Static Risk Score	8
8. Current Age	(0) 33 - 39 years of age: 0
9. Gang Membership	(2) Yes (member or associate): 2
10. Programming (current term)	(-1) Yes (during current term of incarceration): -1
11. Disciplinary Conduct	(2) One or more Offenses in Custody: 2
12. Approved Custody Level	(0) CL, Minimum or Medium Custody: 0
Dynamic Risk Score	3
Total Score (Static+Dynamic)	11

Offense (used to determine crime severity for risk assessment)	Offense Category	Offense Severity
USE OF DEADLY WEAPON ENHANCEMENT	F	Highest

Total Risk Score:	Guideline Risk	Guideline Recommendation
11	Mod Risk	Consider Factors

The Board determined the following Aggravating Factors are applicable in your case:

- Impact on victim(s) and/or community.
- Prior Prison term did not deter future criminal activity.
- Prior violent conviction or delinquency adjudication.
- Commission of a crime while incarcerated, on bail, eluding, on escape status, or while under parole or probation supervision
- Significant prior criminal history.
- Nature of criminal record is increasingly more serious.
- Repetitive Similar Criminal Conduct.

The Board determined the following Mitigating Factors are applicable in your case:

- Community and/or family support.
- Stable release plans.
- Participation in programs specific to addressing the behavior that led to their incarceration.

The Board determined the following Other Factors are applicable in your case:

No Factors

This document was prepared by ME ALLING on 09/10/2020 10:00 AM

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STATE OF NEVADA
CERTIFICATION OF
BOARD OF PAROLE COMMISSIONERS ACTION
ORDER GRANTING PAROLE

Inmate Name	NDOC Number	Boarding #	Location	Date
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	03/10/2021

It is the Order of the Board that Parole is GRANTED. The effective date of parole is: When Eligible.

Release to the community or to a consecutive sentence is authorized on the above specified date. If "when eligible" is indicated, release is authorized on or after the date of this hearing upon attaining minimum eligibility, as determined by the Nevada Department of Corrections (NDOC).

You are expected to program and/or work constructively regardless of institutional setting, and you are expected to abide by the rules of the NDOC. Failure to work and/or program constructively, or violation of the rules of the NDOC may result in the rescission of this order and denial of parole.

NOTE: A parolee who violates a condition of his or her parole forfeits all or part of the credits for good behavior earned by the parolee after release on parole at the discretion of the Board. A parolee whose parole is revoked for having violated a condition of parole forfeits all credits for good behavior previously earned to reduce his or her sentence pursuant to NRS 209. The Board may restore any forfeited credits at its discretion.

THIS ACTION APPLIES TO THE FOLLOWING SENTENCE(S):

Controlling sentence denoted by ? Case #: Court: Offense Description:

CR8365; 1; USE OF DEADLY WEAPON ENHANCEMENT

Reason(s) for action:

Grant Reason: The inmate has no prior or minimal criminal conviction history.

Grant Reason: There is community and/or family support.

Grant Reason: The inmate has stable release plans.

Recommendation of the panel who conducted the hearing: Grant Parole

Commissioner Laminia Bailey; Grant Parole

Commissioner Eric Christensen; Grant Parole

The Board action was ratified by the following Members of the Board of Parole Commissioners:

Commissioner Laminia Bailey; Grant Parole

Commissioner Eric Christensen; Grant Parole

Commissioner Donna Verchio; Grant Parole

Commissioner Suzen Jackson; Grant Parole

Suzen Jackson
FOR THE NEVADA BOARD OF PAROLE COMMISSIONERS

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STATE OF NEVADA
BOARD OF PAROLE COMMISSIONERS
CONDITIONS OF PAROLE SUPERVISION

Inmate Name	NDOC Number	Booking #	Location	Date
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	09/10/2021

The following conditions apply to all active parole cases supervised in the community, including any previously granted sentences not specified on this Order of which these conditions replace and supersede.

- * You must complete a substance abuse evaluation within 30 days of release from NDOC. Participate in treatment as instructed until released by a qualified treatment provider.
- * You are not permitted to enter a bar or lounge for any purpose except employment.
- * Directives: You shall follow the rules of the Division of Parole and Probation to include the following:
 - * A You shall not change your place of residence without first obtaining permission from the Division of Parole and Probation.
 - * B You shall report in person to the Division of Parole and Probation as instructed by the Division or its agent. You shall submit a written report each month on forms supplied by the Division. This report shall be true and correct in all respects.
 - * C You shall seek and maintain legal employment, or maintain a program approved by the Division of Parole and Probation and not change such employment or program without first obtaining permission. All terminations of employment or program shall be immediately reported to the Division.
 - * D You shall pay any court ordered restitution by making payments until the balance is paid in full. The minimum monthly payment shall be established by dividing the balance owed at the time of release on parole by the number of projected months to be served on parole. If, after dividing the total restitution owed by the number of projected months to be served on parole the monthly payment is equal to an amount less than \$30, the monthly payment shall be \$30 until the balance is paid in full.
 - * E Pay all applicable fines and fees on a schedule determined by the Division of Parole and Probation.
 - * F You shall not leave the state without first obtaining written permission from the Division of Parole and Probation.
 - * G You shall not associate with convicted felons, persons who are engaged in criminal activity, or other persons with whom your supervising officer instructs you not to associate.
 - * H You shall follow all the directives of your assigned Parole Officer.
 - * I You shall satisfy any outstanding warrants within 90 days of your release from custody.
- * Controlled substances: You shall not use, purchase or possess any illegal drugs, or any prescription drugs, unless first prescribed by a licensed medical professional. You shall immediately notify the Division of Parole and Probation of any prescription received. You shall refrain from the use and possession of any synthetic/cocaine drug or any mind and/or body altering substance. You shall submit to drug testing as required by the Division or its agent.
- * Recreational Marijuana: You shall not purchase, consume or have under your control marijuana in any form except when such use is prescribed for use as a medicine in accordance with the provisions of chapter 453A of NRS.
- * Intoxicants: You shall not purchase, consume or have under your control any alcohol beverage, unless specifically permitted by special condition of the Board. Upon the direction of the Division of Parole and Probation or other peace officer, you shall submit to a medically recognized test for blood/breath content.
- * Weapons: You shall not possess, have access to, or have under your control, any type of weapon unless the item is used in conjunction with the duties of legitimate employment and has been approved in writing by the Division of Parole and Probation or its agent.
- * Laws: You shall comply with all institutional rules, municipal, county, state, and federal laws and ordinances.
- * Conduct: You shall comply with all the provisions stated on the parole agreement and your conduct shall justify the opportunity granted to you by this community supervision.
- * No Victim Contact: You may not contact or communicate with the victim or any person directly and proximately harmed by the commission of a criminal offense under any law of this state, or solicit another person to contact or communicate on your behalf with the victim or any person directly and proximately harmed by the commission of a criminal offense under any law of this state unless approved in writing by the Division of Parole and Probation.

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STATE OF NEVADA
CERTIFICATION OF
BOARD OF PAROLE COMMISSIONERS ACTION

PAROLE RISK ASSESSMENT & GUIDELINE

[REDACTED] **[REDACTED]** **[REDACTED]** **[REDACTED]** 02/10/2021
 INMATE NAME NDOC Number BOOKING# LOCATION DATE

Parole Risk Assessment:

Questions	Responses / Scores
1. Age at 1st Arrest	(0) 24 years or older: 0
2. Prior Revocations	(0) No parole or probation revocations: 0
3. Employment History	(1) Less than one year FT employment: 1
4. Property Conviction	(0) No history of property offenses: 0
5. Drug/Alcohol Use/Abuse	(3) Frequent abuse, serious disruption of functioning: 2
6. Gender	(0) Male: 0
7. Number of Prior Felony Convictions	(0) Less than 2 prior felony convictions: 0
Static Risk Score	3
8. Current Age	(-1) 40 - 58 years of age: -1
9. Gang Membership	(0) No (none or suspect): 0
10. Programming (current term)	(0) No: 0
11. Disciplinary Conduct	(0) No Offenses in Custody: 0
12. Approved Custody Level	(0) CT, Minimum or Medium Custody: 0
Dynamic Risk Score	-1
Total Score (Static+Dynamic)	2

Offense (used to determine crime severity for risk assessment)	Offense Category	Offense Severity
USE OF DEADLY WEAPON ENHANCEMENT	F	Highest

Total Risk Score:	Guideline Risk	Guideline Recommendation
2	Low Risk	Consider Factors

The Board determined the following Aggravating Factors are applicable in your case:
 Impact on victim(s) and/or community.

The Board determined the following Mitigating Factors are applicable in your case:
 Community and/or family support.
 Infraction free for two years or more to hearing month and not in disciplinary segregation.
 Stable release plans.
 No prior/minimal criminal conviction or delinquency adjudication history.

The Board determined the following Other Factors are applicable in your case:
 No Factors

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