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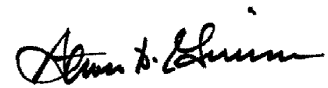
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CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 FRANK HEARRING, aka,
13 Frank Hearing, Jr., #1774466

14 Defendant.

CASE NO: C-13-291159-1

DEPT NO: XX

15 SUPPLEMENTAL
16 NOTICE OF EXPERT WITNESSES
17 [NRS 174.234(2)]

18 TO: FRANK HEARRING, aka, Frank Hearing, Jr., Defendant; and

19 TO: CARL E. ARNOLD, ESQ., Counsel of Record:

20 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF
21 NEVADA intends to call the following witnesses in its case in chief:

22 * Denotes change

23 *DUTRA, Timothy, M.D. a Medical Doctor employed by the Clark County Coroner
24 Medical Examiner. She is an expert in the area of forensic pathology and will give scientific
25 opinions related thereto. She is expected to testify regarding the cause and manner of death
26 of MICHAEL JORDAN.

27 MACEO, Alice P#7828 a Latent Print Examiner or Designee – Las Vegas
28 Metropolitan Police Department; will testify as an expert as to the procedures, techniques
and science employed in the fingerprint analysis, all procedures employed in this case and

1 reports provided.

2 AOYAMA, Kathryn P#8035 a Latent Print Examiner – Las Vegas Metropolitan
3 Police Department; will testify as an expert as to the procedures, techniques and science
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6 BEARD, Marcia P#3768 a Latent Print Examiner – Las Vegas Metropolitan Police
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13 CARTER, Marnie P#8179 a Latent Print Examiner – Las Vegas Metropolitan Police
14 Department; will testify as an expert as to the procedures, techniques and science employed
15 in the fingerprint analysis, all procedures employed in this case and reports provided.

16 MURGA, Kimberly P#10140 a DNA Technical Leader or Designee with the Las
17 Vegas Metropolitan Police Department. She is an expert in the area of DNA technology and
18 will give scientific opinions related thereto. She is expected to testify regarding the DNA
19 profiling analysis and related procedures she performed in this case.

20 ADAMS, Tiffany P#10072 a Criminalist with the Las Vegas Metropolitan Police
21 Department. She is an expert in the area of DNA technology and will give scientific
22 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and
23 related procedures she performed in this case.

24 BAS, Jennifer P#9944 a Criminalist with the Las Vegas Metropolitan Police
25 Department. She is an expert in the area of DNA technology and will give scientific
26 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and
27 related procedures she performed in this case.

28 ///

1 *BASILOTTA, Euginio P#8447 to testify as an expert in the analysis and
2 explanation of complex phone record keeping documents as well as an expert in the field of
3 cellular phone towers and their geographic proximity to the users of a certain cellular
4 telephone.

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25 MAY, Crystal P#9288 a Criminalist with the Las Vegas Metropolitan Police
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2 Department. She is an expert in the area of DNA technology and will give scientific
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4 related procedures she performed in this case.

5 RETAMOZO, Carol P#14280 a Criminalist with the Las Vegas Metropolitan Police
6 Department. She is an expert in the area of DNA technology and will give scientific
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9 ROBERTSON, Cassandra P#14653 a Criminalist with the Las Vegas Metropolitan
10 Police Department. She is an expert in the area of DNA technology and will give scientific
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13 TAYLOR, Jennifer P#10074 a Criminalist with the Las Vegas Metropolitan Police
14 Department. She is an expert in the area of DNA technology and will give scientific
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17 THOMAS, Jennifer P#13772 a Criminalist with the Las Vegas Metropolitan Police
18 Department. She is an expert in the area of DNA technology and will give scientific
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21 VIDA, Beata P#14279 a Criminalist with the Las Vegas Metropolitan Police
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24 related procedures she performed in this case.

25 STONE, Randall P#2887 A Firearm/Toolmark Examiner with the Las Vegas
26 Metropolitan Police Department. He is an expert in the area of Firearm/Toolmark analysis
27 and will give opinions related thereto. He is expected to testify regarding the firearms and
28 bullet trajectory comparison of certain evidence collected from the various crime scenes.

1 FRIED, Jonathan P#8174 A Firearm/Toolmark Examiner with the Las Vegas
2 Metropolitan Police Department. He is an expert in the area of firearm/Toolmark analysis
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21 ALBERT, Joel P#13204 a Crime Scene Analyst with the Las Vegas Metropolitan
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23 collection and preservation of evidence and will give opinions related thereto. He is
24 expected to testify regarding the identification, documentation, collection and preservation of
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26 REINHARD, Louise P#5223 a Crime Scene Analyst with the Las Vegas
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3 DAHNS, Robbie P#5947 a Crime Scene Analyst with the Las Vegas Metropolitan
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1 telephone.

2 The substance of each expert witness' testimony and a copy of all reports made by or
3 at the direction of the expert witness has been provided in discovery.

4 A copy of each expert witness' curriculum vitae, if available, is attached hereto.

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

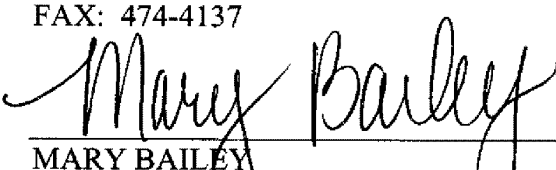
9 BY  MICHAEL SCHWARTZER *to*
10 Deputy District Attorney *bar # 12232*
11 Nevada Bar #10747

12 CERTIFICATE OF FACSIMILIE TRANSMISSION

13 I hereby certify that service of Notice of Expert Witnesses, was made this 16th
14 day of July, 2013, by facsimilie transmission to:

15 CARL E. ARNOLD, ESQ. ,
16 FAX: 474-4137

17
18 BY:


19 MARY BAILEY
20 Employee of the District Attorney's Office

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23
24
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28 13F08177X/mlb/L-4

Curriculum Vitae

Timothy Franklin Dutra, M.D., M.S., Ph.D.

Current Occupation:

Medical Examiner (Forensic Pathologist)
Clark County Coroner's Office
1704 Pinto Lane
Las Vegas, NV 89106
Tel. (702) 455-3210
E-mail: tdutra@co.clark.nv.us

Personal Data:

Languages: English & Spanish

Board Certifications:

Forensic Pathology
ABP Diplomate and certified, September 9, 2009

Blood Banking and Transfusion Medicine
ABP Diplomate and certified, September 9, 2005

Anatomic and Clinical Pathology
ABP Diplomate and certified, November 11, 1998

Most Recent Fellowship:

Fellowship, Forensic Pathology
St. Louis University
(A.C.G.M.E. accredited: 10/01/08 – 9/30/09)
St. Louis City Medical Examiner's Office

Recent Colleague:

Visiting Colleague, Forensic Pathology
(10/05/09 – 10/31/09)
Servicio Medico Forense
Mexico, D.F. 06720

Recent Teaching:

Instructor: Physiology Laboratory
Monterey Peninsula College
Monterey, CA 93940

Recent Research:

Co-Investigator: "Marrow Tissue Cultivation ex vivo
in vitro for Blood Cell Collection (animal cell model)"
LABioMed Research Institute
Torrance, CA 90502

Previous Fellowship:

Fellowship, Blood Bank and Transfusion Medicine
University of Wisconsin
(A.C.G.M.E. accredited: 08/01/04 – 07/31/05)
University of Wisconsin Hospital
Madison, WI 53792-2472

Previous Pathology Practice:

Post-Certification Pathology Practice (1999 – 2003)
Physician Specialist, Anatomic and Clinical Pathology,
including gross and microscopic surgical pathology,
aspiration cytopathology and bone marrow pathology.
Section Chief of Clinical and Special Chemistry.
Blood Bank and Transfusion Medicine acting Chief,
during absences of BB & TM Section Chief.
Pathology Department
Martin Luther King, Jr. Hospital
Los Angeles, CA 90059

Locum Tenens Practice:

Locum tenens Pathology Practice (9/00, 9/01, 9/02, & 9/03)
One month locum tenens for each of four years, as Acting Director
for a solo practice Pathology Department, including coverage
of surgical pathology and clinical laboratory.
Pathology Department
Orthopaedic Hospital
Los Angeles, CA 90007

Current Licensure:

Active Status Medical Doctor, Nevada, renewal 7/1/2011
Physician and Surgeon, California, renewal 3/2011
Practitioner, D.E.A., U.S., renewal 7/2011

Educational Degrees:

University: University of California at Berkeley,
B.A. in Chemistry and Zoology, 1968
Medical School: University of Southern California,
M.D., 1972
Graduate School: University of Southern California,
M.S. in Anatomy and Cell Biology, 1986
Graduate School: University of California at Los Angeles,
Ph.D. in Anatomy and Cell Biology, 1993

Professional Societies:

Fellow, National Association of Medical Examiners, 2009 –
Fellow, College of American Pathologists, 1999 –
Fellow, American Society of Clinical Pathologists, 1999 –
Member, American Association for the Advancement of Science, 1994 –

Recent Meetings and Courses:

Annual Meeting, American Society for Clinical Pathology
San Francisco, CA, 10/27 – 10/31/10
Interim Meeting, National Association of Medical Examiners
Seattle, WA, 2/23/10
Segunda Conferencia Internacional de la Medicina Forense
Mexico City, 4/28 – 4/30/10
Annual Meeting, National Association of Medical Examiners
San Francisco, CA, 10/11 – 10/15/09
Osler Anatomic Pathology Review Course
Los Angeles, CA, 3/9 – 3/12/09
Medicolegal Death Investigator Training Course
St. Louis, MO, 4/17 – 4/21/09

Professional Training/Practice Chronology:

- Internship: Cottage Hospital (Santa Barbara, CA),
rotating internship, 1972-73
- Residency: Cottage Hospital (Santa Barbara, CA),
first year, Pathology, 1973-74
- General Practice: Santa Barbara, CA, 1974-77. General admission privileges
for Cottage and Goleta Valley Hospitals.
- General Practice: King City, CA, 1977-78. General admission privileges
for George L. Mee Memorial Hospital.
- Residency: Highland/Alameda County Hospital (Oakland, CA),
second and third years, General Surgery, 1978-80
- Residency: Duke University Medical Center (Durham, NC),
first and second years, Orthopaedics, 1980-82
- Residency: Los Angeles County/U.S.C. Medical Center,
third year, Orthopaedics, 1982-83
- Graduate School: University of Southern California School of Medicine,
Department of Anatomy and Cell Biology, 1984-86
- Graduate School: University of California at Los Angeles School of Medicine,
Department of Anatomy and Cell Biology, 1987-93
- Residency: Harbor-U.C.L.A. Medical Center (Torrance, CA), second through
fifth years, Anatomic and Clinical Pathology, 1994-9
- Fellowship: Orthopaedic Hospital (Los Angeles, CA), six months of
Fellowship, Bone and Soft Tissue Pathology, 1998-99
- Pathology Practice: Los Angeles, CA, 1999-2003. Anatomic and Clinical
Pathology privileges at King-Drew Medical Center
- Fellowship: University of Wisconsin (Madison, WI), one year Fellowship,
Blood Banking and Transfusion Medicine, 2004-05
- Research Scientist: LABioMed Research Institute, 2005-07. Co-investigator:
"Marrow stromal fibroblastic cell cultivation *in vitro* on
de-cellularized bone marrow extracellular matrix"
- Instructor: Physiology Laboratory, Fall and Spring semesters, 2007-08
Monterey Peninsula College (Monterey, CA)
- Fellowship: St. Louis City Medical Examiner's Office (St. Louis, MO),
one year Fellowship, Forensic Pathology, 2008-09

Teaching Experience:

- Teaching Assistant: Anatomy Dissection Laboratory, Fall semester, 1985
University of Southern California School of Medicine
- Teaching Assistant: Anatomy Dissection Laboratory, Fall semesters. 1987-88
University of California at Los Angeles School of Medicine
- Assistant Lecturer: "Head, Neck, & Dental Embryology", Fall semesters, 1990-91
University of California at Los Angeles School of Medicine

Detective Christopher Gandy

Las Vegas Metropolitan Police Department (702)828-4535 C5117G@lvmpd.com

Objective **Job experience related to using cell phone records to determine a general location of a cell phone.**

Experience

Police Officer

03/1996 – 11/2001 Las Vegas Metropolitan Police Department

- Patrol Officer

Police Detective

11/2001 - Present LVMPD Technical Detail

- Primary job responsibility – Phone Intercepts
- Built and Manage the LVMPD Phone Intercept Equipment
- Daily duties include locating cell phones via cell phone records with cell tower information
- Daily interaction with cell phone carriers on location information and techniques.
- Maintain the Cell Site Database Records for LVMPD
- Numerous cases where direct contact with cell phone company engineers helped in gaining education about the cell phone networks and the phones interaction with the towers.
- Conducted over 1000 phone intercepts
- Since 2003 Designed and built the city wide wireless system for transporting video for the LVMPD. Systems include the wireless transmission for the Downtown Crime Cameras, and systems to relay video from the Las Vegas Blvd Strip corridor to LVMPD command.
- Speaker – 2009 Milestone Integration Platform Symposium on LVMPD Wireless integration of video systems.
- Speaker – 2009 and 2010 Security Info Watch Live Webcast presentation on Municipal Surveillance – presentation included wireless integration principles used in my designs.

Education

1992 - 1996 University of Nevada Las Vegas, Las Vegas, NV

- 4 Years Course work in the Electrical Engineering Program
- 3 Semesters of Calculus Based Physics included radio wave properties

FBI Communication Act for Law Enforcement Assistance (CALEA) Law Enforcement Technical Forum (LETF) Member

- Nevada State representative Since 2002
- Forum meets 2 to 4 times a year for training and meetings

Firetide Certified Mesh Engineer Course

- 01/2009, 27 Hour Course, Completed Course on building wireless networks and radio wave properties


CLERK OF THE COURT

1 NWEW
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL SCHWARTZER
6 Deputy District Attorney
7 Nevada Bar #10747
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

CASE NO: C-13-291159-1
DEPT NO: XX

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27 explanation of complex phone record keeping documents as well as an expert in the field of
28 cellular phone towers and their geographic proximity to the users of a certain cellular

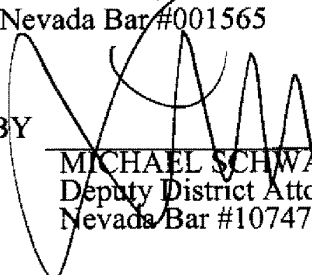
1 telephone.

2 The substance of each expert witness' testimony and a copy of all reports made by or
3 at the direction of the expert witness has been provided in discovery.

4 A copy of each expert witness' curriculum vitae, if available, is attached hereto.

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

9 BY


10 MICHAEL SCHWARTZER
11 Deputy District Attorney
12 Nevada Bar #10747

for
bar # 12232

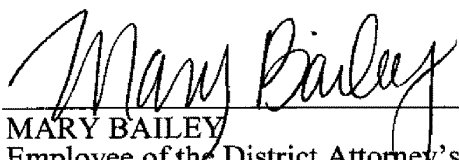
13 CERTIFICATE OF FACSIMILIE TRANSMISSION

14 I hereby certify that service of Notice of Expert Witnesses, was made this
15 day of July, 2013, by facsimilie transmission to:

17th

16 CARL E. ARNOLD, ESQ.
17 FAX: 474-4137

18 BY:


19 MARY BAILEY
20 Employee of the District Attorney's Office
21
22
23
24
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26
27

28 13F08177X/mlb/L-4

Curriculum Vitae

Timothy Franklin Dutra, M.D., M.S., Ph.D.

Current Occupation:

Medical Examiner (Forensic Pathologist)
Clark County Coroner's Office
1704 Pinto Lane
Las Vegas, NV 89106
Tel. (702) 455-3210
E-mail: tdutra@co.clark.nv.us

Personal Data:

Languages: English & Spanish

Board Certifications:

Forensic Pathology
ABP Diplomate and certified, September 9, 2009

Blood Banking and Transfusion Medicine
ABP Diplomate and certified, September 9, 2005

Anatomic and Clinical Pathology
ABP Diplomate and certified, November 11, 1998

Most Recent Fellowship:

Fellowship, Forensic Pathology
St. Louis University
(A.C.G.M.E. accredited: 10/01/08 – 9/30/09)
St. Louis City Medical Examiner's Office

Recent Colleague:

Visiting Colleague, Forensic Pathology
(10/05/09 – 10/31/09)
Servicio Medico Forense
Mexico, D.F. 06720

Recent Teaching:

Instructor: Physiology Laboratory
Monterey Peninsula College
Monterey, CA 93940

Recent Research:

Co-Investigator: "Marrow Tissue Cultivation ex vivo
in vitro for Blood Cell Collection (animal cell model)"
LABioMed Research Institute
Torrance, CA 90502

Previous Fellowship:

Fellowship, Blood Bank and Transfusion Medicine
University of Wisconsin
(A.C.G.M.E. accredited: 08/01/04 – 07/31/05)
University of Wisconsin Hospital
Madison, WI 53792-2472

Previous Pathology Practice:

Post-Certification Pathology Practice (1999 – 2003)
Physician Specialist, Anatomic and Clinical Pathology,
including gross and microscopic surgical pathology,
aspiration cytopathology and bone marrow pathology.
Section Chief of Clinical and Special Chemistry.
Blood Bank and Transfusion Medicine acting Chief,
during absences of BB & TM Section Chief.
Pathology Department
Martin Luther King, Jr. Hospital
Los Angeles, CA 90059

Locum Tenens Practice:

Locum tenens Pathology Practice (9/00, 9/01, 9/02, & 9/03)
One month locum tenens for each of four years, as Acting Director
for a solo practice Pathology Department, including coverage
of surgical pathology and clinical laboratory.
Pathology Department
Orthopaedic Hospital
Los Angeles, CA 90007

Current Licensure:

Active Status Medical Doctor, Nevada, renewal 7/1/2011
Physician and Surgeon, California, renewal 3/2011
Practitioner, D.E.A., U.S., renewal 7/2011

Educational Degrees:

University: University of California at Berkeley,
B.A. in Chemistry and Zoology, 1968
Medical School: University of Southern California,
M.D., 1972
Graduate School: University of Southern California,
M.S. in Anatomy and Cell Biology, 1986
Graduate School: University of California at Los Angeles,
Ph.D. in Anatomy and Cell Biology, 1993

Professional Societies:

Fellow, National Association of Medical Examiners, 2009 –
Fellow, College of American Pathologists, 1999 –
Fellow, American Society of Clinical Pathologists, 1999 –
Member, American Association for the Advancement of Science, 1994 –

Recent Meetings and Courses:

Annual Meeting, American Society for Clinical Pathology
San Francisco, CA, 10/27 – 10/31/10
Interim Meeting, National Association of Medical Examiners
Seattle, WA, 2/23/10
Segunda Conferencia Internacional de la Medicina Forense
Mexico City, 4/28 – 4/30/10
Annual Meeting, National Association of Medical Examiners
San Francisco, CA, 10/11 – 10/15/09
Osler Anatomic Pathology Review Course
Los Angeles, CA, 3/9 – 3/12/09
Medicolegal Death Investigator Training Course
St. Louis, MO, 4/17 – 4/21/09

Professional Training/Practice Chronology:

- Internship: Cottage Hospital (Santa Barbara, CA),
rotating internship, 1972-73
- Residency: Cottage Hospital (Santa Barbara, CA),
first year, Pathology, 1973-74
- General Practice: Santa Barbara, CA, 1974-77. General admission privileges
for Cottage and Goleta Valley Hospitals.
- General Practice: King City, CA, 1977-78. General admission privileges
for George L. Mee Memorial Hospital.
- Residency: Highland/Alameda County Hospital (Oakland, CA),
second and third years, General Surgery, 1978-80
- Residency: Duke University Medical Center (Durham, NC),
first and second years, Orthopaedics, 1980-82
- Residency: Los Angeles County/U.S.C. Medical Center,
third year, Orthopaedics, 1982-83
- Graduate School: University of Southern California School of Medicine,
Department of Anatomy and Cell Biology, 1984-86
- Graduate School: University of California at Los Angeles School of Medicine,
Department of Anatomy and Cell Biology, 1987-93
- Residency: Harbor-U.C.L.A. Medical Center (Torrance, CA), second through
fifth years, Anatomic and Clinical Pathology, 1994-9
- Fellowship: Orthopaedic Hospital (Los Angeles, CA), six months of
Fellowship, Bone and Soft Tissue Pathology, 1998-99
- Pathology Practice: Los Angeles, CA, 1999-2003. Anatomic and Clinical
Pathology privileges at King-Drew Medical Center
- Fellowship: University of Wisconsin (Madison, WI), one year Fellowship,
Blood Banking and Transfusion Medicine, 2004-05
- Research Scientist: LABioMed Research Institute, 2005-07. Co-investigator:
"Marrow stromal fibroblastic cell cultivation *in vitro* on
de-cellularized bone marrow extracellular matrix"
- Instructor: Physiology Laboratory, Fall and Spring semesters, 2007-08
Monterey Peninsula College (Monterey, CA)
- Fellowship: St. Louis City Medical Examiner's Office (St. Louis, MO),
one year Fellowship, Forensic Pathology, 2008-09

Teaching Experience:

- Teaching Assistant: Anatomy Dissection Laboratory, Fall semester, 1985
University of Southern California School of Medicine
- Teaching Assistant: Anatomy Dissection Laboratory, Fall semesters. 1987-88
University of California at Los Angeles School of Medicine
- Assistant Lecturer: "Head, Neck, & Dental Embryology", Fall semesters, 1990-91
University of California at Los Angeles School of Medicine

Detective Christopher Gandy

Las Vegas Metropolitan Police Department (702)828-4535 C5117G@lvmpd.com

Objective

Job experience related to using cell phone records to determine a general location of a cell phone.

Experience

Police Officer

03/1996 – 11/2001 Las Vegas Metropolitan Police Department

- Patrol Officer

Police Detective

11/2001 - Present LVMPD Technical Detail

- Primary job responsibility – Phone Intercepts
- Built and Manage the LVMPD Phone Intercept Equipment
- Daily duties include locating cell phones via cell phone records with cell tower information
- Daily interaction with cell phone carriers on location information and techniques.
- Maintain the Cell Site Database Records for LVMPD
- Numerous cases where direct contact with cell phone company engineers helped in gaining education about the cell phone networks and the phones interaction with the towers.
- Conducted over 1000 phone intercepts
- Since 2003 Designed and built the city wide wireless system for transporting video for the LVMPD. Systems include the wireless transmission for the Downtown Crime Cameras, and systems to relay video from the Las Vegas Blvd Strip corridor to LVMPD command.
- Speaker – 2009 Milestone Integration Platform Symposium on LVMPD Wireless integration of video systems.
- Speaker – 2009 and 2010 Security Info Watch Live Webcast presentation on Municipal Surveillance – presentation included wireless integration principles used in my designs.

Education

1992 - 1996 University of Nevada Las Vegas, Las Vegas, NV

- 4 Years Course work in the Electrical Engineering Program
- 3 Semesters of Calculus Based Physics included radio wave properties

FBI Communication Act for Law Enforcement Assistance (CALEA) Law Enforcement Technical Forum (LETF) Member

- Nevada State representative Since 2002
- Forum meets 2 to 4 times a year for training and meetings

Firetide Certified Mesh Engineer Course

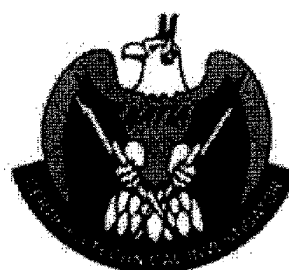
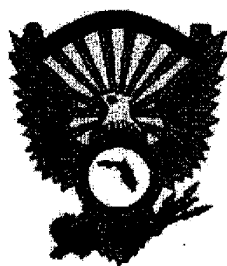
- 01/2009, 27 Hour Course, Completed Course on building wireless networks and radio wave properties

The Curriculum Vitae Of:

E. “Gino” Basilotta

**Currently Employed By:
Las Vegas Metropolitan Police Department**

Updated: September 2013



Curriculum Vitae of E. “Gino” Basilotta

INTRODUCTION and SUMMARY:

Detective Eugenio "Gino" Basilotta is employed by the Las Vegas Metropolitan Police Department (LVMPD) and is currently assigned to the Organized Crime Bureau's Technical and Surveillance Section (TASS). The Organized Crime Bureau is a part of the Homeland Security Division of Metro Police.

Gino also has experience as an Accident Investigator for almost 3 ½ years working for LVMPD's Traffic Division. Prior to that, he worked for Bolden Area Command and for the Sheriff's Mobile Crime Saturation Team focusing on the highest crime areas in Las Vegas. Gino began his career with LVMPD in August 2004 and has been employed by the Las Vegas Metropolitan Police Department for 9 years as of this writing.

Prior to joining The Las Vegas Metropolitan Police Department, Gino spent 20 years in the private sector working with various computer technologies including specific expertise with Hospitality and Gaming Systems from 1993 until 2004. He worked in the corporate Information Technology departments with Hilton Gaming and Venetian. While employed, he opened 3 casinos – 2 with Hilton gaming (one in South America) and the Venetian Casino in Las Vegas, Nevada. Gino was also a Sales Director for a large Hospitality Technology Company managing West Coast Major Casino Accounts. Gino started his 'computer' career as an installer/technician in the 1980's during the personal computer genesis involved with IBM and Apple computer products. Gino has an Undergraduate degree in Management Information Systems (Business Administration) from The University of Arizona, in Tucson.

Currently Gino is a member in good standing with the National Technical Investigators Association and holds a Certified Technical Investigator Status.

**Detective, Technical and Surveillance Section (T.A.S.S.)
Las Vegas Metropolitan Police, Organized Crime Division
November 2010 to Present**

Gino has worked in this unit Since November of 2010. The Technical and Surveillance Section is responsible for providing technical and surveillance support to the department's commitment to the investigation of all crimes and the suppression and prevention of terrorist acts. This is accomplished through the provisioning of a myriad of electronic surveillance & technical solutions. The technical and surveillance functions support is provided to all department sections and task forces conducting criminal investigations.

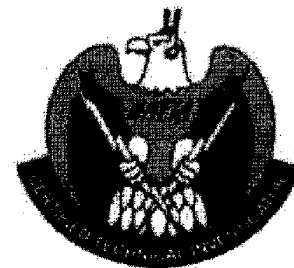
TASS Unit Goals:

- Provide electronic surveillance support
- Provide physical surveillance support
- Provide technical support for barricade and/or hostage situations
- Conduct audio/video enhancements
- Provide anti-terrorism and counter-terrorism support
- Facilitate Pen Register implementation
- Facilitate Precision Location
- Facilitate Title III implementation

Gino is currently a Member of NATIA, (National Technical Investigators Association). Membership in NATIA is restricted to full time employees of Law Enforcement agencies who are actively engaged in technical surveillance, communications, and specialized support of law enforcement or intelligence activities. These individuals must represent Municipal, County, State, Federal and Military involved in the application of electronic surveillance technologies.



Gino currently holds a "Certified Technical Investigator" (CTI) certification from NATIA. CTI certification is awarded to NATIA members who have undergone extensive specialized training and have passed a rigorous examination in technical electronic surveillance techniques, procedures, equipment, and related issues. Continued advanced education is required.



During Gino's time in TASS, he has worked with many different technologies, including GPS Tracking, Cell Phone technologies, Wire Taps (Title IIIs), Pen Registers, Audio and Video Surveillance, and more proprietary technologies used within the unit, requiring a commitment to non-disclosure and OPSEC / Privacy policies.

One of Gino's main responsibilities is the maintenance and operation of the Pen Registers installed department wide by detectives and investigators. This involves handling and the provisioning of lawful Pen Register orders filed to the court by investigators.

Gino also serves on the SWAT callout resource team within TASS. TASS is deployed to active crime scenes involving Hostage and/or Barricaded suspects. TASS deploys technology to aid SWAT and Negotiators in their critical decision making processes.

Gino developed a POST certified Pen Register class which he currently teaches for LVMPD Police Detectives and other agencies. This class educates detectives on the latest technologies used by criminals to avoid law enforcement and the procedures to obtain Pen Registers and Title III's. Gino also teaches this Pen Class in the "New Detective School" and the "Advanced Investigators School" which are offered yearly to LVMPD qualified officers and detectives.

Gino testified on record to Nevada Senator's, supporting the passage of Nevada Senate Bill 268, in April 2013. The bill was nicknamed the "Kelsey Smith Act". This involved giving real world examples on how law enforcement has used cellular phone techniques in the location of missing or endangered persons. The Bill received support and has since passed and will come into effect October 2013. Gino testified on record to Nevada Senator's with regards to Assembly Bill 313. This was involving the proposal of language modification for NRS 179.530. This involved citing real world examples involving Law Enforcement and the use of Pen Registers.

**Traffic Investigator / Motor Officer, Traffic Bureau
Las Vegas Metropolitan Police, Patrol Division
May 2007 to November 2010**

Gino was assigned to the Traffic Section from May 2007 until November 2011 with his duties including DUI enforcement, accident/fatal investigation and handling calls for the valley wide Las Vegas area. Gino's goal, while in traffic, was to reduce traffic deaths and injuries by improving driving environments through education and enforcement of traffic laws. In addition, Gino's approach was to work high crime areas, to contribute to reduction in crime. Gino immediately obtained his Drug Recognition Expert certification to aid in identifying drug impaired drivers.

His work experience included setting up DUI checkpoints, Accident Investigation, Fatal Investigation, Hit and Run, and various other Traffic Enforcement Duties. His Certifications included:

- Drug Recognition Expert

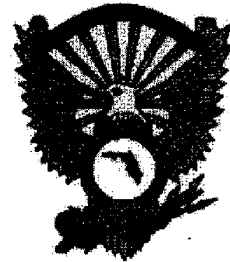
Curriculum Vitae of E. "Gino" Basilotta

- RADAR,
- HGN (Horizontal Gaze Nystagmus),
- PBT (Portable Breath Testing Device),
- Intoxilyzer 5000 Breath Machine (used during booking)

While in traffic, Gino investigated over 500 accidents over a 3 ½ year period including close to 100 DUI arrests. Basilotta has also testified many times in court and has much experience regarding testifying for DUI's.

Basilotta attended classes for Accident Investigation, DUI Detection, Standardized Field Sobriety Testing, Mobile Field Force/Tactics, Incident Command Systems, National Incident Management Systems, and Excited Delirium. Basilotta attended Metro's 160 hour Motorcycle Safety course which is known to be one of the most challenging in the United States and is based on Northwestern University's techniques.

Gino obtained a D.R.E. (Drug Recognition Expert) status on July 2007 by the National Highway Traffic Safety Administration. This certification allows D.R.E.'s to evaluate individuals and accurately categorize them as users of a particular type of drug. Less than 1% of Las Vegas Metropolitan Police officers held this certification at the time.



DEGREES, EXPERIENCE AND CERTIFICATIONS

DEGREES

High School Diploma, 1984

Valley High School, Las Vegas, Nevada

BSBA, Business Administration, Management Information Systems, 1991

University of Arizona, Tucson, Arizona

LAW ENFORCEMENT TIMELINE:

November 2010 to Present

Detective, Organized Crime Bureau,
Technical and Surveillance Section

April 2007 to November 2010

Investigator, Traffic Division

January 2005 to March 2007

Patrol, Bolden Area Command
Mobile Saturation Crime Team
Problem Solving Unit
Community Oriented Policing

CERTIFICATIONS OBTAINED:



Drug Recognition Expert, May 2007



Certified Technical Investigator, March 2011,
Expiration, February 17th, 2014
Certification Number 2-021711



Certified Instructor, Advanced Training
Las Vegas Metropolitan Police Department

LAW ENFORCEMENT RELATED TRAINING

January 21st, 2011



Orion GPS Tracking Devices
COBHAM

February 2011



CESP 102
Covert Electronic Surveillance Program
Federal Law Enforcement Training Center,
Glynco, Georgia

August 2011



FBI DA/IS Conference
Surveillance, Intercepts and related
Technologies

August 29th – 30th, 2012



Pen-Link CIA
Pen Registers / Title IIIs
Lincoln, Nebraska

June 2012



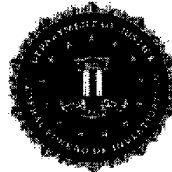
Cellular Phone Training

August 27th – 28th, 2013



Pen-Link CIA
Pen Registers / Title IIIs
Lincoln, Nebraska

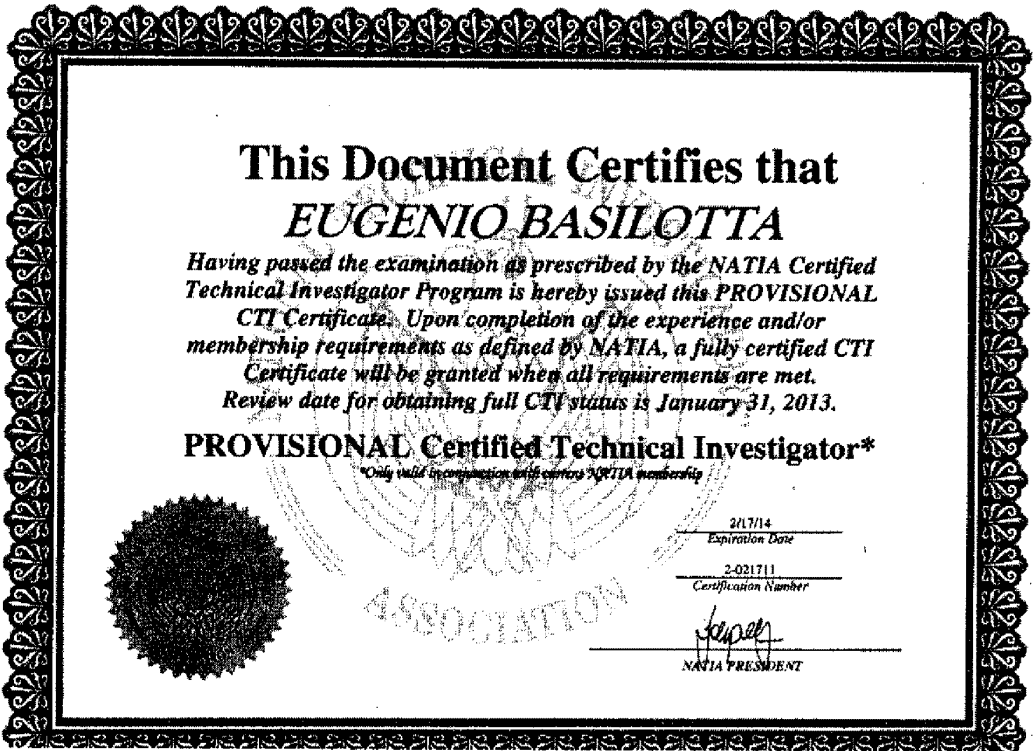
September 9th – 10th 2013



NDCAC – US DOJ/FBI
(National Domestic Communications
Assistance Center)
FBI CAST – PPP (Project Pin Point)
Project Pin Point (PPP) is a geo-spatial intelligence tool
developed in 2004 by a Special Agent on the FBI's Violent
Crimes Task Force in Philadelphia. The tool was initially
intended for fugitive apprehension, but evolved to include
historical cell site analysis, informant development, and targeting
capabilities for intelligence related functions. It is now used by
most FBI field offices.

MISCELLANEOUS SUPPORTING DOCUMENTATION

Curriculum Vitae of E. "Gino" Basilotta

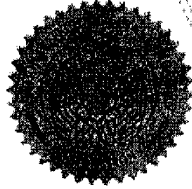


**This Document Certifies that
EUGENIO BASILOTTA**

Having passed the examination as prescribed by the NATIA Certified Technical Investigator Program is hereby issued this PROVISIONAL CTI Certificate. Upon completion of the experience and/or membership requirements as defined by NATIA, a fully certified CTI Certificate will be granted when all requirements are met. Review date for obtaining full CTI status is January 31, 2013.

PROVISIONAL Certified Technical Investigator*

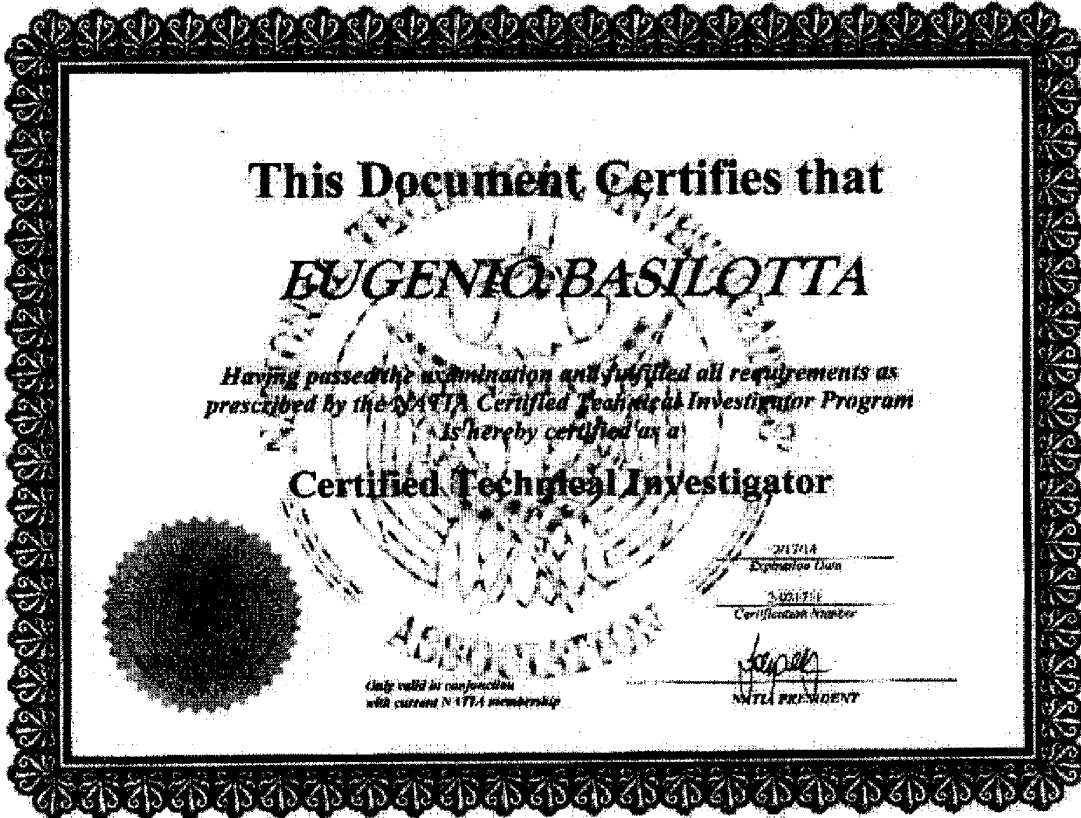
*Only valid in conjunction with current NATIA membership



2/17/14
Expiration Date

2-021711
Certification Number

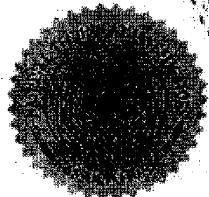
[Signature]
NATIA PRESIDENT



**This Document Certifies that
EUGENIO BASILOTTA**

Having passed the examination and fulfilled all requirements as prescribed by the NATIA Certified Technical Investigator Program is hereby certified as a

Certified Technical Investigator

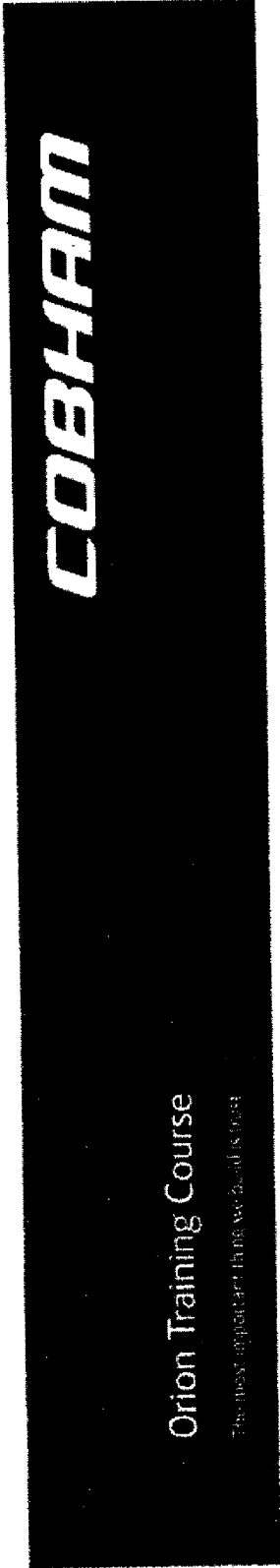


2/17/14
Expiration Date

2-021711
Certification Number

[Signature]
NATIA PRESIDENT

Only valid in conjunction with current NATIA membership



Congratulations to

Gino Basilotta
Las Vegas Metropolitan Police Dept.

for successfully completing an Orion training course on

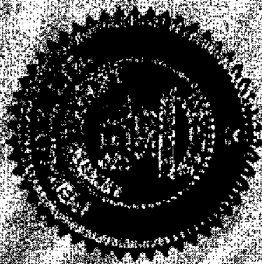
Orion GPS Tracking Devices

Jan 21, 2011
Las Vegas, NV

Curriculum Vitae of E. "Gino" Basilotta

CIA

*This certificate certifies that
Gino Basilio
successfully completed Pen-Link CIA Training at the
CIA Technology & Training event on August 29th, 2002.*

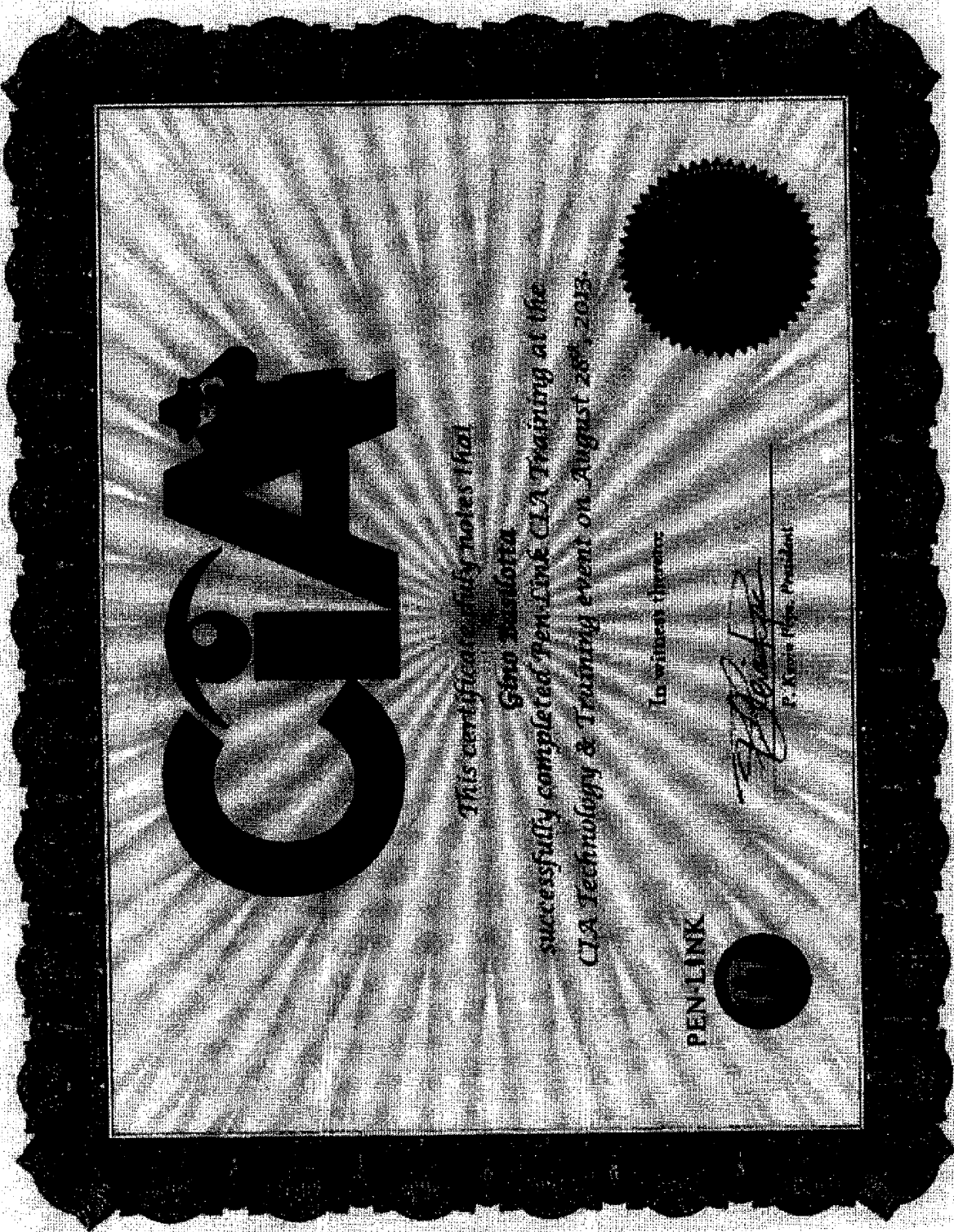


In witness whereof

P. Kamin Pook, President

PEN-LINK





Curriculum Vitae of E. "Gino" Basilotta

HARRIS

Certificate of Completion

This Certifies that

Gino Basilotta

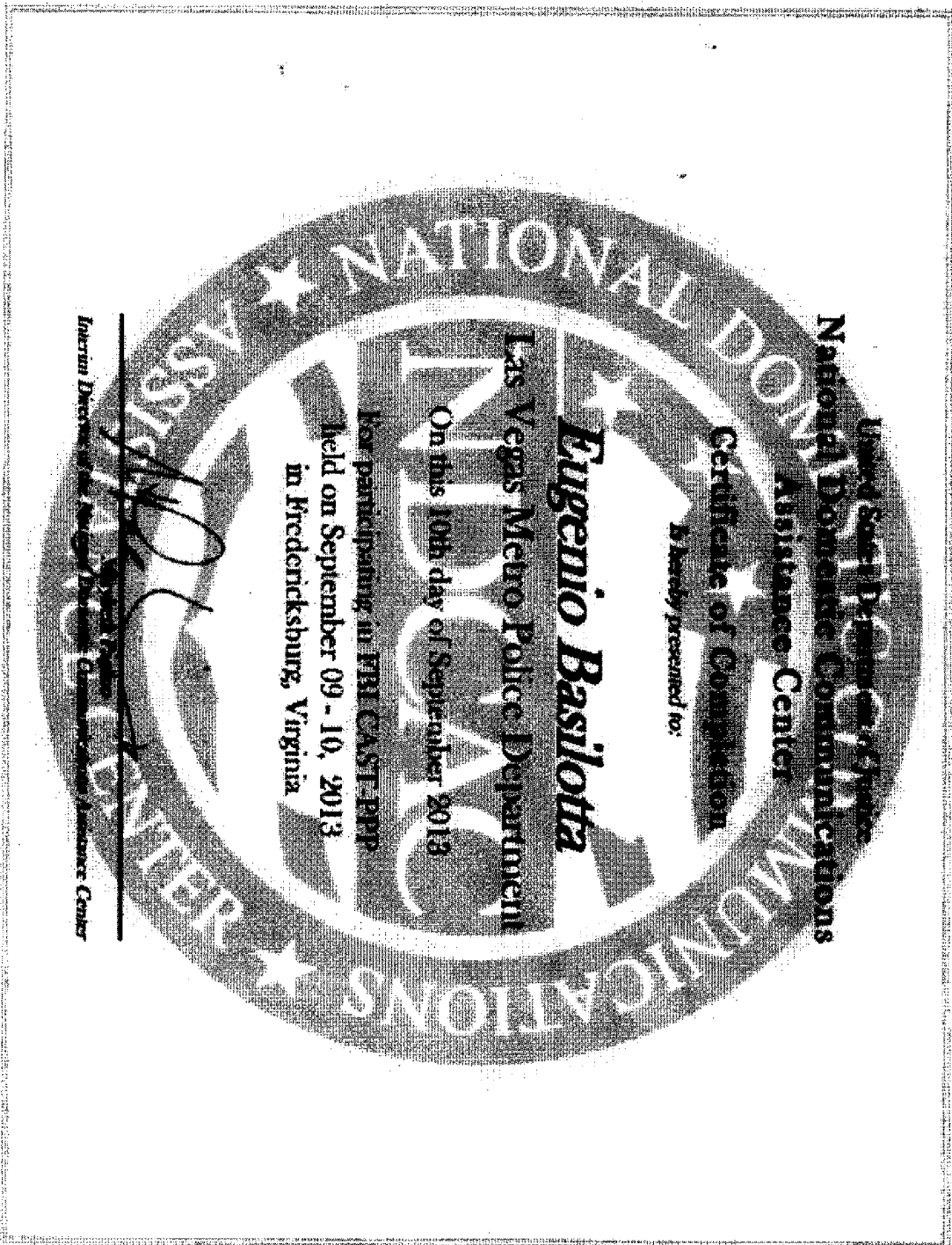
Las Vegas Metropolitan Police Department

**has satisfactorily completed training on
HallStorm - LIFE**



Jun 21, 2013

Completion Date



Curriculum Vitae of E. "Gino" Basilotta

1 STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
2 LINDSEY JOSEPH
Deputy District Attorney
Nevada Bar #12232
3 200 Lewis Avenue
4 Las Vegas, Nevada 89155-2212
(702) 671-2500
5 Attorney for Plaintiff


CLERK OF THE COURT

6 DISTRICT COURT
7 CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,
9 Plaintiff,

CASE NO:

C291159

10 -vs-

DEPT NO:

XX

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12
13 FRANK HEARRING,
14 #1774466.
15 Defendant.

16
17
18 **RECEIPT OF COPY**

19
20 **RECEIPT OF COPY** of the following attached listing of documents in **Case No.**
21 **C291159, DEFENDANT FRANK HEARRING**__ is hereby acknowledged

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this 2 day of August, 2013.

ATTORNEY FOR DEFENDANT

BY Carl E. H. Arnold

PREPARED BY:
STEVEN B. WOLFSON
District Attorney
Nevada Bar #001565

BY LINDSEY JOSEPH
Deputy District Attorney
Nevada Bar #12232

Produced on :

1. **CD/DVD containing DISCOVERY DESIGNATED AS FOLLOWS:**
 - a. **Audiotaped Interviews of the following individuals:**
 - i. **Cherice Jones photo-lineup**
 - ii. **Gregory Burrell**
 - iii. **Tara Brown**
 - iv. **Brandy Brown**
 - v. **Officer Stafford**
 - vi. **Stevia Fenzell**
 - vii. **Tanya Warren**
 - viii. **Clifton Watkins**
 - ix. **Clifton Watkins photo-lineup**
 - x. **Clifton Watkins photo-lineup #2**
 - xi. **Victor Walker**
 - xii. **Officer Schmidt**

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xiii. Cherice Jones photo lineup 2

xiv. Kizzy Davis

xv. Frank Herring

b. Autopsy photographs

c. 911 and all radio traffic recordings

d. Video Surveillance from Las Palmas Liquor Store

2. Transcribed Interviews of the following individuals:

a. Tanyea Warren

b. Gregory Burrell

c. Victor Walker

3. Documents:

a. Search Warrant for White Cricket Cellular Phone serial# T8u9MA1261607226

b. Evidence Impound Report from: Autopsy, Las Palmas Liquor Store, Search Warrant 5201 Walnut Ave and 2521 Living Rock

c. Forensic Multimedia Report

d. CSI Report from 5201 Walnut

e. CSI Report Living Rock

f. LVMPD AFIS Screening from 5201 Walnut Ave

g. Major Incident Log for 130517-0127

h. Lease Information for Apartment for #39 and 10

i. Cricket Phone records and cell phone tower for 702-556-5524

j. Documents from Defendant's prior cases

k. Pen Register Order and Application for 702-771-6282

l. Pen Register Order and Application for 702-556-5524

m. Consent to search card for car

n. Teletype for warrant in this case

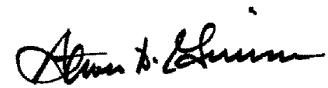
o. SWAT officer report for 5201 Walnut

p. Incident Recall for 5201 Walnut

q. CAD

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- r. **Search Warrant Application, Order and Return for 2521 Living Rock**
- s. **Search Warrant Application, Order and Return for 5201 Walnut Ave**



CLERK OF THE COURT

1 **MOT**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL J. SCHWARTZER
6 Deputy District Attorney
7 Nevada Bar #010747
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 FRANK HEARRING, aka,
13 Frank Herring, Jr.,
14 #1774466

Defendant.

CASE NO: C-13-291159-1

DEPT NO: XX

MOTION IN LIMINE

DATE OF HEARING: October 1, 2013

TIME OF HEARING: 8:30 AM

17 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
18 District Attorney, through MICHAEL J. SCHWARTZER, Deputy District Attorney, and
19 files this Motion in Limine.

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

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STATEMENT OF CASE

On June 18, 2013, Defendant Frank Herring (“Defendant”) was charged via Amended Criminal Complaint with one (1) count Murder with Use of a Deadly Weapon, one (1) count of Attempt Murder with Use of a Deadly Weapon, one (1) count Discharging a Firearm into a Structure, Vehicle, Aircraft or Watercraft and (1) count of Possession of a Firearm by an Ex-Felon. On July 11, 2013, a preliminary hearing was conducted and Defendant was held to answer on all charges in district court. On August 13, 2013, Defendant’s counsel announced not ready for trial and the trial was continued. On September 5, 2013, the preliminary hearing transcripts were filed with this court. Trial is currently set for October 7, 2013.

STATEMENT OF FACTS¹

In the early morning hours of May 17, 2013, Defendant shot and killed Michael Jordan (“Michael”) at Janice Bay Brooks Apartment Complex in Clark County, Nevada. Defendant also shot at and attempted to kill Clifton Watkins (“Clifton”). In May of 2013, Defendant and Clifton lived in the same apartment complex and had several disputes with each other. Defendant had a brief romantic relationship with Clifton’s longtime girlfriend (“Cherice”). Additionally, Defendant and Clifton had a financial dispute over a \$300 narcotic transaction, wherein Clifton believed Defendant owed him money.

Finally, Defendant and Clifton also had an argument over the way Clifton talked to Defendant’s girlfriend. In the evening of May 16, 2013, Clifton was socializing with other residents of his apartment complex in the parking lot. These people included his nephew, Cherice, Michael and another unknown individual. Around 11:45 PM, Cherice left the group to gamble at a casino but before she left, she noticed Defendant in the area of the group. Additionally, Clifton’s nephew also left the group to walk a woman to a nearby store.

Around Midnight, Michael and Clifton were sitting on the hood of Clifton’s vehicle in the parking lot talking while the other individual was facing them. Clifton heard a single gunshot and turned toward where he believed the gunshot came from and made eye contact

¹ Taken from the July 11, 2013 preliminary hearing testimony of Cherice Jones and Clifton Watkins

1 with Defendant. Clifton estimated Defendant was five to six feet away from his group.
2 Clifton further stated that he saw Defendant squatting down with a firearm in his arm and
3 pointing the firearm in the group's direction. After a second shot, Clifton fled to his
4 apartment. After the shooting was over, Clifton went back toward the parking lot and saw
5 Michael lying next to his vehicle. Clifton heard approximately seven gunshots. Clifton was
6 able to identify the firearm as a .40 caliber with chrome or silver slide. Per the coroner's
7 report, Michael Jordan died on May 17, 2013 of a gunshot wound to the back.

8 ARGUMENT

9 **I. EVIDENCE THAT DEFENDANT AND CLIFTON HAD A DISPUTE** 10 **OVER A NARCOTICS TRANSACTION IS ADMISSIBLE UNDER THE** 11 **RES GESTAE DOCTRINE**

12 Under certain circumstances, evidence of another crime or act may be admitted under
13 the "complete story of the crime" doctrine codified in NRS 48.035(3) LaPierre v. State, 108
14 Nev. 528, 533, 836 P.2d 56 (1992). "The State is entitled to present a full and accurate
15 account of the circumstances of the commission of the crime, and if such an account also
16 implicates the Defendant or Defendants in the commission of other crimes for which they
17 have not been charged, the evidence is nevertheless admissible." Dutton v. State, 94 Nev.
18 461, 581 P.2d 856 (1978) (*Quoting State v. Izatt*, 534 P.2d 1107 (Idaho 1975)).

19 NRS 48.035(3) codifies the complete story of the crime doctrine, or res gestae rule,
20 and provides as follows:

21 Evidence of another act or crime which is so closely related to an
22 act in controversy or a crime charged that an ordinary witness
23 cannot describe the act in controversy without referring to the
24 other act or crime shall not be excluded, but at the request of an
25 interested party, a cautionary instruction shall be given
26 explaining the reason for its admission.

27 The principle is long standing that the State is entitled to present, and a jury is entitled to
28 hear, "the complete story of the crime." Allan v. State, 92 Nev. 318, 549 P.2d 1402 (1976).
The complete story of the crime doctrine, or res gestae, applies whenever witnesses cannot
describe the crime charged without referring to related uncharged acts. State v. Shade, 111
Nev. 887, 900 P.2d 327, 331 (1995).

1 The Nevada Supreme Court has held evidence of uncharged crimes to be admissible
2 where it assists the witness in painting the entire picture of the circumstances of the crime.
3 In Bonacci v. State, 96 Nev. 894, 621 P.2d 1244 (1980), Bonacci was charged with
4 attempting to sell LSD. The negotiations regarding the sale of the LSD were part of a larger
5 transaction including another controlled substance, and when the bag containing the LSD
6 was confiscated, other controlled substances were found. The Defendant objected to the
7 admission of the uncharged controlled substances. The court held that the evidence was
8 relevant to show both knowledge and intent. The court further stated that the evidence could
9 have been admitted to complete the story of the crime since the sale negotiations involved
10 discussion of controlled substances other than the LSD, and all the controlled substances
11 were located in one (1) container.

12 Similarly, in Bracken v. State, 104 Nev. 547, 763 P.2d 59 (1988), Defendant entered
13 into a pizza parlor, sat down at an occupied table and according to witness began eating
14 pizza and drinking beer without permission. That Defendant, thereafter, left the pizza parlor
15 and was observed by the witness burglarizing several automobiles. The trial court allowed
16 into evidence testimony that Defendant helped himself to the pizza and beer even though the
17 Defendant had not been charged with that conduct. The Nevada Supreme Court upheld that
18 the evidence was admissible:

19 As an integral part of the Miller's narration of events leading up
20 to Bracken's removal of personal property from the vehicles in
21 the parking lot. We have adopted the rule that the State is
22 entitled to present a full and accurate account of the
circumstances surrounding the commission of a crime, and such
evidence is admissible even if it implicates the accused in the
commission of other crimes for which he has not been charged.

23 Id. 103 Nev. At 553, 763 P.2d at 63. In this case, the State must admit evidence that
24 Defendant and the attempted murder victim, Clifton Watkins, had a dispute over a drug
25 transaction for \$300.00 and this dispute partly contributed to the shooting that occurred in
26 May of 2013, rendering Michael Jordan dead.

27 Similar to Bracken, an integral part of the narration of this case involved the fact that
28 Defendant Clifton had a financial dispute over a narcotic transaction. Without this

1 information, the jury will wonder why Defendant would want to shoot at and attempt to kill
2 Clifton as the State believes Clifton was the true target, and that Michael was simply at the
3 wrong place at the wrong time and a product of transferred intent. If the State was not
4 allowed to complete the whole picture of the crime, plugging in the holes with these other
5 acts, the story would be hard to follow, causing confusion amongst the jury and rendering
6 the State's witnesses credibility incapable of being determined by the jury.

7 Under this doctrine, to ensure such evidence is considered by the jury only for the
8 proper purpose for which it would be admitted, a limiting instruction to the jury could be
9 given both at the time the evidence is presented and in the closing instructions. Tavares v.
10 State, 117 Nev. 725, 30 P.3d 1128 (2001). If the evidence is admitted under NRS 48.035(3),
11 the State expressly requests such an instruction be given. Such a limiting instruction will
12 reduce the risk of unfair prejudice to the Defendant or confusion of issues to the jury
13 members. As such, the State contends any prejudicial effect does not substantially outweigh
14 its probative value.

15 **II. IN THE ALTERNATIVE, EVIDENCE THAT DEFENDANT AND**
16 **CLIFTON HAD A DISPUTE OVER A NARCOTICS TRANSACTION IS**
17 **ADMISSIBLE UNDER OTHER ACT EVIDENCE**

18 While evidence of other bad acts is inadmissible to show Defendant is of bad
19 character, such other bad acts are admissible when they are relevant and offered for a proper
20 purpose. NRS 48.045(2) provides:

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

27 To be deemed an admissible bad act, the trial court must determine, outside the presence of
28 the jury, that: (1) the incident is relevant to the crime charged; (2) the act is proven by clear
and convincing evidence; and (3) the probative value of the evidence is not substantially
outweighed by the danger of unfair prejudice. Tinch v. State, 113 Nev. 1170, 1176, 946
P.2d 1061, 1064-1065 (1997).

1 Ultimately, the decision to admit or exclude evidence lies within the discretion of the
2 court. Salgado v. State, 114 Nev. 1039, 1043, 968 P.2d 324, 327 (1998). The Nevada
3 Supreme Court has held that the trial court’s determination to admit or exclude evidence of
4 prior bad acts is a decision within its discretionary authority and will be given great
5 deference. Braunstein v. State, 118 Nev. 68, 72, 40 P.3d 413, 416 (2002). Once the trial
6 court makes its determination, that decision will not be disturbed absent a manifest abuse of
7 discretion. Felder v. State, 107 Nev. 237, 241, 810 P.2d 755, 757 (1991), citing Hill v. State,
8 95 Nev. 327, 594 P.2d 699 (1979).

9 The Nevada Supreme Court has found that “whatever might motivate one to commit a
10 criminal act is legally admissible to prove motive under NRS 48.045(2)” so long as the
11 three-factor test for admissibility is satisfied. Ledbetter v. State, 122 Nev. 252, 262, 129
12 P.3d 671, 678 (2006). This includes other acts that could put Defendant in a negative light in
13 front of the jury. See Lay v. State, 110 Nev. 1189, 886 P.2d 448 (1994) (district court in a
14 murder case did not err in admitting evidence of Defendant’s gang-affiliation at trial since it
15 revealed his motive for the criminal act); also see Ledbetter, 122 Nev. At 262-63, 129 P.3d at
16 679 (district court in a child sexual abuse case did not err in allowing in evidence of
17 uncharged child sexual abuse for demonstrating motive).

18 “When an act has been committed, and the issue is whether a specific person, rather
19 than another, is responsible, evidence that the person in question had a motive to act in that
20 way is relevant because the evidence tends to make it somewhat more likely than it would be
21 without the evidence that person committed the act.” Lamb v. State, 251 P.3d 700, 710, 127
22 Nev. Adv. Op. 3 (2011) (*quoting* David P. Leonard, *The New Wigmore: Evidence of Other*
23 *Misconduct and Similar Events* § 8.5.1(a), at 512 (2009))

24 In this case, Defendant’s dispute over narcotics with Clifton provides the motive for
25 why Defendant would want to shoot at Clifton and therefore relevant. In response to
26 Defendant’s counsel questions at preliminary hearing, Clifton admitted he had a financial
27 dispute with Defendant over a narcotic transaction. Preliminary Hearing Transcript, Page 86-
28 87. If required, the State can provide additional witnesses that would testify regarding the

1 presence of this dispute.² Finally, as is always the case, evidence that is probative to the
2 State's case is inherently going to be prejudicial to the Defendant's case; however, Nevada
3 law only prohibits the introduction of the purported evidence if there is UNFAIR prejudice.
4 This explanation of a motive to why Defendant would shoot at Clifton is crucial. The
5 inherent prejudice is not sufficient to substantially outweigh the probative value of such
6 evidence.

7 Additionally, to ensure such evidence is considered by the jury only for the proper
8 purposes for which it would be admitted, a limiting instruction to the jury should be given
9 both at the time the evidence is presented and in the closing instructions. Tavares v. State,
10 117 Nev. 725, 30 P.3d 1128 (2001). The State expressly requests such an instruction be
11 given. Such a limiting instruction will reduce the risk of any unfair prejudice to the
12 Defendant or confusion of issues to the jury members. As such, the State contends any
13 prejudicial effect of this evidence does not substantially outweigh its probative value.

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DATED this 24th day of September, 2013.

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

BY /s/ Michael J. Schwartz
MICHAEL J. SCHWARTZER
Deputy District Attorney
Nevada Bar #010747

CERTIFICATE OF FACSIMILE TRANSMISSION

_____ ² Defendant admits to the narcotic transaction and dispute during his interview with detectives.

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I hereby certify that service of this Motion IN LIMINE was made this 24th day of September, 2013, by facsimile transmission to:

CARL ARNOLD
(702)474-4137

BY: /s/ Mary Bailey
Mary Bailey
Employee of the District Attorney's Office

13F08177X/MS/mb/L-4


CLERK OF THE COURT

1 NNEW
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL SCHWARTZER
6 Deputy District Attorney
7 Nevada Bar #10747
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,
13 Plaintiff,

14 -vs-

CASE NO: C-13-291159-1
DEPT NO: XX

15 FRANK HEARRING, aka,
16 Frank Herring, Jr., #1774466
17 Defendant.

18 **THIRD**
19 **SUPPLEMENTAL NOTICE OF WITNESSES**
20 [NRS 174.234(1)(a)]

21 TO: FRANK HEARRING, aka, Frank Herring, Jr., Defendant; and
22 TO: C. ARNOLD, Counsel of Record:

23 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF
24 NEVADA intends to call the following witnesses in its case in chief:

25	<u>NAME</u>	<u>ADDRESS</u>
26	AKE, P.	LVMPD P#8100
27	ALBERT, J.	LVMPD P#13204
28	ALSUP, T.	LVMPD P#5782
	ANDRADE, K.	LVMPD P#6050
	ATWOOD, C	LVMPD P#10003
	BASILOTTA, E.	LVMPD P#8447
	BROWN, Brandy	501 Walnut Ave, Apt No. 71, LV, NV

1	BROWN, Tara	5201 Walnut Ave, Apt No. 80, LV, NV
2	BURRELL, Gregory	3548 Gold Mist Ave, LV, NV
3	BYBEE, R.	LVMPD P#13295
4	CHAPMAN, Shagela	1653 Winchester Ave, Lincoln Park, MI
5	COLON, M.	LVMPD P#7585
6	CUSTODIAN OF RECORDS or designee	AT & T
7	CUSTODIAN OF RECORDS or designee	CCDC, 330 S. Casino Center Blvd, LV, NV
8	CUSTODIAN OF RECORDS or designee	CRICKET WIRELESS
9	CUSTODIAN OF RECORDS or designee	LAS PALMAS LIQUOR STORE, 714 N.
10		Nellis Blvd, LV, NV
11	CUSTODIAN OF RECORDS or designee	LVMPD Dispatch, 400 E. Stewart Ave,
12		LV,NV
13	CUSTODIAN OF RECORDS or designee	NLVPD Records , 1301 E. Lake Mead Blvd
14		NLV, NV
15	DAHAN, R.	LVMPD P#5947
16	DARR, A.	LVMPD P#5485
17	DAVIS, Kizzy	5201 Walnut Ave, Apt No. 14, LV, NV
18	DONALDSON, J.	LVMPD P#13237
19	EMBREY, B.	LVMPD P#8644
20	EVANS, M.	LVMPD P#13886
21	FEAZELL, Stevia	3728 Shimmering Creek Ave., NLV, NV
22	FRANKLIN, Perry	2811 Promontory Vista PL, LV, NV
23	GANDY, C.	LVMPD P#5117
24	GAVIN, LISA M.D.	CLARK COUNTY CORONER'S OFFICE
25	GODBOLT, Helene	c/o CCDA, 200 Lewis Avenue, LV, NV
26	GORDON, D.	LVMPD P#3965
27	HIGGINS, Julian	c/o CCDA, 200 Lewis Avenue, LV, NV
28		

1	HILL, C.	LVMPD P#13387
2	HOUGHTON, J.	LVMPD P#9789
3	HULLETT, E.	LVMPD P# 13662
4	JOHNSON, Rayna	5201 Walnut, Apt. No. 6, LV, NV
5	JONES, Cherrice	5025 Nellis Oasis LN, Apt No. 52, LV, NV
6	KELLY, J.	LVMPD P#5666
7	LNU, Benita	5201 Walnut, Apt. No. 85, LV, NV
8	MAINES, M.	LVMPD P#4040
9	MCKENZIE, K.	LVMPD P#6743
10	MODGLIN, Amie	CLARK COUNTY CORONER'S OFFICE
11	MOGG, C.	LVMPD P#5096
12	MORTON, L.	LVMPD P#4935
13	PATTON, J.	LVMPD P#8289
14	PAZOS, E.	LVMPD P#6817
15	PERALTA, T	LVMPD P#13912
16	QUICK, M.	LVMPD P#4493
17	REED, G.	LVMPD P#3731
18	RENHARD, L.	LVMPD P#5223
19	ROBERTS, Meshawnda	5025 Nellis Oasis LN, Apt No. 52, LV, NV
20	SCHMIDT, T.	LVMPD P# 13112
21	SCHULLER, N.	LVMPD P#9814
22	SMITH, S.	LVMPD P#6424
23	STAFFORD, E.	LVMPD P#13642
24	SZUKIEWICZ, J.	LVMPD P#5411
25	*TAFOYA, S.	LVMPD P#4435
26	TUFTELAND, E.	LVMPD P#8971
27	WALKER, Victor	5250 Stewart Ave, Apt No. 1128, LV, NV
28	WARREN, Tanena	1750 Marion Drive, Apt No. 15D, LV, NV

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WATKINS, Clifton c/o CCDA, 200 Lewis Avenue, LV, NV
WHITEHEAD, J. LVMPD P#3487
WILDERMUTH, S. LVMPD P#8075
WILSON, R. LVMPD P#3836

* denotes change

These witnesses are in addition to those witnesses endorsed on the Information and any other witness for which a separate Notice has been filed.

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

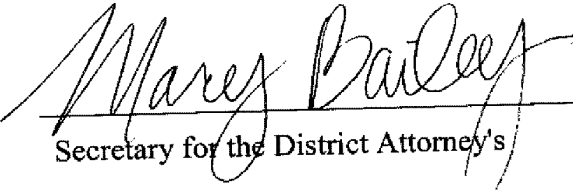
BY


MICHAEL SCHWARTZER
Deputy District Attorney
Nevada Bar # 10747

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of Notice of Witnesses, was made this 30th day of September, 2013, by Electronic Filing to:

CARL ARNOLD, ESQ
Email: lvcegal@yahoo.com


Secretary for the District Attorney's
Office

13F08177X/mlb/L-4

ORIGINAL

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GPA
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LINDSEY D. JOSEPH
Deputy District Attorney
Nevada Bar #12232
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

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

OCT 17 2013

Linda Skinner
LINDA SKINNER, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

FRANK HEARRING, aka,
Frank Herring Jr., #177446
Defendant.

CASE NO: C-13-291159-1
DEPT NO: XX

GUILTY PLEA AGREEMENT

I hereby agree to plead guilty to: **MURDER (SECOND DEGREE) WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165)**, as more fully alleged in the charging document attached hereto as Exhibit "1".

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

The State will retain the right to argue.

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

I understand and agree that, if I fail to interview with the Department of Parole and Probation, fail to appear at any subsequent hearings in this case, or an independent magistrate, by affidavit review, confirms probable cause against me for new criminal charges including reckless driving or DUI, but excluding minor traffic violations, that the State will

1 have the unqualified right to argue for any legal sentence and term of confinement allowable
2 for the crime(s) to which I am pleading guilty, including the use of any prior convictions I
3 may have to increase my sentence as an habitual criminal to five (5) to twenty (20) years, life
4 without the possibility of parole, life with the possibility of parole after ten (10) years, or a
5 definite twenty-five (25) year term with the possibility of parole after ten (10) years.

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

8 CONSEQUENCES OF THE PLEA

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

11 I understand that as a consequence of my plea of guilty the Court must sentence me to
12 imprisonment in the Nevada State Prison for TEN (10) years to life OR the Definite term of
13 TEN (10) to TWENTY-FIVE (25) years plus a consecutive term of ONE (1) to TWENTY
14 (20) years for deadly weapon enhancement. I understand that the law requires me to pay an
15 Administrative Assessment Fee.

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

20 I understand that I am not eligible for probation for the offense to which I am
21 pleading guilty.

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

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

28 I understand that if more than one sentence of imprisonment is imposed and I am

1 eligible to serve the sentences concurrently, the sentencing judge has the discretion to order
2 the sentences served concurrently or consecutively.

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

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

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

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

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

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

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

24 I understand that the Division of Parole and Probation will prepare a report for the
25 sentencing judge prior to sentencing. This report will include matters relevant to the issue of
26 sentencing, including my criminal history. This report may contain hearsay information
27 regarding my background and criminal history. My attorney and I will each have the
28 opportunity to comment on the information contained in the report at the time of sentencing.

1 Unless the District Attorney has specifically agreed otherwise, the District Attorney may
2 also comment on this report.

3 WAIVER OF RIGHTS

4 By entering my plea of guilty, I understand that I am waiving and forever giving up
5 the following rights and privileges:

- 6 1. The constitutional privilege against self-incrimination, including the
7 right to refuse to testify at trial, in which event the prosecution would
8 not be allowed to comment to the jury about my refusal to testify.
- 9 2. The constitutional right to a speedy and public trial by an impartial jury,
10 free of excessive pretrial publicity prejudicial to the defense, at which
11 trial I would be entitled to the assistance of an attorney, either appointed
12 or retained. At trial the State would bear the burden of proving beyond
13 a reasonable doubt each element of the offense(s) charged.
- 14 3. The constitutional right to confront and cross-examine any witnesses
15 who would testify against me.
- 16 4. The constitutional right to subpoena witnesses to testify on my behalf.
- 17 5. The constitutional right to testify in my own defense.
- 18 6. The right to appeal the conviction with the assistance of an attorney,
19 either appointed or retained, unless specifically reserved in writing and
20 agreed upon as provided in NRS 174.035(3). I understand this means I
21 am unconditionally waiving my right to a direct appeal of this
22 conviction, including any challenge based upon reasonable
23 constitutional, jurisdictional or other grounds that challenge the legality
24 of the proceedings as stated in NRS 177.015(4). However, I remain free
25 to challenge my conviction through other post-conviction remedies
26 including a habeas corpus petition pursuant to NRS Chapter 34.

20 VOLUNTARINESS OF PLEA

21 I have discussed the elements of all of the original charge(s) against me with my
22 attorney and I understand the nature of the charge(s) against me.

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

25 I have discussed with my attorney any possible defenses, defense strategies and
26 circumstances which might be in my favor.

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


1 I believe that pleading guilty and accepting this plea bargain is in my best interest,
2 and that a trial would be contrary to my best interest.

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

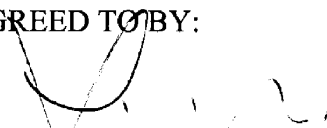
6 I am not now under the influence of any intoxicating liquor, a controlled substance or
7 other drug which would in any manner impair my ability to comprehend or understand this
8 agreement or the proceedings surrounding my entry of this plea.

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

12 DATED this 7 day of October, 2013.

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14 
15 FRANK HEARING, aka,
16 Frank Hearing Jr.
17 Defendant

17 AGREED TO BY:

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20 LINDSEY D. JOSEPH
21 Deputy District Attorney
Nevada Bar #12232

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1 CERTIFICATE OF COUNSEL:

2 I, the undersigned, as the attorney for the Defendant named herein and as an officer of the
3 court hereby certify that:

- 4 1. I have fully explained to the Defendant the allegations contained in the
5 charge(s) to which guilty pleas are being entered.
6 2. I have advised the Defendant of the penalties for each charge and the
7 restitution that the Defendant may be ordered to pay.
8 3. I have inquired of Defendant facts concerning Defendant's immigration status
9 and explained to Defendant that if Defendant is not a United States citizen any
10 criminal conviction will most likely result in serious negative immigration
11 consequences including but not limited to:
12 a. The removal from the United States through deportation;
13 b. An inability to reenter the United States;
14 c. The inability to gain United States citizenship or legal residency;
15 d. An inability to renew and/or retain any legal residency status; and/or
16 e. An indeterminate term of confinement, by with United States Federal
17 Government based on the conviction and immigration status.

18 Moreover, I have explained that regardless of what Defendant may have been
19 told by any attorney, no one can promise Defendant that this conviction will
20 not result in negative immigration consequences and/or impact Defendant's
21 ability to become a United States citizen and/or legal resident.

- 22 4. All pleas of guilty offered by the Defendant pursuant to this agreement are
23 consistent with the facts known to me and are made with my advice to the
24 Defendant.
25 5. To the best of my knowledge and belief, the Defendant:
26 a. Is competent and understands the charges and the consequences of
27 pleading guilty as provided in this agreement,
28 b. Executed this agreement and will enter all guilty pleas pursuant hereto
voluntarily, and
c. Was not under the influence of intoxicating liquor, a controlled
substance or other drug at the time I consulted with the Defendant as
certified in paragraphs 1 and 2 above.

Dated: This 7 day of October, 2013.

Carl E. H. Arnold
ATTORNEY FOR DEFENDANT

mlb

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INFM
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LINDSEY D. JOSEPH
Deputy District Attorney
Nevada Bar #12232
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

I.A. Date
Enter Time A.M. /
P.M.
Attorney for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

FRANK HEARRING, aka,
Frank Herring Jr.,
#1774466
Defendant.

Case No: C-13-291159-1
Dept No: XX

INFORMATION

STATE OF NEVADA }
COUNTY OF CLARK } ss.

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

That FRANK HEARRING, aka, Frank Herring Jr., the Defendant(s) above named, having committed the crime of **MURDER (SECOND DEGREE) WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165)**, on or about the 17th day of May, 2013, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada, did then and there willfully, feloniously, without authority of law, and with malice aforethought, kill MICHAEL JORDAN, a human being by shooting at and into the body of the said

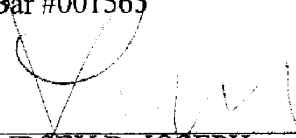
EXHIBIT "1"

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MICHAEL JORDAN with a deadly weapon to-wit: a firearm.

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

BY



LINDSEY D. JOSEPH
Deputy District Attorney
Nevada Bar #12232

DA#13F08177X/mlb/L-4
LVMPD EV#1305170127
(TK1)

ORIGINAL

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

OCT 07 2013

BY Linda Skinner
LINDA SKINNER, DEPUTY

1 **INFM**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 LINDSEY D. JOSEPH
6 Deputy District Attorney
7 Nevada Bar #12232
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

12 I.A. Date
13 Enter Time A.M. /
14 P.M.
15 Attorney for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

16 THE STATE OF NEVADA,
17
18 Plaintiff,

Case No: C-13-291159-1
Dept No: XX

-vs-

19 FRANK HEARRING, aka,
20 Frank Hearing Jr.,
21 #1774466
22 Defendant.

INFORMATION

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

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

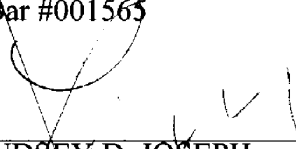
27 That FRANK HEARRING, aka,
28 Frank Hearing Jr., the Defendant(s) above named, having committed the crime of
29 **MURDER (SECOND DEGREE) WITH USE OF A DEADLY WEAPON (Category A**
30 **Felony - NRS 200.010, 200.030, 193.165)**, on or about the 17th day of May, 2013, within
31 the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in
32 such cases made and provided, and against the peace and dignity of the State of Nevada, did
33 then and there willfully, feloniously, without authority of law, and with malice aforethought,
34 kill MICHAEL JORDAN, a human being by shooting at and into the body of the said

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MICHAEL JORDAN with a deadly weapon to-wit: a firearm.

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

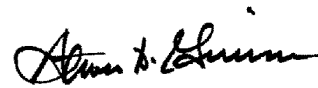
BY



LINDSEY D. JOSEPH
Deputy District Attorney
Nevada Bar #12232

DA#13F08177X/mlb/L-4
LVMPD EV#1305170127
(TK1)

**THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
222 - 228
WILL FOLLOW VIA
U.S. MAIL**



CLERK OF THE COURT

1 **CARL E.G. ARNOLD, ESQ.**
2 Nevada Bar No. 008358
3 LVCEGA1@yahoo.com
4 1148 S. Maryland Parkway
5 Las Vegas, Nevada 89104
6 (702) 358-1138
7 *Attorney for FRANK HEARRING*

8 EIGHTH JUDICIAL DISTRICT COURT
9 FOR THE DISTRICT OF NEVADA

10 THE STATE OF NEVADA,
11 Plaintiff,
12 vs.
13 FRANK HEARRING #1774466
14 Defendant.

) Case No: C-13-291159-1
) Dept: XX

MOTION TO MARRY

15 Defendant Frank Hearing, by and through his attorney, Carl E.G. Arnold, Esq., hereby
16 moves this Honorable Court for an Order permitting the Defendant Frank Hearing, who is in
17 custody at Clark County Detention Center, to marry his girlfriend, Stevia Feazell.

18 This Motion is supported by the attached memorandum of points and authorities, prior
19 pleadings, and records before this Court filed in regards to Frank Hearing.
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NOTICE OF MOTION

PLEASE TAKE NOTICE that the foregoing Motion will be heard on the 17 day of
December, 2013, at the hour of 8 : 30 AM a.m., in Department 20 of the above
entitled Court, or as soon thereafter as counsel may be heard.

I.

MEMORANDUM OF POINTS AND AUTHORITIES

Frank Herring was remanded into custody by this Court and is currently being held at
Clark County Detention Center. The rules and procedures of Clark County Detention Center
require that an inmate obtain a court order prior to being permitted to marry a non-inmate.
Moreover, the State does not have any compelling reason to deny Mr. Herring his fundamental
right to be married. See Salisbury v. List, 501 F. Supp. 105 (D. Nev. 1980).

II.

CONCLUSION

Based upon the foregoing reasons, Mr. Gant respectfully requests that this Court grants
his Motion to Marry Stevia Fezell.

Dated this 22nd of November, 2013.

RESPECTFULLY SUBMITTED BY:

/s/ Carl E. G. Arnold, Esq.
CARL E.G. ARNOLD, ESQ.
Nevada Bar No. 008358
LVCEGA@yahoo.com
1148 S. Maryland Parkway
Las Vegas, Nevada 89104

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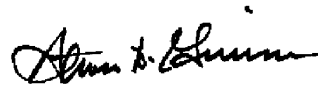
CERTIFICATE OF SERVICE

I hereby certify and affirm that on the 22nd day of November, 2013, I mailed a true and correct copy of the attached **DEFENDANT FRANK HEARRING’S MOTION TO MARRY**, placed in an envelope, postage prepaid, addressed as stated below and deposited in a U.S.

Mailbox.

STEVEN B. WOLFSON
Clark County District Attorney
Regional Justice Center
200 Lewis Avenue
P.O. Box 552212
Las Vegas, Nevada 89155

/s/ Katherine L. Soder
Employee of the Law Offices of Carl E.G. Arnold, Esq.



CLERK OF THE COURT

1 JOCP

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DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CASE NO. C291159-1

DEPT. NO. XX

FRANK HEARRING
Aka FRANK HEARRING, JR.
#1774466

Defendant.

JUDGMENT OF CONVICTION

(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime of MURDER (SECOND DEGREE) WITH USE OF A DEADLY WEAPON (Category A Felony) in violation of NRS 200.010, 200.030, 193.165; thereafter, on the 10th day of December, 2013, the Defendant was present in court for sentencing with his counsel CARL E. ARNOLD, ESQ., and good cause appearing,

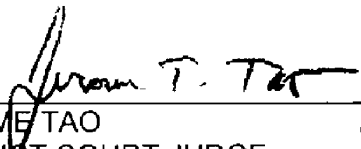
THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense and, in

//

DEC 18 2013

1 addition to the \$25.00 Administrative Assessment Fee, and \$150.00 DNA Analysis
2 Fee including testing to determine genetic markers, the Defendant is sentenced as
3 follows: TO LIFE with the possibility of parole after TEN (10) YEARS have been
4 served, plus a CONSECUTIVE term of TWO HUNDRED FORTY (240) MONTHS
5 MAXIMUM with a MINIMUM parole eligibility of NINETY-SIX (96) MONTHS for the
6 Use of a Deadly Weapon in the Nevada Department of Corrections (NDC), with TWO
7 HUNDRED NINETY-THREE (293) days credit for time served.
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10 DATED this 26th day of December, 2013.
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14 JEROME TAO
15 DISTRICT COURT JUDGE
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RLS

1 COSCC

Alan D. Quinn
CLERK OF THE COURT

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4 **DISTRICT COURT**
5 **CLARK COUNTY, NEVADA**

6 *****

7 STATE OF NEVADA CASE NO.: C-13-291159-1
8 VS DEPARTMENT 20
9 FRANK HEARRING, JR.

10
11 **CRIMINAL ORDER TO STATISTICALLY CLOSE CASE**

12 Upon review of this matter and good cause appearing,
13 IT IS HEREBY ORDERED that the Clerk of the Court is hereby directed to
14 statistically close this case for the following reason:

15 **DISPOSITIONS:**

- 16 Nolle Prosequi (before trial)
- 17 Dismissed (after diversion)
- 18 Dismissed (before trial)
- 19 Guilty Plea with Sentence (before trial)
- 20 Transferred (before/during trial)
- 21 Bench (Non-Jury) Trial
- 22 Dismissed (during trial)
- 23 Acquittal
- 24 Guilty Plea with Sentence (during trial)
- 25 Conviction
- 26 Jury Trial
- 27 Dismissed (during trial)
- 28 Acquittal
- 29 Guilty Plea with Sentence (during trial)
- 30 Conviction
- 31 Other Manner of Disposition

32 DATED this 31st day of December, 2013.

Jerome T. TAO

JEROME T. TAO
DISTRICT COURT JUDGE

RECEIVED
JAN 08 2014
CLERK OF THE COURT



**CLARK COUNTY COURTS
EIGHTH JUDICIAL DISTRICT COURT
CLERK OF THE COURT**



REGIONAL JUSTICE CENTER
200 LEWIS AVENUE, 3rd FL.
LAS VEGAS, NEVADA 89155-1160
(702) 671-0530
FAX (702) 474-2434

Steven D. Grierson
Clerk of the Court

**PLEASE FILE
LEFT SIDE**

Assistant Clerk of the Court

Attorney: Carl E. Arnold

Case: C-13-291159-1

Defendant: Frank Heraring Jr. # 1006445 Dept: 20

Attached are pleadings received by the Office of the District Court Clerk:

Pleadings: Notice of Motion

Rule 3.70. Papers which May Not be Filed

Except as may be required by the provisions of NRS34.730 to 34.830, inclusive, all motions, petitions, pleadings or other papers delivered to the clerk of the court by a defendant who has counsel of record will not be filed but must be marked with the date received and a copy forwarded to the attorney for such consideration as counsel deems appropriate. This rule does not apply to applications made pursuant to Rule 7.40(b)(2)(ii).

Deputy Clerk of the Court

#44 Criminal Desk

C-13-291159-1
LSF
Left Side Filing
3881881



11

1 Frank Hearing #1006445
2 Defendent # In Propria Personam
3 Post Office Box 650 [HDSP]
4 Indian Springs, Nevada 89018

5 **DISTRICT COURT**
6 **CLARK COUNTY, NEVADA**

7
8 State of Nevada
9 Plaintiff
10 vs.
11 Frank Hearing, Jr
12 Defendent
13

Case No. C-13-291159-1
Dept No. 20
Docket _____

14 **NOTICE OF MOTION**

15 **YOU WILL PLEASE TAKE NOTICE**, that The Fore going motion for Produc
16 tion of Documents, Papers, Pleadings and Tangible Property of Defendent
17 will come on for hearing before the above-entitled Court on the _____ day of _____, 20____
18 at the hour of _____ o'clock _____ M. In Department _____, of said Court.

19
20 **CC:FILE**

21
22 **DATED:** this 31 day of March, 2014.

23
24 BY: Frank Hearing
25 FRANK HEARING 1006445 #
26 Defendent /In Propria Personam

CLERK OF THE COURT
RECEIVED
APR 11 2014

1 Frank Herring #1006445
2 Defendant/ In Propria Personam
3 Post Office Box 650 [HDSP]
4 Indian Springs, Nevada 89018

5 **DISTRICT COURT**

6 Clark COUNTY, NEVADA

7
8 State of Nevada

9 Plaintiff,

10 vs.

Case No. C-13-291159-1

11 FRANK Herring Jr

Dept No. 20

12 Defendant.

Docket _____

13
14 **MOTION FOR PRODUCTION OF DOCUMENTS,**
15 **PAPERS, PLEADINGS AND TANGIBLE PROPERTY OF DEFENDANT**

16 Date of Hearing: _____

17 Time of Hearing: _____

18 "ORAL ARGUMENT REQUESTED, Yes ___ No ___"

19 COMES NOW, Defendant, FRANK Herring Jr, proceeding in proper person,
20 hereby moves this Honorable Court for its ORDER for the production of all documents, papers,
21 pleadings and tangible property in the possession of: Carl Arnold

22
23 This Motion is made and based upon all papers and pleadings on file with the Clerk of the Court
24 which are hereby incorporated by this reference, the Points and Authorities herein, and attached
25 Affidavit of Defendant.

26 DATED: this 31 day of March, 2014.

27 BY Frank Herring
Frank Herring 1006445 #
28 Defendant/In Propria Personam

CLERK OF THE COURT

APR 11 2014

RECEIVED

1 **POINTS AND AUTHORITIES**

2 The Nevada Revised Statute 7.055(1), which deals with the duty of a discharged attorney, states:

3 "An attorney who has been discharged by his client shall, upon demand and payment of the fee due from
4 the client, immediately deliver to the client all papers, documents, pleadings and items of tangible property
which belong to or were prepared for that client."

5 As can be seen in this case, the defendant does not owe any fees, in fact, they, meaning counsel(s)
6 of record, were appointed by the Court to represent the defendant, who was an indigent, in Case
7 Number, C-13-291199J in Department No. 20.

8 N.R.S. 7.055(2) gives this Court the power to Order the Attorney(s) of record to produce and
9 deliver to the defendant in his/her possession, which states:

10 "A client who, after demand therefore and payment of the fee due from him, does not receive from his
11 discharged attorney all papers, documents, pleadings and items of tangible personal property may, by
12 a motion filed after at least 5 days' notice to the attorney, obtain an order for the production of his papers,
Documents, pleadings and other property."

13 In numerous cases throughout this great land, the courts have held attorneys to a high degree of
14 professional responsibility and integrity. This carried from the time of hiring to and through the
15 attorney's termination of employment.

16 Supreme Court Rule 173 states quite clear that a withdrawn attorney owes his former client a
17 "... prompt accounting of all his client's... property in his possession." This is echoed in Canon 2
18 of the Code of Professional Responsibility of the American Bar Association, which states in pertinent
19 part EC 2-32: "A lawyer should protect the welfare of his client by... delivering to the client all
20 papers and property to which the client is entitled." Again in Disciplinary Rule 2-110(A)(2) of the
21 ABA, this is brought out that a withdrawn attorney must deliver to the client all papers and comply
22 with applicable laws on the subject.

23 In the cases of In Re Yount, 93 Ariz. 322, 380 P.2d 780 (1963) and State v. Alvey, 215 Kan. 460,
24 524 P.2d 747 (1974), both of which dealt with a factual situation involving a withdrawn attorney
25 refusing to deliver to a former client his documents after being requested to do so by the client. The
26 court in Yount, supra, ordered the attorney disbarred while in Alvey, supra, the court had the
27 attorney censored.

1 While not the intention of the Defendant in this case to have the attorney disbarred, these cases do
2 show a pattern in the court in considering the refusal to deliver to a former client all his documents
3 and property after being requested to do so, a serious infraction of the law and of professional ethics.
4 See, In Re Sullivan, 212 Kan. 233, 510 P.2d 1199 (1973).

5 In summary, this court has jurisdiction through NRS 7.055 to Order the attorney(s) to produce
6 and deliver to the Defendant all documents and personal property in his/their possession belonging to
7 him or prepared for him. The Defendant has fulfilled his obligations in trying to obtain the papers.
8 The attorney(s) is in discord with Cannon 2 of the Code of Professional responsibility and the Nevada
9 Supreme Court Rules 173, 176 and 203.

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DATED: this 31 day of March, 2014.

BY: Frank Hearing
FRANK HEARING 1026448#
Defendant/In Propria Personam

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CERTIFICATE OF SERVICE BY MAILING

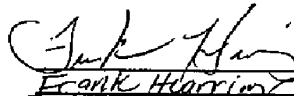
I, Frank Hearnings Jr., hereby certify, pursuant to NRCP 5(b), that on this _____ day of _____, 20____, I mailed a true and correct copy of the foregoing, "Notice and motion to withdraw counsel."

by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid, addressed as follows:

Steven B. Wolfson D.A.
200 Lewis Ave, 3rd floor
Las Vegas, NV 89155

CC:FILE

DATED: this 31 day of March, 2014.



Frank Hearnings Jr. _____
Defendant In Propria Personam
Post Office box 650 [HDSP]
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

**PLEADING
CONTINUES
IN NEXT
VOLUME**

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
May 31 2019 12:04 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

FRANK HEARRING, JR.,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Case No: C-13-291159-1
Related Case A-19-790102-W
Docket No: 78791

**RECORD ON APPEAL
VOLUME
1**

ATTORNEY FOR APPELLANT
FRANK HEARRING # 1006445,
PROPER PERSON
P.O. BOX 7007
CARSON CITY, NV 89702

ATTORNEY FOR RESPONDENT
STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NV 89155-2212

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1	08/08/2013	NOTICE OF WITNESSES [NRS 174.234(1)(A)]	42 - 45
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2	05/29/2015	ORDER FOR PETITION FOR WRIT OF HABEAS CORPUS	327 - 327
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I N D E X

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C-13-291159-1

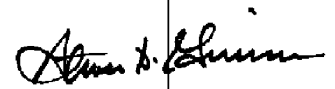
State of Nevada
vs
Frank Herring

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
		UNFILED NOTICE OF MOTION AND W/COPY OF MOTION FOR PRODUCTION OF DOCUMENTS, PAPERS, PLEADINGS AND TANGIBLE PROPERTY OF DEFENDANT (CONTINUATION)	
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JUSTICE COURT, LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA



CLERK OF THE COURT

STATE OF NEVADA,

Plaintiff,

vs.

Frank Herring, JR ,

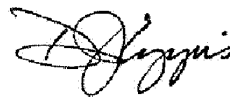
Defendant

) District Court Case No.:
)
) Justice Court Case No.: 13F08177X
)
) **C-13-291159-1**
)
) **Dept XX**
) **7/18/13 @ 9:30AM**
)

CERTIFICATE

I hereby certify the foregoing to be a full, true and correct copy of the proceedings as
the same appear in the above case.

Dated this July 12, 2013



Justice of the Peace, Las Vegas Township

1 **JUSTICE COURT, LAS VEGAS TOWNSHIP**

2 CLARK COUNTY, NEVADA

3		) District Court Case No.:
4	STATE OF NEVADA,	) Justice Court Case No.: 13F08177X
5	Plaintiff,)
6	vs.)
7	Frank Herring, JR ,)
8	Defendant)

9 **BINDOVER and ORDER TO APPEAR**

10 An Order having been made this day by me that **Frank Herring, JR** be held to
11 answer before the Eighth Judicial District Court, upon the charge(s) of **Open murder, e/dw**
12 **[50001]; ATT. MURDER WITH A DEADLY WEAPON; DISCHARGING A**
13 **FIREARM AT OR INTO A STRUCTURE/VEH; POSSESSION OF FIREARM BY**
14 **AN EX-FELON** committed in said Township and County, on May 21, 2013 .

15 **IT IS FURTHER ORDERED** that said defendant is commanded to appear in the
16 Eighth Judicial District Court, Regional Justice Center, Lower Level Arraignment Courtroom
17 "A", Las Vegas, Nevada on District Court Date: 07/18/13 and Time: 9:30 for arraignment
18 and further proceedings on the within charge(s).

19 **IT IS FURTHER ORDERED** that the Sheriff of the County of Clark is hereby
20 commanded to receive the above named defendant(s) into custody, and detain said
21 defendant(s) until he/she can be legally discharged, and be committed to the custody of the
22 Sheriff of said County, until bail is given in the sum of \$NO BAIL

23 Dated this July 12, 2013

24 

25 _____
26 Justice of the Peace, Las Vegas Township

FILED

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA



May 21 4 08 PM '13

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THE STATE OF NEVADA,

Plaintiff,

-vs-

FRANK HEARRING, aka,
Frank Hearing, Jr. #1774466,

Defendant.

JUSTICE COURT
LAS VEGAS, NEVADA

CASE NO: 13-08177X

DEPT NO: 1

CRIMINAL COMPLAINT

The Defendant above named having committed the crimes of MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165); ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471); and POSSESSION OF FIREARM BY EX-FELON (Category B Felony - NRS 202.360), in the manner following, to-wit: That the said Defendant, on or about the 17th day of May, 2013, at and within the County of Clark, State of Nevada,

COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON

did then and there wilfully, feloniously, without authority of law, and with premeditation and deliberation, and with malice aforethought, kill MICHAEL JORDAN, a human being, by shooting at and into the body of the said MICHAEL JORDAN, with a deadly weapon, to-wit: a firearm.

COUNT 2 - ASSAULT WITH A DEADLY WEAPON

did then and there wilfully, unlawfully, feloniously and intentionally place another person in reasonable apprehension of immediate bodily harm and/or did unlawfully attempt to use physical force against another person, to-wit: CLIFTON WATKINS, with use of a deadly weapon, to-wit: a firearm, by pointing said firearm at the said CLIFTON WATKINS and discharging it in his direction.

COUNT 3 - POSSESSION OF FIREARM BY EX-FELON

did then and there wilfully, unlawfully, and feloniously own or have in his possession, or under his control, a weapon, to-wit: an unknown make or model .40 caliber

1 firearm, the said Defendant being an ex-felon, having on August 29, 2006, been convicted of
2 Robbery, in Case No. C224177, in the Eighth Judicial District Court, Clark County, Nevada
3 a felony under the laws of the State of Nevada.

4 All of which is contrary to the form, force and effect of Statutes in such cases made
5 and provided and against the peace and dignity of the State of Nevada. Said Complainant
6 makes this declaration subject to the penalty of perjury.

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9 _____
10 5/21/2013

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13F08177X/cas
LVMPD EV# 1305170127
(TK1)

FILED IN OPEN COURT

DATE: 6/18/13

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

FRANK HEARRING, aka,
Frank Hearing, Jr. #1774466,

Defendant.

CASE NO: 13F08177X

DEPT NO: 1

AMENDED
CRIMINAL COMPLAINT

The Defendant above named having committed the crimes of MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165); ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 193.330; 200.010; 200.030; 193.165); DISCHARGING A FIREARM AT OR INTO STRUCTURE, VEHICLE, AIRCRAFT OR WATERCRAFT (NRS 202.285) and POSSESSION OF FIREARM BY EX-FELON (Category B Felony - NRS 202.360), in the manner following, to-wit: That the said Defendant, on or about the 17th day of May, 2013, at and within the County of Clark, State of Nevada,

COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON

did then and there wilfully, feloniously, and without authority of law, and with malice aforethought kill MICHAEL JORDAN, a human being, in the following manner, to-wit: by shooting a firearm at MICHAEL JORDAN and/or CLIFTON WATKINS, striking MICHAEL JORDAN and resulting in the death of the said MICHAEL JORDAN; said killing having been done by (1) premeditation and deliberation in its commission; and/or (2) the Defendant lying in wait to commit the killing.

COUNT 2 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

did then and there, without lawful authority of law, and with malice aforethought, willfully and feloniously attempt to kill CLIFTON WATKINS, a human being, by shooting at the body of said CLIFTON WATKINS with use of a deadly weapon, to-wit: a firearm.

13F08177X
ACRM
Amended Criminal Complaint
2613645



P:\WPDOCS\COMPLT\FCOMP\2013\081\20130817702.DOC


1 COUNT 3 – DISCHARGING A FIREARM AT OR INTO STRUCTURE, VEHICLE,
2 AIRCRAFT OR WATERCRAFT

3 did then and there willfully, unlawfully, and feloniously discharge a firearm at or into
4 a vehicle, to-wit: a 2000 Chevrolet bearing California license 5YNK833 belonging to
5 MESHAWNDA ROBERTS , said vehicle not having been abandoned, located at 5201
6 Walnut Avenue, Las Vegas, Clark County, Nevada.

7 COUNT 4 - POSSESSION OF FIREARM BY EX-FELON

8 did then and there wilfully, unlawfully, and feloniously own or have in his
9 possession, or under his control, a weapon, to-wit: an unknown make or model .40 caliber
10 firearm, the said Defendant being an ex-felon, having on August 29, 2006, been convicted of
11 Robbery, in Case No. C224177, in the Eighth Judicial District Court, Clark County, Nevada
12 a felony under the laws of the State of Nevada.

13 All of which is contrary to the form, force and effect of Statutes in such cases made
14 and provided and against the peace and dignity of the State of Nevada. Said Complainant
15 makes this declaration subject to the penalty of perjury.

16
17 

18 Alexander Chen
19 Deputy District Attorney
20 Nevada Bar #10539

**Justice Court, Las Vegas Township
Clark County, Nevada**

Court Minutes



13F08177X State of Nevada vs. HEARRING, FRANK

5/21/2013 7:25:00 AM Arrest Warrant Request

Result: Arrest Warrant Issued

**PARTIES
PRESENT:**

Judge: Sciscento, Joseph S.

PROCEEDINGS

Events: Arrest Warrant Ordered to be Issued
NO BAIL ON ALL COUNTS

**Justice Court, Las Vegas Township
Clark County, Nevada**

Court Minutes



13F08177X State of Nevada vs. HEARRING, FRANK

**6/4/2013 7:30:00 AM Arrest Warrant Return
Hearing**

Result: Matter Heard

PARTIES Defendant HEARRING, FRANK
PRESENT:

Judge: Lippis, Deborah J.

Judge: Bennett-Haron, Karen P.

Prosecutor: Radovic, Michael

Court Reporter: McIntosh, Shawna

Court Clerk: Breland, Jourisha

PROCEEDINGS

Hearings: 6/5/2013 7:30:00 AM: Status Check

Events: **Arraignment Completed**

Advised of Charges on Criminal Complaint, Waives Reading of Criminal Complaint

Continued to Secure Private Counsel

Defendant in the process of hiring private counsel

**Justice Court, Las Vegas Township
Clark County, Nevada**

Court Minutes



13F08177X State of Nevada vs. HEARRING, FRANK

Lead Atty: Public Defender

6/5/2013 7:30:00 AM Status Check

Result: Matter Heard

PARTIES PRESENT: Attorney Kane, Harry N.
Defendant HEARRING, FRANK

Judge: Bennett-Haron, Karen P.

Prosecutor: Joseph, Lindsey

Court Reporter: Delucca, Gerri

Court Clerk: Thau, Rissa

PROCEEDINGS

Attorneys: **Kane, Harry N.** Hearing, Frank, Jr. Added
Public Defender Hearing, Frank, Jr. Added

Hearings: 6/18/2013 9:00:00 AM: Preliminary Hearing

Events: **Public Defender Appointed**

Comment

Defendant did not hire private counsel.

**Justice Court, Las Vegas Township
Clark County, Nevada**

Court Minutes



13F08177X State of Nevada vs. HEARRING, FRANK

Lead Atty: Carl E. Arnold

6/18/2013 9:00:00 AM Preliminary Hearing

Result: Matter Continued

PARTIES PRESENT:
Attorney Kane, Edward R. J.
Attorney Arnold, Carl E.
Defendant HEARRING, FRANK

Judge: Lippis, Deborah J.

Prosecutor: Chen, Alexander

Court Reporter: Grime, Joni

Court Clerk: Breland, Jourisha

PROCEEDINGS

Attorneys: **Arnold, Carl E.** Hearing, Frank, Jr. Added
Joseph, Lindsey D State of Nevada Added

Hearings: 7/11/2013 10:00:00 AM: Preliminary Hearing

Events: Substitution of Attorney

C. Arnold, Esq substitute in as attorney of record (Counsel to substitution in writing)

Discovery Given to Counsel in Open Court

Amended Criminal Complaint

Filed in open court

Motion to Continue - Defense

Motion Granted (State has four witness present in Court: Clifton Watkins, Cherice Jones, Det. Mogg, and Det. Embry)

Preliminary hearing date reset (Firm setting)

Arraignment Completed

Advised of Charges on Criminal Complaint, Waives Reading of Criminal Complaint

Bail Reset

Bail Reset to: Count 1: 00/00; Counts 2-4: 20,000/20,000 - Per count

Charges: **Amended: 002: ATT. MURDER WITH A DEADLY WEAPON** Amended Complaint Filed
Amended: 003: DISCHARGING A FIREARM AT OR INTO A STRUCTURE/VEH Amended Complaint Filed
004: POSSESSION OF FIREARM BY AN EX-FELON

Las Vegas Justice Court: Department 01

LVJC_Criminal_MinuteOrder

Case 13F08177X Prepared By: breij

6/18/2013 12:23 PM

Justice Court, Las Vegas Township
Clark County, Nevada

Court Minutes



13F08177X State of Nevada vs. HEARRING, FRANK

Lead Atty: Carl E. Arnold

7/11/2013 10:00:00 AM Preliminary Hearing

Result: Bound Over

PARTIES PRESENT: Attorney Arnold, Carl E.
Defendant HEARRING, FRANK

Judge: Lippis, Deborah J.

Prosecutor: Joseph, Lindsey

Prosecutor: Schwartzer, Michael

Court Reporter: McIntosh, Shawna

Court Clerk: Breland, Jourisha

PROCEEDINGS

Exhibits:	Document, Photograph, Etc. (ID: 1)	<i>District Court - Document</i>	Admitted
	Document, Photograph, Etc. (ID: 2)	<i>Autopsy</i>	Admitted
	Document, Photograph, Etc. (ID: 3)	<i>Photo Line-up</i>	Admitted
	Document, Photograph, Etc. (ID: 4)	<i>Photo Line-up</i>	Admitted
	Document, Photograph, Etc. (ID: 5)	<i>Photo Line-up</i>	Admitted
	Document, Photograph, Etc. (ID: 6)	<i>Photo Line-up</i>	Admitted

Events: **Preliminary Hearing**

Motion to Exclude Witnesses by State - Motion Granted
States Witnesses:
1. Jones, Cherrice - Identified defendant
2. Watkins, Clifton - Identified defendant
State Rests.
Defendant Advised of His Statutory Right to Make a Statement Defendant Waives the Right to a Sworn or Unsworn Statement
Defense Rests
Submitted Without Argument - No Argument by State

Oral Motion by State to Amend Complaint by Interlineation
Motion Granted

Bound Over to District Court as Charged Review Date: 7/12/2013

District Court Appearance Date Set
District Court Date: 07/18/13 and Time: 9:30
(In custody)

Case Closed - Bound Over

Plea/Disp: **001: Open murder, e/dw [50001]**
Disposition: Bound Over to District Court as Charged (PC Found)

002: ATT. MURDER WITH A DEADLY WEAPON
Disposition: Bound Over to District Court as Charged (PC Found)

003: DISCHARGING A FIREARM AT OR INTO A STRUCTURE/VEH
Disposition: Bound Over to District Court as Charged (PC Found)

Las Vegas Justice Court: Department 01

LVJC_Criminal_MinuteOrder

7/11/2013 4:16 PM

**Justice Court, Las Vegas Township
Clark County, Nevada**

004: POSSESSION OF FIREARM BY AN EX-FELON

Disposition: Bound Over to District Court as Charged (PC Found)

Las Vegas Justice Court: Department 01
LVJC_Criminal_MinuteOrder

Case 13F08177X Prepared By: brelj
7/11/2013 4:16 PM

WARRANT ELECTRONICALLY GENERATED AND ENTERED INTO NCJIS
*** DO NOT MANUALLY ENTER INTO NCJIS ***

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY NEVADA

THE STATE OF NEVADA	)	CASE NO: 13F08177X
)	
PLAINTIFF	)	DEPT. NO: 1
VS.)	
	)	AGENCY: METRO-HOMICIDE
HEARRING, FRANK)	
ID# 01774466)	
)	
DEFENDANT	)	ARREST WARRANT
)	-----

THE STATE OF NEVADA,

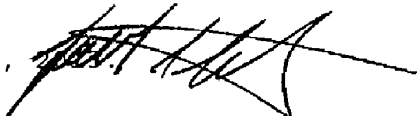
TO: ANY SHERIFF, CONSTABLE, MARSHALL, POLICEMAN, OR PEACE OFFICER
IN THIS STATE:

A COMPLAINT AND AN AFFIDAVIT UPON OATH HAS THIS DAY BEEN LAID
BEFORE ME ACCUSING HEARRING, FRANK, OF THE CRIME(S):

COUNTS	CHARGE	BAIL: CASH	SURETY	PROPERTY
1	OPEN MURDER, E/DW	NO BAIL		
1	ASSAULT, W/DW	NO BAIL		
1	OWN/POSS GUN BY PROHIB	NO BAIL		

YOU ARE, THEREFORE, COMMANDED FORTHWITH TO ARREST THE ABOVE NAMED
DEFENDANT AND BRING HIM BEFORE ME AT MY OFFICE IN LAS VEGAS TOWNSHIP,
COUNTY OF CLARK, STATE OF NEVADA, OR IN MY ABSENCE OR INABILITY TO
ACT, BEFORE THE NEAREST AND MOST ACCESSIBLE MAGISTRATE IN THIS COUNTY.

THIS WARRANT MAY BE SERVED AT ANY HOUR OF THE DAY OR NIGHT.

GIVEN UNDER MY HAND THIS 21ST DAY OF MAY, 

JUSTICE OF THE PEACE IN AND FOR SAID TOWNSHIP
JOSEPH S SCISCENTO

13F08177X
AWF
Arrest Warrant - Face Sheet
2624042



JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY NEVADA

THE STATE OF NEVADA	)	CASE NO: 13F08177X
)	
PLAINTIFF	)	DEPT. NO: 1
VS.)	
	)	AGENCY: METRO-HOMICIDE
HEARRING, FRANK)	
ID# 01774466)	
)	
DEFENDANT	)	ARREST WARRANT
_____)	-----

SHERIFF'S RETURN

I HEREBY CERTIFY THAT I RECEIVED THE ABOVE AND FOREGOING WARRANT
ON THE _____ DAY OF _____, _____, AND SERVED THE SAME BY
ARRESTING AND BRINGING DEFENDANT, _____, INTO COU
THIS _____ DAY OF _____.

DOUGLAS C. GILLESPIE, SHERIFF, CLARK COUNTY, NEV

BY: _____, DEPUTY

DEFENDANT HEARRING, FRANK

DEFENDANT ID# 01774466

CASE NO: 13F08177X

DEPARTMENT JCRT1

JUDGE JOSEPH S SCISCENTO

AGENCY: METRO-HOMICIDE

ORI	VRI	NAME	HEARRING, FRANK		
DOB 03181985	SOC	SID			
RAC B	SEX M	HGT 600	WGT 205	HAI BLK	EYE BRO

-----WARRANT-----

HOI	COI	WNM HEARRING, FRANK			
NOC 50001	AOC	OFC F	FTF	TRF	JUV DSO DOW 05212013
OCA 1305170127	CCN 13F08177X	BAIL NO BAIL			
TRA	MIS				

-----SUPPLEMENTAL-----

AKA HEARRING, FRANK JR

SUBMITTING OFFICER ID#:MP5096 NAME: MOGG, CIFFORD H

COUNTS	CHARGE
1	OPEN MURDER, E/DW
1	ASSAULT, W/DW
1	OWN/POSS GUN BY PROHIBIT PERS

***** C O N F I D E N T I A L *****

13F08177X
 AWA
 Arrest Warrant Confidential
 2524041



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LAS VEGAS METROPOLITAN POLICE DEPARTMENT
DECLARATION OF WARRANT/SUMMONS
(N.R.S. 171.106)
(N.R.S. 53 amended 7/13/1993)

May 21 4 08 PM '13
Event Number: 130517-0127
JUSTICE COURT
LAS VEGAS, NEVADA

STATE OF NEVADA) Frank Hearing
) ss: ID#: 1774466
COUNTY OF CLARK) DOB: 03/18/85 SS#: 530-11-0460

13F08177X
DWS
Declaration of Warrant/Summons (Affidavit)
2523915



Buddy Embrey, being first duly sworn, deposes and says:

That he is a Detective with the Las Vegas Metropolitan Police Department, being so employed for a period of 8 years, assigned to investigate the crime(s) of Murder with a Deadly Weapon, Assault with a Deadly Weapon, Prohibited Person Possession of Firearm committed on or about May 17th, 2013, which investigation has developed Frank Hearing as the perpetrator thereof.

THAT DECLARANT DEVELOPED THE FOLLOWING FACTS IN THE COURSE OF THE INVESTIGATION OF SAID CRIME, TO WIT:

On May 17th, 2013 at approximately 0043 hours, LVMPD 9-1-1 Dispatch was contacted by a woman stating a male resident of the apartments had been shot in the parking lot of the Janice Brooks Bay Apartments located at 5201 Walnut Avenue, Las Vegas, Clark County, Nevada 89110. The person reporting and other witnesses reported to hearing shots approximately 20 minutes prior to the call. No one reported seeing anything suspicious near the time of the shooting. A black male adult (BMA), who was later identified as Michael Jordan, was found deceased between two vehicles from an apparent gunshot wound. Homicide Detectives responded to investigate, collect evidence and canvas and interview possible witnesses.

On May 17th, 2013, Detective Mogg interviewed Clifton Watkins. During the interview, Watkins said he had been dating Cherrice Jones for several months, before breaking it off around the first part of 2013. During the time Watkins and Jones were separated, she began dating a person named "Frank Netty." In approximately March of 2013, Watkins and Jones began dating again. According to Watkins, the re-assumption of his relationship with Jones caused a rift between "Frank Netty" and him. Watkins said "Frank Netty" lives in apartment 39 with his girlfriend and her small child.

On May 16th, 2013, around 2000 hours, Watkins said him and the victim Michael Jordan were working on Watkins' Cadillac in the parking lot north of apartment 39. Watkins said him, his cousin, the victim, and a couple of other people walked to the liquor store at the corner of Nellis Blvd and Walnut

Avenue around 2350 hours to get some alcohol. Watkins said when they returned to the apartments, him, the victim, and another black male were talking in the parking lot north of apartment 39. Watkins said "Frank Netty" was walking around the parking lot and in the complex while he was talking to the victim and the other male.

Watkins said he was sitting on the left front fender of his Cadillac, the victim was sitting on the right front fender, and the other male was standing in front of the Cadillac. Watkins said they were sitting on the car around 0020 hours on May 17th, 2013, when he felt someone was watching them. Watkins said he looked to his right in the direction of a dumpster on the south end of the parking lot and saw a person whom he knew as "Frank Netty" crouching down pointing a gun at him. Watkins described "Frank Netty" as a black male, 5'8, 160 pounds, with shorty wavy hair. Watkins said "Frank Netty" was wearing gray cargo pocket shorts, a white t-shirt, and being armed with a handgun. Watkins said he believed the gun "Frank Netty" was shooting was a chrome over black .40 caliber handgun with an extended magazine. Watkins said he had seen "Frank Netty" with the gun on previous occasions.

Watkins said when he looked over and saw "Frank Netty", he heard one gunshot, then a second at which point Watkins told everyone to run, then he heard several more shots. Watkins said the shooting only sounded like one caliber of gun, and he didn't see a second shooter. Watkins said after the shots were fired, "Frank Netty" ran southeast from the scene, and a white Chevrolet Caprice drove south from the parking lot near apartment 39 and onto Nellis Blvd. Watkins said he ran to his apartment, and when he looked back outside he saw the victim lying by the driver side of the Cadillac.

Based on initial information from LVMPD Patrol Officers, a suspect who goes by "Netty" (sic), was responsible for the murder. Patrol Officers identified "Netty" as possibly being Frank Taylor LVMPD ID# 1753295. On May 18th, 2013, Detective Mogg showed a photo line-up with Frank Taylor's picture to Clifton Watkins. Watkins said based on the hair style he identified the person in # 6 as possibly being the shooter. That person was not Frank Taylor. Detective Mogg also showed the line-up to Cherrice Jones who dated "Frank Netty" for a couple of months. Jones stated that no one in the line-up was the person whom she knew as "Frank Netty." Due to the line-ups it was your affiant's belief that we had the wrong person identified.

During the initial crime scene investigation, six (6) spent .40 caliber cartridge casings were recovered from where Watkins described "Frank Netty" crouching. A vehicle that Jordan was standing by had several apparent bullet impacts. Additionally there were four (4) spent 9mm cartridge casings located to the south of the previously described location. Based on the fact that Watkins described

seeing only "Frank Netty" shooting, only hearing one caliber of gun and all the other witnesses described hearing 5-7 shots, your affiant believes the spent 9mm cartridge casings are unrelated and from a previous shooting.

Cherrice Jones was interviewed on May 18th, 2013, by Detective Mogg. During the interview, Jones said she had just left the apartment complex when the shooting occurred. Jones said she used to date and live with "Frank Netty", and said he currently lives in apartment 39 with his new girlfriend whom she didn't know. Jones said the new girlfriend has a small child. Jones also provided Detective Mogg with cell phone number 702-556-5524 as a phone number for "Frank Netty" and said he drives a red moped which he keeps in the apartment.

On May 18th, 2013, your affiant attended the autopsy on the body of Michael Jordan. According to the Medical Examiner Dr. Lisa Gavin, Jordan sustained a perforating gunshot wound that entered Jordan's mid back and traveled through his torso in a slightly upward angle exiting Jordan's left arm. Dr. Gavin determined the cause of Jordan's death as gunshot wound to back and the manner of death a Homicide.

The upward angle of trajectory would be consistent with Clifton Watkins statement that the shooter was crouching down as he was shooting at him.

On May 20th, 2013, Detectives identified a person named Frank Hearing as possibly being "Frank Netty" by the phone number provided by Cherrice Jones. Based on the physical description provided by Jones and Watkins, your affiant believed this was the correct person.

On May 20th, 2013, your affiant authored a search warrant for 5201 Walnut Avenue apartment 39 which was authorized by the Honorable District Court Judge Valerie Vega. The renter of the apartment was identified as Stevia Feazell LVMPD ID# 2797599. During the service of the search warrant, Homicide Detectives located paperwork in the name of Stevia Feazell and Frank Hearing inside the apartment. This further supported your affiant's belief that Hearing was the person identified as "Frank Netty." An additional crime scene search revealed one (1) spent .40 caliber cartridge casing that was located inside a bush near to where Hearing was observed crouching and shooting. This would support your affiant's belief that there was only one person shooting at the time of the murder.

On May 20th, 2013, Detective Mogg showed Clifton Watkins a photo line-up with Hearing's picture. Watkins positively identified Hearing as the person whom he saw shooting at him and Michael

CONTINUATION

Event #: 130517-0127

Jordan. Detective Mogg also showed a photo line-up with Hearing's picture to Cherrice Jones. Jones positively identified Hearing as the person whom she knows as "Frank Netty."

On May 21st, 2013, your affiant conducted a recorded interview with Stevia Feazell at LVMPD Headquarters. Feazell confirmed that her boyfriend was named Frank Hearing and that he does live with her at 5201 Walnut Avenue apartment # 39. Feazell also confirmed that he has a nickname of "Frank Netty." Feazell said there was an ongoing dispute between Hearing and Watkins over possible drug money owed. Feazell said that Hearing told her that he was present at the time of the shooting but would not elaborate. According to Feazell, Hearing told her that he would turn himself in when he got an attorney and that he knows he will be booked.

A records check on Frank Hearing shows that he was arrested by LVMPD for Robbery with a Deadly Weapon. Clark County Court records show that on August 29th, 2006, Hearing pled guilty to felony Robbery.

Wherefore, Declarant prays that a Warrant of Arrest be issued for suspect Frank Hearing on the charge(s) of Murder with a Deadly Weapon, Assault with a Deadly Weapon, Prohibited Person Possession of Firearm.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed on this 21 day of May, 2013.

DECLARANT:

Bobby Enley 8644

WITNESS:

[Signature] 5096

DATE:

5-21-13

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FILED
JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

MAY 21 4 08 PM '13

THE STATE OF NEVADA,
Plaintiff,

-vs-

FRANK HEARRING, , aka,
Frank Hearing, Jr. #1774466,
Defendant.

JUSTICE COURT
LAS VEGAS NEVADA
BY *fa* CASE NO. 13F08177X
DEPT NO: 1

FILED UNDER SEAL

All materials, except the Criminal Complaint, are being filed under seal in obedience to Section 239B.030 of the Nevada Revised Statute and pursuant to the Order issued by the Honorable Douglas E. Smith, signed December 28, 2006.

13F08177X
CRMFUS
Filed Under Seal
2523914



FINANCIAL AFFIDAVIT

IN SUPPORT OF REQUEST FOR ATTORNEY, EXPERT, INVESTIGATIVE OR OTHER COURT SERVICES FOR INDIGENT PERSONS

JUSTICE COURT LAS VEGAS TOWNSHIP

IN THE CASE OF
STATE OF NEVADA VS.

CASE # 13F08177X

DEPT /

Hearing, Frank Jr.

DATE: 5/31/2013

SECTION 1

I, Frank Hearing, do solemnly swear under penalty of perjury that I am named as defendant in the case of State of Nevada VS. Frank Hearing and that I do not have the ability to pay for an attorney or for any other court services necessary for my defense because: (check (v) all that apply)

- I currently receive SSI benefits;
- I am currently a public housing resident / Section 8 recipient;
- I am currently receiving food stamps;
- I am currently a welfare recipient (TANF);
- I currently receive Unemployment / Workers Compensation benefits as my sole income;
- I have been determined disabled but benefits are pending;
- I am unemployed with no source of income;
- I am a resident of Shade Tree Shelter;
- I am a recipient of HELP Homeless Outreach Subsidy;
- I am a recipient of Women's Development Housing Assistance;
- I am a recipient of Medicaid Disability Insurance;
- I am a resident of the Salvation Army or a Transitional Housing Program;
- I am currently incarcerated;

Are you a veteran or a member of the military?

I Am

I Am Not

COMMENTS:

CONFIDENTIAL

13F08177X
FFA
Financial Affidavit
2561606



Are you employed? No
How much do you earn each month? _____
Name and Address of employer: Unemployed -
Does your spouse work? _____
How much does he/she earn per month? _____
Do you have any other income (from retirement funds, interest, dividends, rents, etc.)? No

List all other income sources:
\$200.00 Food Stamps Per Month

How much money do you have in bank accounts? No

Do you own any real estate, motor vehicles, motor homes, stocks or other valuable property? No Please describe and list value:

Marital Status: Single
Total Number of dependents: 1
List the people you support (Name, Age & Relationship):

Ah-Neisia Herring 8 Years Old

What is your address? 2521 Living Rock Avenue Las Vegas, NV 89106

How much do you pay monthly in rent or mortgage? No

List all other significant debts:

\$100,000.00 Medical Bills

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

SIGNATURE OF DEFENDANT _____

Revision Date: April 7, 2011

CONFIDENTIAL

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

PRETRIAL SERVICES INFORMATION SHEET

CASE # 11F18417X **DEPT #** JC1 **REQUESTED BY:**
NAME: Frank Herring **ID #** 1774466
CHARGES:
MURDER WDW, ASSAULT WDW, OWN/POSS GUN BY PROHIBIT PERSON
CURRENT BAIL: SIC

VERIFIED: ADDRESS: UNABLE TO VERIFY NO CONTACT INFORMATION
WITH WHOM/HOW LONG: /

VERIFIED: EMPLOYMENT STATUS: /
LENGTH:

VERIFIED: RELATIVES - LOCAL : **NOT LOCAL:**

FELONY/GROSS MISDEMEANOR CONVICTIONS: 06 NV ROBB

MISDEMEANOR CONVICTIONS: 2

FAIL TO APPEAR: 0

COMMENTS:

RECOMMENDATION:

DATE: 6/3/2013

PRETRIAL SERVICES: Cheryl Allen

CONFIDENTIAL

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

PRETRIAL SERVICES INFORMATION SHEET

CASE # DEPT # **JC1** REQUESTED BY:
13F08177X
NAME: ID #
Frank Herring 1774466
CHARGES:
OPEN MURDER, E/DW; ASSAULT, W/DW; OWN/POSS GUN BY PROHIBIT PERS
CURRENT BAIL: NO BAIL

VERIFIED: ADDRESS: UNABLE TO VERIFY NO CONTACT INFORMATION
WITH WHOM/HOW LONG: /

VERIFIED: EMPLOYMENT STATUS: /
LENGTH:

VERIFIED: RELATIVES - LOCAL : NOT LOCAL:

FELONY/GROSS MISDEMEANOR CONVICTIONS: 06 NV ROBB

MISDEMEANOR CONVICTIONS: 2

FAIL TO APPEAR: 0

COMMENTS:

RECOMMENDATION:

DATE: 6/13/2013

PRETRIAL SERVICES: MARITZA AGUILAR

JUSTICE COURT, LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA

FILED

May 21 4 03 PM '13

THE STATE OF NEVADA,

Plaintiff,

-vs-

FRANK HEARRING, aka,
Frank Hearing, Jr. #1774466,

Defendant.

JUSTICE COURT
LAS VEGAS NEVADA

CASE NO: 13F08177X

DEPT NO: 1

REQUEST FOR ARREST WARRANT

COMES NOW, STEVEN B. WOLFSON, District Attorney, and requests that a Warrant of Arrest be issued for the above named Defendant pursuant to NRS 171.106 and the Complaint and/or Affidavit(s) attached hereto and incorporated herein by this reference.

STEVEN B. WOLFSON
DISTRICT ATTORNEY
Nevada Bar #001565

PROBABLE CAUSE FOUND:

BAIL: NO BAIL

PROBABLE CAUSE NOT FOUND:

JUSTICE OF THE PEACE,
LAS VEGAS TOWNSHIP

13F08177X
AWR
Request For Arrest Warrant
2523913



LAS VEGAS METROPOLITAN POLICE DEPARTMENT
TEMPORARY CUSTODY RECORD

Page 1 of 1
 DATE OF ARREST: 5-31-13 TIME OF ARREST: 1015
 I.D. # 1774966 Event #: 130517-0127
 INTAKE NAME (AKA, ALIAS, ETC.) HEARRING, FRANK JR. Last First Middle
 TRUE NAME Last First Middle
 I.D. ESTAB. BY: SCORE

ADDRESS 2521 LIVING ROCK AVE BLDG./APT. # LV CITY LV STATE NV ZIP 89106
 DATE OF BIRTH 3-18-85 RACE B SEX M HEIGHT 6'0" WEIGHT 205 HAIR BRO EYES BRO SOCIAL SECURITY # 530-11-0460 PLACE OF BIRTH LV NV
 LOCATION OF CRIME (# - Street - City - State - Zip) 5201 DAWG AVE LAS VEGAS NV 89110 CC LV Y Y 2521 LIVING ROCK AVE LV NV Speak/English? YES Res DNO W24 Sector/Bagl W24 PONI # LV NV

BKG. CODE	CHARGE	ORD / NRS #	M	GM	F	ARR TYPE	EVENT NUMBER	WARR/INIC NUMBER	LV	JC	DC	OTHER
<u>5201</u>	<u>MURDER 1st D.V.</u>	<u>200.030-1</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>AW</u>	<u>130517-0127</u>	<u>13508177X</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>SD 261</u>	<u>AUDW</u>	<u>200.471-213</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>AW</u>	<u>" "</u>	<u>13508177X</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>5140</u>	<u>WORLD BRED PIGAN IN LOSS OF CONTROL</u>	<u>200.360-4</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>AW</u>	<u>" SE-1"</u>	<u>13508177X</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ARREST TYPE: PC - PROBABLE CAUSE BS - BONDSMAN SURRENDER BW - BENCH WARRANT WA - WARRANT RM - REMAND GJ - GRAND JURY IND.
 Approving Officer's Signature [Signature] P # 130517-0127 Agency 130517-0127
 Transporting Officer's Signature [Signature] P # 130517-0127 Agency 130517-0127

Time Stamped at BOOKINGS 05-31-13 12:34 DSD REC

FOR PROBABLE CAUSE/INCL. HIT ARREST SEE PAGE TWO FOR DETAILS
 BENCH WARRANT SERVED ON _____ COURT _____
 WARRANT SERVED ON _____ COURT _____
 GRAND JURY INDICTMENT SERVED ON _____
 TYPE OF I.D. FOR VERIFICATION _____
 JUVENILE
 PROBABLE CAUSE
 STANDARD BAIL
 O.R. RELEASE
 I.A.D.

FIRST APPEARANCE DATE: _____ TIME: _____

JUDGE: _____

CONFIDENTIAL

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
DECLARATION OF ARREST

I.D. #: 1774466

True Name: HEARRING, FRANK

Date of Arrest: 5-31-13

Time of Arrest: 1015

OTHER CHARGES RECOMMENDED FOR CONSIDERATION:

NONE

THE UNDERSIGNED MAKES THE FOLLOWING DECLARATIONS SUBJECT TO THE PENALTY FOR PERJURY AND SAYS: That I am a peace officer with LVMPD (Department), Clark County, Nevada, being so employed for a period of 8 years (months). That I learned the following facts and circumstances which lead me to believe that the above named subject committed (or was committing) the offense of MURDER W/WEAPON at the location of 5201 WALNUT AVE and that the offense occurred at approximately 0043 hours on the 17 day of MAY, 2013.

DETAILS FOR PROBABLE CAUSE:

ON 05-17-2013 AT APPROXIMATELY 0043 HOURS, LVMPD RECEIVED A 911 CALL FROM 5201 WALNUT AVE CONCERNING A PERSON WHO HAD BEEN SHOT. WHEN PATROL AND MEDICAL PERSONNEL ARRIVED THEY FOUND THE VICTIM MICHAEL JORDAN DECEASED IN THE PARKING LOT FROM AN APPARENT GUNSHOT.

ON 5-18-13 AN AUTOPSY WAS PERFORMED ON THE VICTIM DURING WHICH THE CAUSE OF DEATH WAS LISTED A GUNSHOT WOUND TO THE TORSO AND THE MANNER OF DEATH WAS A HOMICIDE.

DURING THE COURSE OF THE INVESTIGATION, FRANK HEARRING ID# 1774466 WAS IDENTIFIED AS THE SUSPECT. ON 05-21-13 LAS VEGAS JUSTICE COURT JUDGE J. SCISCENTO ISSUED AN ARREST WARRANT CHARGING HEARRING WITH MURDER WITH A WEAPON, ASSAULT WITH A DEADLY WEAPON, AND PROHIBITED PERSON IN POSSESSION OF A FIREARM.

ON 05-31-13 A SEARCH WARRANT WAS EXECUTED AT HEARRING'S MOTHER'S HOUSE AND HEARRING WAS ARRESTED.

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are a misdemeanor).

Declarant must sign second page with original signature.

Buddy Embery
Declarant's Signature
Buddy Embery
Print Declarant's Name
8644
P#

CLARK COUNTY DETENTION CENTER
ARREST WARRANT ABSTRACT

05/31/2013
12:32

WARRANT NAME: HEARRING, FRANK

DOB: 03/18/1985 SSN:

RAC: B SEX: M HGT: 6'00" WGT: 205 HAI: BLK EYE: BRO

WARRANT #: 13F08177X

EVENT #:

CLARK COUNTY ONLY:

CNT	CHRG	NRS	CODE	CODE	CHARGE LITERAL	CASH	ASSUR
						BAIL	BAIL
01	50001	200.010	F	OPEN MURDER, E/DW		NO BAIL	
				PCN#0028965036-001			
02	50201	200.471	F	ASSAULT, W/DW		NO BAIL	
				PCN#0028965036-002			
03	51460	202.360	F	OWN/POSS GUN BY PROHIBIT PERS		NO BAIL	
				PCN#0028965036-003			

ISSUED BY JUDGE: JOSEPH S SCISCENTO
COURT: LAS VEGAS JUSTICE COURT

DOW: 05/21/2013
DEPT: JCRT1

I HEREBY CERTIFY THAT I RECEIVED THE ABOVE AND FOREGOING WARRANT
ON THE 31 DAY OF MAY, 2013, AND SERVED THE
SAME BY ARRESTING THE WITHIN DEFENDANT,
AND BRINGING HIM INTO COURT THIS 31 DAY OF MAY,
2013.

DOUGLAS C. GILLESPIE, SHERIFF, CLARK COUNTY, NEVADA

BY: [Signature] 1902SC, DEPUTY

***** C O N F I D E N T I A L *****

DEPT = JCRT

S E R V E D

*
* ***** NCJIS WANTED PERSON SYSTEM ***** *

* PIN-0209 NCJIS WARRANT HAS BEEN SUCCESSFULLY CLEARED *

* CLEARING AGENCY /NVLVJC001 - CLARK CO INFO SERVICES *

* ARRESTING AGENCY /NV0020135 - CLARK COUNTY DETENTION CENTER *

* ENTERING AGENCY /NVLVJC001 - CLARK CO INFO SERVICES *

* CONFIRMING AGENCY/NV0020135 - CLARK COUNTY DETENTION CENTER *

* WARRANT RECORD NUMBER/2917909

* NIN/W805605009 DATE:05/31/13

* SEQ/001 REASON/SERVED TIME:12:42:15

* WARRANT NAME /HEARRING, FRANK

* BASE RECORD NAME/HEARRING, FRANK

* COURT CASE #/13F08177X

* COURT/NV002A53J - LAS VEGAS JUSTICE COURT

13F08177X
WSS
Warrant Service Slip
2662502



DEPT = JCRT1

S E R V E D

*
* ***** NCJIS WANTED PERSON SYSTEM ***** *

* PIN-0209 NCJIS WARRANT HAS BEEN SUCCESSFULLY CLEARED *

* CLEARING AGENCY /NVLVJC001 - CLARK CO INFO SERVICES *

* ARRESTING AGENCY /NV0020135 - CLARK COUNTY DETENTION CENTER *

* ENTERING AGENCY /NVLVJC001 - CLARK CO INFO SERVICES *

* CONFIRMING AGENCY/NV0020135 - CLARK COUNTY DETENTION CENTER *

* WARRANT RECORD NUMBER/2917910

* NIN/W805605009 DATE:05/31/13

* SEQ/002 REASON/SERVED TIME:12:42:15

* WARRANT NAME /HEARRING, FRANK

* BASE RECORD NAME/HEARRING, FRANK

* COURT CASE #/13F08177X

* COURT/NV002A53J - LAS VEGAS JUSTICE COURT

13F08177X
WSS
Warrant Service Slip
2562503



DEPT = JCRT1

S E R V E D

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*          ***** NCJIS WANTED PERSON SYSTEM *****
*
*          PIN-0209  NCJIS WARRANT HAS BEEN SUCCESSFULLY CLEARED
*
* CLEARING AGENCY  /NVLVJC001 - CLARK CO INFO SERVICES
* ARRESTING AGENCY /NV0020135 - CLARK COUNTY DETENTION CENTER
* ENTERING AGENCY  /NVLVJC001 - CLARK CO INFO SERVICES
* CONFIRMING AGENCY/NV0020135 - CLARK COUNTY DETENTION CENTER
* WARRANT RECORD NUMBER/2917911
* NIN/W805605009          DATE:05/31/13
* SEQ/003                REASON/SERVED    TIME:12:42:15
* WARRANT NAME          /HEARRING, FRANK
* BASE RECORD NAME/HEARRING, FRANK
* COURT CASE #/13F08177X
* COURT/NV002A53J - LAS VEGAS JUSTICE COURT
*****
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13F08177X
WSS
Warrant Service Slip
2562504




CLERK OF THE COURT

1 **INFM**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 LINDSEY D. JOSEPH
6 Deputy District Attorney
7 Nevada Bar #12232
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 I.A. 7/18/2013
9:30 AM
8 C. ARNOLD
DISTRICT COURT
CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,
11 Plaintiff,
12 -vs-
13 FRANK HEARRING, aka,
14 Frank Hearing, Jr., #1774466
15 Defendant.

Case No: C-13-291159-1
Dept No: XX

INFORMATION

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

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

20 That FRANK HEARRING, aka, Frank Hearing, Jr., the Defendant(s) above named,
21 having committed the crimes of **MURDER WITH USE OF A DEADLY WEAPON**
22 **(Category A Felony - NRS 200.010, 200.030, 193.165); ATTEMPT MURDER WITH**
23 **USE OF A DEADLY WEAPON (Category B Felony - NRS 193.330; 200.010; 200.030;**
24 **193.165); DISCHARGING A FIREARM AT OR INTO STRUCTURE, VEHICLE,**
25 **AIRCRAFT OR WATERCRAFT (NRS 202.285) and POSSESSION OF FIREARM**
26 **BY EX-FELON (Category B Felony - NRS 202.360), on or about the 17th day of May,**
27 **2013, within the County of Clark, State of Nevada, contrary to the form, force and effect of**

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1 statutes in such cases made and provided, and against the peace and dignity of the State of
2 Nevada,

3 **COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON**

4 did then and there wilfully, feloniously, and without authority of law, and with
5 malice aforethought kill MICHAEL JORDAN, a human being, in the following manner, to-
6 wit: by shooting a firearm at MICHAEL JORDAN and/or CLIFTON WATKINS, striking
7 MICHAEL JORDAN and resulting in the death of the said MICHAEL JORDAN; said
8 killing having been done by (1) premeditation and deliberation in its commission; and/or (2)
9 the Defendant lying in wait to commit the killing.

10 **COUNT 2 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON**

11 did then and there, without lawful authority of law, and with malice aforethought,
12 willfully and feloniously attempt to kill CLIFTON WATKINS, a human being, by shooting
13 at the body of said CLIFTON WATKINS with use of a deadly weapon, to-wit: a firearm.

14 **COUNT 3 - DISCHARGING A FIREARM AT OR INTO STRUCTURE, VEHICLE,**

15 **AIRCRAFT OR WATERCRAFT**

16 did then and there willfully, unlawfully, and feloniously discharge a firearm at or into
17 a vehicle, to-wit: a 2000 Chevrolet bearing California license plates belonging to
18 MESHAWNDA ROBERTS , said vehicle not having been abandoned, located at 5201
19 Walnut Avenue, Las Vegas, Clark County, Nevada.

20 **COUNT 4 - POSSESSION OF FIREARM BY EX-FELON**

21 did then and there wilfully, unlawfully, and feloniously own or have in his
22 possession, or under his control, a weapon, to-wit: an unknown make or model .40 caliber
23 firearm, the said Defendant being an ex-felon, having on August 29, 2006, been convicted of

24 ///

25 ///

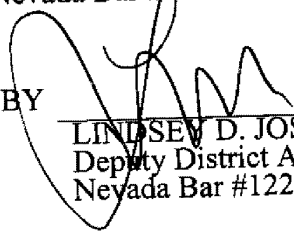
26 ///

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28 ///

1 Robbery, in Case No. C224177, in the Eighth Judicial District Court, Clark County, Nevada
2 a felony under the laws of the State of Nevada.

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

6 BY 
7 LINDSEY D. JOSEPH
8 Deputy District Attorney
9 Nevada Bar #12232

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DA#13F08177X/mlb/L-4
LVMPD EV#1305170127
(TK1)


CLERK OF THE COURT

1 NWEW
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL SCHWARTZER
6 Deputy District Attorney
7 Nevada Bar #10747
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,
11 -vs-
12 FRANK HEARRING, aka,
13 Frank Hearing, Jr., #1774466
14 Defendant.

CASE NO: C-13-291159-1
DEPT NO: XX

NOTICE OF EXPERT WITNESSES
[NRS 174.234(2)]

15 TO: FRANK HEARRING, aka, Frank Hearing, Jr., Defendant; and
16 TO: CARL E. ARNOLD, ESQ., Counsel of Record:

17 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF
18 NEVADA intends to call the following witnesses in its case in chief:

19 GAVIN, Lisa, M.D. a Medical Doctor employed by the Clark County Coroner
20 Medical Examiner. She is an expert in the area of forensic pathology and will give scientific
21 opinions related thereto. She is expected to testify regarding the cause and manner of death
22 of MICHAEL JORDAN.

23 MACEO, Alice P#7828 a Latent Print Examiner or Designee – Las Vegas
24 Metropolitan Police Department; will testify as an expert as to the procedures, techniques
25 and science employed in the fingerprint analysis, all procedures employed in this case and
26 reports provided.
27
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1 AOYAMA, Kathryn P#8035 a Latent Print Examiner – Las Vegas Metropolitan
2 Police Department; will testify as an expert as to the procedures, techniques and science
3 employed in the fingerprint analysis, all procedures employed in this case and reports
4 provided.

5 BEARD, Marcia P#3768 a Latent Print Examiner – Las Vegas Metropolitan Police
6 Department; will testify as an expert as to the procedures, techniques and science employed
7 in the fingerprint analysis, all procedures employed in this case and reports provided.

8 CAMERON, Cathryn P#9887 a Latent Print Examiner – Las Vegas Metropolitan
9 Police Department; will testify as an expert as to the procedures, techniques and science
10 employed in the fingerprint analysis, all procedures employed in this case and reports
11 provided.

12 CARTER, Marnie P#8179 a Latent Print Examiner – Las Vegas Metropolitan Police
13 Department; will testify as an expert as to the procedures, techniques and science employed
14 in the fingerprint analysis, all procedures employed in this case and reports provided.

15 MURGA, Kimberly P#10140 a DNA Technical Leader or Designee with the Las
16 Vegas Metropolitan Police Department. She is an expert in the area of DNA technology and
17 will give scientific opinions related thereto. She is expected to testify regarding the DNA
18 profiling analysis and related procedures she performed in this case.

19 ADAMS, Tiffany P#10072 a Criminalist with the Las Vegas Metropolitan Police
20 Department. She is an expert in the area of DNA technology and will give scientific
21 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and
22 related procedures she performed in this case.

23 BAS, Jennifer P#9944 a Criminalist with the Las Vegas Metropolitan Police
24 Department. She is an expert in the area of DNA technology and will give scientific
25 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and
26 related procedures she performed in this case.

27 Beaudette, Frances P#4361 a Criminalist with the Las Vegas Metropolitan Police
28 Department. She is an expert in the area of DNA technology and will give scientific

1 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and
2 related procedures she performed in this case.

3 GAUTHIER, Kelly P#8691 a Criminalist with the Las Vegas Metropolitan Police
4 Department. She is an expert in the area of DNA technology and will give scientific
5 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and
6 related procedures she performed in this case.

7 KING, Craig P#9971 a Criminalist with the Las Vegas Metropolitan Police
8 Department. He is an expert in the area of DNA technology and will give scientific opinions
9 related thereto. He is expected to testify regarding the DNA profiling analysis and related
10 procedures she performed in this case.

11 MARSCHNER, Julie P#8806 a Criminalist with the Las Vegas Metropolitan Police
12 Department. She is an expert in the area of DNA technology and will give scientific
13 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and
14 related procedures she performed in this case.

15 MAY, Crystal P#9288 a Criminalist with the Las Vegas Metropolitan Police
16 Department. She is an expert in the area of DNA technology and will give scientific
17 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and
18 related procedures she performed in this case.

19 PACHECO, Jessica P#13770 a Criminalist with the Las Vegas Metropolitan Police
20 Department. She is an expert in the area of DNA technology and will give scientific
21 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and
22 related procedures she performed in this case.

23 RETAMOZO, Carol P#14280 a Criminalist with the Las Vegas Metropolitan Police
24 Department. She is an expert in the area of DNA technology and will give scientific
25 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and
26 related procedures she performed in this case.

27 ROBERTSON, Cassandra P#14653 a Criminalist with the Las Vegas Metropolitan
28 Police Department. She is an expert in the area of DNA technology and will give scientific

1 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and
2 related procedures she performed in this case.

3 TAYLOR, Jennifer P#10074 a Criminalist with the Las Vegas Metropolitan Police
4 Department. She is an expert in the area of DNA technology and will give scientific
5 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and
6 related procedures she performed in this case.

7 THOMAS, Jennifer P#13772 a Criminalist with the Las Vegas Metropolitan Police
8 Department. She is an expert in the area of DNA technology and will give scientific
9 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and
10 related procedures she performed in this case.

11 VIDA, Beata P#14279 a Criminalist with the Las Vegas Metropolitan Police
12 Department. She is an expert in the area of DNA technology and will give scientific
13 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and
14 related procedures she performed in this case.

15 STONE, Randall P#2887 A Firearm/Toolmark Examiner with the Las Vegas
16 Metropolitan Police Department. He is an expert in the area of Firearm/Toolmark analysis
17 and will give opinions related thereto. He is expected to testify regarding the firearms and
18 bullet trajectory comparison of certain evidence collected from the various crime scenes.

19 FRIED, Jonathan P#8174 A Firearm/Toolmark Examiner with the Las Vegas
20 Metropolitan Police Department. He is an expert in the area of firearm/Toolmark analysis
21 and will give opinions related thereto. He is expected to testify regarding the firearms and
22 bullet trajectory comparison of certain evidence collected from the various crime scenes.

23 KRYLO, James P#5945 A Firearm/Toolmark Examiner with the Las Vegas
24 Metropolitan Police Department. He is an expert in the area of Firearm/Toolmark analysis
25 and will give opinions related thereto. He is expected to testify regarding the firearms and
26 bullet trajectory comparison of certain evidence collected from the various crime scenes.

27 MOSES, Angel P#8002 A Firearm/Toolmark Examiner with the Las Vegas
28 Metropolitan Police Department. He is an expert in the area of Firearm/Toolmark analysis

1 and will give opinions related thereto. He is expected to testify regarding the firearms and
2 bullet trajectory comparison of certain evidence collected from the various crime scenes.

3 ORTON, Gary P#14579 A Firearm/Toolmark Examiner with the Las Vegas
4 Metropolitan Police Department. He is an expert in the area of Firearm/Toolmark analysis
5 and will give opinions related thereto. He is expected to testify regarding the firearms and
6 bullet trajectory comparison of certain evidence collected from the various crime scenes.

7 SANKO, Anya P#13771 A Firearm/Toolmark Examiner with the Las Vegas
8 Metropolitan Police Department. She is an expert in the area of Firearm/Toolmark analysis
9 and will give opinions related thereto. She is expected to testify regarding the firearms and
10 bullet trajectory comparison of certain evidence collected from the various crime scenes.

11 ALBERT, Joel P#13204 a Crime Scene Analyst with the Las Vegas Metropolitan
12 Police Department. He is an expert in the area of the identification, documentation,
13 collection and preservation of evidence and will give opinions related thereto. He is
14 expected to testify regarding the identification, documentation, collection and preservation of
15 evidence in this case.

16 REINHARD, Louise P#5223 a Crime Scene Analyst with the Las Vegas
17 Metropolitan Police Department. She is an expert in the area of the identification,
18 documentation, collection and preservation of evidence and will give opinions related
19 thereto. She is expected to testify regarding the identification, documentation, collection and
20 preservation of evidence in this case.

21 DAHAN, Robbie P#5947 a Crime Scene Analyst with the Las Vegas Metropolitan
22 Police Department. He is an expert in the area of the identification, documentation,
23 collection and preservation of evidence and will give opinions related thereto. He is
24 expected to testify regarding the identification, documentation, collection and preservation of
25 evidence in this case.

26 REED, Gary P#3731 a Crime Scene Analyst with the Las Vegas Metropolitan
27 Police Department. He is an expert in the area of the identification, documentation,
28 collection and preservation of evidence and will give opinions related thereto. He is

1 expected to testify regarding the identification, documentation, collection and preservation of
2 evidence in this case.

3 MORTON, Larry P#4935 a Crime Scene Analyst with the Las Vegas Metropolitan
4 Police Department. He is an expert in the area of the identification, documentation,
5 collection and preservation of evidence and will give opinions related thereto. He is
6 expected to testify regarding the identification, documentation, collection and preservation of
7 evidence in this case.

8 KELLY, Janet P#5666 a Forensic Scientist with the Las Vegas Metropolitan Police
9 Department. She is an expert in the area of footwear impressions and will give her opinions
10 related thereto. She is expected to testify regarding the identification of footwear
11 impressions in this case.

12 CUSTODIAN OF RECORDS – AT & T to testify as an expert in the analysis and
13 explanation of complex phone record keeping g documents as well as an expert in the field
14 of cellular phone towers and their geographic proximity to the users of a certain cellular
15 telephone.

16 CUSTODIAN OF RECORDS – CRICKET to testify as an expert in the analysis and
17 explanation of complex phone record keeping documents as well as an expert in the field of
18 cellular phone towers and their geographic proximity to the users of a certain cellular
19 telephone.

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1 The substance of each expert witness' testimony and a copy of all reports made by or
2 at the direction of the expert witness has been provided in discovery.

3 A copy of each expert witness' curriculum vitae, if available, is attached hereto.

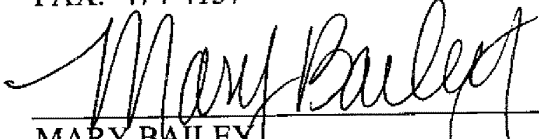
4
5 STEVEN B. WOLFSON
6 Clark County District Attorney
7 Nevada Bar #001565

8 BY 
9 MICHAEL SCHWARTZER
10 Deputy District Attorney
11 Nevada Bar #10747

12 CERTIFICATE OF FACSIMILIE TRANSMISSION

13 I hereby certify that service of Notice of Expert Witnesses, was made this 20th
14 day of July, 2013, by facsimilie transmission to:

15 CARL E. ARNOLD, ESQ.
16 FAX: 474-4137

17 BY: 
18 MARY BAILEY
19 Employee of the District Attorney's Office

20
21
22
23
24
25
26
27 13F08177X/mlb/L-4
28


CLERK OF THE COURT

1 **NWEW**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL SCHWARTZER
6 Deputy District Attorney
7 Nevada Bar #10747
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

CASE NO: C-13-291159-1
DEPT NO: XX

12 FRANK HEARRING, aka,
13 Frank Herring, Jr., #1774466
14 Defendant.

15 **NOTICE OF WITNESSES**
16 [NRS 174.234(1)(a)]

17 TO: FRANK HEARRING, aka, Frank Herring, Jr., Defendant; and
18 TO: C. ARNOLD, Counsel of Record:

19 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF
20 NEVADA intends to call the following witnesses in its case in chief:

21 <u>NAME</u>	<u>ADDRESS</u>
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23 ALBERT, J.	LVMPD P#13204
24 ALSUP, T.	LVMPD P#5782
25 ANDRADE, K.	LVMPD P#6050
26 ATWOOD, C	LVMPD P#10003
27 BASILOTTA, E.	LVMPD P#8447
28 BROWN, Brandy	501 Walnut Ave, Apt No. 71, LV, NV

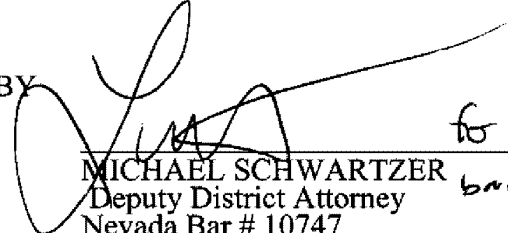
1	BROWN, Tara	5201 Walnut Ave, Apt No. 80, LV, NV
2	BURRELL, Gregory	3548 Gold Mist Ave, LV, NV
3	BYBEE, R.	LVMPD P#13295
4	CHAPMAN, Shagela	1653 Winchester Ave, Lincoln Park, MI
5	COLON, M.	LVMPD P#7585
6	CUSTODIAN OF RECORDS or designee	AT & T
7	CUSTODIAN OF RECORDS or designee	CCDC, 330 S. Casino Center Blvd, LV, NV
8	CUSTODIAN OF RECORDS or designee	CRICKET WIRELESS
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10		Nellis Blvd, LV, NV
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12		LV,NV
13	CUSTODIAN OF RECORDS or designee	NLVPD Records , 1301 E. Lake Mead Blvd
14		NLV, NV
15	DAHAN, R.	LVMPD P#5947
16	DARR, A.	LVMPD P#5485
17	DAVIS, Kizzy	5201 Walnut Ave, Apt No. 14, LV, NV
18	DONALDSON, J.	LVMPD P#13237
19	EMBREY, B.	LVMPD P#8644
20	EVANS, M.	LVMPD P#13886
21	FEAZELL, Stevia	3728 Shimmering Creek Ave., NLV, NV
22	FRANKLIN, Perry	2811 Promontory Vista PL, LV, NV
23	GANDY, C.	LVMPD P#5117
24	GAVIN, LISA M.D.	CLARK COUNTY CORONER'S OFFICE
25	GORDON, D.	LVMPD P#3965
26	HILL, C.	LVMPD P#13387
27	HOUGHTON, J.	LVMPD P#9789
28	HULLETT, E.	LVMPD P# 13662

1	JONES, Cherrice	5025 Nellis Oasis LN, Apt No. 52, LV, NV
2	KELLY, J.	LVMPD P#5666
3	MAINES, M.	LVMPD P#4040
4	MCKENZIE, K.	LVMPD P#6743
5	MODGLIN, Amie	CLARK COUNTY CORONER'S OFFICE
6	MOGG, C.	LVMPD P#5096
7	MORTON, L.	LVMPD P#4935
8	PATTON, J.	LVMPD P#8289
9	PAZOS, E.	LVMPD P#6817
10	PERALTA, T	LVMPD P#13912
11	QUICK, M.	LVMPD P#4493
12	REED, G.	LVMPD P#3731
13	RENHARD, L.	LVMPD P#5223
14	ROBERTS, Meshawnda	5025 Nellis Oasis LN, Apt No. 52, LV, NV
15	SCHMIDT, T.	LVMPD P# 13112
16	SCHULLER, N.	LVMPD P#9814
17	SMITH, S.	LVMPD P#6424
18	STAFFORD, E.	LVMPD P#13642
19	SZUKIEWICZ, J.	LVMPD P#5411
20	TUFTELAND, E.	LVMPD P#8971
21	WALKER, Victor	5250 Stewart Ave, Apt No. 1128, LV, NV
22	WARREN, Tanena	1750 Marion Drive, Apt No. 15D, LV, NV
23	WATKINS, Clifton	c/o CCDA, 200 Lewis Avenue, LV, NV
24	WHITEHEAD, J.	LVMPD P#3487
25	WILDERMUTH, S.	LVMPD P#8075
26	WILSON, R.	LVMPD P#3836
27	///	
28	///	

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These witnesses are in addition to those witnesses endorsed on the Information and any other witness for which a separate Notice has been filed.

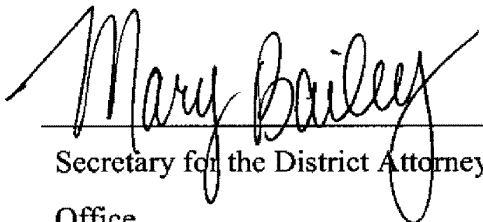
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar # 001565

BY 
MICHAEL SCHWARTZER *to*
Deputy District Attorney *bar # 12232*
Nevada Bar # 10747

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of Notice of Witnesses, was made this 8th day of August, 2013, by Electronic Filing to:

CARL ARNOLD, ESQ
Email: lvcegal@yahoo.com


Secretary for the District Attorney's
Office

13F08177X/mlb/L-4


CLERK OF THE COURT

1 NNEW
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL SCHWARTZER
6 Deputy District Attorney
7 Nevada Bar #10747
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

CASE NO: C-13-291159-1
DEPT NO: XX

FRANK HEARRING, aka,
Frank Herring, Jr., #1774466
Defendant.

SUPPLEMENTAL NOTICE OF WITNESSES
[NRS 174.234(1)(a)]

TO: FRANK HEARRING, aka, Frank Herring, Jr., Defendant; and

TO: C. ARNOLD, Counsel of Record:

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25	*GODBOLT, Helene	c/o CCDA, 200 Lewis Avenue, LV, NV
26	GORDON, D.	LVMPD P#3965
27	*HIGGINS, Julian	c/o CCDA, 200 Lewis Avenue, LV, NV
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27	WHITEHEAD, J.	LVMPD P#3487
28	WILDERMUTH, S.	LVMPD P#8075

1 WILSON, R.

LVMPD P#3836

2 * denotes change

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5

6

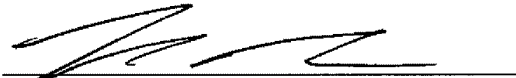
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar # 001565

7

8

9

BY



10

MICHAEL SCHWARTZER
Deputy District Attorney
Nevada Bar # 10747

11

12

13

CERTIFICATE OF ELECTRONIC FILING

14

15

I hereby certify that service of Notice of Witnesses, was made this 9th day of
16 August, 2013, by Electronic Filing to:

17

18

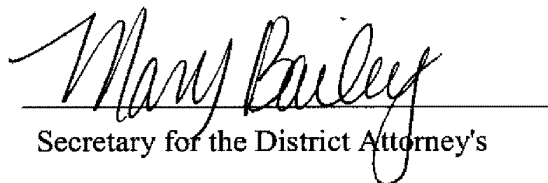
CARL ARNOLD, ESQ

19

Email: lvcegal@yahoo.com

20

21



22

Secretary for the District Attorney's
Office

23

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25

26

27

28

13F08177X/mlb/L-4


CLERK OF THE COURT

1 NNEW
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL SCHWARTZER
6 Deputy District Attorney
7 Nevada Bar #10747
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

CASE NO: C-13-291159-1
DEPT NO: XX

FRANK HEARRING, aka,
Frank Herring, Jr., #1774466
Defendant.

**SECOND
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[NRS 174.234(1)(a)]

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TO: C. ARNOLD, Counsel of Record:

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5	JONES, Cherrice	5025 Nellis Oasis LN, Apt No. 52, LV, NV
6	KELLY, J.	LVMPD P#5666
7	*LNU, Benita	5201 Walnut, Apt. No. 85, LV, NV
8	MAINES, M.	LVMPD P#4040
9	MCKENZIE, K.	LVMPD P#6743
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1 WHITEHEAD, J. LVMPD P#3487
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4 * denotes change

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7

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

10

11 BY

12

13 
MICHAEL SCHWARTZER
14 Deputy District Attorney
Nevada Bar # 10747

15 CERTIFICATE OF ELECTRONIC FILING

16

17 I hereby certify that service of Notice of Witnesses, was made this 12th day of
18 August, 2013, by Electronic Filing to:

19

CARL ARNOLD, ESQ

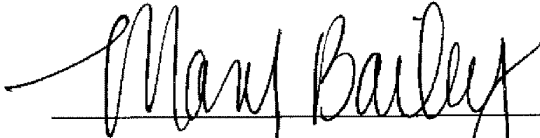
20

Email: lvcegal@yahoo.com

21

22

23


Secretary for the District Attorney's

24

Office

25

26

27

28 13F08177X/mlb/L-4

1 CASE NO. C291159

2 DEPARTMENT NO. 1

3

4 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP

5 COUNTY OF CLARK, STATE OF NEVADA

6 * * * * *

Electronically Filed
09/05/2013 01:15:42 PM

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THE STATE OF NEVADA,)

8

Plaintiff,)

9

vs.)

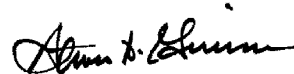
10

FRANK HEARRING, JR.,)

11

Defendant.)

12



CLERK OF THE COURT

CASE NO. 13F08177X

13

REPORTER'S TRANSCRIPT

14

OF

15

PRELIMINARY HEARING

16

BEFORE THE HONORABLE DEBORAH LIPPIS
JUSTICE OF THE PEACE

17

THURSDAY, JULY 11, 2013
10:00 A.M.

18

19

APPEARANCES:

20

For the State: LINDSEY JOSEPH, ESQ.
MICHAEL SCHWARTZER, ESQ.
Deputies District Attorney

21

22

For the Defendant: CARL ARNOLD, ESQ.
Attorney at Law

23

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25 Reported by: Shawna J. McIntosh, RPR, CCR No. 770

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1 LAS VEGAS, NEVADA, JULY 11, 2013

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4
5 (State's Proposed Exhibits 1 through 4 and 6,
6 were marked for identification)

7
8 THE COURT: Frank Hearing, Junior.

9 Good morning, Mr. Arnold.

10 MR. ARNOLD: Good morning, Your Honor.

11 I'm ready to proceed with the
12 preliminary hearing.

13 THE COURT: Yes. Who is doing this one?

14 MS. JOSEPH: Mr. Schwartzter and myself,
15 Your Honor.

16 THE COURT: How many witnesses will you need?

17 MS. JOSEPH: Two.

18 THE COURT: All right. The record reflect
19 that Mr. Hearing is present with his attorney,
20 Mr. Arnold. Mr. Hearing is in custody. Miss Joseph
21 and Mr. Schwartzter for the State.

22 Everybody has announced ready to
23 proceed. You may take your seat and call your first
24 witness.

25 MR. ARNOLD: Your Honor, as a preliminary

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1 matter, can we invoke the exclusionary rule?

2 THE COURT: Yes.

3 MR. ARNOLD: Thank you.

4 MS. JOSEPH: And that would be the State's
5 request as well. I'm not sure who all the individuals
6 in the back row are. There are a lot of potential
7 witnesses, if you could have them stand and state their
8 name, I would know if they are a potential witness.

9 THE COURT: Sure. Who's your first witness?

10 MS. JOSEPH: Cherrice Jones.

11 THE COURT: Is Miss Cherrice Jones here?

12 MR. SCHWARTZER: She's not in the courtroom.

13 THE COURT: All right. The State has no
14 further witnesses in the courtroom?

15 MS. JOSEPH: The State doesn't that the State
16 subpoenaed but I'm --

17 THE COURT: I'm sorry, I didn't ask that.

18 MS. JOSEPH: Okay. No.

19 THE COURT: Mr. Arnold, are you familiar with
20 the people in -- any of the people in the courtroom?

21 MR. ARNOLD: No, Your Honor, except for my
22 son, who has the white shirt on.

23 THE COURT: Welcome to the son with the white
24 shirt on. Nice to see you, young man.

25 Ladies and gentlemen in the back row,

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1 are you here on behalf of Mr. Herring? Yes?

2 Ma'am, could you stand for me and just
3 give me your name, please.

4 FEMALE SPEAKER: My name is Helene Guybolt
5 (phonetic)

6 THE COURT: And your relationship to
7 Mr. Herring?

8 FEMALE SPEAKER: I'm related to the guy that
9 was killed. The guy that was killed, Michael Jordan,
10 I'm his fiancée.

11 THE COURT: Okay. Thank you very much, ma'am.
12 Good morning, sir. Would you state
13 your name, please.

14 MALE SPEAKER 1: Johnny Dickerson. Just a
15 friend.

16 THE COURT: I'm sorry?

17 MALE SPEAKER 1: Friend. Johnny Dickerson.

18 THE COURT: Thank you, Mr. Dickerson.

19 And, sir?

20 MALE SPEAKER 2: Otis Blake. A friend.

21 THE COURT: Thank you very much sir.

22 Miss Joseph.

23 MS. JOSEPH: None of those are witnesses,
24 Your Honor.

25 THE COURT: Thank you.

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1 All right. Jim, if you'll get our
2 first witness.

3 Again, the name is?

4 MS. JOSEPH: Cherrice Jones.

5 THE COURT: Good morning, ma'am.

6 THE WITNESS: Good morning.

7 THE COURT: You're welcome to set your bag
8 anywhere you'd like. If you'd remain standing for me
9 though, please, and raise your right hand, my clerk
10 will swear you in.

11
12 Whereupon,

13 CHERRICE JONES,
14 having been first duly sworn to testify to the truth,
15 the whole truth and nothing but the truth, was
16 examined and testified as follows:

17

18 THE CLERK: Please be seated.

19 THE COURT: And if you can, scoot up to the
20 mike. You don't have to lean into it, but if you'd
21 just keep your voice up for me, please.

22 THE CLERK: And if you could state your full
23 name and spell it for the record.

24 THE WITNESS: Cherrice Lanee Jones.
25 C-h-e-r-r-i-c-e, L-a-n-e-e, J-o-n-e-s.

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1 THE COURT: Thank you very much, ma'am.

2 MR. SCHWARTZER: May I proceed?

3 THE COURT: Mr. Schwartzer, yes.

4

5 DIRECT EXAMINATION

6 BY MR. SCHWARTZER:

7 Q. Ms. Jones, is there a person in this courtroom
8 that you had a prior dating relationship with?

9 A. Yes.

10 Q. Do you see that person in the courtroom today?

11 A. Yes.

12 Q. Can you point to him and identify a piece of
13 his clothing?

14 A. (Indicating) Right there.

15 MR. SCHWARTZER: The record reflect the
16 witness has identified the defendant?

17 THE COURT: Yes, sir.

18 BY MR. SCHWARTZER:

19 Q. How do you know the defendant by, what name?

20 A. Frank.

21 Q. Did Frank go by any type of last name, did he
22 have, like, a nickname?

23 A. Yeah.

24 Q. What was --

25 A. Netty --

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1 Q. I'm sorry, what was his nickname?

2 A. Netty. Frank Netty.

3 Q. So he went by Frank Netty. Do you know
4 Frank's true last name?

5 A. No.

6 Q. Now, how long have you known Frank Netty?

7 A. Known him-known him or how long have I known
8 of him?

9 Q. Known of him?

10 A. Maybe a year or so. I've seen him around the
11 apartment complex.

12 Q. And how long have you had a romantic
13 relationship with the defendant?

14 A. It was brief, a couple weeks.

15 Q. And when did that romantic relationship end?

16 A. April.

17 Q. Would that be April of 2013?

18 A. Yes.

19 Q. Now, you mentioned an apartment complex. Did
20 you used to live at the Janice Brooks Bay Apartment?

21 A. Yes.

22 Q. Do you know what street that's located on?

23 A. Walnut Avenue.

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

25 A. Yes.

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1 Q. Now I want to direct your attention to late
2 May 16, 2013, early morning May 17, 2013. Were you
3 living in that apartment complex at the time?

4 A. Yes.

5 Q. You were not in a relationship with the
6 defendant at the time?

7 A. No.

8 Q. Do you know where the -- what apartment
9 number the defendant was living at the time?

10 A. Yes.

11 Q. What apartment number was that?

12 A. Thirty-nine.

13 Q. And --

14 THE COURT: I'm sorry, ma'am? I just didn't
15 hear you.

16 THE WITNESS: Thirty-nine.

17 THE COURT: Thank you.

18 BY MR. SCHWARTZER:

19 Q. And are you familiar with that apartment?

20 A. It was my old apartment, yeah.

21 THE COURT: Okay. Your voice is dropping
22 really softly, and see my court reporter right in
23 front of you?

24 THE WITNESS: I'm sorry.

25 THE COURT: She's shaking her head yes that

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1 she can't hear you either. And we're the closest ones
2 to you.

3 THE WITNESS: Yep.

4 THE COURT: So I need you to really project
5 for me if you will.

6 THE WITNESS: Okay.

7 THE COURT: Thank you, ma'am.

8 MR. SCHWARTZER: Thank you, Your Honor.

9 BY MR. SCHWARTZER:

10 Q. Now, do you know if the defendant lived with
11 anyone else in that Apartment 39?

12 A. Yes.

13 Q. And who was that?

14 A. I don't know her name or know her.

15 THE COURT: I'm sorry, ma'am?

16 THE WITNESS: Oh, I'm still too -- I'm still
17 too soft? Okay.

18 THE COURT: I can't hear you.

19 THE WITNESS: I don't know her name, per se.

20 MR. SCHWARTZER: May I approach, Your Honor?

21 BY MR. SCHWARTZER:

22 Q. This might -- this is a microphone, you might
23 want to speak --

24 A. She told me I didn't need to lean into it.
25 Okay.

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1 THE COURT: You really don't have to lean
2 into it if you keep your voice up, but if you're going
3 to whisper, you need to sit on it. All right.

4 BY MR. SCHWARTZER:

5 Q. Okay. Did you see -- during the nighttime
6 hours of May 16th, did you see Frank Netty around
7 the -- the defendant around the apartment complex?

8 A. Yes.

9 Q. Do you recall what he was wearing at the time?

10 A. He had on some shorts, tennis shoes and a
11 T-shirt.

12 Q. What color was the T-shirt?

13 A. White.

14 Q. And you've known Frank Netty for over a year,
15 the defendant for over a year, was he known to carry
16 anything with him?

17 A. What do you mean?

18 Q. Was he known to carry any type of weapon with
19 him?

20 A. I've never saw him with one. I've heard that
21 he did, but I've never saw him with one.

22 Q. Okay. Now, are you aware that there was a
23 shooting that occurred in that -- your apartment
24 complex in the early morning of May 17, 2013?

25 A. Yes.

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1 Q. Were you actually at the apartment complex on
2 May 17, 2013?

3 A. Not at the time the incident occurred, no.

4 Q. Were you in a dating relationship with
5 someone on May 17, 2013?

6 A. Yes.

7 Q. And who were you in a dating relationship with?

8 A. Clifton Watkins.

9 Q. And were you aware that Mr. Watkins was
10 injured in that shooting -- or was -- excuse me, that
11 Mr. Watkins was with someone who was injured or killed
12 in the shooting?

13 A. Yes.

14 Q. Now, does your daughter also sometimes park
15 in this apartment complex?

16 A. Yes.

17 Q. And what's your daughter's name?

18 A. Mishonda Roberts (phonetic)

19 Q. And what kind of vehicle does she drive?

20 A. A silver Chevy Cavalier.

21 Q. And is that a -- what kind of license plate
22 does she have?

23 A. California.

24 Q. California plates. Do you recall what year
25 that the vehicle was?

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1 A. I think it's a 2000.

2 Q. Okay. After this shooting occurred, did you
3 have a chance to return to the apartment complex?

4 A. Yes.

5 Q. And this vehicle that you previously
6 mentioned, is it a vehicle that your daughter uses on
7 a daily basis?

8 A. Yes.

9 Q. Were there what appeared to be any damage --
10 did there appear to be any damage to the vehicle after
11 you returned after the shooting?

12 A. Yes.

13 Q. What kind of damage appeared on the vehicle?

14 A. It had bullet holes in it.

15 Q. Now, at some point in the next day or two, did
16 you actually have a conversation with a Detective Mogg?

17 A. Yes.

18 Q. And during that conversation with --

19 MR. SCHWARTZER: May I approach your clerk,
20 Your Honor?

21 THE COURT: Yes.

22 BY MR. SCHWARTZER:

23 Q. During that conversation with Detective Mogg,
24 did he show you a photo line-up?

25 A. Yes.

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1 Q. And, in fact, did you actually talk to
2 Detective Mogg on two separate occasions?

3 A. Yes.

4 Q. And on both occasions did he show you a photo
5 line-up?

6 A. Yes.

7 Q. Now, during the first photo line-up, the
8 first time you talked with Detective Mogg, did he give
9 you any instructions regarding the photo line-up?

10 A. He told me he was going to show me photos, and
11 he wants me to point out anybody if I recognized them.

12 Q. Did he say you had to point anyone out?

13 A. No.

14 Q. In fact, in the first photo line-up, did you
15 point anyone out?

16 A. No.

17 MR. SCHWARTZER: May I approach, Your Honor?

18 THE COURT: Yes.

19 BY MR. SCHWARTZER:

20 Q. Showing you State's Exhibit 3 --

21 MR. SCHWARTZER: Showing defense.

22 BY MR. SCHWARTZER:

23 Q. Showing you part one of Exhibit 3 and part two
24 of Exhibit 3, do you recognize this?

25 A. Yes.

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1 Q. Is this the first photo line-up Mr. Mogg, or
2 Detective Mogg, showed you?

3 A. Yes.

4 MR. SCHWARTZER: Move to admit State's
5 Exhibit 3.

6 THE COURT: Mr. Arnold.

7 MR. ARNOLD: No objection, Your Honor.

8 THE COURT: It will be admitted.

9 (State's Exhibit 3
10 was admitted into evidence)

11 BY MR. SCHWARTZER:

12 Q. And, in fact, were you unable -- you said you
13 were unable to identify anyone?

14 A. Yes.

15 Q. Now, the -- the next day Detective Mogg --
16 did you meet with Detective Mogg again?

17 A. I don't know if it was the next day but, yes,
18 I did meet with Detective Mogg again.

19 Q. And did he show you another photo line-up?

20 A. Yes.

21 MR. SCHWARTZER: May I approach, Your Honor?

22 THE COURT: You may.

23 MR. SCHWARTZER: Showing defense State's
24 Proposed Exhibit 4.

25 May I -- I already asked. I'm sorry,

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1 Your Honor.

2 THE COURT: And neither one of you have to
3 ask, either of the three of you.

4 BY MR. SCHWARTZER:

5 Q. Now showing you this -- the -- when this --
6 State's Proposed Exhibit 4. I'm showing you the first
7 part of Exhibit 4 and page 2 of Exhibit 4. Do you
8 recognize these documents?

9 A. Yes.

10 Q. Is this, in fact, the second line-up that
11 Detective Mogg showed you?

12 A. Yes.

13 MR. SCHWARTZER: I move to admit State's
14 Exhibit 4, Your Honor.

15 MR. ARNOLD: No objection, Your Honor.

16 THE COURT: Admitted.

17 (State's Exhibit 4
18 was admitted into evidence)

19 BY MR. SCHWARTZER:

20 Q. And, in fact, in this line-up, you were
21 actually able to identify someone; is that correct?

22 A. Yes.

23 Q. What individual did you identify?

24 A. Frank.

25 Q. And that would be the person in what position?

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1 A. Number 4.

2 Q. And you also wrote a brief statement; is that
3 correct?

4 A. Yes.

5 Q. Is that your handwriting?

6 A. Yes.

7 Q. And you wrote: Number 4, Frank.

8 A. Yes.

9 Q. You -- at this point you didn't know what
10 Frank's last name was?

11 A. No.

12 Q. And this person that you said was Frank,
13 that's the person that you know as Frank Netty?

14 A. Yes.

15 MR. SCHWARTZER: Court's indulgence.

16 BY MR. SCHWARTZER:

17 Q. Now, ma'am, you said you dated Cliff Watkins
18 before -- or excuse me, during May 17th of 2013?

19 A. Yes.

20 Q. Did you, in fact, date him before you had the
21 romantic relationship with Frank Netty as well?

22 A. Yes.

23 Q. So in between your relationship with
24 Mr. Watkins, you had a brief romantic relationship
25 with the defendant?

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1 A. Yes.

2 Q. How long had you -- how long have you had a
3 romantic relationship with Mr. Watkins, on and off?

4 A. Five and a half years.

5 MR. SCHWARTZER: Pass the witness, Your Honor.

6 THE COURT: Mr. Arnold, you may cross.

7 MR. ARNOLD: Thank you, Your Honor.

8

9

CROSS-EXAMINATION

10 BY MR. ARNOLD:

11 Q. Ma'am, you said that you saw Frank the night
12 of May 16th; is that correct?

13 A. Yes.

14 Q. And approximately what time did you see him at?

15 A. He was there off and on all day.

16 Q. You said you saw him there that night though,
17 approximately what time that night did you see him at?

18 A. Throughout the night.

19 Q. Okay. And I'm asking again, ma'am,
20 approximately what time?

21 A. Eight o'clock, nine o'clock, ten o'clock,
22 eleven o'clock, up until I left. I left there at,
23 what, 11:45.

24 Q. And you saw him there up until 11:45 p.m.?

25 A. Yes.

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1 Q. And did he have his moped with him, ma'am?
2 A. It was sitting out in the parking lot area.
3 Q. It was sitting on the -- in the parking lot
4 area?
5 A. Yes.
6 Q. And was he on that moped, ma'am?
7 A. No.
8 Q. And you also described him as having a white
9 T-shirt; isn't that correct, ma'am?
10 A. Yes.
11 Q. What color -- what did he have on, pants or
12 shorts?
13 A. He had on shorts.
14 Q. And what color were those shorts?
15 A. I don't know, I don't recall.
16 Q. Didn't you testify or do you recall giving a
17 statement to the police that was recorded?
18 A. Yes.
19 Q. And do you recall telling the police that
20 those were black shorts that he had on?
21 A. No.
22 MR. SCHWARTZER: Objection.
23 BY MR. ARNOLD:
24 Q. You don't recall that, ma'am?
25 A. No.

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1 THE COURT: Hang on a second.
2 What's the nature of your objection?
3 MR. SCHWARTZER: Judge, I'll, I'll rescind it.
4 THE COURT: Okay.
5 BY MR. ARNOLD:
6 Q. So you don't recall making that statement --
7 A. No.
8 Q. -- to the police?
9 And do you recall, or did the police
10 tell you that they had a recorded statement, that they
11 were recording your statement?
12 A. Yes.
13 Q. Okay. So if your recorded statement said
14 that he had black shorts on, would that have been an
15 accurate reflection of your memory at that time?
16 MR. SCHWARTZER: Judge, I'm going to object
17 again. This isn't, in fact, in evidence, and that's
18 actually not what the voluntary statement or recorded
19 statement says.
20 THE COURT: Well, you can take care of that
21 on redirect, but the question is appropriate, so the
22 objection is overruled.
23 MR. SCHWARTZER: Thank you, Your Honor.
24 BY MR. ARNOLD:
25 Q. I'll ask the question again just in case you

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1 forgot. In -- if the recorded statement that you gave
2 the police that day stated that he had black shorts
3 on, would that have been an accurate reflection of
4 your memory on May 16th?

5 A. Yes, if that's what the recording says.

6 Q. Thank you.

7 And do you recall what type of shoes
8 he's -- he was wearing at that time?

9 A. Tennis shoes.

10 Q. Do you recall what brand of tennis shoes?

11 A. No.

12 Q. Do you recall telling the police that he was
13 wearing Jordans at the time --

14 A. No.

15 Q. -- that you gave your recorded statement?

16 A. No.

17 Q. No, you don't recall that?

18 A. No.

19 Q. And again, if that's noted in your recorded
20 statement, that would have been a more accurate
21 reflection --

22 A. Yes.

23 Q. -- of your memory?

24 And I understand it's been a while, so
25 these details may not stick out to you today as they

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1 did back then. And you gave that recorded statement
2 approximately how many days after the shooting?

3 A. I don't know.

4 Q. It wasn't a month after the shooting?

5 A. No.

6 Q. It was like a couple of days --

7 A. Yes.

8 Q. -- after the shooting?

9 Just -- ma'am, let me finish my
10 question before you answer, too, because the court
11 reporter has to take down my question and then your
12 answer. But if you interrupt me before I get out the
13 whole entire question, she can't get it all down.
14 Okay?

15 A. Mm-hmm.

16 Q. You have to say yes or no.

17 A. Yes.

18 Q. Okay. Ma'am, you said that you left. And
19 where did you go at 11:45 p.m.?

20 A. The casino.

21 Q. Okay. How long were you at the casino?

22 A. I walked in the door at 12:01 to get a phone
23 call, to turn around and come back home.

24 Q. And who called you?

25 A. My daughter.

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1 Q. And why did -- why did your daughter tell you
2 to come back home?

3 A. Because there had been a shooting.

4 Q. And did you return back --

5 A. Yes.

6 Q. -- to the apartment complex?

7 A. Yes.

8 Q. And when you returned back to the apartment
9 complex, did you see that moped outside the apartment
10 complex?

11 A. I couldn't even get in my side of the
12 apartment complex because of the yellow tape.

13 Q. Because of what?

14 A. The yellow tape.

15 Q. Okay.

16 A. They had it all roped off with everything.

17 Q. Right. So the police had already arrived at
18 that time?

19 A. Yes.

20 Q. Okay. Now, based upon your best recollection,
21 do you recall the moped still being there at the
22 apartment complex?

23 A. I don't, I didn't look for it. My concern
24 was getting to my house at that point.

25 Q. You said that it was your daughter's car that

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1 was damaged during the shooting; is that correct?

2 A. Yes.

3 Q. And was that damage ever repaired to the
4 vehicle?

5 A. No.

6 Q. So do you know where the vehicle is presently?

7 A. Yes.

8 Q. And where is that, ma'am?

9 A. With her.

10 Q. Okay. And -- and there are still bullet
11 holes in that vehicle?

12 A. Yes.

13 Q. Now, you said that you were shown two photo
14 line-ups; is that correct?

15 A. Yes.

16 Q. And the first photo line-up, do you recall
17 how many days after the shooting that was?

18 A. A couple.

19 Q. And was that a couple you said?

20 A. (No response)

21 Q. Where did you actually view these photos?

22 A. The detective showed them to me.

23 Q. But where? At the detective's office? Your
24 house? Where?

25 A. No. A meeting spot.

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1 Q. Where was the meeting spot?

2 A. I can't remember first time. In a parking
3 lot.

4 Q. Do you recall the address? Is it the parking
5 lot of McDonald's? Where is it, ma'am?

6 A. No, I don't recall the parking lot the first
7 meeting was at.

8 Q. Okay. And was your -- I guess he's your
9 boyfriend, was Mr. Watkins with you?

10 A. Yes.

11 Q. Okay. And do you recall who saw the photo --
12 the first photo line-up first, yourself or Mr. Watkins?

13 A. He did. And I recall where we were at the
14 first time the officer met with us.

15 Q. It was what?

16 A. I recall where we were at the first time the
17 officer met with us, the detective.

18 Q. And where was that, ma'am?

19 A. We were at Clifton's job.

20 Q. At Clifton's job at a parking lot there?

21 A. Right.

22 Q. Okay. And when -- you said Mr. Watkins was
23 with you; is that correct?

24 A. Yes.

25 Q. And were you present when Mr. Watkins looked

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1 at the photo line-up?

2 A. I wasn't sitting in the car with him, no.

3 Q. Oh, he saw the photo line-up in the car?

4 A. We saw -- we saw them separate.

5 Q. And that car, that was the detective's car?

6 A. Yes.

7 Q. And did Mr. Watkins, after he came out of the
8 car, did he tell you anything in regards to his
9 viewing of the photo line-up?

10 A. No.

11 Q. And then you went and saw the photo line-up?

12 A. Yes.

13 Q. Okay. And then what happened next after
14 that, after you saw the photo line-up, you got out of
15 the detective's car, did you go home?

16 A. Yes.

17 Q. Okay. And when you went home, did Mr. Watkins
18 go back home with you?

19 A. Yes.

20 Q. Okay. And did Mr. Watkins tell you that he
21 had identified the shooter in that photo line-up?

22 A. No.

23 Q. What did he tell you about that photo line-up?

24 A. We didn't discuss it.

25 Q. You didn't discuss that photo line-up

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1 whatsoever?

2 A. No. We were instructed not to.

3 Q. So you both went home and you both didn't
4 talk about it?

5 A. Yes.

6 Q. Then a couple of days later, you were given a
7 second photo line-up?

8 A. Yes.

9 Q. And in the second photo line-up, did you all,
10 before you went to the -- do the second photo line-up,
11 did you have a discussion in regards to the photo
12 line-up?

13 A. Say that again.

14 Q. Did you and Mr. Watkins, before you went and
15 saw the second photo line-up, did you talk about that
16 we have to do a second photo line-up?

17 A. Yeah, he had told me he had talked to the
18 detective, and we just go and meet with him for
19 another line-up, yeah, that was the discussion.

20 Q. Who told you that, Mr. Watkins?

21 A. Yes.

22 Q. And did he tell you the purpose of the second
23 photo line-up?

24 A. No, not per se. I mean it's a line-up.

25 Q. And during that first photo line-up, did

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1 Mr. Watkins tell you -- did he ever tell you that, in
2 the first photo line-up, that he identified a shooter
3 in that first photo line-up?

4 A. No, he didn't.

5 Q. And do you know what time the shooting was at?

6 A. I wasn't there so, no, I don't know exactly
7 what time the shooting was.

8 Q. And -- and so you have no information or you
9 did not witness the shooting at all?

10 A. No.

11 MR. ARNOLD: Okay. I have no further
12 questions for this witness.

13 THE COURT: Anything further, Mr. Schwartzer?

14 MR. SCHWARTZER: Just briefly, Judge.

15

16 REDIRECT EXAMINATION

17 BY MR. SCHWARTZER:

18 Q. Now, Mr. Arnold asked you about if you recall
19 what color shorts -- or if you gave the detective any
20 indication what color the shorts were. Do you recall
21 that questioning?

22 A. Yes.

23 Q. Do you recall that your initial answer was
24 you didn't recall?

25 A. Yes.

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1 Q. Would it help refresh your memory if you were
2 actually able to review the statement you gave to the
3 detective, see if you indicate a color of the shorts?

4 A. I don't recall indicating the color of his
5 shorts, but I can look at the report.

6 THE COURT: Is it pertinent to the case?

7 MR. SCHWARTZER: I'm just correcting
8 something, Your Honor. I'll be done right after
9 this.

10 THE COURT: It doesn't matter. It's just
11 that sometimes you don't need to do those things. I
12 mean if you want to show her, and she -- does she not
13 need to read the whole transcript to make sure --

14 MR. SCHWARTZER: I have a very brief
15 portion, Your Honor. I'll direct her to the very brief
16 portion.

17 THE COURT: Well, at least in that one very
18 brief portion.

19 MR. SCHWARTZER: Okay.

20 THE COURT: Are you going to testify that
21 it's nowhere else in this?

22 MR. SCHWARTZER: I'm not, Your Honor.

23 THE COURT: That's --

24 MR. SCHWARTZER: I understand.

25 THE COURT: Sometimes little things are made

1 huge -- but go ahead.

2 BY MR. SCHWARTZER:

3 Q. Now, ma'am, I just wanted you to -- page 9 of
4 your state -- your initial statement to Detective Mogg.
5 Read the first four -- first two questions and
6 answers.

7 THE COURT: I think you need to lay a
8 foundation for the statement.

9 MR. SCHWARTZER: Absolutely.

10 THE COURT: Was it hers?

11 MR. SCHWARTZER: Absolutely, Your Honor.

12 THE COURT: Get the date and time.

13 MR. SCHWARTZER: Absolutely.

14 BY MR. SCHWARTZER:

15 Q. Now, you initially said you gave a statement
16 to Detective Mogg?

17 A. Yes.

18 Q. And you gave -- you didn't give that statement
19 the day of but the next day; is that correct?

20 A. The next day or the day after that --

21 Q. And you gave that statement you testified to
22 not actually at the apartment complex where it
23 happened but somewhere else?

24 A. Right.

25 Q. And that was where?

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1 A. At Clifton's job.

2 Q. And were you aware that that statement was
3 being recorded?

4 A. Yes.

5 Q. In fact, Detective Mogg informed you that it
6 was being --

7 A. Yes.

8 Q. And during that questioning, did he actually
9 ask you specifically if you recall what the defendant
10 was wearing the day of the shooting?

11 A. Yes.

12 Q. And did you provide him with an answer?

13 A. I told him that he had on a white T-shirt. I
14 don't recall the pants or the shoes.

15 Q. And that's --

16 A. I didn't pay attention to them.

17 Q. And that's what you recall you put in the
18 statement?

19 A. Yes.

20 MR. SCHWARTZER: I'll pass the witness,
21 Your Honor.

22 THE COURT: Did you show her the statement?

23 MR. SCHWARTZER: I did not, Your Honor.

24 THE COURT: Mr. Arnold.

25 MR. ARNOLD: No further questions.

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1 THE COURT: Thank you very much, ma'am. You
2 are excused.

3 Next witness.

4 MS. JOSEPH: Your Honor, the State calls
5 Clifton Watkins.

6 THE COURT: Good morning, sir. Thank you for
7 waiting. You just follow my marshal right up to the
8 witness stand, and when you get up there, if you would
9 remain standing, raise your right hand, we'll get you
10 sworn in.

11
12 Whereupon,

13 CLIFTON WATKINS,
14 having been first duly sworn to testify to the truth,
15 the whole truth and nothing but the truth, was
16 examined and testified as follows:

17

18 THE CLERK: Please be seated.

19 If you could state your full name and
20 spell it for the record.

21 THE WITNESS: Clifton Watkins.

22 C-l-i-f-t-o-n; Watkins, W-a-t-k-i-n-s.

23 THE COURT: Thank you, sir.

24 You may proceed.

25 MS. JOSEPH: Thank you.

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DIRECT EXAMINATION

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BY MS. JOSEPH:

Q. Could you tell the Court, Mr. Watkins, where you were living back on May 16th and May 17th of this year?

A. At the apartments on Nellis and Walnut, Apartment 13.

Q. And do those -- does that apartment complex have a name?

A. I don't know the name of it.

Q. Do you still live at that apartment complex?

A. No.

Q. When you were living in Apartment 13, were you living with anyone, or were you living by yourself?

A. I was living with Cherrice.

Q. And what's Cherrice's full -- full name?

A. Cherrice Jones.

Q. And what is her relationship to you?

A. My current girlfriend.

Q. How long have you and Miss Jones been involved in a romantic relationship?

A. Five years.

Q. Has that been a continual five-year period, or has it been off and on?

A. No, we broke up in February.

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1 Q. February of this year?

2 A. Yes.

3 Q. How long were you broken up for?

4 A. About a couple days.

5 Q. So not very long?

6 A. No.

7 Q. When you and Miss Jones had a separated period
8 in this year, do you know if she dated anyone else?

9 A. Yes.

10 Q. And do you know who that was?

11 A. Frank.

12 Q. Do you see Frank here in the courtroom today?

13 A. Yeah.

14 Q. Could you please point to where he's seated
15 and identify an article of clothing?

16 A. (Indicating) He's in the Clark County
17 Detention Center blue.

18 MS. JOSEPH: Your Honor, may the record
19 reflect identification of the defendant?

20 THE COURT: It can.

21 And, Mr. Watkins, you can help me,
22 please, sir, could you talk a little bit louder for
23 us?

24 THE WITNESS: Yes, I can.

25 THE COURT: The court reporter will appreciate

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1 it, she's shaking her head yes.

2 Thank you, sir.

3 BY MS. JOSEPH:

4 Q. And how do you know the defendant?

5 A. He was coming around a lot.

6 Q. When you say coming around a lot, did he live
7 in that apartment complex?

8 A. Yeah, he lived in 39.

9 Q. Do you know if he lived with anyone?

10 A. Another female.

11 Q. Do you know her name?

12 A. No, ma'am.

13 Q. And do you know -- I know you mentioned his
14 name was Frank. Do you know his last name?

15 A. No.

16 Q. Did you know any names that he went by?

17 A. Frank Netty.

18 Q. But you didn't believe that Netty was his
19 last name?

20 A. No.

21 Q. When do you first recall becoming associated
22 with Mr. Netty, were you friends, or how did you meet
23 him?

24 A. No, we weren't friends. We -- we had casual
25 conversation. He was coming to my neighbor's house,

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1 talking with my neighbor next door.

2 Q. And who is your neighbor next door?

3 A. Kinsey (phonetic)

4 Q. Now, did -- were you and the defendant
5 friends, or did you have a contentious relationship?

6 A. No, we just spoke and that was it.

7 Q. How long was he dating your current
8 girlfriend, Cherrice?

9 A. From what she tells me, between March the 26th
10 all the way to April the 6th, which was her birthday.

11 Q. And did the fact that she was dating someone
12 other than yourself, did that cause any tension
13 between you and the defendant?

14 A. I have no idea.

15 Q. Did you feel -- I mean were you upset that
16 she was dating someone else?

17 A. No.

18 Q. Did it appear that he was -- that the
19 defendant was upset with you?

20 A. I don't think so.

21 Q. I want to talk a little more about May 16,
22 2013. Could you tell the Court where you're -- or
23 where you were employed at that period of time?

24 A. I work for a company called Trinity Security.
25 I'm a security supervisor.

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1 Q. What's your normal work hours?

2 A. At that current time, I was working from ten
3 to six, ten at night until six in the morning.

4 Q. And on March -- or on May the 16th, would
5 that have been a normal work night for you?

6 A. Yes.

7 Q. So you work five days a week or seven days a
8 week?

9 A. I work five days week, off for two.

10 Q. Are you also acquainted with an individual by
11 the name of Michael Jordan?

12 A. Yes.

13 Q. How did you know Mr. Jordan?

14 A. Well, my nephew brought him over to the
15 house, and we had a brief -- a brief conversation, and
16 him and I just connected.

17 Q. Okay. And we're still talking about the --
18 the May 16th date?

19 A. Yes.

20 Q. So this was the first date that you had met
21 Mr. Jordan?

22 A. Yes.

23 Q. When you say that you had a -- I think a
24 conversation or a connection, what were you guys doing
25 that evening? When did you first start talking?

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1 A. My nephew brought him to the house. I was at
2 home trying to get ready for work. He says, Uncle, I
3 want you to meet some somebody. I said, Who is it?
4 I'll come down.

5 So I met him, he told me his name was
6 Mike. I said, How you doin'? I'm Cliff.

7 And from there him and I just started
8 talking.

9 Q. Did you guys stay in the apartment complex,
10 or did you travel anywhere?

11 A. Well, this particular night, we was standing
12 outside my front door talking about my '98 Cadillac
13 DeVille that needed to be fixed. He told me he was a
14 mechanic. I said, Well, let's look at the car.

15 At this particular time, we was trying
16 to unlock the door because my nephew had locked the
17 door to my car, and the keys was upstairs in my
18 laundry room. So we had to break into it with a
19 crowbar to -- to get inside my vehicle. Once we got
20 inside the vehicle, I popped the hood. Here, here's
21 your problem right here, your spark plugs are not --

22 Q. Let me just stop you, sir, we don't have to
23 specifically talk about what he was saying, but it
24 sounds from your conversation that you guys were
25 working on your vehicle.

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1 A. Yeah.

2 Q. Did you have to travel to an Auto Zone or
3 anything to pick up more parts, or did you guys go to
4 any local stores while you were talking?

5 A. No, we didn't even leave the parking lot.

6 Q. Okay. And who was with you?

7 A. It was myself, Mike, and my nephew --

8 Q. And what's your --

9 A. -- and my neighbor next door.

10 Q. Okay. What's your nephew's name?

11 A. His name is Jamal (phonetic)

12 Q. And your neighbor next door, what's his name?

13 A. They call him Kojak.

14 Q. About what time were you working on your
15 vehicle, was this nighttime or was it during the day?

16 A. It was at night.

17 Q. And where was your vehicle parked within the
18 complex?

19 A. In the parking lot.

20 Q. Is that in front of your apartment?

21 A. In front of my building.

22 Q. Is there any lighting in that area?

23 A. Yes.

24 Q. Would it be the lighting from, say, like a
25 next apartment that's next to it, or is it the

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1 lighting from, like, an overhead?

2 A. It was the lighting from a pole, a pole light.

3 Q. How long would you say that you and these
4 other three individuals were working on your vehicle?

5 A. It took us a long time to get -- to get up in
6 there because Mike had to go to his vehicle to get out
7 more stuff to even pry the window open.

8 Q. At some point in time, were you still working
9 on this vehicle past ten o'clock at night?

10 A. Yes.

11 Q. And were you scheduled to be working that
12 evening?

13 A. Yes.

14 Q. Did you just not go to work or what did you
15 decide to do?

16 A. I end up going to work afterwards.

17 Q. But you didn't go right at ten o'clock?

18 A. I didn't go right away, no.

19 Q. Were you and these individuals drinking while
20 you were working on this vehicle?

21 A. I wasn't drinking at that time but Mike and
22 my -- and my nephew was.

23 Q. Were you guys being particularly loud?

24 A. No. We was conversating between us three.

25 Q. Earlier in the day, do you recall if you had

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1 seen the defendant in the complex?

2 A. Yes.

3 Q. I know I'm backing up a little bit for you, but
4 do you recall what he was wearing earlier in the day?

5 A. Yes.

6 Q. What was he wearing?

7 A. A white Pro Club and gray -- gray -- had gray
8 shorts with pockets on the side.

9 Q. When you say a white Pro Club, is that a --

10 A. White T-shirt.

11 Q. Do you recall what type of shoes he was
12 wearing?

13 A. Jordans.

14 Q. And do you recall the color of those shoes?

15 A. Either black or white, I just looked at the
16 shirt and the pants, I didn't pay too much attention
17 to the shoes.

18 Q. And he was wearing, I think you said shorts,
19 not pants though, right?

20 A. He was wearing shorts.

21 Q. Okay. Did -- the defendant, was he part of
22 this conversation of guys working on cars?

23 A. No.

24 Q. While you were working on these vehicles, at
25 some point did you see the defendant?

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1 A. Yes.

2 Q. I want to talk about earlier in the day. I
3 know that we've spoken previously about this day, but
4 did you have any fear of the defendant earlier in that
5 day?

6 A. No.

7 Q. And now I'm not meaning to say that you would
8 be fearful, you know, of another individual, but did you
9 have any reason to believe that he was upset with you?

10 A. Not to my knowledge, no.

11 Q. Would you guys say that you were friends?

12 A. No.

13 Q. Kind of acquaintances or he was just a --

14 A. Not even that. We just spoke. And he went
15 and did his thing, I did mine.

16 Q. Okay. Did you ever know the defendant to
17 carry a weapon?

18 A. Yeah.

19 Q. Did you ever see the defendant carrying a
20 weapon?

21 A. Until that night, yes.

22 Q. Prior to that night, had you ever seen the
23 defendant carrying a weapon?

24 A. No.

25 MS. JOSEPH: Court's indulgence.

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1 BY MS. JOSEPH:

2 Q. Let's talk more about this night. When you
3 saw the defendant -- actually, I have another question
4 for you, Mr. Watkins. Do you remember giving that
5 police statement to Detective Mogg in this case back
6 on May 17th?

7 A. Yes.

8 Q. And in that statement, do you recall letting
9 Detective Mogg know that you knew Mr. -- the defendant
10 carried a .40 caliber weapon?

11 A. Yes.

12 Q. And do you recall that you said that that was
13 before May 17th?

14 A. Yes.

15 Q. So you knew he carried a weapon before that
16 date?

17 A. Yes.

18 Q. How did you know that?

19 A. A lot of the people that was around was
20 talking. I had to listen and heard what they were
21 saying.

22 Q. And do you recall also telling Detective Mogg
23 that you've specifically seen the weapon prior to
24 May 17th?

25 A. Yes.

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1 Q. Okay. So you had seen it, right?

2 A. Yes.

3 Q. And based on what you had seen, did it appear
4 to be a .40 caliber weapon?

5 A. Yes.

6 Q. Do you recall anything about this weapon in
7 terms of color or how it looked?

8 A. It was a black one, small, semiautomatic.

9 Q. Do you recall what brand it was?

10 A. No. It was either a Smith & Wesson or either
11 a Taurus.

12 Q. And do you have some level of familiarity
13 with guns?

14 A. Yes.

15 Q. Now, on this night of May 16th into May 17th,
16 do you recall approximately what time it was when you
17 saw the defendant on that night?

18 A. Like around eleven o'clock -- eleven o'clock,
19 11:30.

20 Q. And where did you see him?

21 A. He was standing by Kinsey's van.

22 THE COURT: I'm sorry, he was what, sir?

23 THE WITNESS: He was standing by Kinsey's
24 white van.

25 THE COURT: Thank you.

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1 BY MS. JOSEPH:

2 Q. And was this the first time that you had seen
3 him on -- when it was the nighttime?

4 A. No.

5 Q. You had seen him earlier?

6 A. Earlier in the day, yes.

7 Q. Now, when you and Mr. Jordan and these two
8 other individuals were working on this vehicle, did
9 you see the defendant again?

10 A. Yes.

11 Q. Where was he at this time?

12 A. He was standing by Kinsey's van. This time
13 it was Kinsey and him standing there.

14 Q. Okay. And did -- how close was Kinsey's van
15 to you and your friends?

16 A. Parked right next to my car.

17 Q. Okay. Did -- did he remain at the van, or did
18 he leave, or did you notice where he went from there?

19 A. No, he stayed at the van.

20 Q. Okay. At some point did you observe him near
21 a bush in your parking lot?

22 A. Yes.

23 Q. Sorry, I know sometimes they seem like weird
24 questions, but I need to -- we need to have a story
25 of -- of how you saw him this evening.

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1 Did you watch him walk from the van to
2 the bushes, or were you not paying attention to him?

3 A. No, at this particular time, we finally got
4 the car open, we lift up the hood.

5 Q. Okay.

6 A. And Frank was still standing right there.

7 Let me back up. Before that, Kojak,
8 myself, and Mike, opening my door, Frank Netty said,
9 Oh, you guys are with them busters. At this
10 particular time, Kinsey was calling Kojak to come to
11 the van, we gotta take Frank Netty somewhere. He
12 said, Wait a minute, I'm with my friends right now.

13 Q. Okay. So earlier in the evening -- and when
14 you say Frank Netty, you're referring to the defendant?

15 A. To the defendant.

16 Q. And what was the statement that he made?

17 A. He over there with them busters.

18 Q. And that was made towards you or towards
19 someone else?

20 A. Toward all three of us.

21 Q. Okay. And how did you respond to that comment?

22 A. I didn't really say anything. I was just too
23 busy in my car. I just looked at him.

24 Q. So you ignored it?

25 A. Yeah.

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1 Q. Okay. Now, did he end up leaving then with
2 Kinsey and Kojak, I think you mentioned?

3 A. Yes.

4 Q. Did he ultimately come back?

5 A. They came back with -- his girl came back
6 with pizza in his hand -- in her hand.

7 Q. And was he with her?

8 A. Not this particular time, no -- yes, he was,
9 he was with her. He was with her.

10 Q. Okay. Now, when he was with her with the
11 pizza, did they then leave, or did they stay outside?

12 A. No, they stayed outside for a minute.

13 Q. And then what -- what did the defendant do?

14 A. Well, that night he followed me -- he
15 followed me, my nephew, and Mike around. Him and --
16 him and his other buddy there.

17 Q. When you say followed you around, were you
18 guys walking, or were you guys still -- still by the
19 car at this point?

20 A. No, we was walking to -- to Mike's house.

21 Q. And was Mike at his house or was he with you?

22 A. He was with me.

23 Q. So it appeared that you were kind of just
24 walking around you guys?

25 A. Yes.

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1 Q. Did you wonder why he was doing this?
2 A. It was strange. It was strange.
3 Q. Did it -- did it worry you or were you curious?
4 A. Didn't worry me.
5 Q. When was the next time that you saw him after
6 he had been walking around you and your friends?
7 A. He was standing by the wall.
8 Q. What wall are you referring to?
9 A. His building. Building 39 has a wall just
10 right by the side by the meter boxes, gas box is right
11 there.
12 Q. Okay. And how close was that to where you
13 and your friends were up near your car?
14 A. We can see him from Mike's apartment when we
15 were standing on the outside in a circle, and all of
16 us seen him.
17 Q. Did -- what did he appear to be doing by the
18 wall?
19 A. He had his feet popped up on it.
20 Q. So when you say feet popped up, was he leaning
21 back against the wall?
22 A. Yes.
23 Q. Okay. Did you notice what he was wearing at
24 this point in time?
25 A. White shirt and gray pants -- and the gray

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1 shorts.

2 Q. So this was the same outfit he was wearing
3 earlier in the day?

4 A. Yes.

5 Q. When you and these individuals were working on
6 your car, did you ever notice the defendant -- I know
7 you mentioned a wall and you mentioned several
8 buildings, did you ever notice the defendant by a bush?

9 A. Yes.

10 Q. And describe for us when that occurred, after
11 you saw him leaning up against the wall, did you watch
12 him walk to the bush, or how did you become aware of it?

13 A. Well, my nephew -- well, we had all four of
14 us had went to the store. I grabbed me a Budweiser
15 and some more cigarettes, and Mike, my nephew, another
16 friend of ours and myself was going back home.

17 I said, Hey, Mike, I'm ready to go to
18 work. He said, No, Cliff, hang out for a little while
19 longer. I said, No problem, I'll do that.

20 Q. Okay. So this was a trip to the liquor
21 store. Did you drive there or did you walk there?

22 A. We walked.

23 Q. So you came back and you continued to work on
24 the vehicle?

25 A. No. We had walked to Mike's apartment because

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1 my nephew was bugging me about his beer was a 211 malt
2 liquor. I said, Nephew, be quiet about that beer, we'll
3 get your beer, don't worry about it. And Mike said,
4 Hey, man, it's at my house in my refrigerator, we can go
5 get it. So that's when we started heading to Mike's
6 apartment.

7 Q. Okay. So approximately what time do you
8 remember when you went to the liquor store?

9 A. Around eleven-something.

10 Q. So after the liquor store, the -- the group
11 that you were with moved the -- to Mike's apartment?

12 A. We got moved to Mike's apartment. We was
13 standing outside in a circle. I was standing in front
14 of Mike, my nephew was standing on the side of me, and
15 the other guy, I don't know his name, he was with us,
16 was standing across from my nephew. So we had like a
17 circle to where we could all watch each other's backs.

18 Q. Okay. And so at this point in time, you
19 weren't working on the vehicle --

20 A. No.

21 Q. -- you were just socializing?

22 A. We were socializing.

23 Q. Okay. Now, is this the point in time where
24 you observe the defendant against a wall, or was that
25 previously when you were working on the vehicle?

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1 A. No. He was there when we were standing in
2 front of Mike's apartment against the wall.

3 Q. Okay. Now, when did you observe the defendant
4 near a bush near Mike's apartment?

5 A. Mike, myself, my nephew, and the other guy
6 with us, we was walking towards that walkway because
7 my nephew had met a female in the store he was talking
8 to. I say, Nephew, that's the girl you was talking to
9 in the store. He goes, Okay. He went to go talk to
10 her. One other young lady was hugged up on me,
11 talking to me, telling me to be careful. I said, I'm
12 always careful.

13 So my nephew went with her to the
14 store. And I said, Hey, Mike, I'm going to go sit on
15 my car. He said, All right. So myself, Mike, and the
16 other guy, we walked back to my car. I sit -- I had
17 sat on the passenger side of my hood. Mike come up,
18 Hey, Cliff, let me sit down. So I slid over to the
19 driver's side, that left Mike on the passenger side of
20 my hood.

21 Q. So this is the vehicle that you were working
22 on earlier in the evening?

23 A. Yes.

24 Q. And so now at this vehicle is you, Mike, and --

25 A. The other individual and the other guy that

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1 was with us.

2 Q. So three of you. And where was he located?

3 A. He was standing in front of them, the bumper,
4 the grill, standing in front.

5 Q. So it was you three men talking?

6 A. Yeah. We -- actually, we was talking there,
7 we was talking about the basketball court that they
8 had put in the city a long time ago. And my other
9 friend was telling me that they wanted him to take
10 pictures.

11 Q. Okay. And again, we don't want to talk about
12 what other people necessarily told you because that's
13 stuff that we can't get into, but you were talking
14 about a basketball court?

15 A. Yes.

16 Q. And then when did you notice -- like how long
17 had you been there when you noticed the defendant again?

18 A. We was sitting there like five, ten minutes.

19 Q. What made you first notice the defendant?
20 Were you just looking around? Did you hear something?

21 A. We heard the first shot ring out.

22 Q. Okay. When you say shot, what did it sound
23 like to you?

24 A. A gunshot.

25 Q. Have you heard gunshots in the past?

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1 A. I been shot at a couple times in my field of
2 work.

3 Q. Okay. And when you heard this noise, were
4 you able to tell based on hearing it where it -- it
5 came from?

6 A. When I heard it, I turned towards where the
7 bushes was at, and me and Frank met eye to eye.

8 Q. Okay. Now, if you're sitting on your hood at
9 the time you hear this; is that right?

10 A. (Witness nods head)

11 Q. Where was the bushes in relation to the hood
12 of your vehicle?

13 A. Like right across from us.

14 Q. So within --

15 A. About five -- maybe five or six feet away
16 from us.

17 Q. Five or six feet. And this is the same spot
18 that you described earlier that was lit by an overhead
19 light?

20 A. Yeah.

21 Q. Is that right?

22 A. Yeah.

23 Q. Now, you've looked over, and let's talk about
24 these bushes a little bit. Are they -- are they like
25 a bush wall? Are they circular?

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1 A. Just a regular bush with red and white leaves
2 on it -- red and white flowers.

3 Q. Approximately, how tall would you say they are?

4 A. (Indicating) About like here.

5 Q. When you say "like here," meaning are they
6 taller than you, or are they shorter than you?

7 A. Taller than me.

8 Q. They're taller than you. And where
9 specifically was the defendant with regards to these
10 bushes?

11 A. He was in a squatting position on the side of
12 the bush.

13 Q. And did you observe anything in his hand?

14 A. Not that time, no.

15 Q. Okay. Did you say -- you said you met eyes
16 with him. Were you able to recognize this individual?

17 A. Yes.

18 Q. And you recognized him as the defendant?

19 A. Yes.

20 MS. JOSEPH: Court's indulgence.

21 BY MS. JOSEPH:

22 Q. I want to refer back to the statement that we
23 were talking about that you gave to Detective Mogg.
24 You recall giving this statement, right?

25 A. Yes.

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1 Q. When you gave this statement, do you recall
2 telling Detective Mogg that you saw Frank Netty
3 squatting down with a gun in his arm, setting his body
4 where he could take a good aim?

5 A. Yes.

6 Q. Okay. So you did see the gun in his hand?

7 A. Yes, that's when the first shot rang out.

8 Q. Okay. So I guess maybe I confused you with
9 my question earlier.

10 A. Yes.

11 Q. You saw the gun at first after the first shot
12 rang out or before the first shot rang out?

13 A. Before the shot -- we heard -- when the shot
14 rang out, that's when I looked at him.

15 Q. Okay. So it was right after that?

16 A. Right after, yes.

17 Q. What did you do at that point when you saw
18 him with a gun?

19 A. Myself and Mike and my other friend, we just
20 still standing -- sitting on the car talking.

21 Q. So you -- you weren't planning on leaving
22 after a gunshot?

23 A. Un-un, no.

24 Q. Okay. What happened after that?

25 A. After that we heard the second shot rang out.

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1 Me and Mike looked at each other. Hey, Mike, he's
2 shooting. So we heard the other shot rang out. I
3 said, Come on, Mike, we gotta go, he's shooting.

4 By that time, the third -- the person
5 that was with us, he ran off. I grabbed Mike, I said,
6 Come on, man, let's go, he's shooting. I started
7 running towards my door.

8 Q. So it was after the third shot that you
9 started to run?

10 A. Yeah.

11 Q. But then the third individual that was with
12 you started to run before that?

13 A. Started before us, yeah.

14 Q. Okay. Now, let's talk about the way that you
15 ran to get away from the shots. Was your house
16 directly in front of your vehicle, or how did you have
17 to run to try to get to your home?

18 A. I ran in an L shape, I ran up the middle, and
19 I turned (indicating) towards my door.

20 Q. So you run directly forward?

21 A. Directly forward and I turned, that's when I
22 dropped my beer and ran to my door.

23 Q. And once you made it to your door, did you
24 look behind you to see if you could see anyone, or
25 were you looking while you were running?

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1 A. I thought Mike was behind me.

2 Q. When did you realize that Mike wasn't behind
3 you?

4 A. When I went back to the door and looked, and
5 I saw him laying down with his hand on my car.

6 Q. Where was he, was he laying next to the
7 vehicle or in front of the vehicle?

8 A. He was laying face forward next to my vehicle.

9 MS. JOSEPH: Court's indulgence.

10 BY MS. JOSEPH:

11 Q. Did you -- so I know, I think you said this
12 was around 11:00 or 11:30, what time do you think
13 this -- this was when the shots happened?

14 A. Around 12:00.

15 Q. Around 12:00. So you -- this was the time
16 where you normally would be at work?

17 A. Yes.

18 Q. Did you attempt to see how Mr. Jordan was
19 doing?

20 A. I went back to my vehicle and told him, Wake
21 up, Mike, get up. Get up, Mike, get up.

22 Q. Did he get up?

23 A. He turned -- he turned -- I turned him over,
24 and he looked at me and said, Get him.

25 Q. Now, when this happened, what -- what was

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1 your next step after noticing Mr. Jordan on the
2 ground? Did you call the police?

3 A. No, not that moment, no.

4 Q. What did you do?

5 A. I was in shock.

6 Q. Did you go home?

7 A. Went back to my house, yes.

8 Q. Did you ultimately go to work that evening?

9 A. Yes, I did.

10 Q. Do you remember about what time you went to
11 work?

12 A. Around one o'clock, 1:30.

13 Q. And did you call police officers at that time?

14 A. I did a round on my property, and something
15 just told me to call.

16 Q. When you say you did a round of your
17 property, is that when you were working?

18 A. I was in working foot patrol of my property.

19 Q. So after you'd been working for a while, you
20 decided to call the police officers?

21 A. Yes.

22 Q. Did you speak with them that evening or was
23 it the next day?

24 A. Same night.

25 Q. Same night. Now, you spoke with Detective Mogg

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1 on the 17th, which would have been the --

2 A. The next day.

3 Q. -- kind of the same evening that this occurred.

4 Did you speak with him at a later date as well?

5 A. Yes.

6 Q. Did he have a chance to show you a photo

7 line-up?

8 A. Yes.

9 Q. When he showed you that line-up, did he give
10 you instructions on -- on what you were looking for?

11 A. Yes.

12 Q. Did he tell you that you had to pick someone
13 out?

14 A. No.

15 MS JOSEPH: Court's indulgence, Your Honor.

16 BY MS. JOSEPH:

17 Q. Do you remember when this detective came to
18 you with a photo line-up?

19 A. Yes. I was at work.

20 Q. So this was that same night or this was later?

21 A. This was later.

22 Q. Okay. Now, do you remember being read the
23 instructions on the photo line-up?

24 A. Yes.

25 Q. Do you remember signing a sheet indicating

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1 you had read those instructions?

2 A. Yes.

3 MS. JOSEPH: Your Honor, permission to
4 approach the witness?

5 THE COURT: Yes.

6 MS. JOSEPH: Can I have this marked?

7 (State's Proposed Exhibit 5
8 was marked for identification)

9 BY MS. JOSEPH:

10 Q. Showing you what has been marked for
11 identification as State's Proposed Exhibit 5. Does
12 that look familiar to you? There are two pages to
13 this document.

14 A. Yes.

15 Q. And does this appear to be the first photo
16 line-up that the detective showed you?

17 A. Yes.

18 Q. Okay.

19 THE COURT: I can't hear you, I'm sorry, sir.

20 THE WITNESS: Yes.

21 THE COURT: Thank you.

22 BY MS. JOSEPH:

23 Q. Now, on this photo line-up, it appears that
24 there are six individuals. Did you sign off on any of
25 those individuals as being Frank Netty?

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1 A. Yes.

2 Q. And which individual did you sign off on?

3 A. Number 6.

4 Q. Okay. Now, why did you pick Number 6?

5 A. It looked like him.

6 Q. So you thought that it was Frank Netty?

7 A. Yes.

8 Q. Why did you think that?

9 A. The haircut, the eyes, the mustache, and the
10 little goatee at the bottom.

11 Q. When you say the haircut, are you meaning the
12 actual cut of the hair or the hairline, like across
13 the forehead?

14 A. The actual cut of the hair.

15 Q. Okay. Now --

16 MS. JOSEPH: Your Honor, at this point in
17 time, the State would move to admit State's Proposed
18 Exhibit 5.

19 MR. ARNOLD: The only thing, Your Honor --
20 can I approach? I want to say this one thing. And my
21 only objection is that we don't have that, the second
22 or third sheet that normally comes with it listing who
23 these individuals were. And so we have identification
24 of Number 6, but we don't know who Number 6 is.

25 THE COURT: Do you have the sheet that goes

1 with it?

2 MS. JOSEPH: I didn't have a copy of that
3 sheet, Your Honor. I know the other two line-ups that
4 were admitted didn't have that sheet as well. This
5 one -- right. And this would be outside his
6 knowledge, he wouldn't know who these individuals are.

7 We're willing to stipulate that Number 6
8 was not, in fact, Frank Netty. We have a second line-up
9 that we would want to admit that shows the defendant.

10 THE COURT: Well, that's a two-page exhibit,
11 right?

12 MS. JOSEPH: Yes, Your Honor. The front
13 being the instruction, the second --

14 THE COURT: My question was, that's a
15 two-page exhibit, right?

16 MS. JOSEPH: Yes.

17 THE COURT: Let's get it stapled so it
18 doesn't get separated. Mr. Arnold's objection is
19 noted for the record but overruled, and it is admitted
20 with the stipulation from the State that the person
21 selected by Mr. Watkins was not Mr. Frank Netty, also
22 known as Frank Herring.

23 (State's Exhibit 5
24 was admitted into evidence)

25 MS. JOSEPH: Thank you.

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1 BY MS. JOSEPH:

2 Q. After you met with the detective with the
3 photo line-up that we were just discussing, were you
4 shown another photo line-up in the future?

5 A. Yes.

6 Q. And were you given the same instructions?

7 A. Yes.

8 Q. I'm showing you what has been marked as
9 State's Proposed Exhibit 6, also two pages. Does that
10 look familiar to you?

11 A. Yes.

12 Q. And what is -- on the second page, does this
13 appear also to have six photographs as well?

14 A. Yes.

15 Q. And on this document, did you identify one of
16 those individuals as being Frank Netty?

17 A. Yes.

18 Q. And which numbered individual was that?

19 A. Number 4.

20 MS. JOSEPH: Your Honor, at this point in
21 time, the State would move to admit State's Proposed
22 Exhibit 6.

23 MR. ARNOLD: No, objection, Your Honor.

24 THE COURT: Admitted.

25 (State's Exhibit 6

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1 was admitted into evidence)

2 BY MS. JOSEPH:

3 Q. So I guess my question for you, Mr. Watkins,
4 is, I know previously you had identified someone as
5 Mr. Netty and then again you identified someone as
6 Mr. Netty. What -- which identification do you
7 believe is correct?

8 A. The second one.

9 Q. And why is that?

10 A. Because he's on this Number 4, he's Number 4
11 in the picture.

12 Q. So after looking at this picture, did it make
13 you realize that the previous line-up you had seen,
14 you had made an incorrect choice?

15 A. Yes, I did.

16 Q. Do you feel confident in your second choice
17 that this individual was the individual you saw on
18 this evening?

19 A. Yes.

20 Q. I know you told us earlier that you began to
21 run after you heard the third shot. Do you recall
22 approximately how many shots you heard on this evening?

23 A. Approximately seven.

24 Q. Approximately seven. So the following four
25 shots that you heard, was that while you were running?

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1 A. No.

2 Q. That was after you had finished running?

3 A. Yes.

4 MS. JOSEPH: No further questions, Your Honor.

5 THE COURT: Before we start cross, I'll see
6 Mr. Claus.

7 (Break in proceedings)

8 THE COURT: Back on the record with regard to
9 Mr. Frank Herring, who is present with his attorney,
10 Mr. Arnold. We are doing examination of
11 Mr. Clifton Watkins by the State. You may proceed.

12 MR. ARNOLD: Thank you, Your Honor.

13 THE COURT: I mean cross-examination beginning.
14 Thank you, Mr. Arnold.

15 MR. ARNOLD: Thank you.

16

17 CROSS-EXAMINATION

18 BY MR. ARNOLD:

19 Q. Mr. Watkins, I'm somewhat confused about the
20 shooting. Previously, I thought that you testified
21 that you heard one shot; is that correct?

22 A. That was the first shot that we heard.

23 Q. The first shot. Now, do you know who shot
24 that first shot?

25 A. The defendant.

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1 Q. And how do you know that?

2 A. He was squatting behind a tree, on the side
3 of the tree.

4 Q. And so you saw the defendant before the first
5 shot squatting behind a tree?

6 A. Yes.

7 Q. And when you saw the defendant squatting behind
8 a tree, what did he have in his hand, if anything?

9 A. He was taking aim at that time.

10 Q. He was taking aim with what, sir?

11 A. A gun.

12 Q. Okay. And are you able to identify that gun?

13 A. Yeah.

14 Q. And how are you able to identify that gun?

15 A. Because before the night -- before the
16 shooting, I seen him put it -- tuck it up his white
17 shirt.

18 Q. The night before the shooting?

19 A. The night of the shooting, he took it over
20 his -- over his shirt, put it over his shirt.

21 Q. So which one was it, sir, the night before
22 the shooting or the night of the shooting?

23 A. The night of the shooting.

24 Q. Okay. So you saw Mr. Netty with a gun the
25 night of the shooting?

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1 A. Yes.

2 Q. And what time?

3 A. Like around eleven.

4 Q. Eleven o'clock?

5 A. Around eleven o'clock, 11:30-ish.

6 Q. And did it concern you that he had a gun?

7 A. No.

8 Q. And did he show you that gun?

9 A. I seen it.

10 Q. No. But did he show --

11 A. He didn't show me anything. He tucked it in

12 his shirt.

13 Q. I understand, sir. Now can you answer my

14 question? Did he come up to you and show you the gun?

15 A. No, he didn't.

16 Q. Okay. So you were at a distance when you saw

17 the gun being tucked in his shirt?

18 A. I was walking with my friends, he was across

19 the way from us. That's when I seen it. When I say

20 across the way, he was by the Building 39, on the side

21 of the wall. We was walking through the basketball

22 court coming from the store, and I seen it.

23 Q. Okay. And so when you saw this gun, you're

24 able to identify the length of the gun; is that correct?

25 A. Not length of the gun, no.

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1 Q. Well, I thought you said that it was a short
2 gun?

3 A. It was a shorter .45. He had it tucked in
4 his -- I could see the handle of the gun. I didn't
5 see the barrel, I seen the handle of the gun.

6 Q. Well, sir, I'm going to ask you to be careful
7 because you're talking on the record, and you have to
8 be explicit as to what you say.

9 You just said .45. You didn't --
10 previously you said it was a .40 caliber gun.

11 A. .45, .40, they're all the same.

12 Q. They're all the same gun --

13 A. One is --

14 Q. A .45 caliber gun is --

15 A. A .45 is --

16 Q. -- is the same as a .40 --

17 THE COURT: Gentlemen, stop.

18 THE WITNESS: -- is a bigger barrel than --

19 THE COURT: Stop.

20 MR. ARNOLD: You gotta let me --

21 THE COURT: No, you need to let me.

22 MR. ARNOLD: Sorry, Your Honor.

23 THE COURT: Please don't talk over each other.

24 MR. ARNOLD: Okay.

25 THE COURT: I want you to listen to

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1 Mr. Arnold's question, and then I want you to answer it
2 when he's finished. He'll give you the same courtesy.

3 Mr. Arnold, ask the question again.

4 MR. ARNOLD: I apologize, Your Honor.

5 BY MR. ARNOLD:

6 Q. So was it a .45 or a .40?

7 A. It was a .40.

8 Q. And so why did you say .45 just a little
9 while ago?

10 A. Because .45 and a .40 similar, the same.
11 There are some short .45s, there are some short .40s.

12 Q. Okay. And so what was this one?

13 A. It was a .40.

14 Q. A short .40?

15 A. It was a shorter .40.

16 Q. Okay. And you're able to identify the color
17 of this weapon, weren't you?

18 A. Yes.

19 Q. And what was the color of the weapon?

20 A. Black.

21 Q. Okay. And didn't you say it had some chrome
22 or silver on it also?

23 A. The slide, the top part was.

24 Q. And didn't you know if it had a magazine?

25 A. Yes.

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1 Q. And didn't you know that it had an extended
2 magazine?

3 A. Yes.

4 Q. And so you were able to see this all from
5 his --

6 A. Waist --

7 Q. -- pants -- his waist -- on his shorts?

8 A. Yeah.

9 Q. Okay. And prior to the shot you said he was
10 taking aim at you. You were able to see that weapon,
11 the same weapon that you saw previously that night, in
12 his hands?

13 A. Yes.

14 Q. Okay. And you said you were only about five
15 or six feet away from him; is that correct?

16 A. Yeah.

17 Q. And in the five or six feet that you were
18 away from him, was he pointing the weapon at you?

19 A. He was pointing the weapon towards us.

20 Q. When you say us, the whole group?

21 A. Yes.

22 Q. Was he pointing the weapon directly at you do
23 you believe?

24 A. I didn't know.

25 Q. You didn't know?

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1 A. No.

2 Q. Do you know if Mr. Herring had any
3 relationship to the gentleman you're referring to as
4 Mike?

5 A. No.

6 Q. And when he was pointing the weapon at you,
7 how come you didn't run?

8 A. We started talking.

9 Q. So a man is pointing a weapon at you and you
10 don't run?

11 A. Myself, Mike, and my other friend, we was
12 talking.

13 Q. You didn't say, Hey, boys, a guy's pointing a
14 weapon at us back here?

15 A. No, I didn't.

16 Q. And so after the first shot, you testified
17 that you didn't run either?

18 A. No.

19 Q. Where did the first shot land?

20 A. It landed in Cherrice's daughter's car.

21 Q. And where was Cherrice's daughter's car in
22 location to where you were standing?

23 A. It was parked next to my vehicle.

24 Q. Okay. How far away?

25 A. Right next to -- my car is here -- her car is

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1 here (indicating) and my car is here.

2 Q. And you were standing in front of your car?

3 A. I was sitting on the driver's side of my car.

4 Q. Okay. So according to your testimony then, the
5 car would have been to your right; is that correct?

6 A. Correct.

7 Q. And so the bullet struck that car?

8 A. Yes.

9 Q. And so if it struck that car, he's only five
10 or six feet away, was he aiming at that car?

11 A. I have no idea.

12 MS. JOSEPH: Objection, Your Honor, I don't
13 think he knows what the defendant was aiming at.

14 THE COURT: That's what his answer was.

15 MR. ARNOLD: Yeah, that's what we're trying
16 to figure out, if he has any knowledge, Your Honor.

17 THE WITNESS: I don't know if he was aiming
18 at the vehicle.

19 THE COURT: The objection is overruled.

20 THE WITNESS: I don't know if he was looking
21 for a shot at the vehicle.

22 MR. ARNOLD: And for the record, that
23 objection was overruled?

24 THE COURT: I did overrule that.

25 MR. ARNOLD: Thank you, Your Honor.

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1 BY MR. ARNOLD:

2 Q. And so after the first shot, you kept on
3 talking. How long was it before the second shot?

4 A. Right after.

5 Q. Say that again, sir.

6 A. Right after.

7 Q. I'm not understanding you. Say that again.

8 A. He shot the first shot, then the second shot
9 rang out.

10 Q. So how -- how much time elapsed?

11 A. I don't know. We heard the second shot, then
12 Mike -- this guy's shooting at this particular point,
13 I said, Let's go.

14 Q. So did you run away? Did you walk away?

15 A. We ran.

16 Q. So it was only after the second shot that you
17 realized that these bullets were coming in your
18 direction?

19 A. Yes.

20 Q. Now, I see that you're wearing glasses. Did
21 you have those glasses on that night?

22 A. Nope.

23 Q. When is the last time you had your glasses
24 checked -- or your eyes checked? Excuse me.

25 A. Had my eyes checked around December.

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1 Q. December of 2012?

2 A. Yes.

3 Q. Okay. And did you get a new pair of glasses,
4 or did they tell you that the glasses were okay? What?

5 A. These glasses are new.

6 Q. So those are new glasses that you got. And
7 so did they diagnose your sight? Did they tell you if
8 you were nearsighted, farsighted?

9 A. Farsighted.

10 Q. So you're farsighted. Did they tell you what
11 your vision was, is it 20/20? What is --

12 A. 20/40.

13 Q. 20/40, farsighted.

14 A. Yes.

15 Q. And you said there was a light pole that
16 night. Was the light on?

17 A. Yes.

18 Q. You stated that you were supposed to be
19 working that night; is that correct?

20 A. Correct.

21 Q. How come you didn't leave when your shift
22 started?

23 A. Because at that particular time, my nephew
24 brought Mike over. And myself, Mike, and my nephew
25 was coming, sitting in front of my front door.

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1 Q. How were you going to get to work that night?

2 A. Cherrice takes me to work.

3 Q. So were you planning on not going to work
4 that night?

5 A. No, I was going to work.

6 Q. How were you going to get there that night?

7 A. Cherrice was taking me to work.

8 Q. What time was Cherrice planning to take you
9 to work that night?

10 A. Ten o'clock.

11 Q. Did you go tell Cherrice that you weren't
12 going to work that night?

13 A. No.

14 Q. Were you aware that Cherrice wasn't at home,
15 that she went to the casino that night?

16 A. Before she was at home.

17 Q. Well, she testified that she was home till
18 10:45.

19 A. She was at home we were all outside talking.

20 Q. What was that?

21 A. We were all outside talking.

22 Q. And so that's why I'm asking, did you ever
23 tell her that you weren't going to work that night?

24 A. No, I didn't.

25 Q. And she didn't say 10:45, she said 11:45 is

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1 when she went to the casino. And by 11:45 you didn't
2 make up your mind as to whether you were going to work
3 or not?

4 A. My mind was made up, I was going in later
5 probably.

6 Q. At what time?

7 A. Around 12:00 or 1:00.

8 Q. How were you going to get there at 12:00 if
9 she left to the casino at 11:45?

10 A. She left to go get her cousins from the
11 casino. She was coming back.

12 Q. So she was -- she left to go get what, her
13 cousins?

14 A. Her cousins.

15 Q. Okay. Now, you stated that you weren't upset
16 that when you broke up with Cherrice that you were
17 upset that she dated Frank during that time. Isn't
18 that what you testified earlier to today?

19 A. Yeah. Yes.

20 Q. Do you recall telling the police that there
21 was going to be problems between you and Frank?

22 A. Yes.

23 Q. And so, again, knowing that you were going to
24 have problems with Frank, and you saw him pointing a
25 gun at you before the first shot, how come you didn't

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1 take off?

2 A. At that particular time, my friend, Mike;
3 myself; and my other friend, we was still talking.

4 Q. So it was more important to have that
5 conversation as opposed to run away?

6 A. At that time, yeah, we was talking.

7 Q. Okay. After the shooting how come you didn't
8 call 911 right away?

9 A. Reason I didn't call 911 is because another
10 young lady came up when I told her I was going to call
11 911, but I didn't want to call them while I'm still on
12 that premises.

13 Q. Why not?

14 A. Because Frank just got done shooting at me.
15 What makes you think I'm going to sit around and call
16 the police when everybody going to find out that I
17 called? I wanted to do it in a secret place where I
18 was safe at, and that's my job.

19 Q. So when you ran didn't you run to the
20 apartments?

21 A. Yes, I ran to my apartment.

22 Q. The apartment that you were living in?

23 A. Yes.

24 Q. And that wasn't a safe enough place to call
25 911?

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1 A. No.

2 Q. Were shots being fired at your apartment?

3 A. No.

4 Q. And you said that you went to a liquor store
5 prior to the shooting; is that correct?

6 A. Correct.

7 Q. And what were you drinking at that time?

8 A. I was drinking a Budweiser, a 16-ounce can.

9 Q. Prior to that 16-ounce Budweiser that you
10 were drinking, did you drink anything else?

11 A. No, sir, I didn't.

12 Q. So did you have more than one 16-ounce
13 Budweiser?

14 A. Only one.

15 Q. How do you recall specifically that he was
16 wearing gray shorts?

17 A. Because we was at the car getting my car
18 unlocked, and I seen his outfit.

19 Q. Under the streetlights?

20 A. No. He was standing right there by Kinsey's
21 van, and I looked over and seen his outfit.

22 Q. And you said it was gray cargo pants with a
23 white T-shirt?

24 A. Pro Club, yeah, a T-shirt.

25 Q. Do you recall telling the police you also saw

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1 a white Chevrolet Caprice drive off at a high rate of
2 speed?

3 A. Yes.

4 Q. Did you see Mr. Herring's moped that day?

5 A. Nope.

6 Q. It wasn't next to the two vehicles that you
7 were standing by?

8 A. No.

9 Q. Did you see him arrive on that moped?

10 A. No.

11 Q. Any time during that day did you see him on
12 that moped?

13 A. No.

14 Q. Now, previously you're aware that that's how
15 he got around was on his moped; is that correct?

16 A. Correct.

17 Q. But you didn't see that moped that day?

18 A. No.

19 Q. Do you know how he [sic] arrove?

20 A. No.

21 Q. Do you believe that he arrove there by the
22 Chevrolet Caprice?

23 A. No.

24 Q. After the shots were fired, do you know how --
25 did you see who you believed to be Mr. Herring run off?

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1 A. Yes.

2 Q. And was it by foot? By car?

3 A. Foot.

4 Q. By moped?

5 A. Foot.

6 Q. By foot?

7 A. He was on foot.

8 Q. What direction?

9 A. Running back away from the apartment complex,
10 probably to another apartment complex in the back --
11 another set of apartments.

12 Q. So not towards the car and the parking lot
13 but towards the bushes?

14 A. Yes.

15 Q. Okay. Let's talk about the photo line-up.
16 In regards to the first photo line-up, you identified
17 an individual in Box Number 6?

18 A. Correct.

19 Q. And you said that you believe that was the
20 shooter?

21 A. Correct.

22 Q. And didn't you say that you were 100 percent
23 sure that that was the shooter?

24 A. Yes.

25 Q. And after you did -- well, let me ask you,

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1 where did you do that first viewing of that photo
2 line-up?

3 A. The detectives -- the detectives came to my
4 job.

5 Q. Okay. And did you do it in your office?

6 A. No. We did it in the detective's car.

7 Q. Okay. When you were in the car, was there
8 anyone in that car other than you and the detective?

9 A. No.

10 Q. And wasn't Cherrice Jones there also?

11 A. When I did the first line-up she was not there.

12 Q. Okay. But wasn't she in the parking lot also?

13 A. She was in the parking lot, yes.

14 Q. Okay. And then she had an opportunity to
15 look at the photo line-up also?

16 A. Yes.

17 Q. And then she came back to your office or to
18 your car?

19 A. She came back to her vehicle.

20 Q. And did you all talk about the photo line-up?

21 A. No.

22 Q. You didn't tell her that you identified Frank
23 in that photo line-up?

24 A. Yeah, yes, I did. Yes.

25 Q. Okay. And then what did she tell you when

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1 she said -- when you said that you identified Frank in
2 that first photo line-up?

3 MS. JOSEPH: Objection, Your Honor, calls for
4 hearsay.

5 THE COURT: Sustained.

6 BY MR. ARNOLD:

7 Q. But you do recall discussing it with her that
8 you thought Frank was in that first photo line-up; is
9 that correct?

10 A. Correct.

11 Q. Then the detectives call you -- called you
12 and said that you need to do a second photo line-up;
13 is that correct?

14 A. Correct.

15 Q. And then did you have a discussion with
16 Cherrice about that we gotta go back and have a second
17 photo line-up?

18 A. We gotta go back before the line-up, SWAT had
19 came in to do a warrant -- a raid on 39.

20 Q. Okay. I'm not worried about that, I'm
21 worried about the photo line-up.

22 A. Okay.

23 Q. Okay. So in regards to the second photo
24 line-up, did you have a discussion with Cherrice that
25 we have to go do another photo line-up?

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1 A. Yes. When she came home from work, yes.

2 Q. And were you told a reason why that you had
3 to do a second photo line-up?

4 A. No. The detective said that we had to do a
5 second line-up.

6 Q. Okay. And did you -- and what did you tell
7 Cherrice in regards to that photo line-up?

8 A. I told her we gotta do a second one, that's
9 all I said to her.

10 Q. And where did you do that second photo line-up?

11 A. We had it at Chuck E. Cheese.

12 Q. Were you at home before you went to the
13 Chuck E. Cheese or at work?

14 A. I was at home.

15 Q. And they asked you to meet at a
16 Chuck E. Cheese?

17 A. Yes. He asked me where I want to meet at.

18 Q. How come you didn't meet at the house?

19 A. SWAT was there and all the detectives were
20 there.

21 Q. At -- but I thought you said at Apartment 39?

22 A. Yes.

23 Q. They weren't there at your apartment?

24 A. They was parked in the street.

25 Q. So the significance of that is that -- what?

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1 A. The detectives wanted us to meet in a safer
2 environment.

3 Q. Okay. Prior to all the shooting and the --
4 this night of May 17th -- night of May 16th, morning
5 of May 17th, did you have an incident with Frank's
6 girlfriend?

7 A. Yes.

8 Q. And she was sitting on your vehicle?

9 A. Yes.

10 Q. And did you tell her to get off your vehicle?

11 A. I told her politely, Could you please get off
12 my vehicle?

13 Q. And isn't it true that Frank didn't like how
14 you talked to her?

15 A. Yes.

16 Q. And you all had a discussion; is that correct?

17 A. Correct.

18 Q. And during that discussion how did it go?

19 A. He told me that he didn't like what I said,
20 that he -- that I didn't talk to -- he didn't say --
21 he said he didn't talk to my B like that, so why you
22 want to talk to his girl like that? He told me to
23 move my car. I said, No, you move it.

24 Q. And then how was it resolved?

25 A. He walked away, I sat on my porch smoking my

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1 cigarette and drinking a Pepsi.

2 Q. Okay. Was any fists thrown or anything?

3 A. Nope.

4 Q. Was any guns being shown to each other at
5 that time or anything?

6 A. Nothing.

7 Q. So it was just words?

8 A. Just words.

9 Q. You're all separating and left?

10 A. He went his way I stayed on my porch.

11 Q. And there was also another incident where you
12 thought that he owed you \$300; is that correct?

13 A. Correct.

14 Q. That was over a purchase of drugs; is that
15 correct?

16 A. Correct.

17 Q. And you felt that you didn't get the what,
18 the right quality of drugs?

19 A. Correct.

20 Q. And did you all have a discussion about that?

21 A. Yep.

22 Q. Man to man?

23 A. Yep.

24 Q. Okay. And in that discussion, again, was it
25 just words?

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1 A. On my half it was words but not on his.

2 Q. On his what happened?

3 A. Because he kept talking with Kinsey saying I
4 ain't never owed nobody no -- no money in my life. He
5 the one who had the attitude, not me.

6 Q. But he had attitude about it, but he went and
7 talked to Kinsey about it?

8 A. Yeah.

9 Q. Okay. But when he was talking to you, you
10 guys were just having a conversation; is that correct?

11 A. Correct.

12 Q. It never resolved it in a fistfight, he
13 didn't move up and get in your face or anything like
14 that, did he?

15 A. Nope.

16 Q. Okay. And he didn't show you a weapon or
17 anything like that at that time?

18 A. No.

19 Q. And when did that incident, the beef over the
20 quality of the drugs, when did that occur?

21 A. That was sometime in April, either April or
22 March, I'm not sure.

23 Q. Of 2013?

24 A. Yes, this year.

25 Q. And then the incident with his girlfriend

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1 being on the car, when did that occur?

2 A. Around about March.

3 Q. Of 2013?

4 A. Yes.

5 Q. But outside of those two incidences, for the
6 most part, you guys were just casual acquaintances,
7 saying hi to each other when you saw --

8 A. We wasn't acquaintances, he spoke, I spoke.
9 That was it.

10 Q. So casual conversation?

11 A. Hi and bye.

12 Q. Hi and bye.

13 So do you know if that was a .40 caliber
14 weapon that he had in his hand or a .45 caliber weapon
15 that he had in his hand?

16 A. It was a .40.

17 Q. Okay. And you're -- I thought previously you
18 testified that you weren't sure if it was a .40 or a
19 .45, they were all the same?

20 A. It was .40.

21 THE COURT: Counsel, we've been over that.
22 You've clarified it, so.

23 MR. ARNOLD: Okay. Thank you, Your Honor.

24 Court's indulgence, just need a brief
25 minute to confer with my client.

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1 THE COURT: Take your time.

2 MR. ARNOLD: No further questions, Your Honor.

3 THE COURT: Any redirect, Counsel?

4 MS. JOSEPH: I just briefly have two or three
5 questions, Your Honor.

6

7

REDIRECT EXAMINATION

8 BY MS. JOSEPH:

9 Q. When you gave the statement to the detectives
10 on the day after the shooting, do you recall telling
11 that -- the detective that you felt like Frank Netty
12 was going to shoot and kill you that evening?

13 A. Yes.

14 Q. And when all of this shooting occurred, did
15 you observe anyone else in the area with a gun?

16 A. Not to my recollection, no.

17 Q. You didn't see anyone else holding a gun?

18 A. No.

19 Q. Or anyone else -- see anyone else shooting a
20 gun?

21 A. (Witness shakes head)

22 MS. JOSEPH: No further questions, Your Honor.

23 THE COURT: Mr. Arnold.

24 MR. ARNOLD: Nothing further, Your Honor.

25 THE COURT: Thank you very much, sir.

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1 State, how many more witnesses do you
2 need?

3 MS. JOSEPH: Your Honor, State doesn't have
4 any more witnesses.

5 I do have a copy of the coroner's
6 report. I spoke with Mr. Arnold previously, he
7 indicated that he would stipulate to cause and manner
8 as well as ID of the decedent.

9 I also have a certified judgment of
10 conviction for the defendant for a robbery case out of
11 this jurisdiction, Case C224177. It's marked as
12 State's Exhibit 1.

13 THE COURT: Have you seen --

14 MR. ARNOLD: Was that provided in discovery?

15 MS. JOSEPH: It's the one that's alleged as
16 his basis for the --

17 MR. ARNOLD: Okay.

18 THE COURT: Are we on the record or not?

19 MS. JOSEPH: Sorry, Your Honor, he just asked
20 if this was --

21 THE COURT: I know, and you started to answer
22 but your voice went away.

23 MS. JOSEPH: I apologize, Your Honor.

24 THE COURT: That's okay.

25 Mr. Arnold, have you seen both exhibits?

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1 MR. ARNOLD: Yes, Your Honor.

2 THE COURT: How about the certified copy of
3 judgment of conviction, what is your position on
4 admission of that?

5 MR. ARNOLD: I have no objection, Your Honor.

6 THE COURT: State's Proposed 1 is admitted.

7 (State's Exhibit 1
8 was admitted into evidence)

9 THE COURT: And with regard to the coroner's
10 report, sir, State's Proposed 2?

11 MR. ARNOLD: We'll -- no objection, Your Honor.

12 THE COURT: For purposes of preliminary
13 hearing?

14 MR. ARNOLD: That's correct, Your Honor.

15 THE COURT: State's 2 is admitted.

16 (State's Exhibit 2
17 was admitted into evidence)

18 MS. JOSEPH: Thank you, Your Honor.

19 THE COURT: With that does the State rest?

20 MS. JOSEPH: Yes, Your Honor.

21 Oh, I apologize. We -- we just wanted
22 to make an amendment to Count III, how the testimony
23 came out with regard to the discharging a firearm,
24 striking the license plate number and having it say:
25 California license plates.

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1 THE COURT: Any objection to that, Mr. Arnold?
2 It does conform with the evidence.

3 MR. ARNOLD: No, Your Honor.

4 THE COURT: Line 4 will be amended.

5 MS. JOSEPH: Thank you, Your Honor.

6 THE COURT: On page 2.

7 We're done?

8 MS. JOSEPH: Yes, Your Honor.

9 THE COURT: State has rested, Mr. Arnold.

10 MR. ARNOLD: Your Honor, I've advised my
11 client of his right to testify. He is going to follow
12 my advice and not testify for the preliminary hearing.

13 And the defense has no evidence to
14 present at the preliminary hearing.

15 THE COURT: Thank you. Submitted or is there
16 argument, Mr. Arnold?

17 MR. ARNOLD: On behalf of the defense we'd
18 submit, Your Honor.

19 THE COURT: If you would stand for me,
20 please, Mr. Herring.

21 It appears to the Court from the
22 Complaint on file that the crimes alleged in Counts I
23 through IV have been committed, and that you are the
24 person who committed them, sir.

25 I'm going to hold you to answer. You

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1 are to appear for your district court arraignment on
2 this date.

3 THE CLERK: July 18th, 9:30, lower level
4 district court arraignment.

5

6 (Proceedings concluded)

7 --o0o--

8

9 Attest: Full, true, and accurate transcript of
10 proceedings.

11

12 _____ /s/ Shawna J. McIntosh

13 Shawna J. McIntosh, RPR, CCR No. 770

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