

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANDREW YOUNG,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

NO. 83243

Electronically Filed
Mar 08 2022 08:32 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPELLANT'S APPENDIX

VOLUME II – PAGES 242-416

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

8 THE STATE OF NEVADA,
9 Plaintiff,
10 vs.
11 ANDREW YOUNG,
12 Defendant.

Case No. C-20-350623-1
Department No. III

MOTION TO SEVER COUNTS

13
14 **COMES NOW** the Defendant, ANDREW YOUNG, by and through his attorney, DAVID
15 R. FISCHER, ESQ., and respectfully files the following Motion to Sever Counts pursuant to NRS
16 174.165.

17 DATED this 28th day of February, 2021.

18 LAW OFFICE OF DAVID R. FISCHER

19
20
21 /s/ David R. Fischer

22 DAVID R. FISCHER, ESQ.
23 400 South 4th Street, Suite 500
24 Las Vegas, Nevada 89101
Attorney for Defendant ANDREW YOUNG

1 POINTS AND AUTHORITIES

2
3 **I. INTRODUCTION**

4 ANDREW YOUNG asks this honorable Court to sever count 17, BATTERY WITH USE
5 OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B
6 Felony – NRS 200.481 – NOC 50226) , and count 18, ATTEMPT MURDER WITH USE OF A
7 DEADLY WEAPON (Category B Felony – NRS 200.010, 200.030, 193.330, 193.165 – NOC
8 50031), from the 12 counts of BURGLARY (Category B Felony NRS 205.060 – NOC 50424), 4
9 counts of LARCENY (Category C Felony – NRS 205.270, 193,167 – NOC 56020), 1 count of
10 GRAND LARCENY (Category C Felony – NRS 205.222.2 – NOC 56004), and 5 counts of
11 FRAUDULENT USE OF CREDIT OR DEBIT CARD (Category D Felony – NRS 206.760(1) –
12 NOC 50796), because they were not based on the same act or transaction, they did not constitute
13 parts of a common scheme or plan, and they were not connected together. Additionally, even if
14 the counts were properly joined, they must be severed to prevent the actual prejudice that will
15 result to Young should the jury be presented with indoor surveillance videos with much higher
16 clarity pertaining to a series of theft-related offenses when compared to the very grainy, long
17 distant video evidence pertaining to counts 17 and 18 which is outdoor surveillance of an incident
18 involving a, “rock beating,” or a violent act, which occurred on July 26, 2020, at bus stop on Las
19 Vegas Boulevard. Moreover, YOUNG contends that a central issue in counts 17 and 18 will be
20 whether he in fact is the perpetrator of this July 26, 2020, rock beating, as YOUNG has an alibi .
21 This Court’s failure to sever the superseding amended indictment as requested, unquestionably
22 will result in severe prejudice to YOUNG as a consequence of the myriad of due process
23 violations caused by a jury being presented with evidence from two wholly unrelated incidents:
24 spillover effect alone can only result in a mistrial.

1 **II. PROCEDURAL HISTORY**

2 The state of Nevada originally filed a two-count criminal complaint in Las Vegas Justice
3 Court, Department 14 on August 5, 2020, charging YOUNG with one count of battery with use
4 of a deadly weapon resulting in substantial bodily harm and one count of attempt murder with use
5 of a deadly weapon. Subsequently, the State obtained a two-count Grand Jury Indictment alleging
6 the same one count of battery with use of a deadly weapon resulting in substantial bodily harm
7 and one count of attempt murder with use of a deadly weapon. Said indictment was filed in
8 District Court on September 10, 2020. A short time later, the state of Nevada convened a second
9 grand jury, resulting in a separate indictment for 22 counts of theft-related counts.

10 On October 1, 2020, the State filed a Superseding Indictment and on the same day an
11 Amended Superseding Indictment, both containing 24 criminal counts against YOUNG. The
12 Amended Superseding Indictment joined counts 1 and 2 from the original indictment for attempt
13 murder with use of a deadly weapon and battery with use of a deadly weapon resulting in
14 substantial bodily harm with 22 wholly unrelated non-violent theft and related counts. Counsel
15 for YOUNG reserved any objections to the filing of the Amended Superseding Indictment on that
16 date. The instant motion to sever follows.

17 **YOUNG respectfully requests that this Court sever counts 17 and 18 from the**
18 **remaining 22 unrelated, non-violent, theft-related counts in the Amended Superseding**
19 **Indictment to prevent manifest injustice to YOUNG caused by the severe, unfair prejudice**
20 **which is sure to result, should the State of Nevada be allowed to proceed in this manner.**
21 **This Court's failure to sever the counts will undoubtedly prejudice a jury through the**
22 **introduction of impermissible character evidence, which here is only being used by the State**
23 **of Nevada in an effort to bolster their utter lack of evidence pertaining to counts 17 and 18**
24 **implicating YOUNG (one "percipient" witness is homeless and provides nothing useful, the**

1 surveillance video is of exceptionally poor quality and shows nothing implicating YOUNG).

2 Further it does not fall within any of the enumerated exceptions under NRS 48.045(2).

3 (emphasis added)

4 This case is currently set for Calendar Call on March 3, 2021 and for Jury Trial beginning
5 March 8, 2021. YOUNG now submits herein the instant Motion to Sever Counts and respectfully
6 requests the District Court grant the motion and order a separate trial for counts 17 and 18 in the
7 State's Amended Superseding Indictment.

8
9 **III. FACTS**

10 ANDREW YOUNG, stands charged with several counts of alleged burglary (counts 1, 4,
11 6, 7, 9, 11, 13, 15, 19, 21, 23, 24), larceny (counts 2, 8, 10, 16), grand larceny (count 3), and
12 fraudulent use of credit or debit card (counts 5, 12, 14, 20, 22) along with two unrelated alleged
13 counts of battery with use of a deadly weapon resulting in substantial bodily harm (count 17) and
14 attempt murder with use of a deadly weapon (count 18). In total, the State charges YOUNG with
15 24 counts.

16 According to the Declaration of Warrant/Summons (DWS), Detective Byrd investigated
17 an incident involving Robert Will and an unknown assailant that occurred on 7/26/2020 at
18 approximately 12:44 a.m. (See DWS – pg. 1). Detective Byrd's sworn affidavit describes the
19 incident as follows: "Robert was sitting at the bus bench located outside the Paris Hotel...when
20 an altercation took place between him and the [unknown assailant who]...used a large rock and
21 bludgeoned the victim in the head multiple times" (See DWS – pg. 1). The assailant then left
22 the scene but was described as a black male adult in his 50s or 60s wearing a grey shirt and black
23 jeans (See DWS – pg. 1). Video evidence of this incident was not initially obtained by detectives
24 (See DWS – pg. 1-3). . However, Fusion Watch video showed a suspect walking in the same

1 direction that victim's assailant headed after the incident, but the suspect's clothing did not match
2 what witnesses reported the assailant was wearing at the scene of the incident (See DWS – pg. 1-
3 3). Even though the Fusion Watch video did not capture the incident, was not high quality, and
4 depicted a suspect wearing articles of clothing that did not match those witnesses observed during
5 Mr. Will's incident, Detective Jacobitz authored and distributed a critical reach flyer using images
6 from that surveillance footage (See DWS – pg. 3). .

7 Meanwhile, Detective Byrd had been investigating YOUNG for alleged larceny and
8 fraudulent use of credit card arising out of an incident on July 8, 2020 inside a Walmart(See DWS
9 – pg. 3). After Detective Byrd viewed the critical reach flyer Detective Jacobitz circulated,
10 Detective Byrd thought YOUNG was the individual depicted in the critical reach flyer (See DWS
11 – pg. 3). With YOUNG now the target of the investigation, detectives reviewed more video from
12 the Cosmopolitan and from Paris Hotel and located video of the battery incident however it was
13 very low quality (See DWS – pg. 4).

14 The State charges YOUNG with an alleged series of non-violent acts that took place inside
15 local stores and casinos (Rampart Hotel & Casino, 7-11, Walmart, Caesar's Palace, Albertson's,
16 GameStop, Walgreens, Flamingo Hotel & Casino, and Suncoast Hotel & Casino) on the following
17 dates: June 29, July 8, 22, 23, and 29, August 1, 7, and 9 of 2020. The State, also, in the same
18 amended indictment alleges YOUNG committed violent acts of battery and attempted murder on
19 July 26 of 2020, at a public bus stop on Las Vegas Boulevard by hitting one Robert Will with a
20 rock.

21 **IV. APPLICABLE LAW**

22 Pursuant to NRS 174.165, a criminal defendant may be granted relief from prejudicial
23 joinder of counts. Even when charges are properly joined, some form of relief may be necessary
24 to avert unfair prejudice to the defendant. Specifically, NRS 174.165(1) provides that "[i]f it

1 appears that a defendant ... is prejudiced by a joinder of offenses ... in an indictment ..., the court
2 may order an election or separate trials of counts.” Courts construing NRS 174.165(1)'s federal
3 cognate:

4 have identified three related but distinct types of prejudice that can flow from joined
5 counts: (1) the jury may believe that a person charged with a large number of offenses has
6 a criminal disposition, and as a result may cumulate the evidence against him or her or
7 perhaps lessen the presumption of innocence; (2) evidence of guilt on one count may
8 ‘spillover’ to other counts, and lead to a conviction on those other counts even though the
9 spillover evidence would have been inadmissible at a separate trial; and (3) defendant may
10 wish to testify in his or her own defense on one charge but not on another.

11 1A Charles Wright, Andrew D. Leipold, Peter J. Jennings, & Sarah N. Welling, *Federal Practice*
12 *and Procedure Criminal* § 222 (4th ed.2014).

13 “To require severance, the defendant must demonstrate that a joint trial would be
14 ‘manifestly prejudicial.’ The simultaneous trial of the offenses must render the trial
15 fundamentally unfair, and hence, result in a violation of due process.” *Honeycutt v. State*, 118
16 Nev. 660, 667–68, 56 P.3d 362, 367 (2002) (emphasis added), overruled on other grounds by
17 *Carter v. State*, 121 Nev. 759, 765, 121 P.3d 592, 596 (2005). In evaluating the defendant's
18 motion to sever, the district court must consider “whether [the] joinder is so manifestly prejudicial
19 that it outweighs the dominant concern [of] judicial economy and compels the exercise of the
20 court's discretion to sever.” *Tabish v. State*, 119 Nev. 293, 304, 72 P.3d 584, 591 (2003).

21 V. ANALYSIS

22 In *Tabish v. State*, the Nevada Supreme Court concluded that “the district court improperly
23 denied appellants' motions to sever the counts and that the error was not harmless beyond a
24 reasonable doubt” after it weighed five factors before requiring remand to the district court for a

1 new trial on some of the counts in that case. 119 Nev. 293, 304, 72 P.3d 584, 590 (2003). The
2 Court’s analysis considered (A) whether joinder was proper under NRS 173.115 because they
3 were part of a “common scheme or plan;” (B) “whether joinder is so manifestly prejudicial that
4 it outweighs the dominant concern with judicial economy and compels the exercise of the court’s
5 discretion to sever;” (C) whether judicial economy is outweighed by manifest prejudice; (D)
6 whether joinder was proper under NRS 48.035(3) to provide the “complete story;” and (E)
7 whether joinder was proper because of the “cross-admissibility” factor under the character
8 evidence exception of NRS 48.045(2). *Id.*, at 584, 591.

9 **A. Common Scheme or Plan: Counts 17 and 18 share absolutely no articulable**
10 **common scheme or plan with the remaining 12 counts of burglary, 4 counts of**
11 **larceny, 1 count of grand larceny, and 5 counts of fraudulent use of credit or debit**
12 **card.**

13 The State’s indictment charges YOUNG with an alleged series of non-violent acts that
14 took place inside local stores and casinos (Rampart Hotel & Casino, 7-11, Walmart, Caesar’s
15 Palace, Albertson’s, GameStop, Walgreens, Flamingo Hotel & Casino, and Suncoast Hotel &
16 Casino) on the following dates: June 29, July 8, 22, 23, and 29, August 1, 7, and 9 of 2020.
17 However, the indictment alleges YOUNG committed a violent battery and attempted murder that
18 occurred on July 26 of 2020, outdoors at a bus stop, and involved the use of a deadly weapon
19 (allegedly a rock).

20 The State does not allege that YOUNG used a rock or any other deadly weapon or violence
21 of any sort in the alleged series of non-violent acts that took place inside local stores and casinos.
22 Likewise, the State does not allege the series of non-violent acts that allegedly took place inside
23 local stores and casinos ever involved any sort of battery or attempted murder; however, much to
24 the contrary, counts 17 and 18 allegedly involve violent acts with no nexus between the alleged
violence described in counts 17 and 18 with any further allegations that those acts involved any
attempts at fraud or theft.

1 With no common scheme or plan between counts 17 and 18 linking them to the remaining
2 22 counts, the Court should sever these counts and order two separate trials.

3 **B. Prejudice: Joinder here would be manifestly prejudicial and would allow the jury**
4 **to convict YOUNG using video evidence and a series of other bad act evidence**
5 **that would not otherwise be admissible.**

6 The State's attempt at joinder in this case is in violation of the rule against character
7 evidence and is purely prejudicial when it's being used as the State seems to do here to bolster
8 identity issues in counts 17 and 18. In an attempt to unfairly overcome its identity issues in counts
9 17 and 18 and ultimately obtain an unfair conviction against YOUNG, the State joined the other
10 22 counts, which involves better video evidence that a jury may find more compelling.

11 Likewise, the jury may believe that since YOUNG is charged with a large number of
12 offenses, that he has a criminal disposition, and as a result may cumulate the evidence against him
13 or perhaps lessen the presumption of his innocence. Another danger here is that evidence of guilt
14 on any of the other 22 counts may 'spillover' to counts 17 and 18, and lead to a conviction on
15 those other counts even though the spillover evidence would have been inadmissible at a separate
16 trial. In short, the evidence from the alleged theft and fraud cases increases the likelihood of a
17 conviction on very serious charges of battery with use of a deadly weapon resulting in substantial
18 bodily harm and attempt murder with use of a deadly weapon because the lower quality video in
19 counts 17 and 18 combined with the better quality videos in the theft and fraud cases makes the
20 factual "inference" that YOUNG is guilty of count 17 and 18 a much easier leap for a jury to
21 make.

22 The manifestly prejudicial effect described here would allow the jury to convict YOUNG
23 using video evidence and a series of other bad acts that would otherwise be inadmissible. Thus,
24 the Court should sever counts 17 and 18 from the other 22 counts and order two separate trials.

25 **C. Judicial Economy: Considerations of judicial economy are far outweighed by the**
26 **manifest prejudice that would result from the joinder of counts 17 and 18 with**

1 **the remaining 12 counts of burglary, 4 counts of larceny, 1 count of grand**
2 **larceny, and 5 counts of fraudulent use of credit or debit card.**

3 On or about early August 2020, the state charged YOUNG in a two-count criminal
4 complaint, filed in Justice Court, followed by a grand jury proceeding in early September 2020,
5 obtaining a nearly identical two-count Indictment in this Court charging YOUNG with what are
6 now counts 17 and 18 in the instant case for an incident that occurred on July 26, 2020 involving
7 one Robert Will being by a random assailant with a rock. A short time later, the state obtained a
8 second grand jury indictment and then tacked 22 counts onto this case joining counts 17 and 18,
9 which counts involve no common plan or scheme with the remaining counts. Any argument in
10 favor of joinder based on judicial economy should be rejected due to the extent by which
11 considerations of judicial economy are far outweighed by the manifest prejudice that would result
12 therefrom. Put another way, if severance is not granted, this Court risks a mistrial and/or reversal
13 due to the extreme prejudice caused by allowing the State to proceed in this fashion.

14 **D. Complete Story: Counts 17 and 18 are in no way interconnected, let alone to a**
15 **degree that witnesses and evidence cannot describe the acts in controversy, or the**
16 **crimes charged without referring to the other acts or crimes.**

17 As described above, counts 17 and 18 are completely unrelated to the other 22 counts
18 alleged against YOUNG. As such there is no complete story to be told by allowing joinder in this
19 case, except that the State may wish to unfairly and unconstitutionally solve its identity issues in
20 counts 17 and 18 by joining them with the other 22 counts. The Court should also reject joinder
21 based on any complete story theories the State may claim.

22 **E. Cross-Admissibility: Under prior bad acts doctrine, evidence in the 12 counts of**
23 **burglary, 4 counts of larceny, 1 count of grand larceny, and 5 counts of**
24 **fraudulent use of credit or debit card would be inadmissible against YOUNG in**
 a separate trial for counts 17 and 18.

 It's worth restating that the State originally charged YOUNG in a very evidentiary weak
 two-count case in Justice Court which was dismissed after the State obtained an Indictment in
 this Court after going to the Grand Jury but once again only charging the same two-counts (now

1 counts 17 and 18) it charged in Justice Court and in its original Indictment. The State now seeks
2 to use joinder of counts 17 and 18 with 22 other counts to bolster its original weak case with
3 stronger evidence from a series of lower grade alleged offenses. If the Court does not reject the
4 State's attempt to present what would normally amount to inadmissible evidence against
5 YOUNG, it will allow a manifestly prejudicial miscarriage of justice to go forward against
6 YOUNG.

7 **VI. CONCLUSION**

8 In sum, to allow this case to proceed without severance of counts 17 and 18 from the
9 remaining 22 counts, YOUNG procedural due process is sure to be violated by allowing the
10 introduction of inadmissible character evidence, which serves no purpose other than to bolster the
11 state's theory of its case against YOUNG. Accordingly, YOUNG respectfully requests that this
12 Honorable Court grant his request to sever counts 17 and 18 from the remaining 22 counts, and
13 to allow YOUNG to proceed in a separate trial regarding these two counts.

14 DATED this 28th day of February, 2021.

15 LAW OFFICE OF DAVID R. FISCHER

16
17
18 */s/ David R. Fischer*

19 DAVID R. FISCHER, ESQ.
20 400 South 4th Street, Suite 500
21 Las Vegas, Nevada 89101
22 *Attorney for Defendant ANDREW YOUNG*
23
24

1 **CERTIFICATE OF SERVICE VIA ELECTRONIC TRANSMISSION**

2 I HEREBY CERTIFY that I am an employee or agent of DAVID R. FISCHER, Esq.,
3 and that on the 28th day of February 2021, I served the foregoing MOTION TO SEVER
4 COUNTS through service by electronic filing, to the following person(s), or his/their agent, at
5 the following address(es):

6
7 Noreen.DeMonte@clarkcountyda.com
8 motions@clarkcountyda.com

9 /s/ David R. Fischer

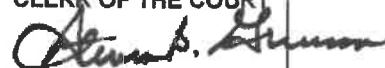
10 an employee or agent of David R. Fischer, Esq.

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Electronically Filed
3/1/2021 12:37 PM
Steven D. Grierson
CLERK OF THE COURT



State of Nevada
vs
Andrew Young

Case No.: C-20-350623-1

Department 3

NOTICE OF HEARING

Please be advised that the Defendant's Motion to Sever Counts in the above-entitled matter is set for hearing as follows:

Date: March 15, 2021

Time: 8:30 AM

Location: RJC Courtroom 11C
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Marie Kramer
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Marie Kramer
Deputy Clerk of the Court

000253



1 **NOTC**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 NOREEN DEMONTE
6 Chief Deputy District Attorney
7 Nevada Bar #8213
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-

12 ANDREW YOUNG,
13 #1211422

14 Defendant.

CASE NO: C-20-350623-1

DEPT NO: III

15 **AMENDED NOTICE OF INTENT TO SEEK PUNISHMENT AS
16 A HABITUAL CRIMINAL**

16 TO: ANDREW YOUNG, Defendant; and

17 TO: DAVID FISCHER, ESQ., Counsel of Record:

18 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that pursuant to NRS
19 207.010 and NRS 207.012, the STATE OF NEVADA will seek punishment of Defendant
20 ANDREW YOUNG, as a habitual criminal in the event of a felony conviction in the above-
21 entitled action.

22 That in the event of a felony conviction in the above-entitled action, the STATE OF
23 NEVADA will ask the court to sentence Defendant ANDREW YOUNG as a habitual criminal
24 based upon the following felony convictions, to-wit:

25 1. That on or about 1985, the Defendant was convicted in the State of
26 Pennsylvania, for the crime of THEFT BY UNLAWFUL TAKING OR DISPOSITION
27 (felony) in case CP-51-CR-1215921-1984.

28 ///

000254

1 2. That on or about 1989, the Defendant was convicted in the State of
2 Pennsylvania, for the crime of ROBBERY (felony) in case CP-51-CR-0234751-1989.

3 3. That on or about 1993, the Defendant was convicted in the State of
4 Pennsylvania, for the crime of KNOWINGLY/INTENTIONALLY POSSESS
5 CONTROLLED SUBSTANCE (felony) in case CP-51-CR-1220341-1990.

6 4. That on or about 1993, the Defendant was convicted in the State of
7 Pennsylvania, for the crime of ROBBERY (felony) in case CP-51-CR-1224501-1992.

8 5. That on or about 1995, the Defendant was convicted in the State of
9 Nevada, for the crime of POSSESSION OF CREDIT CARD WITHOUT CARDHOLDER
10 CONSENT (felony) in C150727.

11 6. That on or about 1996, the Defendant was convicted in the State of
12 Nevada, for the crime of BURGLARY (felony) in C134592.

13 7. That on or about 1996, the Defendant was convicted in the State of
14 Nevada, for the crime of POSSESSION OF CREDIT CARD WITHOUT CARDHOLDER
15 CONSENT (felony) in C134592.

16 8. That on or about 1998, the Defendant was convicted in the State of
17 Nevada, for the crime of THEFT (felony) in C153059.

18 9. That on or about 2002, the Defendant was convicted in the State of
19 Nevada, for the crime of LARCENY FROM THE PERSON, VICTIM 65 YEARS OF AGE
20 OR OLDER (felony) in C184447.

21 10. That on or about 2003, the Defendant was convicted in the State of
22 Nevada, for the crime of BURGLARY (felony) in C186802.

23 11. That on or about 2006, the Defendant was convicted in the State of
24 Nevada, for the crime of FRAUDULENT USE OF CREDIT OR DEBIT CARD (felony) in
25 C213942.

26 12. That on or about 2006, the Defendant was convicted in the State of
27 Nevada, for the crime of LARCENY FROM THE PERSON (felony) in C213930.

28 ///

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of Amended Notice of Intent to Seek Punishment as a Habitual Criminal, was made this 10th day of March, 2021, by Electronic Filing to:

DAVID FISCHER, ESQ.
info@fischerlawlv.com

/s/ J. MOSLEY
Secretary for the District Attorney's Office

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1 **OPPS**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 NOREEN DEMONTE
6 Chief Deputy District Attorney
7 Nevada Bar #8213
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
11 Plaintiff,

11 -vs-

CASE NO: C-20-350623-1

12 ANDREW YOUNG,
13 #1211422

DEPT NO: III

14 Defendant.

15 **STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SEVER**

16 DATE OF HEARING: 3/15/2021
17 TIME OF HEARING: 8:30 AM

18 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
19 District Attorney, through NOREEN DEMONTE, Chief Deputy District Attorney, and hereby
20 submits the attached Points and Authorities in Opposition to Defendant's Motion to Sever.

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

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1 POINTS AND AUTHORITIES

2 STATEMENT OF THE CASE

3 Andrew Young, hereinafter Defendant, was charged by way of Superseding Indictment
4 filed on October 1, 2020 with two (2) counts of Burglary (Category B Felony), ten (10) counts
5 Burglary (Category C Felony), four (4) counts Larceny from the Person, Victim 60 Years of
6 Age or Older, one (1) count Grand Larceny, five (5) counts Fraudulent Use of a Credit or Debit
7 Card, one (1) count Battery with Use of Deadly Weapon Resulting in Substantial Bodily Harm,
8 and one (1) count Attempt Murder with Use of a Deadly Weapon.

9 Defendant invoked speedy trial on October 7, 2020 and was originally given a trial date
10 of November 30, 2020. Due to continuing restrictions on jury trials by administrative orders
11 in response to COVID-19, the trial date was then moved to March 8, 2021. Defendant filed
12 the instant motion on February 28, 2021, resulting in the continuance of his jury trial. The
13 State's response follows.

14 STATEMENT OF THE FACTS

15 The instant case is the result of five separate investigations by several detectives
16 working out of different area commands in the Las Vegas Metropolitan Police Department.
17 Copies of the reports from these investigations are attached hereto as exhibits 1 through 6.
18 The State will summarize them as follows:

19 ATTEMPT MURDER IN FRONT OF PARIS HOTEL (COUNTS 17-18)

20 On July 26, 2020 Victim Robert Will was seated at a bus stop in front of the Paris Hotel
21 and Casino when he got into an altercation with a black male suspect wearing a gray shirt.
22 The suspect walked away from the bus stop and returned with a large rock and bludgeoned
23 Will over the head with the rock several times before walking south toward the Planet
24 Hollywood Hotel and Casino. Will suffered a skull fracture and severe brain bleed from the
25 attack.

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1 Paris Hotel and Casino Surveillance Supervisor Francisco Alemar was able to locate
2 video surveillance of the attack, as well as surveillance footage just before and after the attack
3 and provided it to Detectives Jacobitz and Mildebrandt:



13
14 Detective Stringer of the Las Vegas Metropolitan Police Department Fusion Watch was able
15 to locate footage of the suspect as he left the area of the attack, got on the pedestrian bridge
16 in front of the Planet Hollywood Casino, crossed over Las Vegas Boulevard and entered the
17 Cosmopolitan Hotel and Casino:



1 William Roed, Security Investigator with the Cosmopolitan Las Vegas located surveillance
2 footage of the suspect inside the Cosmopolitan:



13 A critical reach flyer containing still photographs of the suspect was distributed by
14 Detective Jacobitz to all personnel of the Las Vegas Metropolitan Police Department in an
15 attempt to identify the suspect. Detective Trent Byrd viewed the flyer and recognized the
16 suspect as Andrew Young from a previous investigation. Byrd then located body cam footage
17 from an event a few weeks prior at Walmart on East Serene¹.

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¹ This event is charged in the Superseding Indictment under count 6.

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In that body camera footage, Defendant is wearing the exact same clothing and carrying the exact same black jacket as he was in the Paris incident.

An Arrest Warrant was approved on August 5, 2020 for Battery with Use of a Deadly Weapon Resulting in Substantial Bodily Harm and Attempt Murder with Use of a Deadly Weapon. The declaration of warrant authored by Detective Byrd cites the clothing of Defendant including the white tennis shoes with the “distinctive black stripe” as well as what could be observed on video regarding Defendant’s gait, “the suspect has a distinct walk and it appears something is wrong with one of his legs.” See exhibit 1.

On August 19, 2020, a bus driver recognized Defendant from a wanted poster for the attempt murder case. Defendant was arrested wearing the same shoes and in possession of the same jacket from the Paris incident. Officers also impounded Defendant’s personal belongings which included the distinctive white tennis shoes and numerous gift cards.

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1 BURGLARY AT WALMART 2310 E SERENE (COUNT 6):

2 On July 8, 2020, Walmart asset protection Agent Vianca Eskildsen located a Defendant
3 whom she recognized from previous purse thefts of females inside the store and contacted
4 police. Eskildsen, followed Defendant on cameras as he "stalked" elderly females inside the
5 store, and notified police.



16 Police Officers contacted Defendant, who was in possession of a wallet belonging to a female
17 customer and escorted him out of the business.

18 As noted above, on the video surveillance and body cam, Defendant is wearing the
19 same clothing and carrying the same jacket as he is in the Paris incident:



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1 Detective Byrd noted in his declaration of warrant for the Paris incident that the body
2 worn camera matches the manner of walking that he observed from the Paris videos, "he has
3 the exact gait as he is walking toward the patrol vehicles."

4 DETECTIVE LISKE'S CASES (COUNTS 11-14, 19-22, and 23)

5 At the time of the July 26 attack at the Paris, Detective Sandeep Liske had been
6 investigating a series of wallet/purse thefts from elderly females occurring in the Southeast
7 Area between July 24, 2020 and August 7, 2020. A copy of Detective Liske's report is
8 attached as Exhibit 2.

9 On July 23, 2020, Barbara Bowen's wallet was taken while she was inside the Walmart
10 at 5198 Boulder Highway. Her credit cards were then Used at the GameStop at 5060 Boulder
11 Highway to purchase a Vanilla Visa Gift Card in the amount of \$450.00. Video surveillance
12 from the transaction shows the suspect wearing distinctive white tennis shoes with a black
13 stripe and carrying a black jacket:



25 The same suspect then purchased another gift card at Walgreens 4895 Boulder Highway.

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On August 1, 2020, Montho Boone's wallet was taken while she was shopping at the Wal-Mart located at 4895 Boulder Highway. The suspect then used her card at GameStop located at 5060 Boulder Highway to purchase a Vanilla Visa Gift card:



The suspect then attempts to purchase another gift card at Walgreens located at 4895 Boulder Highway, but the charge was declined:

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1 Detective Liske conducted a valley-wide search for common M.O.'s and came across
2 Defendant's July 8 incident and noted that it was the same suspect, right down to the shoes
3 and mannerisms.

4 Detective Liske also discovered Young had been arrested for the attempt murder at the
5 Paris, reviewed body camera from that arrest noticing the shoes and gift cards found in his
6 possession. Detective Liske then executed a search warrant on Young's property impounded
7 during the arrest and seized a number of gift cards including three Vanilla Visa gift cards - the
8 same type purchased during the fraudulent transactions at GameStop and Walgreens.

9 DETECTIVCE CIPRIANO'S CASE (COUNTS 15-16)

10 On July 29, 2020, Serry Mello had just checked into the Flamingo Hotel and was taking
11 his luggage to his room via the elevator. A black male wearing a gray shirt, white tennis shoes
12 with a distinctive black stripe and carrying a black jacket draped over his arm followed Mello
13 onto the elevator and crowded Mello into the corner. The suspect then used the black jacket
14 to conceal his hand while he removed Mello's wallet from his pocket. A copy of Detective
15 Cipriano's report is attached as Exhibit 3. Detective Cipriano obtained video
16 surveillance from inside the elevator:



24
25 Detective Cipriano, who works in the same area command as Detectives Byrd and
26 Jacobitz, then compared his video surveillance to the video surveillance from the Paris Hotel
27 and Casino as well as the July 8 Wal-Mart body cam, and determined that his suspect was
28 indeed Andrew Young, the same suspect as the Paris and July 8 Wal-Mart events. It should

1 be noted that Defendant is also wearing the exact same clothing as he is in the Paris and the
2 July 8th events.

3 **DETECTIVE JACOBITZ'S CASE (COUNTS 7-8)**

4 On July 8, 2020, Rhonda Kay Hatcher was in the elevator at Caesar's Palace, when she
5 was distracted by two men in the elevator. One of the men, a black male wearing a gray shirt
6 and white tennis shoes with a black stripe with a black jacket slung over his arm, bumps into
7 her, taking her wallet. A copy of Detective Jacobitz's arrest report is attached hereto as Exhibit
8 4.

9 Detective Jacobitz, who would also later investigate the July 26 Paris attack with Detective
10 Byrd, obtained video surveillance from inside the elevator:



21 After obtaining video surveillance from the Paris incident, and creating the flyer from
22 the Paris event, Jacobitz then determined he had the same suspect as the Paris, as well as the
23 Flamingo incident, and the July 8 Wal-Mart incident - noting that Defendant wore the exact
24 same clothing in all four incidents.

25 **DETECTIVE GRIMES AND JANECEK'S CASES (COUNTS 1-5, 9-10, AND 24)**

26 Detectives Grimes and Janecek were investigating a series of events out of the
27 Summerlin Area Command between June 30 and August 9, 2020. A copy of Detective
28 Grimes' report is attached as Exhibit 5.

1 Detective Brad Janecek obtained video surveillance from inside the Albertson's
2 showing the theft.



8 On August 11, 2020, Barbara Angersbach reported her wallet was taken from her purse
9 while gambling at the Suncoast Hotel and Casino located at 9090 Alta Drive on August 9,
10 2020.

11 Detective Grimes obtained video surveillance from this event and noted that it was the
12 same two suspects as the June 30 event he was investigating from the Rampart.



20 On August 21, 2020, Detective Grimes received an email from Officer Vargas in the
21 facial recognition section of the Las Vegas Metropolitan Police Department notifying him that
22 Vargas had identified one of his suspects as Andrew Young based on other events Vargas had
23 been reviewing for Detective Liske and further informing Detective Grimes that Young had
24 recently been arrested for the Paris incident.

25 Detective Grimes then sent his video from the 7-11 to Detective Byrd (who had
26 investigated the Paris incident). Detective Byrd identified the shorter suspect in the 7-11 video
27 as Defendant.

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1 Detective Grimes then informed Detective Janecek that the suspect in the Albertson's
2 video was Defendant.

3 **ARGUMENT**

4 In his Motion to Sever, Defendant is now requesting this Court to sever this case into two
5 separate trials, alleging that the Attempt murder at the Paris is so unrelated to the wallet theft
6 series that it cannot possible be tried in the same case under ANY circumstance. Defendant's
7 contentions are absolutely without merit, and this Court should leave this case undisturbed and
8 should not grant Defendant's Motion to Sever.

9 Defendant's Motion to Sever is primarily based on Nevada Revised Statute 174.165,
10 which states as follows:

11 If it appears that a defendant or the State of Nevada is prejudiced
12 by a joinder of offenses or of defendants in an indictment or
13 information, or by such joinder for trial together, the court may
order an election or separate trials of counts, grant a severance of
defendants or provide whatever other relief justice requires.

14 Nevada Revised Statute 173.115 provides that:

15 Two or more offenses may be charged in the same indictment or
16 information in a separate count for each offense if the offenses
charged, whether felonies or misdemeanors or both, are:
17 1) Based on the same act or transaction; or
18 2) Based on two or more acts or transactions connected together
or constituting parts of a common scheme or plan.

19 Cross-admissibility is an additional factor leading toward consolidation. In Robins v.
20 State, 106 Nev. 611, 798 P.2d 558 (1990), our Supreme Court was faced with the joinder of a
21 child abuse charge and a murder charge. It was held that:

22 If evidence of one charge would be cross-admissible in evidence
23 at a separate trial on another charge, then both charges may be
tried together and need not be severed.

24 Id. at 619, 563 (citing Mitchell v. State, 105 Nev. 735, 738, 782 P.2d 1340, 1342).

25 The decision to sever is left to the discretion of the trial court, and a defendant has the
26 heavy burden of showing that the court abused its discretion. Honeycutt v. State, 56 P.2d 362,
27 367 (2002) (citing Middleton v. State, 114 Nev. 1089, 1108, 968 P.2d 296, 309 (1998); Amen
28 v. State, 106 Nev. 749, 756, 801 P.2d 1354, 1359 (1990)). While making this decision, a trial

1 would be cross admissible in evidence at a separate trial on another charge, then both charges
2 may be tried together and need not be severed.

3 NRS 48.045(2) provides:

4 Evidence of other crimes, wrongs or acts is not admissible to prove
5 the character of a person or to show that he acted in conformity
6 therewith. It may, however, be admissible for other purposes,
7 such as proof of motive, opportunity, intent, preparation, plan,
8 knowledge, identity, or absence of mistake or accident.

8 Therefore, even if the attempt murder from the Paris and the wallet theft series were
9 improperly joined, evidence from each incident would still be admissible at the trial on the
10 other incident to show identity of the Defendant.

11 In the case at hand Defendant concedes that all of the events in the wallet theft series
12 show a clear common scheme or plan, making the joinder of these counts allowable under
13 NRS 173.115; Defendant's contention is that the Paris event has "no nexus" to the wallet
14 thefts. Defendant could not be more wrong. The Paris event IS the nexus. The investigations
15 of all these events are completely intertwined and were solved as a result of the Paris event.
16 As illustrated above, Detectives Jacobitz and Cipriano had unsolved cases UNTIL the July 26
17 attack at the Paris. Video surveillance from the Paris showed the exact same suspect as the
18 one Detectives Jacobitz and Cipriano were investigating. Detective Byrd then identified
19 Defendant as the suspect in the Paris attack through a previous investigation of his own as well
20 as the body camera footage from the July 8 wallet theft. After Defendant was arrested on the
21 warrant for the Paris attack, Detective Liske was able to tie him to his event and recover
22 evidence obtained from Defendant during that arrest. Detective Byrd then identified
23 Defendant as the perpetrator of the events being investigated by Detective Grimes. It would
24 be impossible for any one of these Detectives to explain how they identified Defendant as the
25 perpetrator without mentioning on the other investigations, most importantly the investigation
26 of the Paris event. Detective Liske would not be able to discuss how he obtained the Vanilla
27 Visa gift cards without mentioning Defendant being arrested for the Paris incident.

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1 Additionally, as discussed above in NRS 48.045(2), the Paris event and the wallet theft
2 events would be cross admissible in evidence as bad acts at separate trials. This is because
3 each of the acts clearly show Defendant's identity. The acts would be cross admissible as bad
4 acts because each act would show Defendant's clothing (in the majority of the events,
5 Defendant is wearing the exact same gray shirt and black shorts, and in ALL of the events he
6 is carrying the black jacket and wearing the same white tennis shoes with the black stripe), his
7 mannerisms (almost all of the reports discuss his inability to stand still), and his gait as his
8 slight limp is observable on all of the videos.

9 As stated earlier, the test is whether joinder is so manifestly prejudicial that it outweighs
10 the **dominant concern of judicial economy**. In addition to considering that severance would
11 force the empaneling of two juries and force witnesses to testify twice, when considering
12 judicial economy, this Court **cannot** look at just this case in a vacuum. As this Court is aware,
13 in-custody invoked speedy trials are currently being conducted in only TWO courtrooms in
14 the order in which Defendants across the EIGHTEEN criminal departments have invoked
15 speedy trials. Splitting this case into two separate trials would create a ripple effect – delaying
16 the hundreds of other trials in cue behind this case. No outweighing manifest prejudice has
17 been shown by Defendant in his motion. Splitting this case into two separate trials, particularly
18 given the manner in which trials are being conducted at the moment, is the OPPOSITE of
19 judicial economy.

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CONCLUSION

For the forgoing reasons the State respectfully requests this Honorable Court deny Defendant's Motion to Sever.

DATED this 11th day of March, 2021.

Respectfully submitted,

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

BY 

NOREEN DEMONTE
Chief Deputy District Attorney
Nevada Bar #8213

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of State's Opposition to Defendant's Motion to Sever, was made this 11th day of March, 2021, by Electronic Filing to:

DAVID R. FISCHER, ESQ.
DFisher@Fischerlawlv.com



C. Garcia
Secretary for the District Attorney's Office

NCD/cg/L2

EXHIBIT 1

000276

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

Event Number: 200700111103

STATE OF NEVADA) ANDREW YOUNG
) ss: ID#: 1211422
COUNTY OF CLARK) DOB: 7/18/1959 SS#: 167-24-0000

T. BYRD, 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 11 years, assigned to investigate the crime(s) of Attempt Murder, Battery with Deadly Weapon resulting in Substantial Bodily Harm committed on or about 7/26/2020, which investigation has developed ANDREW YOUNG as the perpetrator thereof.

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

Synopsis:

On 7/26/2020 at approximately 12:44 AM, Robert Will became the victim of Attempt Murder and Battery with Deadly Weapon resulting in Substantial Bodily Harm. Robert was sitting at the bus bench located outside of the Paris Hotel, 3655 S. Las Vegas Blvd. Las Vegas, NV 89109, when an altercation took place between him and the suspect. The suspect used a large rock and bludgeoned the victim in the head multiple times. The rock caused severe damage to Robert's skull and he was transported to Sunrise Hospital and listed in critical/life threatening condition. The suspect was described as a black male adult in his 50's or 60's wearing a grey shirt and black jeans and was last seen southbound on Las Vegas Boulevard towards the Planet Hollywood Hotel. The extent of injuries included a fractured skull, severe brain bleed, respiratory failure, laceration to the forehead and lip, and he is still in a coma.

LVMPD Patrol Officers A. Shin P#18020 and J. Jessie P#18020 were dispatched to the scene and completed a preliminary investigation. Officer Shin located a large rock behind the bus bench and later impounded it as evidence. He also took photos of the bench, the rock, and a few of the victim at the hospital. The following is the narrative from the crime report authored by Officer Jessie.

**Body Camera Recording Available*

On 07/26/20 I Officer J. Jessie P#18020 and Officer A. Shin P#17565 while operating as marked patrol unit 1M29 were dispatched to an assault/battery with a deadly weapon at the bus stop in front of 3655 S. Las Vegas Blvd LV NV 89109 . Details of the call stated that a male was struck in the head with a rock and was bleeding.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION

Event #: 200700111103

Upon my arrival myself and Officer Shin made contact with the victim, security, and witness's. Security and witness's stated that an unknown black male adult wearing a blue/white shirt and black jeans struck the victim in the head with a softball sized rock on the top of the head and fled southbound on Las Vegas Blvd.

The victim was verbally identified as Will, Robert DOB 07/19/67. Robert would not speak with officers on scene and briefly spoke with AMR personnel only giving them his name and DOB.

AMR A99 transported Robert to Sunrise Hospital trauma 3 for further medical attention.

Once at Sunrise Hospital, Physician A. Lovinger examined Robert and stated that he has life threatening injuries to include a large brain bleed, skull fracture, laceration to his forehead and lip, respiratory failure and currently in a coma.

Paris security #50 Josh stated that no footage captured the incident.

Officers were able to speak to the person reporting via cell phone named Moore, Kieyunna DOB 05/23/1995 who stated that she observed a black male adult approximately six foot tall wearing a navy blue t-shirt, dirty blue jeans and what it appeared to be reeboks with another white female wearing cheetah print crop top and blue jean shorts get into an altercation about a bus seat. Moore stated that the suspect approached the victim, Robert, ordering Robert to move his food that was on the bus stop seat in front of Paris. Robert refused and a verbal altercation ensued. Moore stated that the black male adult got very aggressive towards Robert where Robert agreed to move his food as long as he does not touch his food. The suspect then grabbed Robert's food and threw it in the trash. Robert then stood up and started to swing his arms towards the suspect, where the suspect grabbed a rock and struck Robert in the head."

Investigation:

Officers from Convention Center area command notified Patrol Detectives and determined further investigation was warranted. Detectives Mildebrandt and Jacobitz canvassed the surrounding area for video surveillance.

Upon learning of this incident Detectives Mildebrandt and Jacobitz conducted a secondary follow up. Witness, Kieyunna Moore, DOB 05/23/1995 described the suspect as a black male adult, approximately 6' tall wearing a blue t-shirt, dirty blue jeans and Reebok tennis shoes. Contact number is her cell- 702-559-6248. A canvas of the area (bus stop in front of the Paris), did not yield a crime scene-negative blood trail. It was later determined the PR, was not Kieyunna. The phone number returns to Kieyunna's sister Laresha Moore DOB 5/23/1998. Several attempts to contact her have been unsuccessful. She currently has an outstanding parole/probation warrant.

CONTINUATION

Event #: 200700111103

Detectives did observe a Fusion Watch camera on the northwest corner of Cabo Wabo restaurant.

Contact was made with Officer Stringer in Fusion Watch (FW), who conducted a video review. Officer Stringer did not have coverage of the actual incident, but she was able to locate a possible person of interest who fit the descriptors. This subject was walking at a fast pace from the area, indicative of someone trying to leave the area before they could be detained. His direction of travel was southbound which was consistent with what witnesses told the responding officers.

This subject was wearing a grey t-shirt, dark colored shorts which extended to mid-calf. They appear to be cargo shorts. He is wearing white tennis shoes with black ankle socks. His physical build was stocky with a bald head. He was carrying what appeared to be a jacket or pants in his left hand. He was wearing a blue surgical mask. Although the initial report stated dirty blue jeans, the long length of the dark colored cargo shorts could be mistaken for jeans. Based on the early pictures recovered by Stringer of the subject, a critical reach flier was authored and distributed accordingly.

Officer Stringer followed the subject from the Paris, past the Planet Hollywood, over the Harmon pedestrian bridge westbound to the Cosmopolitan. Detectives contacted investigator March Cannon from Planet Hollywood and asked if he could review video for the subject. Cannon said he would contact Icy in surveillance and ask her to conduct a review. Detectives also contacted Cosmopolitan investigator William Reed. He was able to capture the subject enter property.

The victim, Robert Will, DOB 07/19.1967, was transported to Sunrise Hospital, Trauma Unit. He is currently in room 2803 suffering from a massive brain bleed, skull fracture, lacerations, and respiratory failure. At this time his injuries are considered life-threatening and he is on a ventilator. Will's nurse, Julie, said "they are not getting a lot out of Will", but would not commit as to his survival.

On 7/27/2020 I, Detective T. Byrd P#13958, viewed the critical reach flyer which was distributed by Det. Jacobitz. After seeing the photos, I recognized the suspect from a previous investigation. Under LVMPD event 161122-3589 I had conducted a larceny from person and fraudulent use of credit card investigation. Throughout the investigation I was able to identify the suspect as Andrew Young ID#1211422. Andrew is described as a black male adult with a bald head and a date of birth 7/18/1959, making him 61 years old.

A police records check revealed Andrew was recently detained by LVMPD on 7/8/2020 for a Petit Larceny. During that investigation LVMPD Officers J. Wheeler P#18202 and J. Scott P#14747 were called to Walmart located at 2310 E. Serene LVN 89123 in reference to a suspicious person inside the store. The suspect was described as a black male adult wearing a grey shirt and black shorts. The suspect in this event was later positively identified as Andrew Young ID#1211422. During this call the LVMPD Officers had their issued body worn cameras on which captured the event.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION

Event #: 200700111103

I reviewed body camera footage from this event which showed Andrew wearing a blue/grey collared shirt, black cargo shorts, black crew length socks and white tennis shoes with a distinct black horizontal stripe. He was also carrying a black jacket in his left hand. This is the exact same clothing the suspect was wearing 7/26/2020.

On 7/26/2020 video surveillance was recovered from the Cosmopolitan Hotel where the suspect was seen walking through. The footage from Cosmopolitan has very clear images of the suspect's clothing to include the white shoes with distinct black horizontal stripe. This was the same exact clothing Andrew was wearing on 7/8/2020.

In all the video coverage recovered from the event on 7/26/2020, the suspect has a distinct walk and it appears something is wrong with one of his legs. This also matches the body worn camera from Officers on 7/8/2020 as he has the exact gait while walking towards the Officers Patrol Vehicle.

On 8/1/2020 I contacted Paris Hotel Security Supervisor F. Alemar. I reviewed video surveillance from the area where the attack occurred. Video shows the suspect, Andrew, hanging around the bus stop bench where the attack occurred at approximately 12:40 AM. Andrew appeared to have a verbal altercation with victim Robert at the bench. Andrew then walks north away from the bench towards the CVS which is located directly next to the Paris Hotel. At approximately 12:44 AM, Andrew returns to the bench and is seen swinging his right arm towards the direction of Robert's head. Robert appeared to be struck with an unknown object as he doubles over holding the top of his head. Andrew then approached Robert, and both swing their arms at each other as though they are going to fight. Andrew struck Robert again in the head which caused Robert to double over again in pain. Andrew walks south from the bench away from the scene. This is the same time LVMPD fusion watch cameras capture him leaving the area. The person seen on the video from Paris attacking Robert is in fact the same person Fusion cameras were able to follow along Las Vegas Boulevard who was later identified as Andrew Young.

The initial attack on Robert appeared to be completely unprovoked. Robert was sitting with his back against the bench, and Andrew attacks him from behind. He struck Robert with such force it fractured his skull and caused a severe brain bleed, respiratory failure and eventually putting him into a coma. As of 8/1/2020 Robert is still in a coma, and unknown on how long the recovery will be. The fracture to the left side of his head has caused issues with swallowing and breathing and he is currently on a ventilator. The brain bleed on the right side of his brain has caused issues with his motor skills on the right side of his body. He does not appear to be responding to the Doctor's or the Nurses currently.

Based on all the above facts and circumstances it is reasonable to believe Andrew Young ID#1211422 was in fact the suspect from 7/26/2020 where Robert was attacked.

Due to the above facts and circumstances there is probable cause to believe Andrew did commit Attempt Murder by willfully, unlawfully and with malice aforethought attempt to kill Robert by striking him on the top of his head,

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION

Event #: 200700111103

unprovoked, with a large rock causing substantial bodily harm. Robert had no chance to even defend against the attack. (One count of Attempt Murder)


Due to the above facts and circumstance there is probable cause to believe Andrew did commit Battery with Deadly Weapon resulting in Substantial Bodily Harm by using force or violence with a large rock against Robert by striking him in the head causing him to suffer a fractured skull, brain bleed, respiratory failure and is currently in a coma. (One count of Battery WDW R/SBH)

Wherefore, Declarant prays that a Warrant of Arrest be issued for suspect ANDREW YOUNG on the charge(s) of Attempt Murder, Battery with Deadly Weapon resulting in Substantial Bodily Harm.

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

Executed on this 5th day of August, 2020.

DECLARANT:

 17956

WITNESS:

 #13249

DATE:

8/5/2020

EXHIBIT 2

000282

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
DECLARATION OF ARREST REPORT**

TCR1094645

County Jail

City Jail

Adult

Juvenile

Bureau: SEAC

ID# 1211422		EVENT # LLV200800010269		ARRESTEE'S NAME (LAST) YOUNG			(FIRST) ANDREW		(MIDDLE)		SSN# 167-24-0000
RACE B	SEX M	DOB 7/18/1959	HGT 6'00"	WGT 180	HAIR BLD	EYES BLK	POB CAMDEN				
ARRESTEE'S ADDRESS TRANSIENT						STREET		CITY LAS VEGAS	STATE NV	ZIP CODE 89122	
OCCURRED DATE: 8/1/2020		ARREST DATE: 8/21/2020		TIME: 13:00		TIME: 12:00		LOCATION OF ARREST (NUMBER, STREET, CITY, STATE, ZIP CODE) 330 CASINO CENTER BLVD S LAS VEGAS NEVADA			
LOCATION OF CRIME (NUMBER, STREET, CITY, STATE, ZIP CODE) 5198 BOULDER HWY LAS VEGAS NEVADA 89122											
CHARGES / OFFENSES PC - LVJCR - 61981 - F - LARCENY FROM PERS PC - LVJCR - 50796 - F - USE CR/DEB CARD, OR ID, W/O CONSENT PC - LVJCR - 61938 - F - BURG OF A BUSINESS, 1ST OFF											
CONNECTING REPORTS (TYPE OR EVENT NUMBER) LLV200700103861; LLV200800029374											

The undersigned makes the following declarations subject to the penalty of perjury and says: That I am a peace officer with the Las Vegas Metropolitan Police Department, Clark County, Nevada, being so employed for a period of approximately 6 year(s).

That I learned the following facts and circumstances which lead me to believe that the above named subject committed or was committing the offenses above at the location of 5198 BOULDER HWY LAS VEGAS NEVADA 89122 and that the offense(s) occurred at approximately 13:00 hours on the 1st day of August, 2020.

Details for Probable Cause:

I, Detective S. Liske P#14882, am the assigned Detective for this case reference Larceny from Person E/VOP, which was reported under LVMPD Event LLV200800010269. On August 3rd, 2020, Montho Boone filed a police report at Northeast Area command for Petit Larceny. For this event, Montho stated she was at the Walmart located at 5198 Boulder Highway. She was shopping and at one point had her back was turned away from her cart. During this time, a suspect had the opportunity to go into her purse and steal her wallet. Montho who is 80 years old didn't realize her wallet was missing until she got to the checkout counter.

I contacted Montho and her daughter, Benji Rawling about the incident. Benji told me that they were notified by the credit card companies of Fraudulent use. The first being at the same Walmart which Montho had her wallet taken on August 1st, 1326 hours with a charge of \$912 dollars. This charge was declined. The suspect tries again at 1327 hours with a charge of \$456.11 which was also declined. The suspect left the Walmart and went to a nearby Gamestop (5060 Boulder Hwy STE105) and charged \$480.95. This charge went through with payment. The suspect leaves and then goes across the street to a Walgreens (4895 Boulder Hwy STE 100) and attempts to charge \$463.64 but this was declined. He tries again charging \$438 but that is declined as well.

I went to the Walgreens and reviewed CCTV footage to get a description of the suspect. I asked the store manager to look up a specific transaction for \$463.64. They were able to find it which had a time stamp. From there we checked the CCTV footage for the approximate time and that's when I see the potential suspect who is described as an older black male adult wearing blue shirt, blue camo shorts and white shoes with a black stripe.

I went to the Gamestop and with the assistance of store manager was able to lookup the transaction for \$480.95 The credit card information returns to our victim, Montho Boone and it was the same suspect as the Walgreens utilizing her

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 misdemeanor).

Arresting Officer: S LISKE

P#: 14882

LVMPD 802 (Rev 02/18) Word 2013

000283

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

SCOPE ID: 1211422 EVENT #: LLV200800010269
Page 2 of 3

credit card. The suspect buys a Visa gift card which acts like a debit card. After the Walgreen's declines the suspect does not attempt additional charges on the card.

While reviewing this case, it fit a similar modus operandi (M.O) for another LVMPD event under LLV200700103861. This was assigned to Detective E. Drury #15143. While comparing notes it became very clear it could be the same person. Barbara, who is an elderly woman, was shopping at the Walmart (5198 Boulder Hwy). As Barbara makes her way to the checkout counter, she discovered her wallet is missing. She goes home and is contacted by the credit card companies stating her credit card was used at the Walmart for \$19.44; Gamestop \$455.95; and Walgreens \$422.17.

Detective Drury and I went to the Gamestop (5060 Boulder Hwy STE105) to review CCTV footage. With the assistance of the manager we were able to look up the transaction for \$455.95 which was made on Barbara Bowens Visa Credit Card at 1402 hours. We looked at the surveillance footage at the approximate time and we see the same suspect from Event LLV200800010269 wearing the same exact clothing.

In both events the suspect has a very distinct mannerism. He can't seem to stay still and constantly moves. He occasionally puts both his hands up and seems to speak animatedly.

On 08/07/20 there was another Larceny from person reported under LVMPD Event LLV200800029374, this event had the same exact M.O. as the last two. The suspect stalks an older woman and waits for her to be distracted and then takes her purse. This victim, Tina Leigh stated she was in Aisle 21 when a black male adult wearing Light blue Polo t-shirt, blue jeans approached her and asked her a question about the product on the shelf. She does not remember the question he asked. While she was talking to that male, another black male adult wearing blue shirts blue/white camo shorts came up behind her and grabbed a wallet out of Tina's bag. He then left before Tina figured out what happened. It's unknown if the two were conspiring together. But review of CCTV footage shows the same suspect wearing the same exact outfit taking Barbara's purse and then leaving the store. We have been unable to get ahold of Barbara to figure out if the suspect has used her credit cards.

I conducted a valley wide search of common M.O.'s and became aware of an individual identified as Andrew Young DOB 07/18/59 -ID# 1211422. Andrew fits the description of the suspect and there is a previous LVMPD event number LLV200700033991. In this event, Young was at a Walmart located at 2310 E Serene. This Walmart is familiar with Andrew because he has stolen women's purses in the past. Walmart Security calls Metro police and officers respond to the scene. LVMPD officers watch Andrew for approximately 10 minutes on CCTV. They see Andrew stalking an elderly woman. When she walks away from her cart to grab something off a shelf. Andrew reaches into her purse and takes her wallet and walks away. LVMPD Officer M. Andres P#7532, Officer J. Scott P#14747 and J. Cunningham P#17247 stopped Andrew and detained him. He was read his Miranda Warning verbatim from the LVMPD 148 card to which he replied with a "yes." Officers on scene asked Young about the wallet and he said he found it on the floor in an aisle but he was seen by officers taking the wallet from the persons purse while they were distracted which is the same M.O. as my suspect.

I reviewed BWC to compare Andrew to my suspects descriptors and demeanor. Andrew's mannerisms match that of my suspect. When Andrew is talking with officers he's animated and moving a lot. Andrew's shoes are similar to my suspect. Clothing is easily interchangeable but one thing that stays consistent in this event are the shoes. The suspect in my events are wearing white shoes with a distinct black

Andrew was taken into custody under LVMPD Event # LLV200800078368 (on July 18th) reference an Arrest Warrant for Attempt Murder and Battery w/ DW RSBH. Officers on scene observed Andrew wearing a black shirt, green cargo shorts and white sneakers with a black diagonal line. Those sneakers were impounded for evidence under this event #.

Andrew fits the description of the suspect with similar build and shoes. He fits the common M.O. In both cases the suspect walks into a Gamestop or Walgreens and purchases or attempts to purchase Visa Gift cards. In Andrew's personal property at CCDC, he possessed 6 Visa Gift Cards, 1 MasterCard gift card and 9 miscellaneous gift cards for various restaurants.

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 misdemeanor).

Arresting Officer: S LISKE

P#: 14882

LVMPD 602 (Rev 02/16) Word 2013

000284

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

SCOPE ID: 1211422 EVENT #: LLV200800010269
Page 3 of 3

Due to the previous mentioned facts and circumstances, it would lead a prudent person to believe that Andrew Young committed the crimes of Larceny from Person E/VOP (3 counts), Fraudulent use of credit card(8 counts) and Burglary of a business (2 counts) reference LVMPD event numbers: LLV200700103861, LLV200800010269, LLV200800029374.

Andrew was already in custody at CCDC and was rebooked on the new charges listed above.

***** End *****

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 misdemeanor).

Arresting Officer: S LISKE

PH: 14882

LVMPD 802 (Rev 02/18) Word 2013

000285

EXHIBIT 3

000286

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
DECLARATION OF ARREST REPORT**

TCR1095198

County Jail City Jail Adult Juvenile Bureau: CCAC

ID# 1211422		EVENT # LLV200700129589		ARRESTEE'S NAME (LAST) YOUNG			(FIRST) ANDREW	(MIDDLE)	SSN# 167-24-0000
RACE B	SEX M	DOB 7/18/1959	HGT 6'00"	WGT 180	HAIR BLK	EYES BRO	POB CAMDEN		
ARRESTEE'S ADDRESS 1500 FREEMONT ST						CITY LAS VEGAS	STATE NV	ZIP CODE 89101	
OCCURRED DATE: 7/29/2020 TIME: 14:00		ARREST DATE: 8/25/2020 TIME: 08:00		LOCATION OF ARREST (NUMBER, STREET, CITY, STATE, ZIP CODE) 330 CASINO CENTER BLVD S LAS VEGAS NEVADA					
LOCATION OF CRIME (NUMBER, STREET, CITY, STATE, ZIP CODE) 3555 FLAMINGO RD LAS VEGAS NEVADA 89109									
CHARGES / OFFENSES PC - LVJCR - 61981 - F - LARCENY FROM PERS									
CONNECTING REPORTS (TYPE OR EVENT NUMBER)									

The undersigned makes the following declarations subject to the penalty of perjury and says: That I am a peace officer with the Las Vegas Metropolitan Police Department, Clark County, Nevada, being so employed for a period of approximately 11 year(s).

That I learned the following facts and circumstances which lead me to believe that the above named subject committed or was committing the offenses above at the location of 3555 FLAMINGO RD LAS VEGAS NEVADA 89109 and that the offense(s) occurred at approximately 14:00 hours on the 29th day of July, 2020.

Details for Probable Cause:

On 06/13/20 at approximately 1631 hours, Serry Mello became the victim of Larceny from Person at the location of 3555 S. Las Vegas Blvd. Las Vegas NV 89109. Serry Mello went into South Central Area Command and made a report with V.Dailey P#18424 who completed the following Incident Crime Report (verbatim):

On 07/30/2020 at around 1000 hrs Serry Edward Mello came to SCAC to report a stolen wallet and fraudulent use of his credit cards.

On 07/29/2020 at around 1600 hrs Mello arrived to the Flamingo Hotel and Casino to check in. Mello had his wallet in his possession at this time.

Mello then placed his wallet in his front left pocket of his pants. He proceeded to go in the elevator with his wife and three other people.

Around 1645 hrs Mello received a call from Wells Fargo regarding suspicious activity to his account. That is when Mello realized that his wallet was gone.

Mello believes it could have been taken in the elevator ride since he was so close to other people. Mello did not feel anyone pulling or touching his pocket.

There was some fraudulent use on his Wells Fargo debit card.

There was a charge for \$18.75 for a taxi ride.

There was also four attempts made at an unknown Target. One transaction was approved for \$412.00 the other three were declined.

Mello is unaware of any other fraudulent use and has canceled all other cards.

Mello reported this incident to security at the Flamingo Hotel and was told they do have video surveillance from the elevator ride.

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 misdemeanor).

Arresting Officer: [Signature]

PR: 14107

LVMPD 602 (Rev 02/18) Word 2013

000287

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

SCOPE ID: 1211422 EVENT #: LLV200700129589

Page 2 of 2

I Detective Cipriano retrieved video surveillance from Flamingo Hotel security. Reviewing video, I noticed a tall Black Male Adult follow the victim Serry Mello DOB 7/29/1951 into the elevator with a coat draped over his left arm. Once Mello entered the elevator, the Black Male Adult entered and followed Mello to the rear of the elevator and crowded him. Once the Black Male Adult had Mello pinned to the rear of the elevator. He used the coat to conceal his hand while he reached into Mello's front left pocket and retrieved his wallet. Mello noticed his wallet was stolen, when he received a phone call from his bank stating Fraudulent charges on his credit card. The items stolen was Men's walet, \$302.00in cash and variety of creadit cards. Mello's credit cards were attempted to be use at multiple store, but video surveillance was unavailable. I then compared video surveillance to prior event's LLV200700111103 and LLV20070099999806 which was a positive match for my suspect. The suspect was identified Detective T. Byrd P# 13958 as Andrew Young ID# 1211422. He was identified by his last contacted by Police offices on 7/8/2020 under LVMPD event LLV200700033991. Young was identified on body camera footage event where he is wearing the exact same clothing as the subject seen in the video. Based on the above evidence Young was rebooked for Larceny from Person, Victim 60 years of age or Vulnerable Person. Young is currently at CCDC, which he was booked on event LLV200700111103. Paperwork was submitted for rebooking of Larceny from Person.

***** End *****

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 misdemeanor).

Arresting Officer: CERTAINO

F#: 12187

LVMPD 602 (Rev 02/18) Word 2013

000288

EXHIBIT 4

000289

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

Event Number: LLV200799999806

STATE OF NEVADA) **ANDREW YOUNG**
) ss: ID#: 1211422
COUNTY OF CLARK) DOB: 07/18/1959 SS#: 167-34-1614

Detective J. Jacobitz P#9383, 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 14 years, assigned to investigate the crime(s) of **Larceny from the Person, Victim 60 years of Age or Older and Burglary of a Structure** committed on or about July 8th, 2020, which investigation has developed **ANDREW YOUNG** as the perpetrator thereof.

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

That I Detective J. Jacobitz P#9383 was assigned to conduct a follow-up investigation in reference to Larceny from Person crime that occurred at Caesar's Palace.

The victim, *Rhonda Kay Hatcher*, a tourist from Phoenix, Arizona filed an online report advising the following details:

"I got on the Octavius' elevator at Caesars at approximately 10:30 to go to my room (3968). Two African Americans got on with me and my mom. One kept talking to me saying he could not see if his floor was lite up because he was blind and did not have his glasses. It felt like to he wanted me to get closer to him, but I stayed on my spot in the elevator. I told him it was. When I went to get off the elevator, the same gentleman who told me he was blind, tried to get off and bumped into me. I told him it was the wrong floor. I got back to my room and immediately found my wallet was gone. I tried to blocked most of my cards and then filed a report with Security at Caesars'. While waiting for security to take the report, I got text that he tried all my debit cards and credit cards (mostly at Speedway for the amount of 420.52). He did get some funds, but I am unsure how much. The charges have been reversed off my cards. I can't give you my license number, because that was also in my wallet. The security guard told me to file a police report and when I spoke to him again, I told him that I needed to to it online and told him I needed a computer, he did not know where I could get one. (Caesars has a video of the incident and I got confused on the questions, another reason for the delay in the report)."

CONTINUATIONEvent #: LLV200799999806**Identification of the Suspect**

As a result of a violent crime spree detectives were able to identify the primary suspect in this case as **ANDREW YOUNG**, ID#1211422. It was discovered that YOUNG was involved in the following crimes:

July 8, 2020	LLV200700033991	Shoplifting incident at Walmart in Enterprise area
July 8, 2020	LLV200799999806	Caesar's Palace Larceny from Person/UCCWOC
July 26, 2020	LLV200700111103	Paris Attempted Murder; Victim remains paralyzed as a result
July 29, 2020	LLV200700128589	Flamingo Larceny from Person/UCCWOC

In each of the events on the Las Vegas strip, YOUNG was seen on video surveillance wearing the same clothing. It is common that transient people wear the same clothing for longer periods of time as opposed to changing them frequently like the average working person. YOUNG was found to be wearing a dark blue or greyish collared Polo style shirt, long black cargo shorts, white easily identifiable shoes with black socks and a surgical face mask. Additionally, YOUNG always carried a dark colored coat slung over his arm and hand.

LLV200799999806



LLV200700111103



LLV200700128589



Additionally, **YOUNG** was known to *Detective T. Byrd* P#13958 as a result of previous investigations including the listed events.

CONTINUATIONEvent #: LLV200799999806

YOUNG is a career criminal and an eleven (11) time registered ex-felon in local records, for theft and violent crime related charges to include Robbery and Larceny from the Person.

Surveillance Video/ Timeline

Detectives obtained video surveillance of the incident from *Caesar's Palace* and discovered the following footage under elevator camera 5411 AT Gst Hi 123:

22:24:27	Victim enters the elevator
22:24:30	Second elderly female with walker enters elevator with the victim
22:24:32	ANDREW YOUNG enters the elevator with coat slung over left arm/hand
22:24:34	Second unidentified male enters the elevator with YOUNG
22:24:41	Elevator door closes
22:25:00	YOUNG moves closer to the victim in elevator
22:25:02	YOUNG positions hand hidden under coat in front of him
22:25:07	YOUNG begins to look victim up and down as door opens
22:25:08	YOUNG allows victim out the door first as he eyes her purse
22:25:09	YOUNG reaches his exposed hand into the victim's purse and grabs her wallet
22:25:13	YOUNG bumps the victim and has victim's wallet in his hand unknown to victim while YOUNG's male friend blocks the elevator doorway causing victim to change her path
22:25:14	YOUNG hides victim's wallet in the slung coat on his other hand
22:25:18	YOUNG's male friend gets back into elevator with YOUNG who remained inside while the victim and other female get out on what appears to be the 39 th floor
22:25:25	Elevator door closes
22:25:26	The male thieves are in the elevator alone, YOUNG removes the victim's wallet from under the coat in his hand and shows his friend
22:25:28	YOUNG appears to hide the victim's wallet in the coat pocket
22:25:32	The elevator door opens and the male thieves remain in the elevator on the 40 th floor
22:25:45	The two male thieves talk and laugh in the elevator
22:26:13	YOUNG transfers the wallet from the coat to his shorts pocket
22:26:30	The two male thieves exit the elevator onto the casino floor together

Based upon the video surveillance it is clear that the male suspects followed the victim into the elevator from the casino floor. It is reasonable to believe that the suspects cased their victim while on the casino floor.

1. Larceny from the Person 205.270

The distract thieves took the victim's wallet from the victim's person without her consent. The distract thieves showed an intent to commit Larceny from the Person when they followed the victim into the elevator and up to her room floor while orchestrating a smooth, practiced and coordinated theft. This theft did not amount to

CONTINUATION

Event #: LLV200799999806

circumstances suggesting force or fear or robbery. To further confirm the suspect's intent, once the theft was completed and the victim was out of sight the distract team displayed the stolen wallet, carried on in laughter and rode the elevator back to the casino floor where they exited.

2. Burglary of a Structure 205.060

The distract team showed no reason to enter the elevator other than to commit larceny. They did not show any reason to use the elevator as they entered on the casino floor, followed the victim, committed Larceny from the Person and rode back down to the casino floor where the team exited after concealing the stolen wallet.

YOUNG entered *Caesar's Palace*, specifically the hotel room elevators to unlawfully commit the crime of felony Larceny from the Person. *YOUNG* was not found to have been a registered guest of the hotel and had no lawful business to enter the private guest room elevator.

3. Victim 60 Years of Age or Older 193.167

The suspects clearly chose their victims based upon the fact that they were elderly and easy victims. The victim, *Rhonda Kay Hatcher* who was born February 6th, 1957 was 63 years of age at the time of the incident.

Use of Credit/Debit Card without Owner's Consent

Immediately following the theft, *Hatcher* began to receive text messages that several of her credit/debit cards had fraudulent activity. We were unable to recover video surveillance of this incident and the victim has not provided a statement of the fraudulent activity. The Use of Credit/Debit Card without Owner's Consent portion of this case is still pending further developments.

Wherefore, Declarant prays that a Warrant of Arrest be issued for suspect ANDREW YOUNG on the charge(s) of **Larceny from the Person, Victim 60 years of Age or Older and Burglary of a Structure.**

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

Executed on this 8th day of September, 2020.

DECLARANT: J. Jacobitz P#9383 


WITNESS: B. Mildebrandt P#5449  DATE: September 8, 2020

EXHIBIT 5

000294

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
OFFICER'S REPORT

"Click to Edit Event# on ALL Pages"

Event #: 200600121538

"Click to Edit Date/Time of Report"

"PRINT"

Related Petit Larceny/Larceny from Person/Possession of Stolen Credit Card cases

SUBJECT

DIVISION REPORTING: Patrol DIVISION OF OCCURRENCE: Patrol

DATE & TIME OCCURRED: Between 06/29/20 / 23:05 – 08/09/20 / 22:00 LOCATION OF OCCURRENCE: Multiple

NARRATIVE:

Officers Involved:

Detective E. Grimes	P# 6729
Detective B. Janecek	P# 8389
Officer R. Calvillo	P# 14710
Officer E. Vargas	P# 8595
Det. S. Liske	P# 14882
Det. Drury	P# 15143
Det. T. Byrd	P# 13958

Victims:

Mary Campo
05/08/48
332 Vista Glen Street, Las Vegas, NV 89145
702-266-6676 (C)

Rampart Hotel & Casino
221 N. Rampart Boulevard, Las Vegas, NV 89145
702-507-5960

7-11 #27700
5110 S. Maryland Parkway, Las Vegas, NV 89119
702-798-3039

Barbara Angersbach
06/22/37
2300 Alpine Pointe Lane, Las Vegas, NV 89134
702-673-7248 (C), 702-242-2224 (H)

Date and Time of Report: 09/15/2020 / 12:00 Officer: E. Grimes P#: 6729

Approved By: Sgt. C. Dennis Officer: B. Janecek P#: 8389

SIGNATURE: _____

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION

Event #: 200600121538

Suncoast Hotel & Casino
9090 Alta Drive, Las Vegas, NV 89145
702-365-7303

Joanne Frank
6/20/43
601 Harvest Run Dr. Apt 101 Las Vegas, NV 89145
702-255-4592 (H), 559-374-8018 (C)

Contacts:

Marsha Martinez (manager of 7-11 #27700)
5110 S. Maryland Parkway, Las Vegas, NV 89119
702-798-3039 (B)

Sgt. Leper (Suncoast Hotel & Casino Security Supervisor)
9090 Alta Drive, Las Vegas, NV 89145
702-365-7303 (B)

Markee Daniel (loss prevention for Albertson's)
Markee.daniel@albertsons.com

Synopsis:

The following Officer's Report will detail several related cases that occurred under events 200600121538, 200800045234 and 200700099712, in which Andrew Young, born 07/18/59, SCOPE ID# 1211422, was identified as one of the two suspects involved. Deputy District Attorney N. Demonte advised that she would be taking these cases and others related with the same suspect to the Grand Jury and requested a report that detailed the circumstances to establish probable cause that Young committed these crimes.

I, Detective E. Grimes, P# 6729, investigated the incidents that occurred under events 200600121538 and 200800045234 and Det. B. Janecek, P# 8389, investigated the incident that occurred under event 200700099712.

Details:

Event 200600121538 – Victim Mary Campo and 7-11 #27700

On June 30, 2020, at approximately 01:09 hours, Officer R. Calvillo, P# 14710, was dispatched to a larceny incident at the Rampart Casino, located at 221 N. Rampart Boulevard, Las Vegas, NV 89144. The details of the incident were that the person reporting had her wallet and phone stolen out of her purse by two black male adults.

Officer Calvillo arrived and contacted the victim, Mary Campo, born 05/08/48 (72 years old). Campo told him that on June 29, 2020, at approximately 23:05 hours, while she was sitting down at a slot machine gambling,

000296

CONTINUATION

Event #: 200600121538

an unknown black male adult wearing a camouflage baseball cap, white long-sleeve shirt, blue jeans and gray running shoes, approached her and asked her questions regarding a piece of paper the male was holding. She stated that she was not able to recall what the male asked, due to her being scared. She also noticed that this male was accompanied by another unknown black male adult wearing a gray or brown short-sleeve button up shirt (possibly Dickies brand), black Dickies style shorts, white basketball shoes, and sunglasses on his head. Campo had her purse on a chair to the left of her while the male spoke with her. Both males then left in a hurry and she continued to gamble. Campo then realized that her black wallet which held her Nevada Driver's License, bank debit card, Medicare card, Blue Cross/Blue Shield card, approximately \$1,500.00 in U.S. currency, and miscellaneous papers was missing from her purse. Campo contacted casino security to report the incident. She also stated that she had found her phone in the women's restroom.

Casino security was able to provide a video showing the two suspects loitering around Campo, as if targeting her. They both simulate that they are gambling near her and then move to a slot machine closer to her. The male in the white shirt approached Campo and asked her something. Campo appeared to get startled when the male approached her. While the male in the white shirt is talking to her, the male in the gray/brown shirt is seen approaching her from the rear. That male gets close to where Campo's purse is located and is seen getting something out of it, hiding it under a black clothing article he was carrying in his arm. Once the male took the item out of the purse, he walked away from Campo and then the male in the white shirt immediately followed him. They are seen on video leaving the property in an unknown make and model, dark gray sedan.

Security provided the video on a USB drive. Security also advised that the suspect's pictures were also taken by a thermal scanner/camera when both males entered the building, but the still photos were not going to be available until someone from their IT department showed up on dayshift.

Campo advised Officer Calvillo that she had already cancelled her bank card but was worried about her medical cards. At the time of the report, Campo was not able to provide the numbers for the bank card.

That morning, Officer Calvillo turned the thumb drive over to me. I viewed the video surveillance and the best images of the males were as they were entering the casino and getting their photos taken by the thermal scanner. The video did show what Officer Calvillo had described. The black article of clothing that Officer Calvillo mentions appeared to be a jacket. The male with the tan shirt and black shorts is carrying a black jacket and the male with the white shirt is wearing a puffy black vest jacket, which seems odd to me since this is the end of June and there would be no need for jackets. The male with the tan shirt and black shorts is wearing large white running shoes with a distinctive dark colored stripe. He also walks distinctly, appearing to sway as he is standing and walking, possibly intoxicated or has some type of medical issue. He is also shorter than the other male and his head is bald or shaved clean. He placed the jacket on his right shoulder and used it as a screen to block Campo's view to her purse while he stole the wallet from the purse.

I went to the Rampart Casino to see if I could get the pictures that were taken by the thermal scanner. The casino's IT personnel examined the system and learned that the camera was saving the pictures to a laptop at that location, but unfortunately the hard drive had run out of space and the pictures were not being saved. They have since changed how the pictures are being saved but told me that there were no pictures of the two males.

I called Campo and learned that her Bank of America card was used at a 7-11 store twice, once for \$18.80, which was declined, and another for \$8.80, which was approved. She later emailed me what her bank had sent to her, which showed that she was alerted on June 30, 2020, at 00:43 hours, and it showed that it occurred at 7-11 #27700.

I posted some still shots of the two black male suspects in our electronic patrol briefing system to see if any officers might recognize either of them.

On July 1, 2020, Campo called me and told me that her Bank of America card ended with the digits "1020". She also learned that it was also used at Circle K #05397, but the transaction was declined. She did not have any time or amount for that transaction.

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LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION

Event #: 200600121538

I contacted the 7-11 corporate office and learned that store #27700 was located at 5110 S. Maryland Parkway. I called the store and the employee that answered advised she did not have access to the cameras and that I would have to speak with the manager, "Marsha", who would be working the following day.

I looked on Google Maps and saw there was a Circle K near that 7-11, located at 1212 E. Tropicana. I called that store and spoke with the manager, "Rose". She confirmed that their store number is 5397. She tried to find the transaction based on the last four digits of the card number but was unsuccessful. She advised that if it occurred at the gas pumps and was declined, it would not show up in her system. I emailed her some pictures of the suspect and their vehicle and she advised she would check her cameras to see if she could find them entering the store. She said she would contact me if she found anything. She never contacted me.

I was then advised that Det. S. Markovic, P# 13477, was working a Robbery case that occurred at that same location and was going to take Campo's case to see if they were possibly related.

On August 19, 2020, while investigating another case that occurred under event 200800045234, which occurred at the Suncoast Hotel and Casino, I learned that the two black male suspects in that case matched the two males in Campo's incident. I reviewed Det. Markovic's case notes for Campo's case and she had made multiple attempts to get video from the 7-11 but was never able to get in touch with any of the managers. I later spoke with Det. Markovic and learned that the managers only work day-shift and she works swing-shift and they were always gone by the time she started work. She also determined that Campo's case was not related to her Robbery case. I advised Det. Markovic that I would try to get the video for her.

On August 20, 2020, I met with Marsha Martinez, the manager of the 7-11 and was able to obtain a copy of the video surveillance showing that the same two black males from the Rampart had entered the 7-11 and purchased some cigarettes with Campo's stolen credit card. I also obtained a copy of the journal receipt. The transaction actually occurred on June 29, 2020, at 23:42 hours, so Campo's bank notification must have been from a time zone one hour off.

The video surveillance was slightly better quality than the video from the Rampart Casino. I posted the video in our electronic briefing system to see if any officers might recognize either male. I also submitted the video to our facial recognition section to see if they could possibly identify either male.

I impounded the video surveillance and turned in the journal transaction to be scanned into Onbase.

Here are pictures of the two males as they enter the casino:



Here is a picture of the two males at the 7-11:



Since the two suspects entered the Rampart Casino, worked together to steal Campo's wallet which contained her credit cards, which the suspects later used at the 7-11, this would account for the offenses of Burglary to the Rampart Casino, Possession of Credit/Debit Card without Owner's Consent (Campo as victim), Grand Larceny (Campo as victim since her wallet had \$1,500.00 in cash), and Burglary to the 7-11 when the suspects entered and used Campo's stolen credit card.

Event 200800045234 – Victim Barbara Angersbach

On August 11, 2020, Barbara Angersbach went to the Northwest Area Command to report the following:

On August 9, 2020, at approximately 22:00 hours, Barbara Angersbach, born 06/22/37 (83 years old) was at the Suncoast Hotel & Casino, located at 9090 Alta Drive, Las Vegas, NV 89145. Angersbach stated she opened her purse to remove her glasses. Angersbach stated later, when she put her glasses back in her purse, she noticed her wallet was gone. Angersbach stated her purse was sitting between gambling machines. Angersbach stated she then went home to look for her wallet but did not find it. Angersbach stated around 06:00 hours on August 10, 2020, she had noticed fraudulent charges on multiple debit and credit cards of hers. Angersbach stated she cancelled her cards that morning. Angersbach stated the fraudulent charges included transactions at a Shell Gas Station for about \$350.00, two from an unknown source for \$211.00, a taco shop for \$20.16, and a smoke shop for \$165.19.

On August 18, 2020, I, Detective E. Grimes, left messages with Angersbach to call me, requesting the pertinent details on the credit card transactions, such as the last four digits of the card number, exact date, time, location and amount for each.

I contacted the Suncoast Hotel & Casino and spoke with Sgt. Leper and he found that Angersbach had notified them of the incident and they had reviewed video surveillance and saved the incident.

I went to the Suncoast Hotel & Casino, met with Sgt. Leper, and was able to pick up a copy of their internal report and a copy of the video surveillance.

I viewed the video surveillance at my office, and I recognized the two suspects in this case as being the same two from Campo's incident. The taller male is wearing the same camouflage baseball hat, black puffy vest jacket, and had blue jean shorts. The smaller male was wearing the same black jacket, a dark colored shirt, some blue and white camouflage shorts and the same large white running shoes with a distinctive dark colored stripe.

They only provided to video clips of the incident with opposite camera angles. They also included some still shots of the two males entering the hotel, walking through the casino and leaving in a dark colored vehicle that appeared to be the same vehicle from Campo's incident.

The video showed Angersbach sitting at a bank of three slot machines, at the middle slot machine. The two males approach her from behind and appear to check her out. Her purse appeared to be on the seat of the

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machine to her left. The taller male approached her from her right and started talking to her. While she was distracted, the smaller male had the black jacket over his right shoulder and used it to screen Angersbach view to her purse and he took something from her purse with his left hand and placed it in his left pants pocket. He then immediately walked away, and the taller male followed him.

This was the same modus operandi that was used against Campo.

I spoke with the security surveillance directors at both hotels and sent them some still shots of the suspects from the 7-11 video surveillance so they could distribute it to their teams to be on the look out for the two distract thieves, explaining that their M/O appeared to be targeting elderly females gambling alone, distracting them and stealing their wallets from their purses so they could use their credit cards.

On August 20, 2020, Angersbach returned my call. I explained the information I was requesting regarding the credit card transactions and she said she would email me what she got from her banks. I later received an email from her, but it did not give any specifics regarding the businesses, other than "Shell" and "Market Stokes", no store numbers that I could use to determine which Shell and I didn't find any matches when researching "Market Stokes". I called her back to see if her banks had any of that information and she said that was all they provided to her. She said they did credit back all her accounts.

I later impounded the video surveillance I picked up from the Suncoast and turned in their internal report to be scanned into Onbase.

Here are pictures of the two suspects from each camera angle:



Since the two suspects entered the Suncoast Hotel & Casino, worked together to steal Angersbach's wallet which contained her credit cards, which were later used at several locations, this would account for the offenses of Burglary to the Suncoast Hotel & Casino, and Possession of Credit/Debit Card without Owner's Consent (Angersbach as victim).

Identification of Andrew Young

On August 21, 2020, I received an email from Officer E. Vargas, P# 8595, who works in the facial recognition section, stating she had reviewed video from another case for Detective S. Liske, P# 14882, which she believed was the same suspect from my 7-11 video. She stated that the week prior, she and Det. Liske had compared the shoes that Andrew Young, born 07/18/59, on an incident where he had been cited for similar activity and the shoes appeared to be the same. She advised that Young had been arrested recently on a warrant for Battery with Substantial Bodily Harm. She listed Campo's event and event 200800010269. That event was for Det. Liske's arrest.

She included the following two pictures on the email:

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION

Event #: 200600121538



I conducted a record check on Young and found a match in SCOPE with ID# 1211422, which showed he was an eleven-time convicted felon and had an extensive local criminal history. I viewed his mugshot photos and immediately recognized him as the shorter of the two suspects in my cases.

I read Det. Liske's Declaration of Arrest Report. It was for a Larceny from Person (enhancement Victim Older Person) that occurred at the Walmart located at 5198 Boulder Highway on August 3, 2020. In this incident, the 80-year-old female victim had left her purse unattended in her shopping cart for a moment and someone stole her wallet from the purse. Her credit cards had been used at multiple locations. Det. Liske followed up on those transactions and was able to obtain video of the older black male suspect that was using her stolen credit cards. The male was wearing a blue shirt, blue and white camo shorts and white shoes with a black stripe.

While reviewing that case, Det. Liske recognized the M/O matched another incident under event 200700103861, which had been assigned to Det. Drury, P# 15143, which occurred at the same Walmart and involved the same suspect, wearing the exact same clothing. Det. Liske noted that the suspect had a distinctive mannerism, where the suspect could not seem to stay still and was constantly moving.

Det. Liske found two other prior incidents with the same M/O, involving the same suspect, under events 200800029374 and 200700033991. Det. Liske had viewed body camera footage from those incidents and noticed the same distinctive mannerisms.

I reviewed the Battery with Substantial Bodily Harm incident, event 200700111103, and that had been investigated by Det. T. Byrd, P# 13958. I contacted Det. Byrd and he told me he had interviewed Young after he was arrested. I sent him my video clip from the 7-11 and he said he recognized the smaller male as Young but did not know who the other male was. Det. Byrd told me that Deputy District Attorney N. Demonte was handling Young's case.

I had mentioned to my partner, Det. B. Janecek, P# 8389, that I had identified one of my suspects in some distract thefts I was investigating. He told me he had one involving two black males. I was able to view his video surveillance from his incident and I recognized the two suspects as matching my suspects. His incident occurred under event 200700099712.

Event 200700099712 – Victim Joanne Frank

On July 21st, 2020, Joanne Frank became the victim of Larceny from Person. The crime occurred at Albertson's grocery store located at 1001 S. Rainbow Blvd. Las Vegas, NV 89145.

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CONTINUATION

Event #: 200600121538

On July 23rd, 2020, victim Joanne Frank, born 06/20/43 (77 years old) went to Spring Valley Area Command to file a report the following:

Frank said that on July 21st, 2020, at approximately 1900 hours she went inside Albertson's on Rainbow and Charleston (1001 S Rainbow) and started shopping. Frank said that she was in the back of the store near the freezer section where there were two male customers nearby, when she was approached by a black male in his 30s who said that they stole his shopping cart. Joanne said that she did not have a shopping cart at the time, however when she turned around there was a cart there behind her next to the other two people.

Frank said that the man was yelling at her so the two male customers next to her told her not to worry started making conversation with her. Joanne said that after the angry man left, one of the men continued talking to her and the second man was standing behind her where she was carrying her backpack purse. Joanne said that she remembers that her backpack was fully zipped when got to the store, but after the two men left, she continued shopping and after 30 minutes she decided to leave without purchasing anything.

Frank said that as she approached her car at approximately 1945 hours, she realized that her backpack felt lighter than normal and when she turned around to inspect it, she discovered that her backpack was open and her wallet was gone. Frank said that she immediately went back inside the store to inform the manager Russell S. about the incident and was told that there is video surveillance but that he could not view it without a police report.

Joanne said that she cancelled the four credit cards that were inside her wallet and has applied for a duplicate driver's license, however she needed to file this report because there was a charge on one of her credit cards at Smith's for \$450.00 and her bank advised her to file a report for the theft of her items.

On August 20th, 2020, I, Detective B. Janecek, P# 8389, emailed Albertson's Law Enforcement Request department with a video request of the stores video surveillance during the time of the incident. I called victim Joanne Frank and spoke to her about this case. Frank advised that she had report all her cards at stolen but was informed of the charge at a Smith's store. Frank was not sure of the time that her card was used at Smith's. I advised Frank that I had requested video surveillance from Albertson's.

On August 27th, 2020, I received an email from Markee Daniel (Markee.Daniel@albertsons.com) from Albertson's Asset Protection Department stating the video was ready for pick up and the incident actually happened on July 22nd, 2020 at 1945 hours.

After picking up the video and watching the incident I was speaking with my partner Det. E Grimes and he viewed the video and was able to see that the suspects matched suspect from his cases under events 200600121538 and 200800045234. One of the suspects was identified as Andrew Young SCOPE ID#1211422. The following pictures show victim with a closed purse, suspects surrounding her and after the incident with her purse unzipped. Video was impounded at Summerlin Area Command and a copy included with this report.



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Based on the above identifications of Andrew Young ID#1211422 and a comparison of videos and photographs coupled with the fact Young and an accomplice worked together to steal victim Frank's wallet from her person which was on her person this would account for Larceny from person, VOP (victim older person) being committed at Albertson's.

Notifying District Attorney's Office

I contacted DDA N. Demonte since she was handling Det. Byrd's case and advised her that I and my partner had more cases involving Young. She advised me that she was taking all his cases and was going to consolidate them together and present her case to the Grand Jury. I asked if she wanted us to rebook Young on our cases. She asked if we could send her some type of report detailing all the circumstances of each incident and she would use that to present them to the Grand Jury at the same time. I advised her that we would complete an Officer's Report detailing our investigations and we would get her copies of all the related crime reports and other connected reports as well as copies of the video surveillance and send them to her.



1 **AIND**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 PARKER BROOKS
6 Deputy District Attorney
7 Nevada Bar #011927
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.

CASE NO: C-20-350623-1

11 -vs-

DEPT NO: III

12 ANDREW YOUNG, #1211422
13 Defendant.

AMENDED SUPERSEDING
INDICTMENT

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

17 The Defendant above named, ANDREW YOUNG, accused by the Clark County Grand
18 Jury of the crime(s) of BURGLARY (Category B Felony NRS 205.060 – NOC 50424),
19 BURGLARY (Category C Felony - NRS 205.060.1B - NOC 61938), LARCENY FROM THE
20 PERSON, VICTIM OVER 60 YEARS OF AGE (Category C Felony – NRS 205.270, 193.167
21 – NOC 56020), GRAND LARCENY (Category C Felony - NRS 205.222.2 – NOC 56004),
22 FRAUDULENT USE OF CREDIT OR DEBIT CARD (Category D Felony - NRS 205.760(1)
23 - NOC 50796), BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
24 SUBSTANTIAL BODILY HARM (Category B Felony - NRS 200.481 - NOC 50226) and
25 ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS
26 200.010, 200.030, 193.330, 193.165 - NOC 50031), committed at and within the County of
27 Clark, State of Nevada, on or between the 29th day of June, 2020 and the 9th day of August,
28 2020, as follows:

1 COUNT 1 - BURGLARY

2 did on or about June 29, 2020 willfully, unlawfully, and feloniously enter RAMPART
3 HOTEL AND CASINO, located at 221 N. Rampart Blvd., Clark County, Nevada, with intent
4 to commit larceny, and/or a felony.

5 COUNT 2 - LARCENY FROM THE PERSON, VICTIM 60 YEARS OF AGE OR OLDER

6 did on or about June 29, 2020 then and there willfully, unlawfully, and feloniously,
7 under circumstances not amounting to robbery, with intent to steal or appropriate to her own
8 use, take from the person of another, to wit: MARY CAMPO, a person 60 years of age or
9 older, without her consent, personal property, to wit: a wallet and contents.

10 COUNT 3 - GRAND LARCENY

11 did on or about June 29, 2020 then and there willfully, unlawfully, feloniously, and
12 intentionally, with intent to deprive the owner permanently thereof, steal, take and carry away
13 lawful money of the United States in an amount of \$650.00, or greater, to wit: \$1,400 United
14 State Currency, owned by another person, to wit: MARY CAMPO.

15 COUNT 4 - BURGLARY

16 did on or about June 29, 2020 willfully, unlawfully, and feloniously enter 7-11, located
17 at 5110 S. Maryland Parkway, Clark County, Nevada, with intent to commit larceny, and/or a
18 felony.

19 COUNT 5 - FRAUDULENT USE OF A CREDIT OR DEBIT CARD

20 did on or about June 29, 2020 then and there willfully, unlawfully, feloniously, and
21 with intent to defraud, use a Bank of America card ending in 1020, issued in the name of
22 MARY CAMPO, the Defendant presenting the said debit or credit card to 7-11, located at
23 5110 S. Maryland Parkway, Clark County, Nevada, to obtain money, goods, property, services
24 or anything of value, to wit: cigarettes, the Defendant not being the cardholder, nor being
25 authorized by the cardholder to use said card or card number;

26 COUNT 6 - BURGLARY

27 did on or about July 8, 2020 willfully and feloniously unlawfully enter or unlawfully
28 remain in a business structure, owned or occupied by WAL-MART, located at 2310 E. Serene,

1 Clark County, Nevada, with the intent to commit grand or petit larceny, assault or battery,
2 and/or a felony.

3 COUNT 7 - BURGLARY

4 did on or about July 8, 2020 willfully and feloniously unlawfully enter or unlawfully
5 remain in a business structure, owned or occupied by CAESAR'S PALACE, located at 3570
6 S. Las Vegas Blvd., Clark County, Nevada, with the intent to commit grand or petit larceny,
7 assault or battery, and/or a felony.

8 COUNT 8 - LARCENY FROM THE PERSON, VICTIM 60 YEARS OF AGE OR OLDER

9 did on or about July 8, 2020 then and there willfully, unlawfully, and feloniously, under
10 circumstances not amounting to robbery, with intent to steal or appropriate to her own use,
11 take from the person of another, to wit: RHONDA KAY HATCHER, a person 60 years of age
12 or older, without her consent, personal property, to wit: a wallet and contents.

13 COUNT 9 - BURGLARY

14 did on or about July 22, 2020 willfully and feloniously unlawfully enter or unlawfully
15 remain in a business structure, owned or occupied by ALBERTSON'S, located at 1001 S.
16 Rainbow Boulevard, Clark County, Nevada, with the intent to commit grand or petit larceny,
17 assault or battery, and/or a felony.

18 COUNT 10 - LARCENY FROM THE PERSON, VICTIM 60 YEARS OF AGE OR OLDER

19 did on or about July 22, 2020 then and there willfully, unlawfully, and feloniously,
20 under circumstances not amounting to robbery, with intent to steal or appropriate to her own
21 use, take from the person of another, to wit: JOANNE FRANK, a person 60 years of age or
22 older, without her consent, personal property, to wit: a wallet and contents.

23 COUNT 11 - BURGLARY

24 did on or about July 23, 2020 willfully and feloniously unlawfully enter or unlawfully
25 remain in a business structure, owned or occupied by GAMESTOP, located at 5060 Boulder
26 Highway, Clark County, Nevada, with the intent to commit grand or petit larceny, assault or
27 battery, and/or a felony.

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1 COUNT 12 - FRAUDULENT USE OF A CREDIT OR DEBIT CARD

2 did on or about July 23, 2020 then and there willfully, unlawfully, feloniously, and with
3 intent to defraud, use a Visa card ending in 4527, issued in the name of BARBARA BOWENS,
4 the Defendant presenting the said debit or credit card to GAMESTOP, located at 5060 Boulder
5 Highway, Clark County, Nevada, to obtain money, goods, property, services or anything of
6 value, to wit: gift card, the Defendant not being the cardholder, nor being authorized by the
7 cardholder to use said card or card number;

8 COUNT 13 - BURGLARY

9 did on or about July 23, 2020 willfully and feloniously unlawfully enter or unlawfully
10 remain in a business structure, owned or occupied by WALGREENS, located at 4895 Boulder
11 Highway, Clark County, Nevada, with the intent to commit grand or petit larceny, assault or
12 battery, and/or a felony.

13 COUNT 14 - FRAUDULENT USE OF A CREDIT OR DEBIT CARD

14 did on or about July 23, 2020 then and there willfully, unlawfully, feloniously, and with
15 intent to defraud, use a Visa card ending in 4527, issued in the name of BARBARA BOWENS,
16 the Defendant presenting the said debit or credit card to WALGREENS, located at 4895
17 Boulder Highway, Clark County, Nevada, to obtain money, goods, property, services or
18 anything of value, to wit: gift card, the Defendant not being the cardholder, nor being
19 authorized by the cardholder to use said card or card number;

20 COUNT 15 - BURGLARY

21 did on or about July 29, 2020 willfully and feloniously unlawfully enter or unlawfully
22 remain in a business structure, owned or occupied by FLAMINGO HOTEL AND CASINO,
23 located at 3555 Flamingo Road, Clark County, Nevada, with the intent to commit grand or
24 petit larceny, assault or battery, and/or a felony.

25 COUNT 16 - LARCENY FROM THE PERSON, VICTIM 60 YEARS OF AGE OR OLDER

26 did or or about July 29, 2020 willfully, unlawfully, and feloniously, under
27 circumstances not amounting to robbery, with intent to steal or appropriate to his own use,
28 take from the person of another, to wit: SERRY MELLO, a person 60 years of age or older,

1 without his consent, personal property, to wit: wallet and contents.

2 COUNT 17 – BURGLARY

3 did on or about August 1, 2020 willfully and feloniously unlawfully enter or unlawfully
4 remain in a business structure, owned or occupied by GAMESTOP, located at 5060 Boulder
5 Highway, Clark County, Nevada, with the intent to commit grand or petit larceny, assault or
6 battery, and/or a felony.

7 COUNT 18 - FRAUDULENT USE OF CREDIT OR DEBIT CARD

8 did on or about August 1, 2020, then and there willfully, unlawfully, feloniously, and
9 with intent to defraud, use a credit card, issued in the name of MONTHO BOONE, the
10 Defendant presenting the said debit or credit card to GAMESTOP, located at 5060 Boulder
11 Highway, Las Vegas, Clark County, Nevada, to obtain money, goods, property, services or
12 anything of value, to wit: by attempting to make purchases with credit card, the Defendant
13 not being the cardholder, nor being authorized by the cardholder to use said card or card
14 number.

15 COUNT 19 – BURGLARY

16 did on or about August 1, 2020 willfully and feloniously unlawfully enter or unlawfully
17 remain in a business structure, owned or occupied by WALGREENS, located at 4895 Boulder
18 Highway, Clark County, Nevada, with the intent to commit grand or petit larceny, assault or
19 battery, and/or a felony.

20 COUNT 20 - FRAUDULENT USE OF CREDIT OR DEBIT CARD

21 did on or about August 1, 2020, then and there willfully, unlawfully, feloniously, and
22 with intent to defraud, use a credit card, issued in the name of MONTHO BOONE, the
23 Defendant presenting the said debit or credit card to WALGREENS, located at 4895 Boulder
24 Highway, Las Vegas, Clark County, Nevada, to obtain money, goods, property, services or
25 anything of value, to wit: by attempting to make purchases with credit card, the Defendant
26 not being the cardholder, nor being authorized by the cardholder to use said card or card
27 number.

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1 COUNT 21 - BURGLARY

2 did on or about August 7, 2020 willfully and feloniously unlawfully enter or unlawfully
3 remain in a business structure, owned or occupied by WALMART, located at 5198 Boulder
4 Highway, Clark County, Nevada, with the intent to commit grand or petit larceny, assault or
5 battery, and/or a felony.

6 COUNT 22 - BURGLARY

7 did on or about August 9, 2020 willfully and feloniously unlawfully enter or unlawfully
8 remain in a business structure, owned or occupied by SUNCOAST HOTEL AND CASINO,
9 located at 9090 Alta Drive, Clark County, Nevada, with the intent to commit grand or petit
10 larceny, assault or battery, and/or a felony.

11 COUNT 23 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
12 SUBSTANTIAL BODILY HARM

13 did on or about July 26, 2020, willfully, unlawfully, and feloniously use force or
14 violence upon the person of another, to wit: ROBERT WILL, with use of a deadly weapon, to
15 wit: a rock, by striking the said ROBERT WILL on the head with said rock, resulting in
16 substantial bodily harm to ROBERT WILL.

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COUNT 24 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

did on or about July 26, 2020, willfully, unlawfully, feloniously and with malice
aforethought attempt to kill ROBERT WILL, a human being, with use of a deadly weapon, to
wit: a rock, by striking the said ROBERT WILL on the head with said rock.

DATED this _____ day of March, 2021.


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

BY



PARKER BROOKS
Deputy District Attorney
Nevada Bar #011927

19BGJ189X/20CR015829/jm/L2
LVMPD EV# 200700111103
(TK14)



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11 Attorney for Plaintiff

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10
11 Plaintiff,

11 -vs-

CASE NO: C-20-350623-1

12 ANDREW YOUNG,
13 #1211422

DEPT NO: III

14 Defendant.

15 **STATE'S NOTICE OF MOTION**
16 **AND MOTION IN LIMINE TO ADMIT CERTAIN EVIDENCE UNDER THE**
17 **DOCTRINE OF RES GESTAE, OR IN THE ALTERNATIVE STATE'S MOTION**
18 **TO ADMIT EVIDENCE RELATED TO OTHER CRIMES**

18 DATE OF HEARING: April
19 TIME OF HEARING: 8:30 AM
20 HEARING REQUESTED

20 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
21 District Attorney, through PARKER BROOKS, Deputy District Attorney, and files this State's
22 Notice of Motion and Motion in Limine to Admit Certain Evidence Under the Doctrine of Res
23 Gestae, Or in The Alternative State's Motion to Admit Evidence Related to Other Crimes.

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

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NOTICE OF HEARING

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring the foregoing motion on for setting before the above entitled Court, in Department III thereof, on _____, the _____ day of April, 2021, at the hour of 8:30 o'clock AM, or as soon thereafter as counsel may be heard.

DATED this 29th day of March, 2021.

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

BY /s/ PARKER BROOKS
PARKER BROOKS
Deputy District Attorney
Nevada Bar #11927

POINTS AND AUTHORITIES

STATEMENT OF THE CASE

Andrew Young, hereinafter Defendant, was charged by way of Superseding Indictment filed on October 1, 2020 with two (2) counts of Burglary (Category B Felony), ten (10) counts Burglary (Category C Felony), four (4) counts Larceny from the Person, Victim 60 Years of Age or Older, one (1) count Grand Larceny, five (5) counts Fraudulent Use of a Credit or Debit Card, one (1) count Battery with Use of Deadly Weapon Resulting in Substantial Bodily Harm, and one (1) count Attempt Murder with Use of a Deadly Weapon.

Defendant invoked speedy trial on October 7, 2020 and was originally given a trial date of November 30, 2020. Due to continuing restrictions on jury trials by administrative orders in response to COVID-19, the trial date was then moved to March 8, 2021.

Defendant filed a Motion to Sever Counts on February 28, 2021, resulting in the continuance of his jury trial. On March 17, 2021, Defendant's Motion to Sever Counts was granted.

Given the severance order, the State has filed an Amended Superseding Indictment moving Count 17 – Battery with Use of a Deadly Weapon Resulting in Substantial Bodily

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1 Harm & Count 18 – Attempt Murder with Use of a Deadly Weapon to the end of the charging
2 document. Now, those severed counts will appear as Count 23 & Count 24, respectively.

3 Although the record remains unclear as to which set of counts will proceed to jury trial
4 first, Defendant’s jury trial is currently set on April 19, 2021.

5 The State brings this somewhat Omnibus Motion in Limine to delineate the parameters
6 of testimony regarding the investigation and the identification of Defendant; or in the
7 alternative, State’s Motion to Admit Evidence Related to Other Crimes.

8 **OUTLINE OF THE MOTION**

9 (1) Statement of Facts – and Discussion of the Relevance of Defendant’s July 8, 2020
10 Interaction with Police on the Attempt Murder Investigation.

11 *This section will give the Court an understanding of the basic facts that resulted in*
12 *LVMPD being able to identify the suspect of the Attempt Murder investigation. This*
13 *section attempts to clarify how the video surveillance from a Walmart during a Petit*
14 *Larceny citation resulted in the first confirmation of Defendant’s name and identify.*

15 (2) The State’s discussion of Detective Byrd’s testimony and his identification of the
16 Defendant in the video surveillance clips.

17 *When the 22 theft-related counts go to trial, the State is going to need to be able to tell*
18 *the jury about how the investigation unfolded and how Detective Byrd provided the link*
19 *confirming Defendant’s identity.*

20 (3) The State’s argument regarding what evidence should be permitted during the attempt
21 murder trial under the doctrine of res gestae.

22 *When the attempt murder charges go to trial, the State seeks to introduce evidence*
23 *surrounding Defendant’s identification and appearance on the July 8, 2020 encounters*
24 *with LVMPD.*

25 (4) The State’s argument regarding what evidence should be permitted during the attempt
26 murder trial under the doctrine of res gestae.

27 *The State seeks to introduce evidence surrounding Defendant’s clothing, shoes, jacket,*
28 *and appearance during the summer of 2020.*

1 **STATEMENT OF FACTS – AND DISCUSSION OF THE RELEVANCE OF**
2 **DEFENDANT’S JULY 8, 2020 INTERACTION WITH POLICE ON THE ATTEMPT**
3 **MURDER INVESTIGATION**

4 **ATTEMPT MURDER IN FRONT OF PARIS HOTEL**

5 *(FORMERLY COUNTS 17-18, NOW COUNTS 23 & 24)*

6 On July 26, 2020, (victim) Robert Will was seated at a bus stop in front of the Paris
7 Hotel and Casino when he got into an altercation with a black male suspect wearing a gray
8 shirt. The suspect walked away from the bus stop and returned with a large rock and
9 bludgeoned Will over the head with the rock several times before walking south toward the
10 Planet Hollywood Hotel and Casino. Will suffered a skull fracture and severe brain bleed
11 from the attack.

12 Initially, there was very limited information as to who the attacker was. Neither the
13 victim nor any of the witnesses knew the attacker, so detectives began to canvass the
14 surrounding area for video surveillance.

15 Paris Hotel and Casino Surveillance Supervisor Francisco Alemar was able to locate
16 video surveillance of the attack, as well as surveillance footage just before and after the attack
17 and provided it to Detectives Jacobitz and Mildebrandt.



1 Detective Stringer of the Las Vegas Metropolitan Police Department Fusion Watch was
2 able to locate footage of the suspect as he left the area of the attack, got on the pedestrian
3 bridge in front of the Planet Hollywood Casino, crossed over Las Vegas Boulevard and entered
4 the Cosmopolitan Hotel and Casino:



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17 As detectives continued to try to track down the attacker's path, they contacted William
18 Reed, the Security Investigator with the Cosmopolitan Hotel & Casino. William Reed was
19 able to locate surveillance footage of the attacker as he was walking inside the Cosmopolitan.

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At this point, detectives had enough photos and angles to create and distribute a “critical reach flyer.” The flyer contained still photographs of the suspect and was distributed to all LVMPD personnel in an attempt to identify the attacker.

Detective Trent Byrd viewed the flyer and recognized the suspect from a prior investigation that he handled. Detective Byrd identified the attacker as Andrew Young.

After identifying the suspect’s name and ID number, detectives began searching through records in order to see if there were any recent photographs, interactions, locations, or other details on Andrew Young.

Detective Byrd located body cam footage from an LVMPD event that occurred just 18 days before Defendant’s attack with the rock. This LVMPD event occurred on July 8, 2020, during a petit larceny investigation at the Walmart on 2310 East Serene.

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1 The body cam footage inserted below depicts Defendant wearing the exact same
2 clothing and carrying the exact same black jacket as he was wearing in the Paris attack.
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1 As detailed in the Declaration of Warrant (authored by Detective Byrd), not only is
2 Defendant wearing the same clothing in the July 26th videos, as he is in the July 8th videos, but
3 he also has a distinct gait¹ that appears as though something is wrong with one of his legs.

4 Defendant was initially cited with Petit Larceny based on the investigation and his
5 interaction with LVMPD on July 8, 2020.

6 Defendant's interaction with LVMPD on July 8, 2020 was the major step in confirming
7 that Defendant was the attacker in the Attempt Murder investigation. The facts as set forth
8 thus far are those that Detective Byrd relied on in drafting Defendant's Declaration of Warrant
9 on August 5, 2020.

10 About two weeks later, on August 19, 2020, a bus driver recognized Defendant from a
11 wanted poster for the attempt murder case. Defendant was arrested wearing the same shoes
12 and in possession of the same jacket from the Paris incident. Officers also impounded
13 Defendant's personal belongings which included the distinctive white tennis shoes and
14 numerous gift cards.

15 **ARGUMENT**

16 **TESTIMONY FROM DETECTIVE BYRD SURROUNDING HIS IDENTIFICATION**

17 **AND ROLE IN APPREHENDING DEFENDANT UNDER "THE COMPLETE**
18 **STORY" OR RES GESTAE DOCTRINE**

19 As detailed above in the Statement of Facts, Detective Byrd was the initial officer that
20 was able to identify the Defendant in the surveillance footage from the various hotels on the
21 night of the Attempt Murder incident.

22 Detective Byrd was the one that linked Defendant's interaction with LVMPD on July
23 8, 2020 at the Walmart located at E. Serene to the footage from his investigation. Detective
24 Byrd's Declaration of Warrant is what resulted in Defendant's arrest. Thereafter, Defendant
25

26 _____
27 ¹ Defendant's unusual gait is also noted in his PSI that was prepared in Case C327000. He told the PSI writer that he has
28 pain and mobility issues in his right leg related to diabetes.

1 was re-booked on the theft-related charges as Detective Byrd and others were able to identify
2 Defendant in the videos (as well as by his modus operandi, and clothing).

3 Detective Byrd will testify that he has met with and spoken to Defendant and watched
4 countless angles and videos depicting Defendant and his movements. Detective Byrd and
5 officers that have seen and spoken with Defendant and watched him in surveillance videos are
6 capable of identifying Defendant in video surveillance, whether that be from July 8, 2020, or
7 July 26, 2020, or any other video.

8 The State will not be seeking to introduce the fact that Detective Byrd was investigating
9 an attempt murder. Nor will the State seek to introduce that Detective Byrd also recognized
10 Defendant from a 2016 related investigation. Detective Byrd's testimony and his knowledge
11 as to how he knows that Defendant is the person in the video surveillance will be sanitized to
12 remove those facts.

13 ARGUMENT

14 EVIDENCE SURROUNDING JULY 8, 2020 ENCOUNTERS UNDER THE 15 COMPLETE STORY OR RES GESTAE DOCTRINE

16 Evidence of similar crimes committed near in time or place to the charged crimes is
17 admissible under the res gestae doctrine, which is codified in NRS 48.035(3).

18 NRS 48.035 provides as follows:

19 **NRS 48.035 Exclusion of relevant evidence on grounds of prejudice, 20 confusion or waste of time.**

21 1. Although relevant, evidence is not admissible if its probative value is
22 substantially outweighed by the danger of unfair prejudice, of confusion of the issues
23 or of misleading the jury.

24 2. Although relevant, evidence may be excluded if its probative value is
25 substantially outweighed by considerations of undue delay, waste of time or needless
26 presentation of cumulative evidence.

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

In Allan v. State, 92 Nev. 318, 549 P.2d 1402 (1976), the Nevada Supreme Court
explained the res gestae doctrine at p. 321:

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1 “[W]hen several crimes are intermixed or blended with one another or connected such
2 that they form an indivisible criminal transaction, and when full proof by testimony, whether
3 direct or circumstantial, of any one of them cannot be given without showing the others,
4 **evidence of any or all of them is admissible against a defendant on trial for any offense**
5 **which is itself a detail of the whole criminal scheme.**” (Emphasis added.)

6 In State v. Shade, 111 Nev. 887 (1995), the Nevada Supreme Court explained the Allan
7 case at p. 893:

8 “In Allan, the defendant was charged and convicted of one count of the infamous
9 crime against nature for performing fellatio on one minor boy. The defendant argued
10 on appeal that the district court erred by admitting evidence of uncharged offenses
11 including an act of fellatio on another boy. As in the instant case, he claimed that
12 this evidence was highly prejudicial and unrelated to the crime charged.

13 This court disagreed and held that the evidence was admissible under the res gestae
14 rule or the "complete story principle":

15 The testimony regarding the additional acts of fellatio, as well as the act of
16 masturbation, was admissible as part of the res gestae of the crime charged.
17 Testimony regarding such acts is admissible because the acts complete the
18 story of the crime charged by proving the immediate context of happenings
19 near in time and place. Such evidence has been characterized as the same
20 transaction or the res gestae.” (Citing Allan, Id., at p. 320.)

21 As detailed above in the Statement of Facts, Defendant’s interaction with LVMPD on
22 July 8, 2020 at the Walmart located at E. Serene is the first step in the identification and arrest
23 of Defendant. Defendant is on body cam speaking with officers during this July 8th encounter.
24 After the officers identify and speak with Defendant, he is given a misdemeanor citation for
25 Petit Larceny and released. The victim’s stolen property is returned to her. Defendant’s name
26 and ID # appear on the face of the citation. The State intends to use the body cam from this
27 incident as well as still photographs of the body cam; additionally, the State intends to use
28 some of the video surveillance footage from inside the Walmart on July 8, 2021, as well as
still photographs of that video surveillance.

 Inserted below is a still of the body cam and of the video surveillance from that July 8,
2020 encounter.

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1 clothing, and the man wearing the Jordan shoes that a primarily white with the black stripe on
2 it.

3 Additionally, the State seeks to introduce evidence in the form of still photographs of
4 the video surveillance from Caesar's Palace on July 8, 2020.

5 The encounter with LVMPD at Walmart occurs around 2-3pm on July 8, 2020.

6 About 7 hours later on July 8, 2020, Defendant is seen on video surveillance from
7 Caesar's Palace. The video surveillance depicts Defendant in an elevator wearing the same
8 clothing and shoes from earlier that day. Additionally, Defendant has the same jacket with
9 him despite this being the middle of summer in Las Vegas, Nevada.

10 The State concedes that it would be more difficult to play the video surveillance of this
11 incident because the larceny from the old lady would be rather apparent. Thus, the State
12 intends to use still shots of this footage similar to the ones inserted below.



24 In the portion of the trial for the Attempt Murder charge, the State does not intend to
25 illicit the criminal conduct that Defendant engaged in while in that elevator, in its case in chief.
26 Rather, the evidence and the testimony from the detective will be confined to the identification
27 of the Defendant in the photos, at Caesar's Palace on the night of July 8, 2020, wearing these
28 specific clothes and shoes.

1 Defendant's Motion to Sever specifically states that the attempt murder charges should
2 be severed because he is not the perpetrator of the July 26, 2020 attack. Thus, the State is
3 entitled to be able to admit this evidence and accompanying testimony to prove up the identity
4 of the attacker in the video surveillance wearing similar clothing and shoes.

5 The detective(s) that testify have met with and spoken to Defendant, and they have
6 watched countless angle and videos depicting Defendant and his movements. Detectives and
7 officers that have seen and spoke with Defendant and watched him in countless surveillance
8 videos are capable of identifying Defendant in video surveillance, whether that be from July
9 8, 2020, or July 26, 2020, or any other video. "Generally, a lay witness may testify regarding
10 the identity of a person depicted in a surveillance photograph" "if there is some basis for
11 concluding that the witness is more likely to correctly identify the defendant from the
12 photography than is the jury" Rossana v. State, 113 Nev. 375, 381 (1997) *quoting* United
13 States v. Towns, 913 F.2d 434, 445 (7th Cir. 1990) *quoting* United States v. Farnsworth, 729
14 F.2d 1158, 1160 (8th Cir. 1984). The Rossana Court concluded that federal case law, in
15 conjunction with Nevada's adoption of the federal evidence rules governing opinion testimony
16 of lay witnesses, entitled the State to present lay opinion testimony regarding the identity of a
17 person in a videotape. Rossana v. State, 113 Nev. 375, 381 (1997).

18 If Defendant asserts the State should only be permitted to admit the photographs and
19 videos from the Walmart encounter, but that the Court should exclude the Caesar's Palace
20 footage, the State responds as follows:

21 Defendant asserts that identification will be the central issue of the Attempt Murder
22 event; yet, then would seek to limit the extent to which the State is permitted to prove up
23 identity. Moreover, there is a strong argument that including the photos from later in that day
24 actually prejudices Defendant less than the Walmart event in isolation. Defendant is seen in
25 a hotel elevator later after his interaction with police; thus, whatever that interaction was must
26 be viewed as more benign given that he is not in custody later that night. The elevator footage
27 is also important for the State given the fact that most locals did not spend much time on the
28 Strip during the Summer of Covid. Yet, the attempt murder occurs on the Strip late at night.

1 This Caesar's Palace footage demonstrates that being on the Strip at night during the Summer
2 of Covid is not out of the ordinary.

3 Lastly, to the extent that Defendant attempts to argue that the photos in Caesar's Palace
4 are not him, then the State would seek to illicit the factual basis for these July 8, 2020 events.
5 Defendant uses his jacket as coverage to conceal his hand while he steals from the purses of
6 old women. Accordingly, Defendant cannot possibly deny his identity in the photos and
7 videos from these two July 8th events.

8 **EVIDENCE CONCERNING DEFENDANT'S CLOTHING, SHOES, AND**
9 **JACKET DURING JUNE, JULY, & AUGUST, UNDER THE COMPLETE STORY**
10 **OR RES GESTAE DOCTRINE**

11 The State seeks to admit a select number of still shots and possibly short video excerpts
12 from video surveillance during June, July, and August of 2020.

13 Specifically, the State would seek to introduce testimony and the accompanying
14 photographic/video evidence in the following manner:

15 On July 23, 2020, Defendant was in Las Vegas wearing shoes that were strikingly
16 similar to the Jordan's in all the other photos and had his black jacket with him.



1 On July 29, 2020, Defendant was on the Las Vegas Strip in a hotel elevator wearing
2 clothing and shoes that were strikingly similar to the Jordan's in all the other photos and had
3 his black jacket with him.



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14 On August 1, 2020, Defendant was in Las Vegas wearing shoes that were strikingly
15 similar to the Jordan's in all the other photos and had his black jacket with him.



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1 On August 7, 2020, Defendant was in Las Vegas wearing shoes that were strikingly
2 similar to the Jordan's in all the other photos and had his black jacket with him.



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14 On June 30, 2020, Defendant was wearing clothing and shoes that were strikingly
15 similar to the Jordan's in all the other photos and had his black jacket with him.



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25 On July 21, 2020, Defendant was in Las Vegas wearing shoes that were strikingly
26 similar to the Jordan's in all the other photos and has his black jacket with him.

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10 The State does not intend to show any criminal conduct with these photos/videos. All
11 of these photos and videos depict Defendant engaged in lawful conduct. The relevance of this
12 collection of evidence is solely for purposes of identity and appearance. Defendant is
13 continually seen in Las Vegas wearing the shoes that appear to be depicted on the Attempt
14 Murder suspect. Defendant continually has his jacket with him in the dead of summer in Las
15 Vegas, as does the attempt murder suspect.

16 The Defendant occasionally changes clothing, but the attire is somewhat similar and
17 rotates back and forth. The fact that Defendant rotates clothing back and forth, along with the
18 fact that the clothing is rather well kept, and his shoes are quite clean lessens any prejudice
19 from these photographs. The State will not in any way suggest that Defendant is homeless or
20 prohibited from being in any of these places.

21 While the State will certainly point out that Defendant is seen on the Strip multiple
22 times during the Summer of Covid, that is done merely to suggest access and customary
23 behavior and not anything criminal.

24 The State does not believe what it is requesting falls under NRS 48.045(2), commonly
25 referred to as “other bad act” evidence. The State does not plan on eliciting testimony from
26 the detective(s) as to how they know these photographs depict Defendant. The detective(s)
27 will not discuss the underlying theft investigations.

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1 However, in the event that this Court feels that the identification is based on NRS
2 48.045(2), then the State argues as follows:

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

8 Evidence of a prior bad act such as a criminal conviction is admissible if the Court determines:
9 (1) the prior bad act is relevant to the crime charged and for a purpose other than proving the
10 defendant's propensity to commit the charged offense; (2) the act is proven by clear and
11 convincing evidence; and (3) the probative value of the evidence is not substantially
12 outweighed by the danger of unfair prejudice. Bigpond v. State, 270 P.3d 1244, 1249-1250
13 (2012) (modifying Tinch v. State, 113 Nev. 1170, 946 P.2d 1061 (1997)). Moreover,
14 "evidence of 'other crimes, wrongs or acts' may be admitted under NRS 48.045(2) for a
15 relevant nonpropensity purpose other than those listed in the statute." Id. at 1249.

16 Admission of Defendant's identification and photos is precisely the type of non-
17 propensity use of prior acts contemplated by NRS 48.045(2). The evidence will simply be
18 Defendant engaged in regular everyday activity. All the video/photos come from locations
19 that the jurors would expect to have cameras.

20 Although there is no strict contemporaneity requirement for other acts to be admitted
21 under NRS 48.045, the contemporaneous nature of these two events is astounding.
22 Defendant's identity is proven from this 2 month span when he continually seeks out and stalks
23 older women to steal from. He uses his jacket to conceal his hand while engaging in some
24 other distraction to steal property from elderly women. Thereafter, he immediately attempts
25 to run up charges on their credit or debit cards.

26 "The similarity sufficient to admit evidence of past acts to establish a recurring modus
27 operandi need not be complete; it is enough that the characteristics relied upon are sufficiently
28 idiosyncratic to permit a fair inference of a pattern's existence." U.S. v. Sliker, 751 F.2d 477,
487 (2d Cir. 1984), cert. denied, Carbone v. U.S., 471 U.S. 1137, 105 S.Ct. 2679 (1985). And
the Nevada Supreme Court does not require that the prior acts and the charged acts be

1 unusually distinctive. See, e.g., Reed v. State, 95 Nev. 190, 193, 591 P.2d 274, 276 (1979) (in
2 burglary prosecution, admitting evidence of two prior burglaries because “such evidence
3 indicated that appellant had previously penetrated downtown motel rooms, through the
4 windows immediately adjacent to the doors of such rooms.”).

5 Defendant’s conduct in grocery stores and hotel elevators is so close in time and
6 repeated so frequently that it appears to be his manner of *earning* a living. The fact that these
7 events were integral to the identification of him as the Attempt Murder suspect only increases
8 the probative value relating to identity.

9 In addition to being critically relevant to identity, which is what Defendant asserts will
10 be the central disputed issues in these charges, the probative value of Defendant’s photographs
11 and appearance is not substantially outweighed by the potential for unfair prejudice.

12 It is not unfairly prejudicial to Defendant that evidence be admitted. As previously
13 stated, the jury does not even need to be told about the fact that LVMPD was investigating
14 him or any of the underlying conduct. The State will sanitize all photos and videos to remove
15 any depicting the criminal conduct.

16 “The prejudice which exclusion of evidence under [California’s statutory analog] is
17 designed to avoid is not the prejudice or damage to a defense that naturally flows from
18 relevant, highly probative evidence.” People v. Zapien, 4 Cal.4th 929, 958, 846 P.2d 704, 718
19 (Cal.) (citations and internal quotation marks omitted), cert. denied 510 U.S. 919, 114 S.Ct.
20 315 (1993); cf. also 2 Jack B. Weinstein & Margaret A. Berger, WEINSTEIN’S FEDERAL
21 EVIDENCE, § 404.21[3][b] (Joseph M. McLaughlin, ed., 2d ed. 2002) (“[u]nfair prejudice
22 under Rule 403 does not mean the damage to a defendant’s case that results from the legitimate
23 probative force of the evidence.” (emphasis in original)). Moreover, any potential for unfair
24 prejudice will be counteracted by the Court’s limiting instruction to the jury that Defendant’s
25 other bad act only be considered as to her knowledge, intent, preparation, or plan. See Chavez
26 v. State, 125 Nev. 328, 345, 213 P.3d 476, 488 (2009) (limiting instruction cured any unfair
27 prejudice associated with the introduction of bad act evidence); U.S. v. Strong, 485 F.3d 985,
28 991 (7th Cir.) (“We consistently have explained that such [limiting] instructions minimize the

1 prejudicial effect of this type of [other bad act] evidence.” (citations omitted), cert. denied,
2 Strong v. U.S., 552 U.S. 936, 128 S.Ct. 336 (2007); U.S. v. Davis, 707 F.2d 880, 884 (6th Cir.
3 1983) (explaining that although “the chance of prejudice is always present in a 404(b)
4 situation” the district court may reduce that chance “by giving the jury a limiting instruction
5 informing them” of the proper use of the other bad acts evidence). Finally, the Nevada
6 Supreme Court has previously determined prior bad acts were properly admitted in situations
7 bearing a much greater risk of prejudice. See. e.g., Ford, supra (in murder prosecution,
8 affirming admission of defendant’s multiple prior residential burglaries).

9 In this situation, the State would imagine that Defendant would not even want a limiting
10 instruction because the actions are so benign. Yet, the State would have no problem with some
11 a limiting instruction and an additional instruction that the photos and videos that the jury sees
12 do not depict criminal activity and are admitted solely for identification purposes.

13 **CONCLUSION**

14 Based upon the foregoing, the State respectfully requests the Court grant this Motion
15 in Limine and permit the State to admit the desired evidence in the form of res gestae.

16 DATED this 29th day of March, 2021.

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

20 BY /s/ PARKER BROOKS
21 PARKER BROOKS
22 Deputy District Attorney
23 Nevada Bar #11927

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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of State's Notice of Motion and Motion in Limine to Admit Certain Evidence Under the Doctrine of Res Gestae, Or in The Alternative State's Motion to Admit Evidence Related to Other Crimes, was made this 29th day of March, 2021, by Electronic Filing to:

DAVID FISCHER, ESQ.
info@fischerlawlv.com

/s/ J. MOSLEY
Secretary for the District Attorney's Office

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Electronically Filed
3/29/2021 4:03 PM
Steven D. Grierson
CLERK OF THE COURT



State of Nevada
vs
Andrew Young

Case No.: C-20-350623-1

Department 3

NOTICE OF HEARING

Please be advised that the State's Notice of Motion and Motion in Limine to Admit Certain Evidence Under the Doctrine of Res Gestae, or in the Alternative State's Motion to Admit Evidence Related to Other Crimes in the above-entitled matter is set for hearing as follows:

Date: April 12, 2021
Time: 8:30 AM
Location: RJC Courtroom 11C
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Salevao Asifoa
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Salevao Asifoa
Deputy Clerk of the Court

000332

Stewart J. Smith
CLERK OF THE COURT

1 **ORDR**
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10 *Attorney for Defendant ANDREW YOUNG*

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

9 THE STATE OF NEVADA,
10 Plaintiff,
11 vs.
12 ANDREW YOUNG,
13 Defendant.

Case No. C-20-350623-1
Department No. III

14 **ORDER GRANTING DEFENDANT'S MOTION TO SEVER COUNTS**

15 DATE OF HEARING: 3/17/21
16 TIME OF HEARING: 8:30 A.M.

17 THIS MATTER having come on for hearing before the above entitled Court on the
18 17th day of March, 2021, the Defendant ANDREW YOUNG, REPRESENTED BY
19 DAVID R. FISCHER and the Plaintiff being represented by STEVEN B. WOLFSON,
20 District Attorney, through NOREEN DEMONTE, Chief Deputy District Attorney, and
21 the Court having considered the pleadings on file, after hearing the arguments of counsel
22 and good cause appearing therefore,

23 / / /

24 / / /

1 IT IS HEREBY ORDERED that the Defendant's Motion to Sever Counts 17 and
2 18, shall be, and it is GRANTED.

3 DATED this ____ day of March, 2021.

The Court finds that the prejudice to the
defendant outweighs the concerns for judicial
economy. The Court also finds that the acts are
not so closely intertwined that you cannot tell one
story without the other and the acts are not part of
the same act, transaction, or common scheme or
plan.



MONICA TRUJILLO
DISTRICT COURT JUDGE

61A EF4 2FA4 4BB0
Monica Trujillo
District Court Judge

9 LAW OFFICE OF DAVID R. FISCHER

11 /s/ David R Fischer

12 DAVID R. FISCHER, ESQ.
13 400 South 4th Street, Suite 500
14 Las Vegas, Nevada 89101
Attorney for Defendant ANDREW YOUNG

1 **CSERV**

2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**

4 THE STATE OF NEVADA,
5 Plaintiff,
6 vs.
7 ANDREW YOUNG,
8 Defendant.

Case No. C-20-350623-1
Department No. III

9 **AUTOMATED CERTIFICATE OF SERVICE**

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

13 Service Date: 3/23/2021

14 Noreen DeMonte noreen.demonte@clarkcountyda.com

15 Dept Law Clerk Dept03LC@clarkcountycourts.us
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21
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23
24

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4
5
6 State of Nevada

CASE NO: C-20-350623-1

7 vs

DEPT. NO. Department 3

8 Andrew Young
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 4/6/2021

15 David Fischer

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

9 THE STATE OF NEVADA,
10
11 Plaintiff,

11 vs.

12 ANDREW YOUNG,
13
14 Defendant.

Case No. C-20-350623-1

Department No. III

**OPPOSITION TO THE STATE'S
MOTION IN LIMINE TO ADMIT
EVIDENCE UNDER RES GESTAE
OR EVIDENCE RELATED TO
OTHER CRIMES**

15 **COMES NOW** the Defendant, ANDREW YOUNG, by and through his attorney, DAVID
16 R. FISCHER, ESQ., and respectfully files the following Opposition to the State's Motion in
17 Limine to Admit Certain Evidence Under the Doctrine of Res Gestae, or in the Alternative State's
18 Motion to Admit Evidence Related to Other Crimes.

19 DATED this 8th day of April, 2021.

20 LAW OFFICE OF DAVID R. FISCHER

21 /s/ David R Fischer

22 DAVID R. FISCHER, ESQ.
23 400 South 4th Street, Suite 500
24 Las Vegas, Nevada 89101
Attorney for Defendant ANDREW YOUNG

000337

1 **POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 ANDREW YOUNG (hereinafter "YOUNG") renews his request, in part, for the Court to
4 exclude any and all evidence from any and all unrelated acts uncharged in the instant case in
5 addition to the settled matter of severing previous counts 17, battery with use of a deadly weapon
6 resulting in substantial bodily harm, and count 18, attempt murder with use of a deadly weapon,
7 which are now listed in the States Amended Superseding Indictment as counts 23 and 24, from
8 the 12 counts of burglary, 4 counts of larceny, 1 count of grand larceny, and 5 counts of fraudulent
9 use of credit or debit card because they were not based on the same act or transaction, they did
10 not constitute parts of a common scheme or plan, and they were not connected together.

11 Furthermore, this Court previously granted YOUNG's Motion to Sever the counts 17-18
12 (reshuffled indictment now counts 23-24, severing July 26, 2020, "rock beating" incident from
13 remaining counts). The basis being to prevent the unfair prejudice by the potential reverse
14 spillover effect that would arise if the jury was presented with video evidence captured on indoor
15 surveillance cameras with much greater clarity (respecting the gravamen of states case, 22 theft-
16 related counts) when compared to the extremely lower quality outdoor surveillance respcting the
17 2 counts and related evidence.

18 Consequently, the central issue at play in counts 23 and 24 was and still remains whether
19 YOUNG in fact is the perpetrator in these particular counts, these counts are highly contested
20 through YOUNG's alibi. In addition, it strains reason to understand how State attempts to
21 "connect up" the very same incident with its request to admit uncharged or other evidence under
22 res gestae doctrine where this Court previously granted the severance because of the substantial
23 prejudice to YOUNG that would result if a jury were allowed to hear evidence regarding Counts
24

1 17-18 (now 23-24). Allowing such evidence REMAINS manifestly prejudicial to YOUNG
2 outweighing any probative value. The state attempts to provide its rationale, but it is misplaced,
3 overlooking YOUNG's fundamental due process rights with reasons of judicial economy. In
4 summation, the evidence the State seeks to admit from the first 22 counts of its Amended
5 Superseding Indictment is not relevant to counts 23 and 24, it is therefore highly prejudicial, and
6 it meets none of the enumerated exceptions recognized by this Court.

7 **II. PROCEDURAL HISTORY**

8 The instant matter originated in Las Vegas Justice Court, Department 14, when on August
9 5, 2020, YOUNG was charged in a two-count criminal complaint alleging one count of battery
10 with use of a deadly weapon resulting in substantial bodily harm and one count of attempt murder
11 with use of a deadly weapon. On September 10, 2020, the State obtained a Grand Jury Return
12 and Indictment was filed against YOUNG alleging the same one count of battery with use of a
13 deadly weapon resulting in substantial bodily harm and one count of attempt murder with use of
14 a deadly weapon which was filed in District Court on September 10, 2020.

15 On October 1, 2020, the State filed a Superseding Indictment and on the same day an
16 Amended Superseding Indictment containing 24 alleged counts against YOUNG including the
17 two that were originally filed in Justice Court then later filed in this Court separately and then
18 ultimately combined with 22 completely unrelated alleged counts.

19 On February 22, 2021, the State filed a Notice of Habitual Criminal.

20 On February 28, 2021, YOUNG filed a Motion to Sever Counts 17 and 18 from the
21 remaining 22 counts of the State's Amended Superseding Indictment. This honorable Court
22 subsequently granted YOUNG's Motion. On March 29, 2021, the State filed another Amended
23 Superseding Indictment which confusingly still included the counts this Court previously ordered
24

1 severed. On that same date, the State filed a Motion in Limine to Admit Certain Evidence Under
2 the Doctrine of Res Gestae. The state's motion is timely filed. N.R.Cr.P. 8 re: filing of pretrial/in
3 limine motions.

4 This case is currently set for central Jury Trial on April 19, 2021. YOUNG's instant
5 opposition follows timely. N.R.Cr.P. 8 re: filing deadline for opposition to pretrial/in limine
6 motion.

7 III. FACTS

8 YOUNG stands charged of several counts of burglary (counts 1, 4, 6, 7, 9, 11, 13, 15, 17,
9 19, 21, 22), larceny (counts 2, 8, 10, 16), grand larceny (count 3), and fraudulent use of credit or
10 debit card (counts 5, 12, 14, 18, 20). Further, he faces charges for one count of battery with use
11 of a deadly weapon resulting in substantial bodily harm (count 23) and one count of attempt
12 murder with use of a deadly weapon (count 24). In total, YOUNG faces 24 counts.

13 According to the Declaration of Warrant/Summons (DWS), Detective Byrd investigated
14 an incident involving Robert Will and an unknown assailant that occurred on 7/26/2020 at
15 approximately 12:44 a.m. DWS 1. Detective Byrd's sworn affidavit describes the incident as
16 follows: "Robert was sitting at the bus bench located outside the Paris Hotel...when an altercation
17 took place between him and the [unknown assailant who]...used a large rock and bludgeoned the
18 victim in the head multiple times." DWS 1. The assailant then left the scene but was described
19 as a black male adult in his 50s or 60s wearing a grey shirt and black jeans. DWS 1. Video
20 evidence of this incident was not initially obtained by detectives. DWS 1-3. However, Fusion
21 Watch video showed a suspect walking in the same direction that victim's assailant headed after
22 the incident, but the suspect's clothing did not match what witnesses reported the assailant was
23 wearing at the scene of the incident. DWS 1-3. Even though the Fusion Watch video did not
24

1 capture the incident, was not high quality, and depicted a suspect wearing articles of clothing that
2 did not match those witnesses observed during Mr. Will's incident, Detective Jacobitz authored
3 and distributed a critical reach flyer using images from that surveillance footage. DWS 3.

4 Meanwhile, Detective Byrd was investigating YOUNG for alleged larceny and fraudulent
5 use of credit card arising out of an incident on July 8 inside a Walmart. DWS 3. After Detective
6 Byrd viewed the critical reach flyer Detective Jacobitz circulated, Detective Byrd thought
7 YOUNG was the individual depicted in the critical reach flyer. DWS 3. With YOUNG now the
8 target of the investigation, detectives reviewed more video from the Cosmopolitan and from Paris
9 Hotel and located video of the battery incident however it was very low quality. DWS 4.

10 The State's indictment charges YOUNG with an alleged series of non-violent acts that
11 took place inside local stores and casinos (Rampart Hotel & Casino, 7-11, Walmart, Caesar's
12 Palace, Albertson's, GameStop, Walgreens, Flamingo Hotel & Casino, and Suncoast Hotel &
13 Casino) on the following dates: June 29, July 8, 22, 23, and 29, August 1, 7, and 9. However, the
14 indictment alleges YOUNG committed a violent battery and attempted murder that occurred on
15 July 26th, outdoors at a bus stop, and involved the use of a deadly weapon (a rock).

16 IV. APPLICABLE LAW

17 Pursuant to the *res gestae* doctrine:

18 "when several crimes are intermixed or blended with one another, or connected such that
19 they form an indivisible criminal transaction, and when full proof by testimony, whether
20 direct or circumstantial, or any one of them cannot be given without showing the others,
evidence of any or all of them is admissible against a defendant on trial for any offense
which is itself a detail of the whole criminal scheme."

21 *Allan v. State*, 92 Nev. 318, 321, 549 P.2d 1402, 1404 (1976) (citing *People v. Thomas*, 3
22 Cal.App.3d 859, 83 Cal.Rptr. 879 (1970)). In *State v. Shade*, 111 Nev. 887, 894, 900 P.2d 327,
23 331 (1995), the Nevada Supreme Court revisited the applicability of the *res gestae* doctrine and
24 explained that:

1 “In reading NRS 48.035 as a whole, it is clear that where the *res gestae* doctrine is
2 applicable ... the controlling question is whether witnesses can describe the crime charged
3 without referring to related uncharged acts. If the court determines that testimony relevant
to the charged crime cannot be introduced without reference to uncharged acts, it must not
exclude the evidence of the uncharged acts.”

4 (Footnote omitted.) In *Shade*, the Court held that the district court erred in excluding evidence of
5 Shade's uncharged heroin purchase because this purchase occurred **contemporaneously** with the
6 offenses for which Shade was charged, **arose out of the same transaction, involved the same**
7 **participants**, and **“was inextricably intertwined with the charged crimes and completed the**
8 **story leading up to Shade's ultimate arrest.”** *Id.* at 895, 900 P.2d, at 331.

9 Additionally, in *Newman v. State*, the Nevada Supreme Court explained that:

10 “NRS 48.045(2) prohibits the use of evidence of “other crimes, wrongs or acts ... to prove
11 the character of a person in order to show that the person acted in conformity therewith.”
Such evidence “may, however, be admissible for other purposes, such as proof of motive,
12 opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or
accident.” *Id.* NRS 48.045(2)'s list of permissible nonpropensity uses for prior-bad-act
13 evidence is not exhaustive. *Bigpond v. State*, 128 Nev. —, —, 270 P.3d 1244, 1249
(2012). Nonetheless, while “evidence of ‘other crimes, wrongs or acts’ may be admitted
14 ... for a relevant nonpropensity purpose,” *id.* (quoting NRS 48.045(2)), “**[t]he use of**
uncharged bad act evidence to convict a defendant [remains] heavily disfavored in
our criminal justice system because bad acts are often irrelevant and prejudicial and
force the accused to defend against vague and unsubstantiated charges.
15 ” *Id.* (quoting *Tavares v. State*, 117 Nev. 725, 730, 30 P.3d 1128, 1131 (2001)). **Thus, “**
[a] presumption of inadmissibility attaches to all prior bad act
evidence.” *Id.* (quoting *Rosky v. State*, 121 Nev. 184, 195, 111 P.3d 690, 697 (2005)).”

16
17 (Emphasis added.) *Id.* 298 P.3d 1171, 1178 (Nev. 2013).

18 However, the Nevada Revised Statutes, of course, allow for the use of alleged other bad
19 acts in certain limited circumstances and for certain limited purposes. NRS. 48.045. Prior to
20 allowing the introduction of such evidence, the trial court must first determine whether:

21 “(1) the incident is relevant to the crime charged; (2) the act is proven by clear and convincing
22 evidence; and (3) the probative value of the evidence is not substantially outweighed by the danger
23 of unfair prejudice.” *Tinch v. State*, 113 Nev. 1170 1176, 946 P.2d 1061,1064-65 (1997).

1 **V. ANALYSIS**

2 First and foremost, the issue(s) presented in the State’s Motion in Limine to Admit Certain
3 Evidence Under the Doctrine of Res Gestae, or in the Alternative State’s Motion to Admit
4 Evidence Related to Other Crimes seems to be, at best, moot¹ as this Court has already ruled that
5 severance was appropriate, to avoid any unjust spillover effect posed by the improper joinder in
6 the first place. Said prejudicial spillover effect remains at issue both in terms of improper joinder
7 and in the State’s current attempt to use uncharged² bad act evidence **to aid its conviction efforts**
8 **of YOUNG for an incident for which there is no real evidence sufficient to convict YOUNG.**

9 The Nevada Supreme Court explained that, “[t]he use of uncharged bad act evidence
10 **to convict a defendant [remains] heavily disfavored in our criminal justice system because**
11 **bad acts are often irrelevant and prejudicial and force the accused to defend against vague**
12 **and unsubstantiated charges.”** *Newman v. State* 298 P.3d 1171, 1178. (Emphasis added.) And
13 that, “[a] presumption of inadmissibility attaches to all prior bad act evidence.” *Id.*

14 To the extent that this Court will revisit this issue and consider the arguments set out in
15 the State’s Motion, YOUNG submits the following in opposition.

16 **A. Res Gestae Doctrine, Complete Story: Counts 23 and 24 are in no way**
17 **interconnected, let alone to a degree that witnesses and evidence cannot describe**
18 **the acts in controversy, or the crimes charged without referring to the other acts**
19 **or crimes.**

19 Importantly, the State principally relies on *res gestae* doctrine throughout its Motion and
20 specifically invokes rules outlined in *State v. Shade*. However, this case is distinguishable
21 from *Shade* in several important respects. In *Shade*, the State could not introduce evidence of the

22 _____
23 ¹ In effect, state’s motion is a veiled motion to reconsider this honorable
24 Court’s previous ruling to sever counts 17 and 18.

² Or charged bad acts from a separate and unrelated case.

1 charged offenses without reference to Shade's uncharged heroin purchase; here the State can
2 easily introduce all of its evidence for the charged crimes in counts 23 and 24 without introducing
3 the video or still imagery connected with the first 22 counts. Moreover, in *Shade*, the State could
4 not effectively prosecute Shade on any of the charged offenses without proffering evidence of
5 Shade's uncharged heroin purchase and concomitant police surveillance activity; in the instant
6 case, the State's case against YOUNG in counts 23 and 24 is in no way predicated upon the now
7 severed charges in the first 22 counts.

8 Similarly, the State cites *Allan v. State* in its Motion, but the facts from that case are also
9 distinguishable from those in the instant case. In *Allan*, “the testimony regarding the additional
10 acts of fellatio, as well as the act of masturbation, was admissible as part of the *res gestae* of the
11 crime charged. Testimony regarding such acts is admissible because the acts complete the story
12 of the crime charged by proving the **immediate context of happenings near in time and place**.
13 Such evidence has been characterized as the same transaction or the *res gestae*.” *Allan v. State*,
14 549 P.2d 1402, 1403 (Nev. 1976). In *Allan*, the acts the Court admitted occurred immediately
15 before and or after the crimes Allan was charged with and the acts, both charged and uncharged,
16 were so closely related that witnesses could not describe the crime Allan was charged with without
17 referring to related uncharged acts.

18 This simply is not the case here. There is no evidence relevant to the first 22 counts that
19 are also relevant in counts 23 and 24 aside from the State’s claim that all 24 counts were crimes
20 allegedly committed by YOUNG. Otherwise, the alleged crimes in the first 22 counts all took
21 place at different times and locations and importantly involved completely different alleged
22 criminal activity than those charged in counts 23 and 24.

1 The State's res gestae arguments are not very compelling. YOUNG respectfully asks this
2 Court to reject the State's res gestae arguments and exclude any and all evidence from any and
3 all unrelated acts uncharged in the instant case (counts 23 and 24).

4 **B. Common Scheme or Plan: Counts 23 and 24 share absolutely no articulable**
5 **common scheme or plan with the remaining 12 counts of burglary, 4 counts of**
6 **larceny, 1 count of grand larceny, and 5 counts of fraudulent use of credit or debit**
7 **card.**

8 The State's indictment charges YOUNG with an alleged series of non-violent acts that
9 took place inside local stores and casinos (Rampart Hotel & Casino, 7-11, Walmart, Caesar's
10 Palace, Albertson's, GameStop, Walgreens, Flamingo Hotel & Casino, and Suncoast Hotel &
11 Casino) on the following dates: June 29, July 8, 22, 23, and 29, August 1, 7, and 9. However, the
12 same indictment alleges YOUNG committed a violent battery and attempted murder that occurred
13 on July 26th, outdoors at a bus stop, and involved the use of a deadly weapon (a rock).

14 The State does not allege that YOUNG used a rock or any other deadly weapon or violence
15 of any sort in the alleged series of non-violent acts that took place inside local stores and casinos.
16 Likewise, the State does not allege the series of non-violent acts that allegedly took place inside
17 local stores and casinos ever involved any sort of battery or attempted murder; however, much to
18 the contrary counts 23 and 24 allegedly involve violent acts with no nexus between the alleged
19 violence described in counts 23 and 24 with any further allegations that those acts involved any
20 attempts at fraud or theft.

21 With no common scheme or plan between counts 23 and 24 linking them to the remaining
22 22 counts, the Court should exclude any and all evidence from any and all unrelated acts
23 uncharged in the instant case (counts 23 and 24).

24 **C. Prejudice: Admitting evidence related to other crimes here would be manifestly**
prejudicial and would allow the jury to convict YOUNG using video evidence and
a series of other bad act evidence that is irrelevant and otherwise inadmissible.

1 Evidence of other bad acts cannot be admitted for the purpose of proving that the
2 defendant has a certain character trait and that he acted in conformity with that trait on the
3 occasion in question. NRS 48.045(1). However, the evidence may be admitted for other
4 purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, and
5 absence of mistake or accident. NRS 48.045(2).

6 Prior to admitting evidence, the trial court must conduct a *Petrocelli* hearing and
7 determine that the *Tinch* factors are met. The prior bad acts must be relevant to the charged
8 crimes, the State must prove them by clear and convincing evidence, and their probative value
9 must not be substantially outweighed by the danger of unfair prejudice. *Qualls v. State*, 114 Nev.
10 900, 902, 961 P.2d 765, 766 (1998).

11 Using other bad acts to show criminal propensity is forbidden and is commonly viewed
12 as grounds for reversal. *Braunstein v. Nev.*, 118 Nev. 68, 73, 40 P.3d 413, 417 (2002) (citing
13 *Roever v. State*, 114 Nev. 867, 872, 963 P.2d 503, 506 (1998)). The Nevada Supreme Court has
14 noted with criticism that, in practice, “we have seen a broad interpretation of the exceptions
15 contained in NRS 48.045” and that “too often, the district courts are willing to permit the
16 admission of [other] bad act evidence.” *Weber v. State*, 121 Nev. 554, 589, 119 P.3d 107, 131
17 (2005).

18 In the present case, the State is prosecuting YOUNG for an alleged series of burglary
19 (counts 1, 4, 6, 7, 9, 11, 13, 15, 17, 19, 21, 22), larceny (counts 2, 8, 10, 16), grand larceny (count
20 3), and fraudulent use of credit or debit card (counts 5, 12, 14, 18, 20) along with two very
21 different crimes, 1 count of battery with use of a deadly weapon resulting in substantial bodily
22 harm (count 23) and 1 count of attempt murder with use of a deadly weapon (count 24). To help
23 prove its case, the State seeks to introduce evidence from the first 22 counts in its now severed
24

1 case charging the remaining counts 23 and 24. This Court should not permit the evidence to come
2 in under NRS 48.045(2) because the crimes in the first 22 counts of the indictment are far too
3 dissimilar to counts 23 and 24 as explained above.

4 The State's attempt at joinder in this case is in violation of the rule against character
5 evidence and is purely prejudicial when it's being used as the State seems to do here to bolster
6 identity issues in counts 23 and 24. In an attempt to unfairly overcome its identity issues in counts
7 23 and 24 and ultimately obtain an unfair conviction against YOUNG, the State first sought to
8 join the other 22 counts, which involves better video evidence that a jury may find more
9 compelling and now the State seeks to bring in the same evidence that this Court has already
10 essentially excluded by severing counts 23 and 24 from the other counts.

11 The manifestly prejudicial effect described here would allow the jury to convict YOUNG
12 using video evidence and a series of other uncharged acts that have already been severed and
13 should otherwise remain wholly inadmissible for any purpose. Thus, YOUNG respectfully asks
14 this Court to reject the State's arguments to admit evidence of other bad acts and exclude any and
15 all evidence from any and all unrelated acts uncharged in the instant case (counts 23 and 24).

16 **VI. CONCLUSION**

17 In sum, this Court settled the matter of joinder of counts 23 and 24 with the other 22 counts
18 based on arguments set forth by YOUNG which claimed joinder was done in violation of the rule
19 against character evidence and was purely prejudicial when it was being used to bolster identity
20 issues in its weakest counts 23 and 24 by joining them with the stronger 22 counts. Joinder was
21 clearly prejudicial, as is admitting evidence related to other crimes.

22 For all the foregoing reasons, YOUNG respectfully requests that this Court deny the
23 State's Motion in Limine to Admit Certain Evidence Under the Doctrine of Res Gestae, or in the
24

1 Alternative State's Motion to Admit Evidence Related to Other Crimes and exclude any and all
2 evidence from any and all unrelated acts uncharged in the instant case (counts 23 and 24).

3 DATED this 8th day of April, 2021.

4 LAW OFFICE OF DAVID R. FISCHER

5
6 /s/ David R Fischer

7 DAVID R. FISCHER, ESQ.

8 400 South 4th Street, Suite 500

9 Las Vegas, Nevada 89101

10 *Attorney for Defendant ANDREW YOUNG*



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10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,
13
14 Plaintiff,

15 -vs-

16 ANDREW YOUNG,
17 #1211422

18 Defendant.

CASE NO: C-20-350623-1

DEPT NO: III

19 **STATE'S SUPPLEMENTAL NOTICE OF WITNESSES AND/OR EXPERT**
20 **WITNESSES**
21 **[NRS 174.234]**

22 TO: ANDREW YOUNG, Defendant; and

23 TO: DAVID FISCHER, ESQ., Counsel of Record:

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

26 ALEMAR, F; PARIS HOTEL & CASINO, 3655 S Las Vegas BI LVN

27 ANDRES, MARK; LVMPD #7532

28 ANGERSBACH, BARBARA; C/O CCDA

BOONE, MONTHO; C/O CCDA

BOWEN, BARBARA; C/O CCDA

BURKHOLDER, ROBERT; Address Unk

BYRD, TRENT; LVMPD #13958

CALVILLO, ROLANDO; LVMPD #14710

1 CAMPO, MARY; 332 Vista Glen St LVN 89145
2 CANON, MARCH; PLANET HOLLYWOOD HOTEL & CASINO
3 CIPRIANO, DOMINICK; LVMPD #14187
4 COR; 7-11
5 COR; ALBERTSON'S
6 COR; BANK OF AMERICA
7 COR; CAESAR'S PALACE HOTEL & CASINO
8 COR; CCDC RECORDS
9 COR; CIRCLE K
10 COR; COSMOPOLITIAN HOTEL & CASINO
11 COR; FLAMINGO HOTEL & CASINO
12 COR; GAME STOP, 5060 Boulder Hwy
13 COR; LVMPD DISPATCH
14 COR; LVMPD RECORDS
15 COR; PARIS HOTEL & CASINO
16 COR; PLANET HOLLYWOOD HOTEL & CASINO
17 COR; RAMPART HOTEL & CASINO
18 COR; SHELL GAS STATION
19 COR; SUNCOAST HOTEL & CASINO
20 COR; SUNRISE HOSPITAL
21 COR; WALGREENS
22 COR; WALMART, 5198 Boulder Hwy LVN 89122
23 COR; WALMART, 2310 E Serene
24 CUNNINGHAM, JODY; LVMPD #17247
25 DAILEY, VIANEY; LVMPD #18424
26 DANIEL, MARKEE; ALBERTSONS
27 DERAS, DANIEL; LVMPD #16801
28 DRURY, ERIC; LVMPD #15143

1 ESKILDSEN, VIANCA; WALMART, 2310 E Serene Ave LVN 89123
2 FRANK, JOANNE; 601 Harvest Run Dr Apt No. 101 LVN 89145
3 GOMEZ, DAVID; LVMPD #15497
4 GRIMES, ETHAN; LVMPD #6729
5 GRUEBLING, GLORIA; 13396 W Forrest Hallow Lane Evansville WI 53536
6 HATCHER, RHONDA; 410 Deepdale Rd Phoenix AZ 85022
7 HEFNER, LYDIA; Address Unk
8 JACOBITZ, JEREMY; LVMPD #9383
9 JANECEK, BRAD; LVMPD #8389
10 JESSE, JACK; LVMPD #18020
11 LEIGH, TINA; C/O CCDA
12 LEPER, SGT FNU; SUNCOAST HOTEL & CASINO, 9090 Alta Dr LVN 89145
13 LISKE, SANDEEP; LVMPD #14882
14 MALONE, JOYCE; RAMPART HOTEL & CASINO, 221 N Rampart BI LVN 89145
15 MARTINEZ, MARSHA; 7-11, 5110 S Maryland Pkwy LVN 89119
16 MCGUIRE, JAMES; LVMPD #14067
17 MELLO, SERRY; C/O CCDA
18 MILDEBRANDT, BRIAN; LVMPD #5449
19 MOORE, KIEYUNNA; Address Unk
20 MOORE, LARESHA; Address Unk
21 PHUNG, JANELLE; WALGREENS, 4895 Boulder Hwy Ste 100 LVN 89121
22 ROED, WILLIAM; COSMOPOLITIAN HOTEL & CASINO, 3708 Las Vegas BI
23 RUBIO, LUIS; LVMPD #15749
24 SALAZAR, SALIM; LVMPD #13350
25 SCOTT, JAMES; LVMPD #14747
26 SHIN, ARIC; LVMPD #17565
27 SNYDER, CORY; LVMPD #16279
28 STRINGER, AMBER; LVMPD #15152

1 TROCK, KRISTEN; C/O CCDA
2 VARGAS, ELIZABETH; LVMPD #8595
3 WHEELER, JERRY; LVMPD #18202
4 WILL, ROBERT; C/O CCDA
5 ZIYATDINOV, SERGEY; Address Unk

6 These witnesses are in addition to those witnesses endorsed on the Information or
7 Indictment and any other witness for which a separate Notice of Witnesses and/or Expert
8 Witnesses has been filed.

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

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

12
13 STEVEN B. WOLFSON
14 Clark County District Attorney
15 Nevada Bar #001565

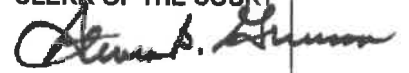
16 BY /s/ PARKER BROOKS
17 PARKER BROOKS
18 Deputy District Attorney
19 Nevada Bar #11927

20 CERTIFICATE OF ELECTRONIC FILING

21 I hereby certify that service of the above and foregoing was made this 19th day of April,
22 2021, by Electronic Filing to:

23
24 DAVID FISCHER, ESQ.
25 info@fischerlawlv.com

26 BY: /s/ J. MOSLEY
27 Secretary for the District Attorney's Office
28



DISTRICT COURT
CLARK COUNTY, NEVADA
* * * *

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STATE OF NEVADA	Case No.: C-20-350623-1
VS	DEPARTMENT 6
ANDREW YOUNG	

NOTICE OF DEPARTMENT REASSIGNMENT

NOTICE IS HEREBY GIVEN that the above-entitled action has been reassigned to Judge Jacqueline M. Bluth.

This reassignment is due to: Minute Order

ANY TRIAL DATE AND ASSOCIATED TRIAL HEARINGS STAND BUT MAY BE RESET BY THE NEW DEPARTMENT. PLEASE INCLUDE THE NEW DEPARTMENT NUMBER ON ALL FUTURE FILINGS.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/Allison Behrhorst
Allison Behrhorst,
Deputy Clerk of the Court

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CERTIFICATE OF SERVICE

I hereby certify that this 23rd day of April, 2021

- The foregoing Notice of Department Reassignment was electronically served to all registered parties for case number C-20-350623-1.

/s/Allison Behrhorst
Allison Behrhorst
Deputy Clerk of the Court

1 IT IS HEREBY ORDERED that the State's Motion to Admit Certain Evidence Under the
2 Doctrine of Res Gestae, or in the Alternative, State's Motion to Admit Evidence Related to
3 Other Crimes, shall be, and it is GRANTED because that was the only way Detective Byrd
4 was able to prepare the Declaration of Arrest from the identity of the other burglary events.

5 The Court severed Counts 23 and 24 from the first 22 counts. However, in the trial for
6 counts 23 and 24, the State is permitted to introduce photos and videos of the Defendant from
7 the burglary and associated counts that were severed.

8 Detective Byrd and/or other officers will be permitted to identify defendant in those
9 various photos or videos during the summer months of 2020.

10 Detective Byrd relied on these photos and videos and his familiarity with Defendant
11 when preparing the Declaration of Arrest for the Attempt Murder related counts.

12 The Court understands that Defendant's interaction with law enforcement at a Walmart
13 on July 8, 2020 was crucial to confirming the identity of Defendant. Thus, the surveillance
14 footage from Walmart and/or the body cam will be permitted as well as the officers being
15 able to say that they confirmed Defendant's identity on that date and time in those
16 photos. However, the Court is concerned about the body cam footage and certain angles. The
17 Court does not want the angles of the body camera footage in front of the patrol vehicle and
18 other angles to be prejudicial. Thus, the State should crop, cut, and alter that particular video
19 and show it to the court prior to admission.

20 Additionally, the videos and photos from the other dates and events should be sanitized
21 not to show any of the criminal conduct. Any witness or officer that testifies about the identity
22 of Defendant in these photos and videos is not permitted to discuss any criminal conduct or
23 associated incidents that surrounded these photos or videos.

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The Court believes that the prejudice to the Defendant is removed when the photos or videos are sanitized and the witnesses are instructed only to discuss identity without reference to the criminal conduct that resulted in obtaining these videos.


DATED this _____ day of April, 2021. Dated this 23rd day of April, 2021



DISTRICT JUDGE

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

5D8 6F1 FB0A BA02
Monica Trujillo
District Court Judge

BY 

PARKER BROOKS
Deputy District Attorney
Nevada Bar #011927

cg/L2

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4
5
6 State of Nevada

CASE NO: C-20-350623-1

7 vs

DEPT. NO. Department 6

8 Andrew Young
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 4/23/2021

15 David Fischer

dfischer@fischerlawlv.com

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AIND
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
PARKER BROOKS
Deputy District Attorney
Nevada Bar #011927
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

ANDREW YOUNG, #1211422

Defendant.

CASE NO: C-20-350623-1
DEPT NO: VI

SECOND
SUPERSEDING
INDICTMENT

STATE OF NEVADA }
COUNTY OF CLARK } ss.

The Defendant above named, ANDREW YOUNG, accused by the Clark County Grand Jury of the crime(s) of **BURGLARY (Category B Felony NRS 205.060 – NOC 50424), BURGLARY (Category C Felony - NRS 205.060.1B - NOC 61938), LARCENY FROM THE PERSON, VICTIM OVER 60 YEARS OF AGE (Category C Felony – NRS 205.270, 193.167 – NOC 56020), GRAND LARCENY (Category C Felony - NRS 205.222.2 – NOC 56004), FRAUDULENT USE OF CREDIT OR DEBIT CARD (Category D Felony - NRS 205.760(1) - NOC 50796)** committed at and within the County of Clark, State of Nevada, on or between the 29th day of June, 2020 and the 9th day of August, 2020, as follows:

///
///

000360

1 COUNT 1 - BURGLARY

2 did on or about June 29, 2020 willfully, unlawfully, and feloniously enter RAMPART
3 HOTEL AND CASINO, located at 221 N. Rampart Blvd., Clark County, Nevada, with intent
4 to commit grand or petit larceny, and/or a felony.

5 COUNT 2 - LARCENY FROM THE PERSON, VICTIM 60 YEARS OF AGE OR OLDER

6 did on or about June 29, 2020 then and there willfully, unlawfully, and feloniously,
7 under circumstances not amounting to robbery, with intent to steal or appropriate to his own
8 use, take from the person of another, to wit: MARY CAMPO, a person 60 years of age or
9 older, without her consent, personal property, to wit: a wallet and contents.

10 COUNT 3 - GRAND LARCENY

11 did on or about June 29, 2020 then and there willfully, unlawfully, feloniously, and
12 intentionally, with intent to deprive the owner permanently thereof, steal, take and carry away
13 lawful money of the United States in an amount of \$650.00, or greater, to wit: \$1,400 United
14 State Currency, owned by another person, to wit: MARY CAMPO.

15 COUNT 4 - BURGLARY

16 did on or about June 29, 2020 willfully, unlawfully, and feloniously enter 7-11, located
17 at 5110 S. Maryland Parkway, Clark County, Nevada, with intent to commit grand or petit
18 larceny, and/or a felony.

19 COUNT 5 - FRAUDULENT USE OF CREDIT OR DEBIT CARD

20 did on or about June 29, 2020 then and there willfully, unlawfully, feloniously, and
21 with intent to defraud, use a Bank of America card ending in 1020, issued in the name of
22 MARY CAMPO, the Defendant presenting the said debit or credit card to 7-11, located at
23 5110 S. Maryland Parkway, Clark County, Nevada, to obtain money, goods, property, services
24 or anything of value, to wit: cigarettes, the Defendant not being the cardholder, nor being
25 authorized by the cardholder to use said card or card number.

26 COUNT 6 - BURGLARY

27 did on or about July 8, 2020 willfully and feloniously unlawfully enter or unlawfully
28 remain in a business structure, owned or occupied by WAL-MART, located at 2310 E. Serene,

1 Clark County, Nevada, with the intent to commit grand or petit larceny, and/or a felony.

2 COUNT 7 - BURGLARY

3 did on or about July 8, 2020 willfully and feloniously unlawfully enter or unlawfully
4 remain in a business structure, owned or occupied by CAESAR'S PALACE, located at 3570
5 S. Las Vegas Blvd., Clark County, Nevada, with the intent to commit grand or petit larceny,
6 and/or a felony.

7 COUNT 8 - LARCENY FROM THE PERSON, VICTIM 60 YEARS OF AGE OR OLDER

8 did on or about July 8, 2020 then and there willfully, unlawfully, and feloniously, under
9 circumstances not amounting to robbery, with intent to steal or appropriate to his own use,
10 take from the person of another, to wit: RHONDA KAY HATCHER, a person 60 years of age
11 or older, without her consent, personal property, to wit: a wallet and contents.

12 COUNT 9 - BURGLARY

13 did on or about July 22, 2020 willfully and feloniously unlawfully enter or unlawfully
14 remain in a business structure, owned or occupied by ALBERTSON'S, located at 1001 S.
15 Rainbow Boulevard, Clark County, Nevada, with the intent to commit grand or petit larceny,
16 and/or a felony.

17 COUNT 10 - LARCENY FROM THE PERSON, VICTIM 60 YEARS OF AGE OR OLDER

18 did on or about July 22, 2020 then and there willfully, unlawfully, and feloniously,
19 under circumstances not amounting to robbery, with intent to steal or appropriate to her own
20 use, take from the person of another, to wit: JOANNE FRANK, a person 60 years of age or
21 older, without her consent, personal property, to wit: a wallet and contents and/or did conspire
22 and/or aid and abet another individual in committing the larceny from JOANNE FRANK.

23 COUNT 11 - BURGLARY

24 did on or about July 23, 2020 willfully and feloniously unlawfully enter or unlawfully
25 remain in a business structure, owned or occupied by GAMESTOP, located at 5060 Boulder
26 Highway, Clark County, Nevada, with the intent to commit grand or petit larceny, and/or a
27 felony.

28 ///

1 COUNT 12 - FRAUDULENT USE OF CREDIT OR DEBIT CARD

2 did on or about July 23, 2020 then and there willfully, unlawfully, feloniously, and with
3 intent to defraud, use a Visa card ending in 4527, issued in the name of BARBARA BOWEN,
4 the Defendant presenting the said debit or credit card to GAMESTOP, located at 5060 Boulder
5 Highway, Clark County, Nevada, to obtain money, goods, property, services or anything of
6 value, to wit: gift card, the Defendant not being the cardholder, nor being authorized by the
7 cardholder to use said card or card number.

8 COUNT 13 - BURGLARY

9 did on or about July 23, 2020 willfully and feloniously unlawfully enter or unlawfully
10 remain in a business structure, owned or occupied by WALGREENS, located at 4895 Boulder
11 Highway, Clark County, Nevada, with the intent to commit grand or petit larceny and/or a
12 felony.

13 COUNT 14 - FRAUDULENT USE OF CREDIT OR DEBIT CARD

14 did on or about July 23, 2020 then and there willfully, unlawfully, feloniously, and with
15 intent to defraud, use a Visa card ending in 4527, issued in the name of BARBARA BOWEN,
16 the Defendant presenting the said debit or credit card to WALGREENS, located at 4895
17 Boulder Highway, Clark County, Nevada, to obtain money, goods, property, services or
18 anything of value, to wit: gift card, the Defendant not being the cardholder, nor being
19 authorized by the cardholder to use said card or card number.

20 COUNT 15 - BURGLARY

21 did on or about July 29, 2020 willfully and feloniously unlawfully enter or unlawfully
22 remain in a business structure, owned or occupied by FLAMINGO HOTEL AND CASINO,
23 located at 3555 Flamingo Road, Clark County, Nevada, with the intent to commit grand or
24 petit larceny and/or a felony.

25 COUNT 16 - LARCENY FROM THE PERSON, VICTIM 60 YEARS OF AGE OR OLDER

26 did or or about July 29, 2020 willfully, unlawfully, and feloniously, under
27 circumstances not amounting to robbery, with intent to steal or appropriate to his own use,
28 take from the person of another, to wit: SERRY MELLO, a person 60 years of age or older,

1 without his consent, personal property, to wit: wallet and contents.

2 COUNT 17 – BURGLARY

3 did on or about August 1, 2020 willfully and feloniously unlawfully enter or unlawfully
4 remain in a business structure, owned or occupied by GAMESTOP, located at 5060 Boulder
5 Highway, Clark County, Nevada, with the intent to commit grand or petit larceny and/or a
6 felony.

7 COUNT 18 - FRAUDULENT USE OF CREDIT OR DEBIT CARD

8 did on or about August 1, 2020, then and there willfully, unlawfully, feloniously, and
9 with intent to defraud, use a credit card, issued in the name of MONTHO BOONE, the
10 Defendant presenting the said debit or credit card to GAMESTOP, located at 5060 Boulder
11 Highway, Las Vegas, Clark County, Nevada, to obtain money, goods, property, services or
12 anything of value, to wit: by attempting to make purchases with credit card, the Defendant
13 not being the cardholder, nor being authorized by the cardholder to use said card or card
14 number.

15 COUNT 19 – BURGLARY

16 did on or about August 1, 2020 willfully and feloniously unlawfully enter or unlawfully
17 remain in a business structure, owned or occupied by WALGREENS, located at 4895 Boulder
18 Highway, Clark County, Nevada, with the intent to commit grand or petit larceny, and/or a
19 felony.

20 COUNT 20 - FRAUDULENT USE OF CREDIT OR DEBIT CARD

21 did on or about August 1, 2020, then and there willfully, unlawfully, feloniously, and
22 with intent to defraud, use a credit card, issued in the name of MONTHO BOONE, the
23 Defendant presenting the said debit or credit card to WALGREENS, located at 4895 Boulder
24 Highway, Las Vegas, Clark County, Nevada, to obtain money, goods, property, services or
25 anything of value, to wit: by attempting to make purchases with credit card, the Defendant
26 not being the cardholder, nor being authorized by the cardholder to use said card or card
27 number.

28 ///

1 COUNT 21 - BURGLARY

2 did on or about August 7, 2020 willfully and feloniously unlawfully enter or unlawfully
3 remain in a business structure, owned or occupied by WALMART, located at 5198 Boulder
4 Highway, Clark County, Nevada, with the intent to commit grand or petit larceny, and/or a
5 felony.

6 COUNT 22 - BURGLARY

7 did on or about August 9, 2020 willfully and feloniously unlawfully enter or unlawfully
8 remain in a business structure, owned or occupied by SUNCOAST HOTEL AND CASINO,
9 located at 9090 Alta Drive, Clark County, Nevada, with the intent to commit grand or petit
10 larceny, assault or battery, and/or a felony.

11 DATED this 26th day of April, 2021.

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

15 BY /s/ PARKER BROOKS
16 PARKER BROOKS
17 Chief Deputy District Attorney
18 Nevada Bar #011927
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26 19BGJ189X/20CR015829/jm/L2
27 LVMPD EV# 200700111103
28 (TK14)



1 **NOTC**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 DAVID STANTON
6 Chief Deputy District Attorney
7 Nevada Bar #3202
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 ANDREW YOUNG,
13 #1211422

14 Defendant.

CASE NO: C-20-350623-1

DEPT NO: VI

15 **STATE'S PROPOSED VOIR DIRE QUESTIONS TO BE ASKED BY THE COURT**

16 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
17 District Attorney, through DAVID STANTON, Chief Deputy District Attorney, and notifies
18 this Court of proposed voir dire questions.

19 Pursuant to this Court's directive and the Eighth Judicial District Court, the State
20 submits the following questions to be asked of the venire by the Court.

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1. This criminal case has an African American defendant charged with various felony offenses. Is there any reason that a prospective juror would have any difficulty being a fair and impartial juror in this case?
2. Would any juror use the ethnic background of the Defendant in considering whether the State has met their burden of proof in this case – either for or against either party?
3. The race/ethnicity of any person(s) involved in this case – the parties; witnesses and the underlying facts should not and cannot have any part of your deliberations in this case. Is the any member of the prospective panel that does not agree with that principle?

DATED this 26th day of April, 2021.

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

BY /s/ DAVID STANTON
DAVID STANTON
Chief Deputy District Attorney
Nevada Bar #3202

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of State's Proposed Voir Dire Questions to Be Asked by The Court, was made this 26th day of April, 2021, by Electronic Filing to:

DAVID FISCHER, ESQ.
info@fischerlawlv.com

/s/ J. MOSLEY
Secretary for the District Attorney's Office

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

APR 27 2021

DISTRICT COURT
CLARK COUNTY, NEVADA

BY, Kristen Brown
KRISTEN BROWN, DEPUTY

State of Nevada
vs
Andrew Young

CASE NO.: C-20-350623-1
DEPARTMENT 6

JURY LIST

- | | |
|---------------------------|--------------------|
| 1. KRYSTI MARS | 8. JOSE ALAMIRANO |
| 2. JEREMY MEADOR | 9. STEVEN DUMOVICH |
| 3. STEPHANIE MCHUGH | 10. TOMMY LIN |
| 4. DION KATSORIS | 11. DAN BILZERIAN |
| 5. URSULA STRATTON | 12. ALEX PERREN |
| 6. ALEX JACOBS | 13. RICHARD STIEVE |
| 7. STEPHANIE SCARPANTONIO | 14. BRITTANY GRIES |

ALTERNATES

SECRET FROM ABOVE

C-20-350623-1
JURL
Jury List
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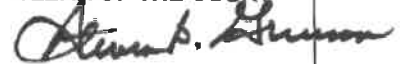
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DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
4/29/2021 3:13 PM
Steven D. Grierson
CLERK OF THE COURT



1 State of Nevada

) Case No.: C350623-1

2

) ORDER TO SHOW CAUSE

3 vs.

) RE: CONTEMPT

4

5 ANDREW YOUNG

) JUROR ID: 104364019

6

) MANUEL M CORTEZ

7

) 5421 DEL REY AVE

8

) LAS VEGAS, NV 89146-1322

9

YOU ARE HEREBY ORDERED TO APPEAR in the above entitled court on the

10

11 19th day of May, 2021, at 11:00 a.m in Department 6 to show cause why you should

12 not be held in contempt of court for your failure to appear for jury service on:

13

Tuesday, April 27, 2021

14

15 YOUR FAILURE TO APPEAR AS ABOVE SET FORTH, AT THE TIME, DATE,

16 AND PLACE THEREOF, WILL CAUSE THE COURT TO ISSUE A BENCH WARRANT

17 FOR YOUR ARREST AND DETENTION IN JAIL UNTIL SUCH TIME AS THE MATTER

18 CAN BE HEARD UNLESS BAIL IS FURNISHED AS PROVIDED IN SUCH WARRANT

19

20

21 Dated this 29th day of April, 2021.

22

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24



JACQUELINE BLUTH

DISTRICT COURT JUDGE DEPT # 6

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1 **NOTC**
2 DAVID R. FISCHER, ESQ.
3 Nevada Bar No. 010348
4 THE LAW OFFICE OF DAVID R. FISCHER
5 400 S. 4th Street, Suite 500
6 Las Vegas, NV 89101
7 (702) 547-3944
8 (702) 974-1458 (Fax)
9 Attorney for Defendant ANDREW YOUNG

**DISTRICT COURT
CLARK COUNTY, NEVADA**

10 THE STATE OF NEVADA,
11
12 Plaintiff,
13
14 vs.
15
16 ANDREW YOUNG,
17
18 Defendant.

CASE NO. C-20-350623-1
DEPT NO. VI

NOTICE OF WITNESSES

NOTICE OF WITNESSES
[NRS 174.234(1)(A)(1)]

TO: STATE OF NEVADA, Plaintiff; and
TO: DISTRICT ATTORNEY, Counsel for Plaintiff

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the Defendant,
ANDREW YOUNG, by and through his counsel of record DAVID R. FISCHER, ESQ., intends
to call the following witnesses in his case-in-chief:

<u>NAME</u>	<u>ADDRESS</u>
DRÉE ANN CELLEMME	11035 LAVENDER HILL DRIVE SUITE 160-147 LAS VEGAS, NV 89135

These witnesses will testify as to facts relevant to this case.

DATED this 29th day of April, 2021.

/s/ David R. Fischer
DAVID R. FISCHER, ESQ.
Nevada Bar No. 010348
Attorney for Defendant

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CERTIFICATE OF SERVICE VIA ELECTRONIC TRANSMISSION

I HEREBY CERTIFY that I am an employee or agent of DAVID R. FISCHER, Esq., and that on the 29th day of April, 2021, I served the foregoing NOTICE OF WITNESSES, through service by electronic filing, to the following person(s), or his/their agent, at the following address(es):

- motions@clarkcountyda.com
- parker.brooks@clarkcountyda.com
- david.stanton@clarkcountyda.com

/s/ David R. Fischer
an employee or agent of David R. Fischer, Esq.

APR 30 2021

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JURL

DISTRICT COURT

BY,

Kristen Brown
KRISTEN BROWN, DEPUTY

CLARK COUNTY, NEVADA

State of Nevada

CASE NO.: C-20-350623-1

Vs

DEPARTMENT 6

Andrew Young

C-20-350623-1
JURL
Jury List
4953134



AMENDED JURY LIST

- | | |
|---------------------------|--------------------|
| 1. KRYSTI MARS | 8. JOSE ALAMIRANO |
| 2. JEREMY MEADOR | 9. STEVEN DUMOVICH |
| 3. STEPHANIE MCHUGH | 10. TOMMY LIN |
| 4. DION KATSORIS | 11. DAN BILZERIAN |
| 5. URSULA STRATTON | 12. ALEX PERREN |
| 6. ALEX JACOBS | |
| 7. STEPHANIE SCARPANTONIO | |

ALTERNATES

- | | |
|-------------------|-------------------|
| 1. RICHARD STIEVE | 2. BRITTANY GRIES |
|-------------------|-------------------|

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DISTRICT COURT
CLARK COUNTY, NEVADA

APR 30 2021 @ 1:35 PM

1 THE STATE OF NEVADA,

2
3 Plaintiff,

BY, Kristen Brown
KRISTEN BROWN, DEPUTY

4 -vs-

CASE NO: C-20-350623-1

5 ANDREW YOUNG,

DEPT NO: VI

6 Defendant.

7
8 **VERDICT**

9 We, the jury in the above entitled case, find the Defendant ANDREW YOUNG, as
10 follows:

11 **COUNT 1 - BURGLARY - RAMPART CASINO**

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

- 13 Guilty of Burglary
- 14 Not Guilty

C-20-350623-1
VER
Verdict
4963138



15
16 **COUNT 2 - LARCENY FROM THE PERSON, VICTIM 60 YEARS OF AGE OR OLDER**
17 - MARY CAMPO

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

- 19 Guilty of Larceny from the Person, Victim 60 Years of Age or Older
- 20 Guilty of Grand Larceny
- 21 Guilty of Petit Larceny
- 22 Not Guilty

23
24 **COUNT 3 - GRAND LARCENY - MARY CAMPO**

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

- 26 Guilty of Grand Larceny
- 27 Guilty of Petit Larceny
- 28 Not Guilty

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FILED IN OPEN COURT
JANUARY 2, 1968
CLERK OF THE COURT

1968

STATE OF MISSISSIPPI

1 **COUNT 4 - BURGLARY - 7-ELEVEN**

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

3 Guilty of Burglary

4 Not Guilty

5
6 **COUNT 5 - FRAUDULENT USE OF CREDIT OR DEBIT CARD**

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

8 Guilty of Fraudulent Use of Credit or Debit Card

9 Not Guilty

10
11 **COUNT 6 - BURGLARY - WALMART - EAST SERENE**

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

13 Guilty of Burglary

14 Not Guilty

15
16 **COUNT 7 - BURGLARY - CAESAR'S PALACE**

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

18 Guilty of Burglary

19 Not Guilty

20
21 **COUNT 8 - LARCENY FROM THE PERSON, VICTIM 60 YEARS OF AGE OR OLDER**

22 - RHONDA KAY HATCHER

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

24 Guilty of Larceny from the Person, Victim 60 Years of Age or Older

25 Guilty of Larceny

26 Not Guilty

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1 **COUNT 9 - BURGLARY – ALBERTSON’S**

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

- 3 Guilty of Burglary
4 Not Guilty

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6 **COUNT 10 - LARCENY FROM THE PERSON, VICTIM 60 YEARS OF AGE OR**
7 **OLDER – JOANNE FRANK**

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

- 9 Guilty of Larceny from the Person, Victim 60 Years of Age or Older
10 Guilty of Larceny
11 Not Guilty

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13 **COUNT 11 - BURGLARY – GAMESTOP – JULY 23rd**

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

- 15 Guilty of Burglary
16 Not Guilty

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18 **COUNT 12 - FRAUDULENT USE OF CREDIT OR DEBIT CARD**

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

- 20 Guilty of Fraudulent Use of Credit or Debit Card
21 Not Guilty

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23 **COUNT 13 - BURGLARY – WALGREENS – JULY 23rd**

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

- 25 Guilty of Burglary
26 Not Guilty

1 **COUNT 14 - FRAUDULENT USE OF CREDIT OR DEBIT CARD**

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

- 3 Guilty of Fraudulent Use of Credit or Debit Card
4 Not Guilty

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6 **COUNT 15 - BURGLARY - FLAMINGO**

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

- 8 Guilty of Burglary
9 Not Guilty

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11 **COUNT 16 - LARCENY FROM THE PERSON, VICTIM 60 YEARS OF AGE OR
12 OLDER - SERRY MELLO**

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

- 14 Guilty of Larceny from the Person, Victim 60 Years of Age or Older
15 Guilty of Larceny
16 Not Guilty

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18 **COUNT 17 - BURGLARY - GAMSESTOP - AUGUST 1st**

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

- 20 Guilty of Burglary
21 Not Guilty

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23 **COUNT 18 - FRAUDULENT USE OF CREDIT OR DEBIT CARD**

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

- 25 Guilty of Fraudulent Use of Credit or Debit Card
26 Not Guilty

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1 **COUNT 19** - BURGLARY – WALGREENS – AUGUST 1st

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

3 Guilty of Burglary

4 Not Guilty

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6 **COUNT 20** - FRAUDULENT USE OF CREDIT OR DEBIT CARD

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

8 Guilty of Fraudulent Use of Credit or Debit Card

9 Not Guilty

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11 **COUNT 21** - BURGLARY – WALMART – BOULDER HIGHWAY

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

13 Guilty of Burglary

14 Not Guilty

15
16 **COUNT 22** - BURGLARY - SUNCOAST

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

18 Guilty of Burglary

19 Not Guilty

20 DATED this 30 day of April, 2021

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24 FOREPERSON

1 INST

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

APR 30 2021 @ 1:35 PM

BY, *Kristen Brown*
KRISTEN BROWN, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,

8 Plaintiff,

9 -vs-

10 ANDREW YOUNG,

11 Defendant.

CASE NO: C-20-350623-1

DEPT NO: VI C-20-350623-1

INST
Instructions to the Jury
4953135



12 INSTRUCTIONS TO THE JURY (INSTRUCTION NO. 1)

13 MEMBERS OF THE JURY:

14 It is now my duty as judge to instruct you on the law that applies to this case. It is
15 your duty as jurors to follow these instructions and to apply the rules of law to the facts as
16 you find them from the evidence.

17 You must not be concerned with the wisdom of any rule of law stated in these
18 instructions. Regardless of any opinion you may have as to what the law ought to be, it
19 would be a violation of your oath to base a verdict upon any other view of the law than that
20 given in the instructions of the Court.
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If, in these instructions, any rule, direction or idea is repeated or stated in different ways, no emphasis thereon is intended by me and none may be inferred by you. For that reason, you are not to single out any certain sentence or any individual point or instruction and ignore the others, but you are to consider all the instructions as a whole and regard each in the light of all the others.

The order in which the instructions are given has no significance as to their relative importance.

1
2 An Indictment is but a formal method of accusing a person of a crime and is not of
3 itself any evidence of his guilt.

4 In this case, it is charged in an Amended Superseding Indictment that on or between
5 the 29th day of June, 2020 and the 9th day of August, 2020, the Defendant committed the
6 offense(s) of BURGLARY, LARCENY FROM THE PERSON, VICTIM OVER 60 YEARS
7 OF AGE, GRAND LARCENY, and FRAUDULENT USE OF CREDIT CARD OR DEBIT
8 CARD.

9 It is the duty of the jury to apply the rules of law contained in these instructions to the
10 facts of the case and determine whether or not the Defendant is guilty of one or more of the
11 offense(s) charged.

12 COUNT 1 – BURGLARY

13 did on or about June 29, 2020 willfully, unlawfully, and feloniously enter RAMPART
14 HOTEL AND CASINO, located at 221 N. Rampart Blvd., Clark County, Nevada, with
15 intent to commit grand or petit larceny, and/or a felony.

16 COUNT 2 - LARCENY FROM THE PERSON, VICTIM 60 YEARS OF AGE OR
17 OLDER

18 did on or about June 29, 2020 then and there willfully, unlawfully, and feloniously,
19 under circumstances not amounting to robbery, with intent to steal or appropriate to his own
20 use, take from the person of another, to wit: MARY CAMPO, a person 60 years of age or
21 older, without her consent, personal property, to wit: a wallet and contents.

22 COUNT 3 - GRAND LARCENY

23 did on or about June 29, 2020 then and there willfully, unlawfully, feloniously, and
24 intentionally, with intent to deprive the owner permanently thereof, steal, take and carry
25 away lawful money of the United States in an amount of \$650.00, or greater, to wit: \$1,400
26 United State Currency, owned by another person, to wit: MARY CAMPO.

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1 COUNT 4 - BURGLARY

2 did on or about June 29, 2020 willfully, unlawfully, and feloniously enter 7-11,
3 located at 5110 S. Maryland Parkway, Clark County, Nevada, with intent to commit grand or
4 petit larceny, and/or a felony.

5 COUNT 5 - FRAUDULENT USE OF CREDIT OR DEBIT CARD

6 did on or about June 29, 2020 then and there willfully, unlawfully, feloniously, and
7 with intent to defraud, use a Bank of America card ending in 1020, issued in the name of
8 MARY CAMPO, the Defendant presenting the said debit or credit card to 7-11, located at
9 5110 S. Maryland Parkway, Clark County, Nevada, to obtain money, goods, property,
10 services or anything of value, to wit: cigarettes, the Defendant not being the cardholder, nor
11 being authorized by the cardholder to use said card or card number.

12 COUNT 6 - BURGLARY

13 did on or about July 8, 2020 willfully and feloniously unlawfully enter or unlawfully
14 remain in a business structure, owned or occupied by WAL-MART, located at 2310 E.
15 Serene, Clark County, Nevada, with the intent to commit grand or petit larceny, and/or a
16 felony.

17 COUNT 7 - BURGLARY

18 did on or about July 8, 2020 willfully and feloniously unlawfully enter or unlawfully
19 remain in a business structure, owned or occupied by CAESAR'S PALACE, located at 3570
20 S. Las Vegas Blvd., Clark County, Nevada, with the intent to commit grand or petit larceny,
21 and/or a felony.

22 COUNT 8 - LARCENY FROM THE PERSON, VICTIM 60 YEARS OF AGE OR
23 OLDER

24 did on or about July 8, 2020 then and there willfully, unlawfully, and feloniously,
25 under circumstances not amounting to robbery, with intent to steal or appropriate to his own
26 use, take from the person of another, to wit: RHONDA KAY HATCHER, a person 60 years
27 of age or older, without her consent, personal property, to wit: a wallet and contents.

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1 COUNT 9 - BURGLARY

2 did on or about July 22, 2020 willfully and feloniously unlawfully enter or unlawfully
3 remain in a business structure, owned or occupied by ALBERTSON'S, located at 1001 S.
4 Rainbow Boulevard, Clark County, Nevada, with the intent to commit grand or petit larceny,
5 and/or a felony.

6 COUNT 10 - LARCENY FROM THE PERSON, VICTIM 60 YEARS OF AGE OR
7 OLDER

8 did on or about July 22, 2020 then and there willfully, unlawfully, and feloniously,
9 under circumstances not amounting to robbery, with intent to steal or appropriate to her own
10 use, take from the person of another, to wit: JOANNE FRANK, a person 60 years of age or
11 older, without her consent, personal property, to wit: a wallet and contents and/or did
12 conspire and/or aid and abet another individual in committing the larceny from JOANNE
13 FRANK.

14 COUNT 11 - BURGLARY

15 did on or about July 23, 2020 willfully and feloniously unlawfully enter or unlawfully
16 remain in a business structure, owned or occupied by GAMESTOP, located at 5060 Boulder
17 Highway, Clark County, Nevada, with the intent to commit grand or petit larceny, and/or a
18 felony.

19 COUNT 12 - FRAUDULENT USE OF CREDIT OR DEBIT CARD

20 did on or about July 23, 2020 then and there willfully, unlawfully, feloniously, and
21 with intent to defraud, use a Visa card ending in 4527, issued in the name of BARBARA
22 BOWEN, the Defendant presenting the said debit or credit card to GAMESTOP, located at
23 5060 Boulder Highway, Clark County, Nevada, to obtain money, goods, property, services
24 or anything of value, to wit: gift card, the Defendant not being the cardholder, nor being
25 authorized by the cardholder to use said card or card number.

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1 COUNT 13 - BURGLARY

2 did on or about July 23, 2020 willfully and feloniously unlawfully enter or unlawfully
3 remain in a business structure, owned or occupied by WALGREENS, located at 4895
4 Boulder Highway, Clark County, Nevada, with the intent to commit grand or petit larceny
5 and/or a felony.

6 COUNT 14 - FRAUDULENT USE OF CREDIT OR DEBIT CARD

7 did on or about July 23, 2020 then and there willfully, unlawfully, feloniously, and
8 with intent to defraud, use a Visa card ending in 4527, issued in the name of BARBARA
9 BOWEN, the Defendant presenting the said debit or credit card to WALGREENS, located at
10 4895 Boulder Highway, Clark County, Nevada, to obtain money, goods, property, services
11 or anything of value, to wit: gift card, the Defendant not being the cardholder, nor being
12 authorized by the cardholder to use said card or card number.

13 COUNT 15 - BURGLARY

14 did on or about July 29, 2020 willfully and feloniously unlawfully enter or unlawfully
15 remain in a business structure, owned or occupied by FLAMINGO HOTEL AND CASINO,
16 located at 3555 Flamingo Road, Clark County, Nevada, with the intent to commit grand or
17 petit larceny and/or a felony.

18 COUNT 16 - LARCENY FROM THE PERSON, VICTIM 60 YEARS OF AGE OR
19 OLDER

20 did or or about July 29, 2020 willfully, unlawfully, and feloniously, under
21 circumstances not amounting to robbery, with intent to steal or appropriate to his own use,
22 take from the person of another, to wit: SERRY MELLO, a person 60 years of age or older,
23 without his consent, personal property, to wit: wallet and contents.

24 COUNT 17 - BURGLARY

25 did on or about August 1, 2020 willfully and feloniously unlawfully enter or
26 unlawfully remain in a business structure, owned or occupied by GAMESTOP, located at
27 5060 Boulder Highway, Clark County, Nevada, with the intent to commit grand or petit
28 larceny and/or a felony.

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1 COUNT 18 - FRAUDULENT USE OF CREDIT OR DEBIT CARD

2 did on or about August 1, 2020, then and there willfully, unlawfully, feloniously, and
3 with intent to defraud, use a credit card, issued in the name of MONTHO BOONE, the
4 Defendant presenting the said debit or credit card to GAMESTOP, located at 5060 Boulder
5 Highway, Las Vegas, Clark County, Nevada, to obtain money, goods, property, services or
6 anything of value, to wit: by attempting to make purchases with credit card, the Defendant
7 not being the cardholder, nor being authorized by the cardholder to use said card or card
8 number.

9 COUNT 19 - BURGLARY

10 did on or about August 1, 2020 willfully and feloniously unlawfully enter or
11 unlawfully remain in a business structure, owned or occupied by WALGREENS, located at
12 4895 Boulder Highway, Clark County, Nevada, with the intent to commit grand or petit
13 larceny, and/or a felony.

14 COUNT 20 - FRAUDULENT USE OF CREDIT OR DEBIT CARD

15 did on or about August 1, 2020, then and there willfully, unlawfully, feloniously, and
16 with intent to defraud, use a credit card, issued in the name of MONTHO BOONE, the
17 Defendant presenting the said debit or credit card to WALGREENS, located at 4895 Boulder
18 Highway, Las Vegas, Clark County, Nevada, to obtain money, goods, property, services or
19 anything of value, to wit: by attempting to make purchases with credit card, the Defendant
20 not being the cardholder, nor being authorized by the cardholder to use said card or card
21 number.

22 COUNT 21 - BURGLARY

23 did on or about August 7, 2020 willfully and feloniously unlawfully enter or
24 unlawfully remain in a business structure, owned or occupied by WALMART, located at
25 5198 Boulder Highway, Clark County, Nevada, with the intent to commit grand or petit
26 larceny, and/or a felony.

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1 COUNT 22 - BURGLARY

2 did on or about August 9, 2020 willfully and feloniously unlawfully enter or
3 unlawfully remain in a business structure, owned or occupied by SUNCOAST HOTEL AND
4 CASINO, located at 9090 Alta Drive, Clark County, Nevada, with the intent to commit
5 grand or petit larceny, and/or a felony.

6 It is the duty of the jury to apply the rules of law contained in these instructions to the
7 facts of the case and determine whether or not the Defendant is guilty of one or more of the
8 offenses charged.

9 Each charge and the evidence pertaining to it should be considered separately. The
10 fact that you may find a defendant guilty or not as to one of the offenses charged should not
11 control your verdict as to any other offense charged.

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2 Every person who enters any business structure with the intent to commit grand or
3 petit larceny, fraudulent use of a credit card or any felony therein is guilty of Burglary.
4 "Business structure" means any structure or building the primary purpose of which is to
5 carry on any lawful effort for a business.

6 The intention with which entry was made is a question of fact which may be inferred
7 from the Defendant's conduct and all other circumstances disclosed by the evidence.

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INSTRUCTION NO. 5

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2 It is not necessary that the State prove the defendant actually committed larceny
3 and/or fraudulent use of debit/credit card inside after he entered in order for you to find the
4 defendant guilty of Burglary. The gist of the crime of Burglary is the unlawful entry with
5 criminal intent. Therefore, a Burglary was committed if the defendant entered with the intent
6 to commit larceny and/or fraudulent use of debit/credit card regardless of whether or not that
7 crime occurred.

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INSTRUCTION NO. 6

A person, with the intent to defraud, uses a credit or debit card to obtain money, goods, property, services or anything of value without the consent of the cardholder is guilty of Fraudulent Use of a Credit Card.

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INSTRUCTION NO. 7

1
2 Any person who steals, takes and carries away, leads away or drives away personal
3 goods or property of another, having a value of \$650 or more, with the specific intent to
4 permanently deprive the owner thereof is guilty of Grand Larceny.

5 If the value is less than \$650.00, the individual is guilty of Petit Larceny.
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The crime of larceny does not become one of attempted larceny simply because the perpetrator fails to complete the act and leave the store premises. The crime of larceny is complete when the property is taken from the owner and carried any distance with the intent to permanently deprive the owner thereof.

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Every person who, with intent to steal or appropriate to his own use, takes from the person of another, without his consent, any money, property or thing of value is guilty of Larceny from the Person.

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Property is deemed taken "from the person" of the victim if the property was within the victim's reach, inspection, observation, disposition or control,

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2 The term "taking" as that term is used as an element of the crime of larceny means
3 that the personal goods or property of another are taken from the possession of the person
4 who is entitled to them and into the possession of the person accused of the crime.

5 The term "carrying away" as that term is used as an element of the crime of larceny
6 means that the taking is followed by an asportation or carrying away of the property so as to
7 supersede the possession of the owner.

8 The "taking" element is separate and distinct, and a "taking" which is not followed by
9 a carrying away or asportation cannot itself support a larceny conviction.

10 In order to constitute an asportation or carrying away, it is not necessary that personal
11 property be removed from the building in which it is located, but any removal of the property
12 from its original status, such as would constitute a complete severance from the possession
13 of the owner, constitutes an asportation or carrying away, even though the transfer of
14 possession existed for a very brief period of time. What constitutes sufficient asportation to
15 support a conviction for larceny is a question of fact for the jury.

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If you find the Defendant guilty of Larceny from the Person, you must also determine the age of the victim at the time of the offense.

If you find beyond a reasonable doubt that the victim was 60 years of age or older, then you are instructed that the verdict of Larceny from the Person Victim 60 Years of Age or older is the appropriate verdict.

If you find beyond a reasonable doubt that the Defendant committed the crime of Larceny from the Person but that the victim was not 60 years of age or older, you are instructed that the verdict Larceny from the Person is the appropriate verdict.

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2 When a person is accused of committing a particular crime and at the same time and
3 by the same conduct may have committed another offense of lesser grade or degree, the latter
4 is with respect to the former, a lesser offense.

5 If you are not satisfied beyond a reasonable doubt that the defendant is guilty of the
6 offense charged, he may, however, be found guilty of any lesser offense if the evidence is
7 sufficient to establish his guilt of such lesser offense beyond a reasonable doubt.

8 The offense of Grand Larceny necessarily includes the lesser offense of Petit Larceny.

9 If you find the defendant guilty of Grand Larceny you shall select Grand Larceny as
10 your verdict.

11 The crime of Grand Larceny may include the crime of Petit Larceny.

12 You shall find the defendant guilty of Petit Larceny if:

- 13 1. Some of you are not convinced beyond a reasonable doubt that the defendant is guilty
14 of Grand Larceny and
- 15 2. All twelve of you are convinced beyond a reasonable doubt the defendant is guilty of
16 the crime of Petit Larceny.

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When a person is accused of committing a particular crime and at the same time and by the same conduct may have committed another offense of lesser grade or degree, the latter is with respect to the former, a lesser offense.

If you are not satisfied beyond a reasonable doubt that the defendant is guilty of the offense charged, he may, however, be found guilty of any lesser offense if the evidence is sufficient to establish his guilt of such lesser offense beyond a reasonable doubt.

The offense of Larceny from a Person necessarily includes the lesser offense of Larceny.

If you find the defendant guilty of Larceny from the Person you shall select Larceny from the Person as your verdict.

The crime of Larceny from the Person may include the crime of Larceny.

You shall find the defendant guilty of Larceny if:

1. Some of you are not convinced beyond a reasonable doubt that the defendant is guilty of Larceny from the Person, and
2. All twelve of you are convinced beyond a reasonable doubt the defendant is guilty of the crime of Larceny.

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Conspiracy is an agreement or mutual understanding between two or more persons to commit a crime. To be guilty of conspiracy, a defendant must intend to commit, or to aid in the commission of, the specific crime agreed to. The crime is the agreement to do something unlawful; it does not matter whether it was successful or not.

It is not necessary in proving a conspiracy to show a meeting of the alleged conspirators or the making of an express or formal agreement. The formation and existence of a conspiracy may be inferred from all circumstances tending to show the common intent and may be proved in the same way as any other fact may be proved, either by direct testimony of the fact or by circumstantial evidence, or by both direct and circumstantial evidence.

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Where two or more persons commit a crime together, their guilt may be established without proof that each personally did every act constituting the offense charged.

All persons concerned in the commission of a crime who either directly and actively commit the act constituting the offense or who knowingly and with criminal intent aid and abet in its commission or, whether present or not, who advise and encourage its commission, with the intent that the crime be committed, are regarded by the law as principals in the crime thus committed and are equally guilty thereof.

A person aids and abets the commission of a crime if he knowingly and with criminal intent aids, promotes, encourages or instigates by act or advice, the commission of such crime with the intention that the crime be committed.

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2 Mere presence at the scene of a crime or knowledge that a crime is being committed is
3 not sufficient to establish that a defendant is guilty of an offense, unless you find beyond
4 reasonable doubt that the defendant was a participant and not merely a knowing spectator.

5 However, the presence of a person at the scene of a crime and companionship with
6 another person engaged in the commission of the crime and a course of conduct before and
7 after the offense are circumstances which may be considered in determining whether such
8 person aided and abetted the commission of that crime.

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To constitute the crime charged, there must exist a union or joint operation of an act forbidden by law and an intent to do the act.

The intent with which an act is done is shown by the facts and circumstances surrounding the case.

Do not confuse intent with motive. Motive is what prompts a person to act. Intent refers only to the state of mind with which the act is done.

Motive is not an element of the crime charged and the State is not required to prove a motive on the part of the Defendant in order to convict. However, you may consider evidence of motive or lack of motive as a circumstance in the case.

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2 The evidence which you are to consider in this case consists of the testimony of the
3 witnesses, the exhibits, and any facts admitted or agreed to by counsel.

4 There are two types of evidence; direct and circumstantial. Direct evidence is the
5 testimony of a person who claims to have personal knowledge of the commission of the
6 crime which has been charged, such as an eyewitness. Circumstantial evidence is the proof
7 of a chain of facts and circumstances which tend to show whether the Defendant is guilty or
8 not guilty. The law makes no distinction between the weight to be given either direct or
9 circumstantial evidence. Therefore, all of the evidence in the case, including the
10 circumstantial evidence, should be considered by you in arriving at your verdict.

11 Statements, arguments and opinions of counsel are not evidence in the case.
12 However, if the attorneys stipulate to the existence of a fact, you must accept the stipulation
13 as evidence and regard that fact as proved.

14 You must not speculate to be true any insinuations suggested by a question asked a
15 witness. A question is not evidence and may be considered only as it supplies meaning to
16 the answer.

17 You must disregard any evidence to which an objection was sustained by the court
18 and any evidence ordered stricken by the court.

19 Anything you may have seen or heard outside the courtroom is not evidence and must
20 also be disregarded.

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The credibility or believability of a witness should be determined by his/her manner upon the stand, his/her relationship to the parties, his/her fears, motives, interests or feelings, his/her opportunity to have observed the matter to which he/she testified, the reasonableness of his/her statements and the strength or weakness of his/her recollections.

If you believe that a witness has lied about any material fact in the case, you may disregard the entire testimony of that witness or any portion of his/her testimony which is not proved by other evidence.

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A witness who has special knowledge, skill, experience, training or education in a particular science, profession or occupation is an expert witness. An expert witness may give his opinion as to any matter in which he is skilled.

You should consider such expert opinion and weigh the reasons, if any, given for it. You are not bound, however, by such an opinion. Give it the weight to which you deem it entitled, whether that be great or slight, and you may reject it, if, in your judgment, the reasons given for it are unsound.

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2 The Defendant is presumed innocent until the contrary is proved. This presumption
3 places upon the State the burden of proving beyond a reasonable doubt every element of the
4 crime charged and that the Defendant is the person who committed the offense.

5 A reasonable doubt is one based on reason. It is not mere possible doubt but is such a
6 doubt as would govern or control a person in the more weighty affairs of life. If the minds of
7 the jurors, after the entire comparison and consideration of all the evidence, are in such a
8 condition that they can say they feel an abiding conviction of the truth of the charge, there is
9 not a reasonable doubt. Doubt to be reasonable must be actual, not mere possibility or
10 speculation.

11 If you have a reasonable doubt as to the guilt of the Defendant, he is entitled to a
12 verdict of not guilty.

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You are here to determine the guilt or innocence of the Defendant from the evidence in the case. You are not called upon to return a verdict as to the guilt or innocence of any other person. So, if the evidence in the case convinces you beyond a reasonable doubt of the guilt of the Defendant, you should so find, even though you may believe one or more persons are also guilty.

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Although you are to consider only the evidence in the case in reaching a verdict, you must bring to the consideration of the evidence your everyday common sense and judgment as reasonable men and women. Thus, you are not limited solely to what you see and hear as the witnesses testify. You may draw reasonable inferences from the evidence which you feel are justified in the light of common experience, keeping in mind that such inferences should not be based on speculation or guess.

A verdict may never be influenced by sympathy, prejudice or public opinion. Your decision should be the product of sincere judgment and sound discretion in accordance with these rules of law.

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It is a constitutional right of a defendant in a criminal trial that he may not be compelled to testify. You must not draw any inference of guilt from the fact that he does not testify, nor should this fact be discussed by you or enter into your deliberations in any way.

In your deliberation you may not discuss or consider the subject of punishment, as that is a matter which lies solely with the court. Your duty is confined to the determination of the guilt or innocence of the Defendant.

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During the course of this trial, and your deliberations, you are not to:

- (1) communicate with anyone in any way regarding this case or its merits-either by phone, text, Internet, or other means;
- (2) read, watch, or listen to any news or media accounts or commentary about the case;
- (3) do any research, such as consulting dictionaries, using the Internet, or using reference materials;
- (4) make any investigation, test a theory of the case, re-create any aspect of the case, or in any other way investigate or learn about the case on your own.

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When you retire to consider your verdict, you must select one of your member to act as foreperson who will preside over your deliberation and will be your spokesperson here in court.

During your deliberation, you will have all the exhibits which were admitted into evidence, these written instructions and forms of verdict which have been prepared for your convenience.


Your verdict must be unanimous. As soon as you have agreed upon a verdict, have it signed and dated by your foreperson and then return with it to this room.

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If, during your deliberation, you should desire to be further informed on any point of law or hear again portions of the testimony, you must reduce your request to writing signed by the foreperson. The officer will then return you to court where the information sought will be given you in the presence of, and after notice to, the district attorney and the Defendant and his counsel.

Playbacks of testimony are time-consuming and are not encouraged unless you deem it a necessity. Should you require a playback, you must carefully describe the testimony to be played back so that the court recorder can arrange her notes. Remember, the court is not at liberty to supplement the evidence.

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2 Now you will listen to the arguments of counsel who will endeavor to aid you to reach
3 a proper verdict by refreshing in your minds the evidence and by showing the application
4 thereof to the law; but, whatever counsel may say, you will bear in mind that it is your duty
5 to be governed in your deliberation by the evidence as you understand it and remember it to
6 be and by the law as given to you in these instructions, with the sole, fixed and steadfast
7 purpose of doing equal and exact justice between the Defendant and the State of Nevada.

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9 GIVEN: 
10 DISTRICT JUDGE

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IN THE SUPREME COURT OF THE STATE OF NEVADA

ANDREW YOUNG,) NO. 83243
)
 Appellant,)
)
 vs.)
)
 THE STATE OF NEVADA,)
)
 Respondent.)

APPELLANT'S APPENDIX

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CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 8th day of March, 2022.

