

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

2
3 JUSTIN JUG CAPRI PORTER,

) No. 54866

Electronically Filed
Apr 21 2010 09:08 a.m.
Tracie K. Lindeman

4 Appellant,

5 v.

6 THE STATE OF NEVADA,

7 Respondent.

8
9
10 **APPELLANT'S APPENDIX – VOLUME V – PAGES 985-1145**

11 PHILIP J. KOHN
12 Clark County Public Defender
13 309 South Third Street
Las Vegas, Nevada 89155-2610

DAVID ROGER
Clark County District Attorney
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89155

14 Attorney for Appellant

CATHERINE CORTEZ MASTO
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(702) 687-3538

Counsel for Respondent

INDEX
JUSTIN PORTER
Case No. 54866

PAGE NO.

Amended Criminal Complaint filed 08/22/00.....	009-024
Amended Information filed 05/02/01.....	233-249
Criminal Complaint filed 08/15/00.....	001-008
Defendant Justin Porter's Reply To State's Written Argument Regarding Defendant's <u>Jackson v. Denno</u> Hearing filed 10/09/06.....	751-762
Defendant's Motion To Strike State's Notice of Intent To Seek Death Penalty filed 03/10/05.....	559-618
Defendant's Written Argument Regarding the Preliminary Hearing Received in JC 02/28/01.....	025-095
Defendant's Written Argument Regarding the Preliminary Hearing filed 02/27/01.....	104-175
District Court Minutes through 10/14/09.....	1055-1104
Ex Parte Order for Transcript filed 01/26/09.....	979-980
Ex Parte Order for Transport filed 08/02/07.....	765-766
Ex Parte Order for Transport filed 12/10/07.....	863-865
Ex Parte Order for Transport filed 06/23/08.....	962
Expedited Order for Transcript filed 06/25/08.....	963
Information filed 04/26/01.....	216-232
Instructions to the Jury filed 05/08/09.....	1012-1048
Judgment of Conviction filed 10/13/09.....	1051-1052
Justice Court Minutes through 04/18/01.....	096-103
Justin Porter's Motion to Remand The Case To Juvenile Court and Conduct a Hearing As To Whether He Should Be Certified as an Adult Filed 09/26/02, Date of Hrg: 10/14/02.....	369-385

1	Justin Porter's Motion to Remand The Case	
2	To Juvenile Court and Conduct a Hearing	
3	As To Whether He Should be Certified As An Adult,	
4	Filed 06/05/08, Date of Hrg: 06/16/08.....	882-894
5	Motion for Jury Questionnaire, Filed 04/14/09	
6	Date of Hrg: 04/27/09.....	985-1009
7	Motion In Limine To Prohibit the State From Referring	
8	To The Decedent, Gyaltsso Lungtok, As A Former "Monk",	
9	Filed 04/13/09, Date of Hrg: 04/27/09.....	981-984
10	Motion to Dismiss Notice of Intent to Seek Death	
11	Penalty For Violation of International Treaty and	
12	Customary Law, Filed 10/10/02, Date of Hrg: 10/21/02....	426-439
13	Motion to Sever Counts XXX, XXXI, XXXII Charging	
14	Murder and Related Crimes Against Gyaltsso Lungtok,	
15	From The Remaining Counts in the Second Amended	
16	Information filed 05/15/08, Date of Hrg: 05/28/08.....	868-881
17	Motion to Suppress Defendant's Confessions	
18	And Admissions to Metro and Chicago Detectives	
19	Based on Violation of His Miranda Rights and	
20	Involuntariness and Request for <u>Jackson v. Denno</u> ,	
21	Hearing, filed 09/26/02, Date of Hrg: 10/14/02.....	386-425
22	Notice of Appeal filed 10/29/09.....	1053-1054
23	Notice of Department Reassignment filed 03/09/06.....	677
24	Notice of Department Reassignment filed 01/12/07.....	763
25	Notice of Department Reassignment filed 01/22/07.....	764
26	Notice of Intent to Seek Death Penalty	
27	Filed 08/03/01.....	334-336
28	Notice to Place on Calendar filed 03/28/01.....	176
	Notice of Witnesses and/or Expert Witnesses	
	Filed 08/20/07.....	767-862
	Order filed 09/25/01.....	353-354
	Order filed 05/07/08.....	866-867
	Order (For Psychiatric Examination) filed 02/05/04.....	555-558

1		
2	Order Denying Defendant's Motion to Dismiss Notice of	
3	Intent to Seek Death Penalty for Violation of	
4	International Treaty and Customary Law, filed 01/02/03..	553-554
5	Order Denying Defendant's Motion to Remand to	
6	Juvenile Court filed 11/06/08.....	977-978
7	Order Granting Defendant's Motion to Sever Counts	
8	XXX, XXXI, XXXII, Charging Murder and Related Crimes	
9	Against Gyaltsso Lungtok, From the Remaining Counts	
10	In the Second Amended Information filed 07/03/08.....	975-976
11	Order to Transport filed 01/03/02.....	366
12	Order to Transport filed 07/25/02.....	367
13	Order to Transport filed 07/30/02.....	368
14	Petition for Writ of Habeas Corpus filed 07/03/01.....	250-283
15	Reply Brief filed 09/19/01.....	337-352
16	Return to Writ of Habeas Corpus filed 07/31/01.....	285-333
17	Second Amended Information filed 10/11/01.....	355-365
18	State's Opposition to Defendant's Motion to Dismiss	
19	Notice of Intent to Seek Death Penalty for Violation	
20	Of International Treaty and Customary Law, Filed 11/19/02,	
21	Date of Hrg: 11/26/02.....	440-468
22	State's Opposition to Defendant's Motion to Remand	
23	The Case To Juvenile Court And Conduct a Hearing As To	
24	Whether He Should Be Certified As An Adult, Filed 11/19/02	
25	Date of Hrg: 11/26/02.....	469-505
26	State's Opposition to Justin Porter's Motion to Remand	
27	Case to Juvenile Court to Conduct a Hearing As To	
28	Whether He Should be Certified as an Adult, filed 06/12/08	
	Date of Hrg: 06/16/08.....	926-961
	State's Opposition to Defendant's Motion to Sever	
	Counts XXX, XXXI, XXXII, Charging Murder and Related	
	Crimes Against Gyaltsso Lungtok, From The Remaining Counts	
	In the Second Amended Information, Filed 06/12/08	
	Date of Hrg: 06/18/08.....	895-925

1	State's Opposition To Defendant's Motion to Suppress	
2	Defendant's Confessions and Admissions to Metro and	
3	Chicago Detectives Based on Violation of his Miranda	
4	Rights and Involuntariness and Request for <u>Jackson v. Denno</u> ,	
5	Hearing, filed 12/02/02, Date of Hrg: 12/17/02.....	506-552
6	State's Response to Defendant's Written Argument	
7	Regarding the Preliminary Hearing filed 04/06/01.....	177-215
8	State's Written Argument Regarding Defendant's	
9	<u>Jackson v. Denno</u> Hearing filed 08/18/06.....	678-750
10	Third Amended Information filed 04/30/09.....	1010-1011
11	Verdict filed 05/08/09.....	1049-1050
12	Writ of Habeas Corpus filed 07/13/01.....	284
13	Written Argument Regarding Defendant Justin Porter's	
14	<u>Jackson v. Denno</u> Hearing filed 08/24/05.....	619-676

TRANSCRIPTS

15	Jury Trial - Day 1, Monday, May 4, 2009	
16	Filed 01/27/10.....	1635a-1862
17	Jury Trial - Day 2, Tuesday, May 5, 2009	
18	Filed 01/27/10.....	1863-2203
19	Jury Trial - Day 3, Wednesday, May 6, 2009	
20	Filed 01/27/10.....	2204-2450
21	Jury Trial - Day 4, Thursday, May 7, 2009	
22	Filed 01/27/10.....	2451-2646
23	Jury Trial - Day 5, Friday, May 8, 2009	
24	Filed 01/27/10.....	2647-2708
25	Reporter's Transcript, Filed 12/11/09	
26	Date of Hrg: 08/23/06.....	1519-1524
27	Reporter's Transcript, Filed 12/07/06	
28	Date of Hrg: 11/15/06.....	1529-1602

1	Reporter's Transcript, Filed 01/09/07	
2	Date of Hrg: 12/19/06.....	1603-1611
3	Reporter's Transcript of Arraignment, Filed 05/21/01	
4	Date of Hrg: 05/02/01.....	1105-1111
5	Reporter's Transcript of Continuance, Filed 07/18/03	
6	Date of Hrg: 07/14/03.....	1135-1139
7	Reporter's Transcript of Defendant's Motion To	
8	Remand Case to Juvenile Court/Calendar Call	
9	Filed 12/07/09, Date of Hrg: 06/23/08.....	1628-1631
10	Reporter's Transcript of Defendant's Motion To	
11	Remand Case To Juvenile Court/Defendant's Motion	
12	To Sever Courts XXX, XXXI, and XXXII, Filed 07/01/08,	
13	Date of Hrg: 06/18/08.....	964-974
14	Reporter's Transcript of Evidentiary Hearing	
15	Filed 03/09/04, Date of Hrg: 03/08/04.....	1146-1384
16	Reporter's Transcript of Evidentiary Hearing	
17	Filed 02/09/05, Date of Hrg: 02/08/05.....	1398-1443
18	Reporter's Transcript of Evidentiary Hearing	
19	Filed 02/10/05, Date of Hrg: 02/09/05.....	1444-1492
20	Reporter's Transcript of Hearing	
21	Filed 08/31/04, Date of Hrg: 08/19/04.....	1390-1396
22	Reporter's Transcript of Hearing	
23	Filed 12/15/09, Date of Hrg: 03/24/05.....	1493-1494
24	Reporter's Transcript of Hearing	
25	Filed 12/15/09, Date of Hrg: 12/09/05.....	1495-1497
26	Reporter's Transcript of Hearing	
27	Filed 12/15/09, Date of Hrg: 01/03/06.....	1498-1502
28	Reporter's Transcript of Hearing	
	Defendant's Various Motions, Filed 03/05/03	
	Date of Hrg: 11/25/02.....	1118-1122
	Reporter's Transcript of Hearing In Re:	
	Petition for Writ of Habeas Corpus (Murder)	
	Filed 09/17/01, Date of Hrg: 09/06/01.....	1112-1116

1	Reporter's Transcript of Hearing Scheduled	
2	Evidentiary Hearing, Filed 09/30/03	
3	Date of Hrg: 09/15/03.....	1140-1145
4	Reporter's Transcript of Hearing Various	
5	Defense Motions (Murder With Use of a Deadly Weapon)	
6	Filed 11/21/02, Date of Hrg: 10/14/02.....	1129-1134
7	Reporter's Transcript of Hearing Various Motions	
8	Filed 03/31/04, Date of Hrg: 03/17/04.....	1385-1389
9	Reporter's Transcript of Proceedings	
10	Filed 12/22/09, Date of Hrg: 04/10/06.....	1503-1509
11	Reporter's Transcript of Proceedings	
12	Filed 12/22/09, Date of Hrg: 04/24/06.....	1510-1512
13	Reporter's Transcript of Proceedings	
14	Filed 12/22/09, Date of Hrg: 05/01/06.....	1513-1514
15	Reporter's Transcript of Proceedings	
16	Filed 12/22/09, Date of Hrg: 06/19/06.....	1515-1518
17	Reporter's Transcript of Proceedings	
18	Filed 12/22/09, Date of Hrg: 08/30/06.....	1525-1528
19	Reporter's Transcript of Proceedings	
20	Filed 12/22/09, Date of Hrg: 01/03/07.....	1616-1618
21	Reporter's Transcript of Proceedings	
22	Filed 12/22/09, Date of Hrg: 01/10/07.....	1619-1621
23	Reporter's Transcript of Setting of Motions	
24	Filed 12/18/02, Date of Hrg: 12/17/02.....	1123-1128
25	Reporter's Transcript of Status Check:	
26	Negotiations, Filed 12/07/09	
27	Date of Hrg: 09/19/07.....	1622-1627
28	Reporter's Transcripts of Status Check:	
	Status of Case, Filed 12/07/09	
	Date of Hrg: 01/31/07.....	1612-1615
	Reporter's Transcript of Status Check:	
	Trial Setting for Severed Counts/Deft's	
	Motion to Remand Case to Juvenile Court/	
	Calendar Call, Filed 12/07/09	
	Date of Hrg: 06/25/08.....	1632-1635

1 Transcript of Proceedings, Sentencing
2 Filed 12/29/09, Date of Hrg: 09/30/09..... 2709-2715

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Pages 985-1009

Intentionally

Left

Blank


CLERK OF THE COURT

1 **AINF**
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 LISA LUZAICH
6 Chief Deputy District Attorney
7 Nevada Bar #005056
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

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

Defendant.

Case No. C174954
Dept No. VI

THIRD AMENDED
INFORMATION

STATE OF NEVADA }
COUNTY OF CLARK } ss:

DAVID ROGER, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That JUSTIN D. PORTER, aka Jug Capri Porter, the Defendant(s) above named, having committed the crimes of **BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Felony - NRS 205.060, 193.165); ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON (Felony - NRS 193.330, 200.380, 193.165) and MURDER WITH USE OF A DEADLY WEAPON (OPEN MURDER) (Felony - NRS 200.010, 200.030, 193.165)**, on or about the 8th day of June, 2000, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

//

1 COUNT 1 – BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

2 did then and there wilfully, unlawfully, and feloniously enter, while in possession of a
3 deadly weapon, to-wit: a gun, with intent to commit larceny, and/or robbery and/or any
4 other felony, that certain building occupied by GYALTSO LUNGTOK, located at 415 South
5 10th Street, Apartment No. H therein, Las Vegas, Nevada, Clark County, Nevada.

6 COUNT 2 – ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

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

13 COUNT 3 – MURDER WITH USE OF A DEADLY WEAPON (OPEN MURDER)

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

22 DAVID ROGER
23 DISTRICT ATTORNEY
24 Nevada Bar #002781

25 BY /s//LISA LUZAICH
26 LISA LUZAICH
27 Chief Deputy District Attorney
28 Nevada Bar #005056

27 DA#00F13901X/mmw/SVU
28 LVMPD EV#0006101143
(TK6)

1 INST

FILED IN OPEN COURT
MAY - 8 2009 4:00 PM
EDWARD A. FRIEDLAND
CLERK OF THE COURT
BY Keith Reed DEPUTY
KEITH REED

2
3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8 THE STATE OF NEVADA,)

9 Plaintiff,)

10 -vs-)

11 JUSTIN D. PORTER,)

12 Defendant.)

Case No. C174954

Dept No. VI

13 INSTRUCTIONS TO THE JURY (INSTRUCTION NO. 1)

14 MEMBERS OF THE JURY:

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

18 You must not be concerned with the wisdom of any rule of law stated in these
19 instructions. Regardless of any opinion you may have as to what the law ought to be, it
20 would be a violation of your oath to base a verdict upon any other view of the law than that
21 given in the instructions of the Court.
22
23
24
25
26
27
28

INSTRUCTION NO. 2

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.

INSTRUCTION NO. 3

An Information is but a formal method of accusing a person of a crime and is not of itself any evidence of his guilt.

In this case, it is charged in a Third Amended Information that on or about the 8th day of June, 2000, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

COUNT 1 – BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

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

COUNT 2 – ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

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

COUNT 3 – MURDER WITH USE OF A DEADLY WEAPON (OPEN MURDER)

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

1 It is the duty of the jury to apply the rules of law contained in these instructions to the
2 facts of the case and determine whether or not Defendant is guilty of the offenses charged.
3 Each charge and the evidence pertaining to it should be considered separately. The fact that
4 you may find a defendant guilty or not guilty as to one of the offenses charged should not
5 control your verdict as to any other defendant or offense charged.

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

INSTRUCTION NO. 4

In this case the defendant is accused in a Third Amended Information alleging an open charge of murder. This charge may include murder of the first degree and murder of the second degree.

The jury must decide if the defendant is guilty of any offense and, if so, of which offense.

INSTRUCTION NO. 5

Murder is the unlawful killing of a human being with malice aforethought, either express or implied. The unlawful killing may be effected by any of the various means by which death may be occasioned.

INSTRUCTION NO. 6

Malice aforethought means the intentional doing of a wrongful act without legal cause or excuse or what the law considers adequate provocation. The condition of mind described as malice aforethought may arise, from anger, hatred, revenge, or from particular ill will, spite or grudge toward the person killed. It may also arise from any unjustifiable or unlawful motive or purpose to injure another, proceeding from a heart fatally bent on mischief or with reckless disregard of consequences and social duty. Malice aforethought does not imply deliberation or the lapse of any considerable time between the malicious intention to injure another and the actual execution of the intent but denotes an unlawful purpose and design as opposed to accident and mischance.

INSTRUCTION NO. 7

Express malice is that deliberate intention unlawfully to take away the life of a human being, which is manifested by external circumstances capable of proof.

Malice may be implied when no considerable provocation appears, or when all the circumstances of the killing show an abandoned and malignant heart.

INSTRUCTION NO. 8

Murder of the First Degree is murder which is (a) committed in the perpetration or attempted perpetration of a robbery and/or burglary and/or (b) perpetrated by any kind of willful, deliberate and premeditated killing.

INSTRUCTION NO. 9

Murder of the first degree is murder which is perpetrated by means of any kind of willful, deliberate, and premeditated killing. All three elements -- willfulness, deliberation, and premeditation -- must be proven beyond a reasonable doubt before an accused can be convicted of first-degree murder.

Willfulness is the intent to kill. There need be no appreciable space of time between formation of the intent to kill and the act of killing.

Deliberation is the process of determining upon a course of action to kill as a result of thought, including weighing the reasons for and against the action and considering the consequences of the actions.

A deliberate determination may be arrived at in a short period of time. But in all cases the determination must not be formed in passion, or if formed in passion, it must be carried out after there has been time for the passion to subside and deliberation to occur. A mere unconsidered and rash impulse is not deliberate, even though it includes the intent to kill.

Premeditation is a design, a determination to kill, distinctly formed in the mind by the time of the killing.

Premeditation need not be for a day, an hour, or even a minute. It may be as instantaneous as successive thoughts of the mind. For if the jury believes from the evidence that the act constituting the killing has been preceded by and has been the result of premeditation, no matter how rapidly the act follows the premeditation, it is premeditated.

INSTRUCTION NO. 10

The law does not undertake to measure in units of time the length of the period during which the thought must be pondered before it can ripen into an intent to kill which is truly deliberate and premeditated. The time will vary with different individuals and under varying circumstances.

The true test is not the duration of time, but rather the extent of the reflection. A cold, calculated judgment and decision may be arrived at in a short period of time, but a mere unconsidered and rash impulse, even though it includes an intent to kill, is not deliberation and premeditation as will fix an unlawful killing as murder of the first degree.

INSTRUCTION NO. 11

There is a kind of murder which carries with it conclusive evidence of premeditation and malice aforethought. This class of murder is murder committed in the perpetration or attempted perpetration of robbery or burglary. Therefore, a killing which is committed in the perpetration or attempted perpetration of such a robbery or burglary is deemed to be Murder of the First Degree, whether the killing was intentional or unintentional or accidental. This is called the Felony-Murder rule.

The intent to perpetrate or attempt to perpetrate a robbery or burglary must be proven beyond a reasonable doubt.

INSTRUCTION NO. 12

Robbery is the unlawful taking of personal property from the person of another, or in his presence, against his will, by means of force or violence or fear of injury, immediate or future, to his person or property, or the person or property of a member of his family, or of anyone in his company at the time of the robbery. A taking is by means of force or fear if force or fear is used to:

- (a) Obtain or retain possession of the property;
- (b) Prevent or overcome resistance to the taking; or
- (c) Facilitate escape.

The degree of force used is immaterial if it is used to compel acquiescence to the taking of or escaping with the property. A taking constitutes robbery whenever it appears that, although the taking was fully completed without the knowledge of the person from whom taken, such knowledge was prevented by the use of force or fear. The victim of a robbery need not own the property, so long as he possesses the property. Robbery is a general intent crime.

For the purposes of the Felony Murder Rule, the intent to commit the robbery must have arisen before or during the conduct resulting in death. However, in determining whether the defendant had the requisite intent to commit robbery before or during the killing, you may infer that intent from the defendant's actions during and immediately after the killing. There is no Felony Murder where robbery occurs as an afterthought of the killing.

The elements of an attempt to commit a crime are:

- 1) the intent to commit the crime;
- 2) performance of some act towards its commission; and
- 3) failure to consummate its commission.

INSTRUCTION NO. 14

Every person who, by day or night, enters any building, house or apartment, with the intent to commit larceny, robbery and/or any other felony therein is guilty of Burglary.

INSTRUCTION NO. 15

Larceny is defined as the stealing, taking and carrying away of the personal goods or property of another with the intent to permanently deprive the owner thereof.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

INSTRUCTION NO. 16

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

INSTRUCTION NO. 17

It is not necessary that the State prove the defendant actually committed a larceny or robbery inside the house after he entered in order for you to find him guilty of burglary. The gist of the crime of burglary is the unlawful entry with criminal intent. Therefore, a burglary was committed if the defendant entered the house with the intent to commit a larceny or robbery regardless of whether or not that crime occurred.

INSTRUCTION NO. 18

Every person who commits the crime of burglary, who has in his possession or gains possession of any firearm or deadly weapon at any time during the commission of the crime, at any time before leaving the structure, or upon leaving the structure, is guilty of burglary while in possession of a weapon.

INSTRUCTION NO. 19

Every person who, in the commission of a burglary, commits any other crime, may be prosecuted for each crime separately.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

INSTRUCTION NO. 20

Although your verdict must be unanimous as to the charge, you do not have to agree on the theory of guilt. Therefore, even if you cannot agree on whether the facts establish premeditated murder or felony murder, so long as all of you agree that the evidence establishes the defendant's guilt of murder in the first degree, your verdict shall be Murder of the First Degree.

INSTRUCTION NO. 21

All murder which is not Murder of the First Degree is Murder of the Second Degree. Murder of the Second Degree is Murder with malice aforethought, but without the admixture of premeditation and deliberation.

INSTRUCTION NO. 22

You are instructed that if you find that the State has established that the defendant has committed first degree murder you shall select first degree murder as your verdict. The crime of first degree murder includes the crime of second degree murder. You may find the defendant guilty of second degree murder if after first fully and carefully considering murder of the first degree:

1. Any of you are not convinced beyond a reasonable doubt that the defendant is guilty of murder of the first degree, and

2. All twelve of you are convinced beyond a reasonable doubt the defendant is guilty of the crime of second degree murder.

If you are convinced beyond a reasonable doubt that the crime of murder has been committed by the defendant, but you have a reasonable doubt whether such murder was of the first or of the second degree, you must give the defendant the benefit of that doubt and return a verdict of murder of the second degree.

INSTRUCTION NO. 23

You are instructed that if you find a defendant guilty of first or second degree murder, or attempted robbery you must also determine whether or not a deadly weapon was used in the commission of this crime.

If you find beyond a reasonable doubt that a deadly weapon was used in the commission of such an offense, then you shall return the appropriate guilty verdict reflecting "With Use of a Deadly Weapon".

If, however, you find that a deadly weapon was not used in the commission of such an offense, but you find that it was committed, then you shall return the appropriate guilty verdict reflecting that a deadly weapon was not used.

INSTRUCTION NO. 24

"Deadly weapon" means any instrument which, if used in the ordinary manner contemplated by its design and construction, will or is likely to cause substantial bodily harm or death, or, any weapon, device, instrument, material or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing substantial bodily harm or death.

You are instructed that a firearm is a Deadly Weapon.

INSTRUCTION NO. 25

The State is not required to have recovered the deadly weapon used in an alleged crime, or to produce the deadly weapon in court at trial, to establish that a deadly weapon was used in the commission of the crime.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

INSTRUCTION NO. 26

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.

INSTRUCTION NO. 27

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

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

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

INSTRUCTION NO. 28

It is a constitutional right of a defendant in a criminal trial that he may not be compelled to testify. Thus, the decision as to whether he should testify is left to the defendant on the advice and counsel of his attorney. 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.

INSTRUCTION NO. 29

In you deliberation you may not discuss or consider the subject of penalty or punishment.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

001041

INSTRUCTION NO. 30

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

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

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

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

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

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

INSTRUCTION NO. 31

The credibility or believability of a witness should be determined by his manner upon the stand, his relationship to the parties, his fears, motives, interests or feelings, his opportunity to have observed the matter to which he testified, the reasonableness of his statements and the strength or weakness of his 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 testimony which is not proved by other evidence.

INSTRUCTION NO. 32

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.

INSTRUCTION NO. 33

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.

INSTRUCTION NO. 34

When you retire to consider your verdict, you must select one of your number 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.

INSTRUCTION NO. 35

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/her 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 his/her notes. Remember, the court is not at liberty to supplement the evidence.

INSTRUCTION NO. 36

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

GIVEN:

Elaine F. Gosh 5/8/09
DISTRICT JUDGE

1 VER

FILED IN OPEN COURT

MAY - 8 2009 4:00 PM

EDWARD A. FRIEDLAND

CLERK OF THE COURT

BY

Keith Reed

DEPUTY

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

KEITH REED

4 THE STATE OF NEVADA,)

5 Plaintiff,

Case No. C174954

6 -vs-

Dept No. VI

7 JUSTIN D. PORTER,

8 Defendant.

9 VERDICT

10 We, the jury in the above entitled case, find the Defendant JUSTIN D. PORTER, as follows:

11 COUNT 1 - BURGLARY WHILE IN POSSESSION OF A FIREARM

12 (please check the appropriate box, select only one)

13 ☐

Guilty of Burglary while in Possession of a Firearm

14 ☒

15 Not Guilty

16 COUNT 2 - ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

17 (please check the appropriate box, select only one)

18 ☐

Attempt Robbery With Use of a Deadly Weapon

19 ☐

Attempt Robbery

20 ☒

Not Guilty

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

001049

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

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

3 ☐ Guilty of First Degree Murder With Use of a Deadly Weapon

4 ☐ Guilty of First Degree Murder

5 ☒ Guilty of Second Degree Murder With Use of a Deadly Weapon

6 ☐ Guilty of Second Degree Murder

7 ☐ Not Guilty

8
9
10
11 DATED this 8th day of May, 2009

12
13 
14 _____
15 FOREPERSON
16
17
18
19
20
21
22
23
24
25
26
27
28

JOC

FILED

OCT 13 2009

John L. Blum
CLERK OF COURT

ORIGINAL

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JUSTIN D. PORTER
aka Jug Capri Porter
#1682627

Defendant.

CASE NO. C174954

DEPT. NO. VI

JUDGMENT OF CONVICTION

(JURY TRIAL)

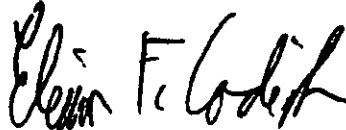
The Defendant previously entered a plea of not guilty to the crimes of COUNT 1 -- BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony) in violation of NRS 205.060, 193.165, COUNT 2 -- ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 193.330, 200.380, 193.165, COUNT 3 -- MURDER WITH USE OF A DEADLY WEAPON (OPEN MURDER) (Category A Felony) in violation of NRS 200.010, 200.030, 193.165; and the matter having been tried before a jury and the Defendant having been found guilty of the crime of COUNT 3 -- SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON (Category A Felony) in violation of NRS 200.010, 200.030, 193.165;

001051

1 thereafter, on the 30TH day of September, 2009, the Defendant was present in court for
2 sentencing with his counsel JOSEPH A. ABOOD, Deputy Special Public Defender and
3 CURTIS BROWN, Deputy Special Public Defender, and good cause appearing,
4

5 THE DEFENDANT IS HEREBY ADJUDGED guilty of said crime as set forth in
6 the jury's verdict and, in addition to the \$25.00 Administrative Assessment Fee,
7 \$150.00 DNA Analysis Fee including testing to determine genetic markers, \$425.00
8 Resstitution and \$2,421.50 Extradition Costs, the Defendant is SENTENCED as follows:
9 TO LIFE with a MINIMUM parole eligibility after ONE HUNDRED TWENTY (120)
10 MONTHS plus a CONSECUTIVE term of LIFE with a MINIMUM parole eligibility after
11 ONE HUNDRED TWENTY (120) MONTHS in the Nevada Department of Corrections
12 (NDC), with THREE THOUSAND THREE HUNDRED THIRTY-EIGHT (3,338) DAYS
13 credit for time served. COUNTS 1 & 2 – NOT GUILTY
14
15

16
17 DATED this 12 day of October, 2009.

18
19 

20 ELISSA CADISH
21 DISTRICT JUDGE

KR

1 **NOAS**

2 PHILIP J. KOHN, PUBLIC DEFENDER
3 NEVADA BAR No. 0556
4 309 South Third Street, Suite 226
5 Las Vegas, Nevada 89155
6 (702) 455-4685
7 Attorney for Defendant

FILED
OCT 29 2009
John S. Brooks
CLERK OF COURT

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

8 THE STATE OF NEVADA,)

9 Plaintiff,)

10 v.)

11 JUSTIN JUG CAPRI PORTER,)

12 Defendant.)

CASE NO. C174954X

DEPT. NO. VI

NOTICE OF APPEAL

13 TO: THE STATE OF NEVADA

14 DAVID ROGER, DISTRICT ATTORNEY, CLARK COUNTY, NEVADA and
15 DEPARTMENT NO. VI OF THE EIGHTH JUDICIAL DISTRICT COURT
16 OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK.

17 NOTICE is hereby given that Defendant, Justin Jug Capri
18 Porter, presently incarcerated in the Nevada State Prison, appeals
19 to the Supreme Court of the State of Nevada from the judgment
20 entered against said Defendant on the 13th day of October, 2009,
21 whereby he was convicted of Ct. 3 - Second Degree Murder With Use
22 of a Deadly Weapon and sentenced to \$25 Admin. fee; \$150 DNA
23 analysis fee; genetic testing; \$425 restitution; \$2,421.50
24 extradition costs; 120 months to Life in prison plus a consecutive
25 term of 120 months to Life in prison; 3,338 days CTS; Counts 1 & 2
26 Not Guilty.

27 DATED this 23rd day of October, 2009.

28 PHILIP J. KOHN

CLARK COUNTY PUBLIC DEFENDER

By:

Howard S. Brooks
HOWARD S. BROOKS, #3374
Deputy Public Defender

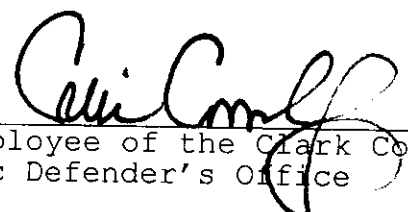
001053

1 DECLARATION OF MAILING

2 Carrie Connolly, an employee with the Clark County
3 Public Defender's Office, hereby declares that she is, and was
4 when the herein described mailing took place, a citizen of the
5 United States, over 21 years of age, and not a party to, nor
6 interested in, the within action; that on the 29th day of
7 October, 2009, declarant deposited in the United States
8 mail at Las Vegas, Nevada, a copy of the Notice of Appeal in the
9 case of the State of Nevada v. Justin Jug Capri Porter, Case No.
10 C174954X, enclosed in a sealed envelope upon which first class
11 postage was fully prepaid, addressed to Justin Jug Capri Porter,
12 c/o High Desert State Prison, P.O. Box 650, Indian Springs, NV
13 89018. That there is a regular communication by mail between the
14 place of mailing and the place so addressed.

15 I declare under penalty of perjury that the foregoing is
16 true and correct.

17 EXECUTED on the 29th day of October, 2009.

18
19
20 
21 An employee of the Clark County
Public Defender's Office

22
23 RECEIPT OF COPY of the foregoing Notice of Appeal is
24 hereby acknowledged this 29 day of October, 2009.

25 DAVID ROGER
26 CLARK COUNTY DISTRICT ATTORNEY

27 By: DM
28

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA vs Porter, Justin D

05/02/01 08:45 AM 00 INITIAL ARRAIGNMENT

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: BARBARA KARP, Court Clerk
DIANN PROCK, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	004286 Herndon, Douglas W.	Y
	0001 D1 Porter, Justin D	Y
	PUBDEF Public Defender	Y
	004546 Brown, Curtis	Y
	004501 Abood, Joseph K.	Y

AMENDED INFORMATION FILED IN OPEN COURT. Mr. Herndon advised Amended Information filed is to correct numerical numbers. COURT SO ORDERED. DEFENDANT PORTER ARRAIGNED, PLED NOT GUILTY and WAIVED THE 60-DAY RULE. COURT ORDERED, matter set for trial. State extended Defense Counsel 60 days to file any writs. COURT SO ORDERED; Deft. to file any writs by 7/3/01.

CUSTODY

9/11/01 8:45 AM CALENDAR CALL

9/17/01 10:00 AM JURY TRIAL

07/18/01 08:45 AM 00 DEFT'S PETITION FOR WRIT OF HABEAS
CORPUS

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Barbara Karp, Court Clerk
Margaret Cardwell, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	004286 Herndon, Douglas W.	Y
	0001 D1 Porter, Justin D	Y
	PUBDEF Public Defender	Y
	004546 Brown, Curtis	Y

Mr. Brown advised the State will need more time to respond. COURT ORDERED, State to respond by August 1, 2001 and matter set for Hearing thereafter.

CUSTODY

CONTINUED TO: 08/09/01 08:45 AM 01

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 001

08/09/01 08:45 AM 01 DEFT'S PETITION FOR WRIT OF HABEAS
CORPUS

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: ANNETTE DUNCAN, Court Clerk
DIANN PROCK, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	004286 Herndon, Douglas W.	Y
	0001 D1 Porter, Justin D	Y
	PUBDEF Public Defender	Y
	005863 Banks, Jeffrey M.	Y

Mr. Banks requested CONTINUANCE. There being no objection, COURT ORDERED,
matter CONTINUED.

CUSTODY

CONTINUED TO: 08/23/01 08:45 AM 02

08/23/01 08:45 AM 02 DEFT'S PETITION FOR WRIT OF HABEAS
CORPUS

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Barbara Karp, Court Clerk
Diann Prock, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	004286 Herndon, Douglas W.	Y
	0001 D1 Porter, Justin D	Y
	PUBDEF Public Defender	Y
	004546 Brown, Curtis	Y

COURT ORDERED, at the request of Defense Counsel matter CONTINUED.

CUSTODY

CONTINUED TO: 09/06/01 08:45 AM 03

CRIMINAL COURT MINUTES

01-C-174954-C

STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 002

09/06/01 08:45 AM 03 DEFT'S PETITION FOR WRIT OF HABEAS
CORPUS

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Barbara Karp, Court Clerk
Diann Prock, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
004286	Herndon, Douglas W.	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y

Mr. Brown SPD, agreed to Trial date being reset and set this matter and resetting of trial in two weeks. State concurred. COURT ORDERED, matters SET for STATUS CHECK. FURTHER, Trial date VACATED and to be reset at next hearing date.

CUSTODY

9/20/01 8:45 AM STATUS CHECK: RESET TRIAL/WRIT

CONTINUED TO: 09/20/01 08:45 AM 04

09/20/01 08:45 AM 00 ALL PENDING MOTIONS 9/20/01

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Barbara Karp, Court Clerk
Diann Prock, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
004286	Herndon, Douglas W.	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y

STATUS CHECK: RESET TRIAL...DEFT'S PETITION FOR WRIT OF HABEAS CORPUS

COURT ORDERED, DEFT. PETITION as to first issue GRANTED, in as far as deadly weapon with enhancement is concern knife not used, drop enhancement; as to issue 2 GRANTED, Not substantial incurred; as to issue 3A GRANTED; 3B DENIED as both parties have right to money; as to issue 4 DENIED, facts for the Jury; as to issue 5A GRANTED, strike; issue 5B DENIED, fact for the jury. FURTHER, Trial date reset.

CONTINUED ON PAGE: 004

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 003

CUSTODY

4/16/02 8:45 AM CALENDAR CALL

4/22/02 10:00 AM JURY TRIAL

04/16/02 08:45 AM 00 CALENDAR CALL

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Barbara Karp, Court Clerk
Diann Prock, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
004286	Herndon, Douglas W.	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y

Counsel agreed to a CONTINUANCE due to Court's on going trial for next week. COURT ORDERED, Trial date VACATED and RESET.

CUSTODY

10/29/02 8:45 AM CALENDAR CALL

11/4/02 10:00 AM JURY TRIAL

10/14/02 09:00 AM 00 ALL PENDING MOTIONS 10/14/02

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Carole D'Aloia/CD, Court Clerk
Alan Castle, Relief Clerk
Cindy Magnusen, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Lusaich, Elissa	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y
004501	Abood, Joseph K.	Y

DEFT'S MOTION TO REMAND THE CASE TO JUVENILE COURT AND CONDUCT A HEARING AS TO WHETHER HE SHOULD BE CERTIFIED AS AN ADULT...DEFT'S MOTION TO SUPPRESS DEFT'S CONFESSIONS AND ADMISSIONS TO METRO AND CHICAGO DETECTIVES BASED ON

CONTINUED ON PAGE: 005

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 004

VIOLATION OF HIS MIRANDA RIGHTS AND INVOLUNTARINESS AND REQUEST FOR JACKSON
V DENNO HEARING

Ms. Luzaich requested matter be continued to 10/21/02 as there is another motion set on that date and there may be a couple of more motions filed that can also be heard on that date. Ms. Luzach advised that Mr. Herndon and Mr. Brown will be jointly asking to continue the trial, however, she suggested trial not be vacated until 10/21/02 at which time a briefing schedule and Evidentiary Hearing can be set. COURT ORDERED, matter CONTINUED and set for STATUS CHECK.

CUSTODY

10/21/02 9:00 AM ALL PENDING MOTIONS...STATUS CHECK

10/21/02 09:00 AM 00 ALL PENDING MOTIONS 10-21-02

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Annette Duncan, Court Clerk
Peggy Isom, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
004286	Herndon, Douglas W.	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y
004501	Abood, Joseph K.	Y

DEFT'S MOTION TO REMAND THE CASE TO JUVENILE COURT AND CONDUCT A HEARING AS TO WHETHER HE SHOULD BE CERTIFIED AS AN ADULT...DEFT'S MOTION TO SUPPRESS DEFT'S CONFESSIONS AND ADMISSIONS TO METRO AND CHICAGO DETECTIVES BASED ON VIOLATION OF HIS MIRANDA RIGHTS AND INVOLUNTARINESS AND REQUEST FOR JACKSON V DENNO HEARING...STATUS CHECK: SET HEARING DATES/BRIEFING SCHEDULE...DEFT'S MOTION TO DISMISS AND NOTICE OF INTENT TO SEEK DEATH PENALTY FOR VIOLATION OF INTERNATIONAL TREATY AND CUSTOMARY LAW

Mr. Herndon requested 3 weeks to respond to the Motion to Suppress. COURT ORDERED, Motion GRANTED and the COURT SET the following briefing schedule: State's Response due 11-12-02; Defense Reply due 11-19-02 with hearing set thereafter. Counsel requested an Evidentiary Hearing be set regarding Defts Motion to Suppress and also requested trial date be VACATED and RESET and COURT SO ORDERED.

CUSTODY

11-26-02 DEFT'S MOTION TO REMAND THE CASE TO JUVENILE COURT AND CONDUCT A

CONTINUED ON PAGE: 006

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 005

HEARING AS TO WHETHER HE SHOULD BE CERTIFIED AS AN ADULT...DEFT'S MOTION TO DISMISS AND NOTICE OF INTENT TO SEEK DEATH PENALTY FOR VIOLATION OF INTERNATIONAL TREATY AND CUSTOMARY LAW

2-10-03 11:00 AM EVIDENTIARY HEARING: DEFT'S MOTION TO SUPPRESS DEFT'S CONFESSIONS AND ADMISSIONS TO METRO AND CHICAGO DETECTIVES BASED ON VIOLATION OF HIS MIRANDA RIGHTS AND INVOLUNTARINESS AND REQUEST FOR JACKSON V DENNO HEARING

4-15-03 9:00 AM CALENDAR CALL

4-21-03 10:00 AM JURY TRIAL

11/26/02 09:00 AM 00 ALL PENDING MOTIONS 11-26-02

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Annette Duncan/ad, Court Clerk
Georgette Byrd, Relief Clerk
Cindy Magnussen, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
004286	Herndon, Douglas W.	Y
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004501	Abood, Joseph K.	Y
004546	Brown, Curtis	Y

DEFT'S MOTION TO REMAND THE CASE TO JUVENILE COURT AND CONDUCT A HEARING AS TO WHETHER HE SHOULD BE CERTIFIED AS AN ADULT...DEFT'S MOTION TO DISMISS AND NOTICE OF INTENT TO SEEK DEATH PENALTY FOR VIOLATION OF INTERNATIONAL TREATY AND CUSTOMARY LAW...DECISION: DEFT'S MOTION TO REMAND; MOTION TO DISMISS

Mr. Herndon advised he has not yet filed his response and requested additional time. COURT ORDERED, matters CONTINUED.

CUSTODY

CONTINUED TO: 12-17-02 9:00 AM

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 006

12/17/02 09:00 AM 00 ALL PENDING MOTIONS 12-17-02

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Annette Duncan, Court Clerk
Peggy Isom, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	005056 Luzaich, Elissa	Y
	0001 D1 Porter, Justin D	N
	PUBDEF Public Defender	Y
	004501 Abood, Joseph K.	Y
	004546 Brown, Curtis	Y

DEFT'S MOTION TO REMAND THE CASE TO JUVENILE COURT AND CONDUCT A HEARING AS TO WHETHER HE SHOULD BE CERTIFIED AS AN ADULT...DEFT'S MOTION TO DISMISS AND NOTICE OF INTENT TO SEEK DEATH PENALTY FOR VIOLATION OF INTERNATIONAL TREATY AND CUSTOMARY LAW...DECISION: DEFT'S MOTION TO REMAND, MOTION TO DISMISS

Mr. Brown advised the Defense had not responded to Motion to Remand as they are waiting for documents from Chicago. Regarding Deft's Motion to Dismiss: Counsel submitted. COURT ORDERED, Motion DENIED. FURTHER, Deft's Motion to Remand and Decision regarding Deft's Motion to Remand and Motion to Dismiss, CONTINUED.

CUSTODY

3-3-03 1:30 PM DEFT'S MOTION TO REMAND THE CASE TO JUVENILE COURT AND CONDUCT A HEARING AS TO WHETHER HE SHOULD BE CERTIFIED AS AN ADULT...DECISION: DEFT'S MOTION TO REMAND; MOTION TO DISMISS

02/10/03 11:00 AM 00 EVID.HEARING: DEFT' MTN SUPPRESS FIRM
DEFT'S CONFESSIONS AND ADMISSIONS

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Barbara Karp, Court Clerk

PARTIES: NO PARTIES PRESENT

On in error; Clerk to correct date.

CONTINUED TO: 03/03/03 01:30 PM 01

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 007

03/03/03 08:00 AM 00 ALL PENDING MOTIONS 3/3/03

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Barbara Karp, Court Clerk
Janness Slabe, Reporter/Recorder

PARTIES: NO PARTIES PRESENT

EVIDENTIARY HEARING: DEFT'S MOTION TO REMAND THE CASE TO JUVENILE COURT AND
CONDUCT A HEARING AS TO WHETHER HE SHOULD BE CERTIFIED AS AN ADULT...

DECISION: DEFT'S MOTION TO REMAND, MOTION TO DISMISS

Due to Scheduling problems with the Court, COURT ORDERED, matters CONTINUED
to Thursday. Clerk contacted Counsel via e-mail.

3-6-03 10:00 AM EVIDENTIARY HEARING...DECISION

03/06/03 10:00 AM 00 ALL PENDING MOTIONS 3-6-03

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Annette Duncan/ad, Court Clerk
Denise Husted, Relief Clerk
Jeness Slabe, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	004286 Herndon, Douglas W.	Y
	0001 D1 Porter, Justin D	Y
	PUBDEF Public Defender	Y
	004546 Brown, Curtis	Y
	004501 Abood, Joseph K.	Y

EVIDENTIARY HEARING: DEFT'S MOTION TO SUPPRESS DEFT'S CONFESSIONS AND
ADMISSIONS...DEFT'S MOTION TO REMAND THE CASE TO JUVENILE COURT AND CONDUCT
A HEARING AS TO WHETHER HE SHOULD BE CERTIFIED AS AN ADULT...DECISION:
DEFT'S MOTION TO REMAND; MOTION TO DISMISSFollowing a CONFERENCE AT THE BENCH, COURT ORDERED, matters CONTINUED; trial
date VACATED.

CUSTODY

CONTINUED TO: 7-14-03 10:00 AM

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 008

07/14/03 09:00 AM 00 ALL PENDING MOTIONS 7-14-03

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Annette Duncan, Court Clerk
Peggy Isom, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	004286 Herndon, Douglas W.	Y
	0001 D1 Porter, Justin D	Y
	PUBDEF Public Defender	Y
	004546 Brown, Curtis	Y

EVIDENTIARY HEARING: DEFT'S MOTION TO SUPPRESS DEFT'S CONFESSIONS AND ADMISSIONS...DEFT'S MOTION TO REMAND THE CASE TO JUVENILE COURT AND CONDUCT A HEARING AS TO WHETHER HE SHOULD BE CERTIFIED AS AN ADULT...DECISION: DEFT'S MOTION TO REMAND; MOTION TO DISMISS

The COURT NOTED it's trial schedule would prevent this matter from going forward today and ORDERED, matters CONTINUED. Mr. Brown requested Deft. be allowed to obtain schooling while incarcerated at the Clark County Detention Center (CCDC). COURT ORDERED, request GRANTED; Mr. Brown to prepare the Order.

CUSTODY

CONTINUED TO: 9-15-03 10:00 AM

CLERK'S NOTE: Following outcome of the above matters trial may need to be reset. Matter set for status check to reset trial on the above date/ad.

09/15/03 09:00 AM 00 ALL PENDING MOTIONS 9/15/03

HEARD BY: David Wall, Judge; Dept. 20

OFFICERS: Barbara Karp, Court Clerk
Diann Prock, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	005056 Luzaich, Elissa	Y
	0001 D1 Porter, Justin D	Y
	PUBDEF Public Defender	Y
	000383 Rigsby, Thomas W.	Y

STATUS CHECK: RESET TRIAL...EVIDENTIARY HEARING: DEFT'S MOTION TO SUPPRESS DEFT'S CONFESSION AND ADMISSIONS...DEFT'S MOTION TO REMAND THE CASE TO JUVENILE COURT AND CONDUCT A HEARING AS TO WHETHER HE SHOULD BE CERTIFIED AS

CONTINUED ON PAGE: 010

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 009

AN ADULT...DECISION: DEFT'S MOTION TO REMAND; MOTION TO DISMISS

Ms. Luzaich advised she is appearing for Mr. Herndon, who advised he spoke with Mr. Curtis Brown and they agreed to continue these matters 60 days for the State to have an independent evaluation completed. Mr. Rigsby stated he would stand in for Mr. Brown and convey the Court's ruling. COURT ORDERED, matter CONTINUED. Ms. Luzaich advised it would take all afternoon to complete the hearing.

CUSTODY

CONTINUED TO: 11/20/03 11:00 AM

11/20/03 09:00 AM 00 ALL PENDING MOTIONS 11/20/03

HEARD BY: SEE MINUTES, Visiting Judge

OFFICERS: Annette Duncan, Court Clerk
Peggy Isom, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
004286	Herndon, Douglas W.	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y

STATUS CHECK: RESET TRIAL...EVIDENTIARY HEARING; DEFT'S MOTION TO SUPPRESS DEFT'S CONFESSIONS AND ADMISSIONS...DEFT'S MOTION TO REMAND THE CASE TO JUVENILE COURT AND CONDUCT A HEARING AS TO WHETHER HE SHOULD BE CERTIFIED AS AN ADULT...DECISION: DEFT'S MOTION TO REMAND; MOTION TO DISMISS

Due to Court's absence, matters CONTINUED.

CONTINUED TO: 3-5-04 9:00 AM (FULL DAY HEARING)

CRIMINAL COURT MINUTES

01-C-174954-C

STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 010

03/08/04 09:00 AM 00 ALL PENDING MOTIONS 3-8-04

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Annette Duncan, Court Clerk
Peggy Isom, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
004286	Herndon, Douglas W.	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y
004501	Abood, Joseph K.	Y

DECISION: DEFT'S MOTION TO REMAND; MOTION TO DISMISS...EVIDENTIARY HEARING:
DEFT'S MOTION TO SUPPRESS CONFESSIONS AND ADMISSIONS...STATUS CHECK: RESET
TRIALTestimony presented (see worksheet). COURT ORDERED, matters CONTINUED and
matter set for status check regarding setting of 2nd half of hearing.

CUSTODY

CONTINUED TO: 3-17-04 9:00 AM (ALL PENDING MOTIONS)...STATUS CHECK: SET 2ND
HALF HEARING

03/17/04 09:00 AM 00 ALL PENDING MOTIONS 3/17/04

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Barbara Karp, Court Clerk
Diann Prock, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
004286	Herndon, Douglas W.	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004501	Abood, Joseph K.	Y
004546	Brown, Curtis	Y

DECISION: DEFT'S MOTION TO REMAND; MOTION TO DISMISS...EVIDENTIARY HEARING:
DEFT'S MOTION TO SUPPRESS CONFESSIONS AND ADMISSIONS...STATUS CHECK: RESET
TRIAL...STATUS CHECK: SET 2ND HALF OF EVIDENTIARY HEARINGCounsel agree to a date of May 3 at 1:30 to hold the second half of the
Evidentiary Hearing. COURT SO ORDERED. FURTHER, all other matters

CONTINUED ON PAGE: 012

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 011

CONTINUED to date of Hearing.

CUSTODY

5/3/04 1:30 PM EVIDENTIARY HEARING (2ND HALF)

05/03/04 09:00 AM 00 ALL PENDING MOTIONS 4-3-04

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Annette Duncan, Relief Clerk
Peggy Isom, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	002781 Roger, David J.	Y
	003649 Kephart, William D.	Y
	0001 D1 Porter, Justin D	Y

DECISION: DEFT'S MOTION TO REMAND; MOTION TO DISMISS...EVIDENTIARY HEARING:
DEFT'S MOTION TO SUPPRESS CONFESSIONS AND ADMISSIONS...STATUS CHECK: RESET
TRIALDue to congestion of this Court's trial calendar and upon request of
counsel, COURT ORDERED, matters CONTINUED.

CONTINUED TO: 5-5-04 11:00 AM

05/05/04 09:00 AM 00 ALL PENDING MOTIONS 5-5-04

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Annette Duncan, Relief Clerk
Peggy Isom, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	005056 Luzaich, Elissa	Y
	0001 D1 Porter, Justin D	Y
	PUBDEF Public Defender	Y
	004546 Brown, Curtis	Y

DECISION: DEFT'S MOTION TO REMAND; MOTION TO DISMISS...EVIDENTIARY HEARING:
DEFT'S MOTION TO SUPPRESS CONFESSIONS AND ADMISSIONS...STATUS CHECK: RESET
TRIAL...EVIDENTIARY HEARINGMr. Brown advised Mr. Abood is not back in town and they have no updated
dates on when the Doctor can be available for testimony. COURT ORDERED,

CONTINUED ON PAGE: 013

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 012

matter CONTINUED.

CUSTODY

CONTINUED TO: 6-9-04 9:00 AM

06/09/04 09:00 AM 02 EVIDENTIARY HEARING (DAY #2 - 1/2 DAY)

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Barbara Karp, Court Clerk
Barbara Blankenship/bb, Relief Clerk
Diann Prock, Reporter/Recorder

PARTIES: STATE OF NEVADA
004286 Herndon, Douglas W.

Y
Y

DECISION: DEFT'S MOTION TO REMAND; MOTION TO DISMISS...EVIDENTIARY HEARING:
DEFT'S MOTION TO SUPPRESS CONFESSIONS AND ADMISSIONS...STATUS CHECK: RESET
TRIAL...EVIDENTIARY HEARING

Mr. Herndon asked for a continuance, did not have a date and advised he will
let the clerk know.

CUSTODY

06/24/04 09:00 AM 00 ALL PENDING MOTIONS 6/24/04

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Jennifer Kimmel/jk, Court Clerk
Jennifer Lott, Relief Clerk
Diann Prock, Reporter/Recorder

PARTIES: STATE OF NEVADA
004286 Herndon, Douglas W.

Y
Y

0001 D1 Porter, Justin D
PUBDEF Public Defender
004501 Abood, Joseph K.

N
Y
Y

DECISION: DEFENDANT'S MOTION TO REMAND; MOTION TO DISMISS...EVIDENTIARY
HEARING: DEFENDANT'S MOTION TO SUPPRESS CONFESSIONS AND ADMISSIONS...STATUS
CHECK: RESET EVIDENTIARY HEARING

Prior to the hearing counsel agreed matter shall be set for a two hour
hearing. COURT ORDERED, matter set for Evidentiary Hearing.

CONTINUED ON PAGE: 014

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 013

CUSTODY

8/13/04 10:00 AM EVIDENTIARY HEARING RE: DEFENDANT'S MOTION TO REMAND,
DISMISS, SUPPRESS CONFESSIONS AND ADMISSIONS

08/13/04 09:00 AM 00 ALL PENDING MOTIONS 8-13-04

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Annette Duncan, Court Clerk
Peggy Isom, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	004286 Herndon, Douglas W.	Y
	0001 D1 Porter, Justin D	Y
	PUBDEF Public Defender	Y
	004501 Abood, Joseph K.	Y

DECISION: DEFT'S MOTION TO REMAND; DEFT'S MOTION TO DISMISS...EVIDENTIARY
HEARING: DEFT'S MOTION TO REMAND, DISMISS SUPPRESS CONFESSIONS AND
ADMISSIONS

Due to Court's trial schedule, COURT ORDERED, matter SET for status check to
reset the hearing; matters CONTINUED.

CUSTODY

8-19-04 9:00 AM STATUS CHECK: RESET HEARING

CONTINUED TO: 8-19-04 9:00 AM

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 014

08/19/04 09:00 AM 00 ALL PENDING MOTIONS 8-19-04

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Annette Duncan, Court Clerk
Diann Prock, Reporter/Recorder

PARTIES: STATE OF NEVADA

Y

0001 D1 Porter, Justin D

Y

PUBDEF Public Defender

Y

004546 Brown, Curtis

Y

004501 Abood, Joseph K.

Y

DECISION: DEFT'S MOTION TO REMAND; DEFT'S MOTION TO DISMISS...EVIDENTIARY
HEARING: DEFT'S MOTION TO REMAND, DISMISS, SUPPRESS CONFESSIONS AND
ADMISSIONS...STATUS CHECK: RESET EVIDENTIARY HEARINGDue to Court's trial schedule, matter unable to be heard today. COURT
ORDERED, matter CONTINUED. Due to the numerous times this matter has been
continued, COURT FURTHER ORDERED, matter to be set as a FIRM date; no trial
to be set on the week of 9-27-04. FURTHER, matter also set on 10-1-04 at
9:00 AM.

CUSTODY

CONTINUED TO: 9-29-04 1:30 PM and 10-1-04 9:00 AM (EXCLUDES STATUS CHECK)

09/29/04 09:00 AM 00 ALL PENDING MOTIONS 9-29-04

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Annette Duncan, Court Clerk
Diann Prock, Reporter/Recorder

PARTIES: STATE OF NEVADA

Y

005056 Luzaich, Elissa

Y

0001 D1 Porter, Justin D

N

PUBDEF Public Defender

Y

004501 Abood, Joseph K.

Y

004546 Brown, Curtis

Y

DECISION: DEFT'S MOTION TO REMAND; DEFT'S MOTION TO DISMISS...EVIDENTIARY
HEARING: DEFT'S MOTION TO REMAND; MTN TO DISMISS; SUPPRESS CONFESSIONS AND
ADMISSIONSMs. Luzaich advised counsel agreed to continue this matter for at least 2
weeks. COURT ORDERED, matters CONTINUED and set for 2 successive

CONTINUED ON PAGE: 016

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 015

afternoons.

CUSTODY

CONTINUED TO: 11-15-04 and 11-16-04 at 1:30 PM

CLERK'S NOTE: The date for 11-16-04 has not been set and will be set following the hearing the afternoon of the 15th/ad.

11/15/04 09:00 AM 00 ALL PENDING MOTIONS (11/15/04)

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: April Watkins, Relief Clerk
Peggy Isom, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
008001	Brian, Kam	Y
0001 D1	Porter, Justin D	N
PUBDEF	Public Defender	Y
004501	Abood, Joseph K.	Y

DECISION: DEFT'S MOTION TO REMAND; DEFT'S MOTION TO DISMISS...EVIDENTIARY
HEARING: DEFT'S MOTION TO REMAND, DISMISS/SUPPRESS CONFESSIONS AND
ADMISSIONS

Statement by Mr. Abood. COURT ORDERED, matters CONTINUED and matter set for
status check.

CUSTODY

CONTINUED TO: 12/8/04 9:00 AM

12/8/04 9:00 AM STATUS CHECK: RESET HEARING DATE

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 016

12/08/04 09:00 AM 00 ALL PENDING MOTIONS (12/8/04)

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: April Watkins, Relief Clerk
Diann Prock, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	003649 Kephart, William D.	Y
	0001 D1 Porter, Justin D	Y
	PUBDEF Public Defender	Y
	004546 Brown, Curtis	Y
	004501 Abood, Joseph K.	Y

DECISION: DEFT'S MOTION TO REMAND; DEFT'S MOTION TO DISMISS...EVIDENTIARY
HEARING: DEFT'S MOTION TO REMAND, DISMISS/SUPPRESS CONFESSIONS AND
ADMISSIONS...STATUS CHECK: RESETTING OF HEARINGS

Mr. Brown advised counsel have agreed upon a date and stated they will need
a full day and second day just in case. COURT ORDERED, matters CONTINUED.

CUSTODY

CONTINUED TO: 1/18/05 11:00 AM

01/13/05 09:00 AM 00 STATUS CHECK: RESET EVIDENTIARY HEARING

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Jennifer Kimmel, Court Clerk
Jennifer Lott/jl, Relief Clerk
Peggy Isom, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	005056 Luzaich, Elissa	Y
	0001 D1 Porter, Justin D	Y

As the doctor cannot be present 1/18/05, Ms. Luzaich requested Court SET a
status check to RESET hearing; counsel will notify Mr. Brown and Mr. Abood.
COURT ORDERED, status check CONTINUED. State and defendant agree his
presence is NOT NEEDED at the next date.

CUSTODY

CONTINUED TO: 01/19/05 09:00 AM 01

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 017

01/18/05 11:00 AM 00 ALL PENDING MOTIONS

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: April Watkins, Relief Clerk
Peggy Isom, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
007421	Lee, Christopher K.	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y

DECISION: DEFT'S MOTION TO REMAND; DEFT'S MOTION TO DISMISS...EVIDENTIARY
HEARING: DEFT'S MOTION TO REMAND, DISMISS SUPPRESS CONFESSIONS AND
ADMISSIONS

Counsel advised matter is actually scheduled for the 19th. Therefore,
request that date stand and COURT SO ORDERED.

CUSTODY

CONTINUED TO: 1/19/05 9:00 AM

01/19/05 09:00 AM 01 STATUS CHECK: RESET EVIDENTIARY HEARING

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: April Watkins, Relief Clerk
Peggy Isom, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	N
PUBDEF	Public Defender	Y
004501	Abood, Joseph K.	Y
004546	Brown, Curtis	Y

Following discussion in Chambers, COURT ORDERED, matter set for Evidentiary
Hearing. Counsel advised hearing will take at least two afternoons.

CUSTODY

2/8/05 1:30 PM EVIDENTIARY HEARING

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 018

02/07/05 01:30 PM 00 ALL PENDING MOTIONS - 2/7/05

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Jennifer Kimmel, Court Clerk
Peggy Isom, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004501	Abood, Joseph K.	Y
004546	Brown, Curtis	Y

DEFENDANT'S MOTION TO REMAND CASE TO JUVENILE COURT...DEFENDANT'S MOTION TO SUPPRESS DEFENDANT'S CONFESSIONS

COURT NOTED Deft's Motion to Remand is calendared in error, matter before the Court is the Deft's Motion to Suppress. Testimony and exhibits presented. (See worksheets.) COURT ORDERED, Motion to Suppress is CONTINUED for additional testimony.

2/9/05 1:30 P.M. DEFENDANT'S MOTION TO SUPPRESS DEFENDANT'S CONFESSIONS (DAY 2)

02/09/05 09:00 AM 04 DEFT'S MTN TO SUPPRESS DEFT
CONFESSIONS/ADMISSIONS/13 (DAY 2)

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Jennifer Kimmel, Court Clerk
Peggy Isom, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y
004501	Abood, Joseph K.	Y

COURT ORDERED, pursuant to Jackson vs. Denno, Deft's testimony may not be used, in any way, against Deft. at trial. Testimony and exhibits continued. (See worksheets.) BENCH CONFERENCE. FURTHER ORDERED, matter set for Status Check to set briefing schedule and Deft need not be present.

CUSTODY

CONTINUED ON PAGE: 020

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 019

2/17/05 9:00 A.M. STATUS CHECK: SET BRIEFING SCHEDULE

CONTINUED TO: 02/17/05 09:00 AM 05

02/17/05 09:00 AM 00 ALL PENDING MOTIONS (2/17/05)

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: April Watkins, Relief Clerk
Peggy Isom, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	N
PUBDEF	Public Defender	Y
005901	Cano, Charles A.	Y

STATUS CHECK: SET BRIEFING SCHEDULE...DEFT'S MOTION TO SUPPRESS DEFT'S CONFESSIONS

Counsel advised a briefing schedule has yet not been agreed upon and requested matters be continued. COURT ORDERED, matters CONTINUED.

CUSTODY

CONTINUED TO: 2/24/05 9:00 AM

02/24/05 09:00 AM 00 ALL PENDING MOTIONS - 2/24/05

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Jennifer Kimmel, Court Clerk
Peggy Isom, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004501	Abood, Joseph K.	Y
004546	Brown, Curtis	Y

STATUS CHECK: SET BRIEFING SCHEDULE...DEFENDANT'S MOTION TO SUPPRESS DEFENDANT'S CONFESSIONS

Counsel set briefing schedule as follows: Defendant's Motion is due 4/22/05, State's Response due 6/24/05 and Deft's Reply is due 7/22/05. Matter set for

CONTINUED ON PAGE: 021

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 020

Argument/Decision. COURT SO ORDERED.

CUSTODY

8/11/05 9:00 A.M. ARGUMENT/DECISION RE: DEFT'S MOTION TO SUPPRESS DEFT'S
CONFESSIONS03/24/05 09:00 AM 00 DEFT'S MTN TO STRIKE STATE'S NTC OF
INTENT TO SEEK DEATH PENALTY/53

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: April Watkins, Court Clerk
Peggy Isom, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	005056 Luzaich, Elissa	Y
	0001 D1 Porter, Justin D	Y
	PUBDEF Public Defender	Y
	004501 Abood, Joseph K.	Y

Statements by counsel. COURT ORDERED, motion GRANTED.

CUSTODY

08/11/05 09:00 AM 00 ALL PENDING MOTIONS 8-11-5

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Nancy Noble, Relief Clerk
Peggy Isom, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	003776 Monroe, Vicki J.	Y
	0001 D1 Porter, Justin D	Y
	PUBDEF Public Defender	Y
	004546 Brown, Curtis	Y

ARGUMENT/DECISION: DEFT'S MOTION TO SUPPRESS DEFT'S CONFESSIONS....DEFT'S
MOTION TO SUPPRESS DEFT'S CONFESSIONS...Mr. Brown requested a continuance and a new briefing schedule to be set.
COURT SO ORDERED. Opening brief to be filed by 8/24/05; State's reply
10/12/05; Defense's response 10/26/05; Argument and Decision 12/7/05.

CUSTODY

CONTINUED ON PAGE: 022

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 021

12/07/05 9:00 AM ARGUMENT/DECISION: DEFT'S MOTION TO SUPPRESS DEFT'S
CONFESSIONS

12/07/05 09:00 AM 00 ALL PENDING MOTIONS (12/7/05)

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Nancy Noble, Court Clerk
Peggy Isom, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	005056 Luzaich, Elissa	Y
	0001 D1 Porter, Justin D	Y
	PUBDEF Public Defender	Y
	004546 Brown, Curtis	Y

ARGUMENT/DECISION: DEFT'S MOTION TO SUPPRESS DEFT'S
CONFESSIONS...EVIDENTIARY HEARING: DEFT'S MOTION TO REMAND, DISMISS SUPPRESS
CONFESSIONS AND ADMISSIONS...

At request of Mr. Brown, COURT ORDERED matter CONTINUED for further status
check.

CUSTODY

12/09/05 09:00 AM 00 ALL PENDING MOTIONS (12/9/05)

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Nancy Noble, Court Clerk
Peggy Isom, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	0001 D1 Porter, Justin D	N
	PUBDEF Public Defender	Y
	004546 Brown, Curtis	Y

ARGUMENT/DECISION: DEFT'S MOTION TO SUPPRESS DEFT'S
CONFESSIONS...EVIDENTIARY HEARING: DEFT'S MOTION TO REMAND, DISMISS SUPPRESS
CONFESSIONS AND ADMISSIONS...

Court advised he had spoken with Justice Becker and she approved of his
being able to sit as a Senior judge on this case after January 13, 2006. Mr.
Brown stated Ms. Luzaich will not be available for the hearing for 3-5 weeks
and requested a date in March. COURT ORDERED matter CONTINUED for status

CONTINUED ON PAGE: 023

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 022

check pending approval from the Chief Justice.

CUSTODY

01/03/06 9:00 AM STATUS CHECK: APPROVAL CHIEF JUSTICE

01/03/06 09:00 AM 00 ALL PENDING MOTIONS (01/03/06)

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: Nancy Noble, Court Clerk
Peggy Isom, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y

ARGUMENT/DECISION: DEFT'S MOTION TO SUPPRESS DEFT'S
CONFESSIONS...EVIDENTIARY HEARING; DEFT'S MOTION TO REMAND, DISMISS SUPPRESS
CONFESSIONS AND ADMISSIONS...STATUS CHECK: APPROVAL OF CHIEF JUSTICE...

Upon inquiry of Ms. Luzaich, the Court advised Justice Beck gave approval
for this Court to hear the matter. Ms. Luzaich requested sixty (60) days to
file her briefs. COURT ORDERED State's brief to be filed by 3/6/06; Deft's
Response due 3/27/06 and matter set for Argument/Decision on 4/10/06 at 9:00
AM.

CUSTODY

03/09/06 11:45 AM 00 MINUTE ORDER RE: RECUSAL DEPT VII

HEARD BY: Stewart L. Bell, Judge; Dept. 7

OFFICERS: Tina Hurd, Court Clerk

PARTIES: NO PARTIES PRESENT

As this Court worked on this case as the District Attorney, to avoid the
appearance of impropriety and implied bias, this Court hereby disqualifies
itself and ORDERS, this matter be REASSIGNED at random.

CONTINUED ON PAGE: 024

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 023

04/10/06 09:00 AM 04 ARGUMENT/DECISION DEFT'S MTN TO SUPPRESS
DEFT'S CONFESSIONS

HEARD BY: David Wall, Judge; Dept. 20

OFFICERS: Carol Foley, Court Clerk
Angela Lee, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005043	Laurent, Christopher J.	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y

Mr. Brown advised Ms. Luzaich is in trial today. Mr. Brown noted he was informed the opposition is on its way and he would like to reply. Court noted he does not believe he had anything to do with the case when he was in the District Attorney's office but he wants the State to check. Court noted he would not recuse just because he worked in the District Attorney's office, and if there is a motion to disqualify it would be heard by the Chief Judge. Court noted he does not know why he cannot review the transcript and hear the motion since the trial will be here. Mr. Brown advised counsel agreed Deft's demeanor at the time was important so they agreed to have Judge McGroarty hear it. Upon Court's inquiry, Mr. Brown advised it was a Rule 250 case but Roper v. Simmons resolved the issue. COURT ORDERED, status check set. Mr. Brown and Mr. Luzaich may contact chambers to set up a meeting in chambers before the status check if they want to.

CUSTODY

4/24/06 8:30 AM STATUS CHECK: ARGUMENT/DECISION - DEFT'S MOTION TO SUPPRESS
DEFT'S CONFESSIONS

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 024

04/24/06 08:30 AM 00 STATUS CHECK: ARGUMENT/DECISION - DEFT'S
MOTION TO SUPPRESS DEFT'S CONFESSIONS

HEARD BY: David Wall, Judge; Dept. 20

OFFICERS: Carol Foley, Court Clerk
Angela Lee, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y

Court and counsel met in chambers prior to court.

Court advised he may have a conflict because he had some contact with the case by reviewing the file when he worked in the District Attorney's office. Counsel advised they have no objection to Court staying on the case just until it goes back to Judge McGroarty. COURT ORDERED, matter CONTINUED. Court will contact Judge Hardcastle about sending it back to Judge McGroarty and will not take any other action on the case based on contact.

CUSTODY

CONTINUED TO: 05/01/06 08:30 AM 01

05/01/06 08:30 AM 01 STATUS CHECK: ARGUMENT/DECISION - DEFT'S
MOTION TO SUPPRESS DEFT'S CONFESSIONS

HEARD BY: David Wall, Judge; Dept. 20

OFFICERS: Carol Foley, Court Clerk
Angela Lee, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004501	Abood, Joseph K.	Y

Court and counsel met in chambers prior to court. Counsel will contact Senior Judge Judicial Executive Assistant to have matter previously heard by Judge McGroarty decided. Status check set.

6/19/06 8:30 AM STATUS CHECK

CONTINUED ON PAGE: 026

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 025

CUSTODY

06/19/06 08:30 AM 00 STATUS CHECK

HEARD BY: David Wall, Judge; Dept. 20

OFFICERS: Carol Foley, Court Clerk
Angela Lee, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
009592	Iscan, Ercan E	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004501	Abood, Joseph K.	Y

Mr. Abood requested another status check in sixty days because Mr. Brown was informed an Order from the Supreme Court allowing Judge McGroarty to hear the matter is required before the hearing is scheduled. Mr. Abood advised he will contact Mr. Brown and they will do what they need to do to get the Order. COURT ORDERED, matter CONTINUED sixty days. Court noted it will determine if the matter is to be heard here if a hearing has not been set by then.

CUSTODY

CONTINUED TO: 08/23/06 08:30 AM 01

08/23/06 09:00 AM 00 HEARING: DEFT'S MOTION TO SUPPRESS

HEARD BY: JOHN MCGROARTY, Senior Judge; Dept. VJ45

OFFICERS: Carole D'Aloia, Relief Clerk
Julie Lever, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y
004501	Abood, Joseph K.	Y

Statements by Court regarding the history of the case. Upon Court's inquiry, counsel advised the death penalty is off the table. Court acknowledged review and receipt of all pleadings pertaining to this motion. Mr. Brown advised that, since the State just filed it's response on 8/18/06, matter be continued to allow him to file a reply. Ms. Luzaich advised she

CONTINUED ON PAGE: 027

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 026

thought she had previously filed her response, and since it was just filed on 8/18/06 she has no objection to the continuance. Court instructed counsel to check their schedules and contact the Senior Judge Judicial Executive Assistant with possible dates and she will have the matter placed on calendar. Court advised that, in the meantime, it will review all hearing transcripts related to this motion.

CUSTODY

CLERK'S NOTE: JUDGE MCGROARTY KEPT THE FILE ON THIS CASE AND IT IS IN HIS OFFICE. cd

CONTINUED TO: 11/15/06 09:30 AM 01

08/30/06 08:30 AM 02 STATUS CHECK

HEARD BY: David Wall, Judge; Dept. 20

OFFICERS: Carol Foley/cf, Court Clerk
Carol Donahoo, Relief Clerk
Angela Lee, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	005056 Luzaich, Elissa	Y
	0001 D1 Porter, Justin D	Y
	PUBDEF Public Defender	Y
	004501 Abood, Joseph K.	Y

Counsel advised Judge McGroarty will hear argument 10/24. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 11/01/06 08:30 AM 03

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 027

11/01/06 08:30 AM 03 STATUS CHECK

HEARD BY: David Wall, Judge; Dept. 20

OFFICERS: Sharon Chun, Relief Clerk
Angela Lee, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	006955 Di Giacomo, Marc P.	Y
	0001 D1 Porter, Justin D	Y
	PUBDEF Public Defender	Y
	004501 Abood, Joseph K.	Y

Mr. DiGiacomo was present for Ms. Luzaich today and had no opposition to Mr. Abood's request for continuance after the ruling in Deft's other case.

COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 12/06/06 08:30 AM 04

11/15/06 09:30 AM 01 HEARING: DEFT'S MOTION TO SUPPRESS

HEARD BY: JOHN MCGROARTY, Senior Judge; Dept. VJ45

OFFICERS: REBECCA FOSTER, Court Clerk
Julie Lever, Reporter/Recorder

REQ. BY: McGroarty John S., Judge; Dept. 16

PARTIES:	STATE OF NEVADA	N
	005056 Luzaich, Elissa	Y
	0001 D1 Porter, Justin D	Y
	004501 Abood, Joseph K.	Y
	004546 Brown, Curtis	Y

Mr. Brown provided to the Court Exhibit A which had been misplaced from a prior hearing. Court noted there are three issues to be considered today: 1) Whether deft's statement to Chicago detective was voluntary; 2) Ford v. State which goes to the issue of whether parental presence was necessary at the time of questioning; and 3) Deft's Motion to Suppress. Arguments by counsel. COURT ORDERED, matter taken UNDER ADVISEMENT. FURTHER ORDERED, transcript to be delivered by 11-29-06; and matter SET for DECISION.

12-12-06, DECISION RE: MOTION TO SUPPRESS, 9:00 A.M.

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA vs Porter, Justin D

CONTINUED FROM PAGE: 028

12/06/06 08:30 AM 04 STATUS CHECK

HEARD BY: David Wall, Judge; Dept. 20

OFFICERS: Melissa Swinn, Relief Clerk
Angela Lee, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005873	Benedict, Susan M.	Y
0001 D1	Porter, Justin D	Y
004501	Abood, Joseph K.	Y
004546	Brown, Curtis	Y

Counsel requested matter be continued, pending outcome of a decision in another matter to be heard on 12/12/06. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 12/18/06 08:30 AM 05

12/18/06 08:30 AM 05 STATUS CHECK

HEARD BY: David Wall, Judge; Dept. 20

OFFICERS: Carol Foley, Court Clerk
Angela Lee, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
009286	Sedlock, Priyanka T.	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004501	Abood, Joseph K.	Y

Mr. Abood requested a continuance until after Judge McGroarty's decision. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 01/03/07 08:30 AM 06

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 029

12/19/06 09:00 AM 01 DECISION RE: MOTION TO SUPPRESS

HEARD BY: John S. McGroarty, Judge; Dept. 16

OFFICERS: REBECCA FOSTER, Court Clerk
Julie Lever, Reporter/Recorder

PARTIES:	STATE OF NEVADA	N
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	Y
004501	Abood, Joseph K.	Y

Court advised counsel it read the transcripts and the missing Exhibit A that was provided at the last court date. Court STATED ITS FINDINGS based on the transcripts, expert witness testimony, deft's signing a waiver and deft's criminal history and previous behavior. COURT ORDERED, Deft's Motion to Suppress Deft's Confessions and Admissions is DENIED. The State to prepare the appropriate Findings of Fact by 1-22-07.

CLERK'S NOTE: For full context of the Court's Findings see transcript.

01/03/07 08:30 AM 06 STATUS CHECK

HEARD BY: David Wall, Judge; Dept. 20

OFFICERS: Carol Foley, Court Clerk
Angela Lee, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y

Court noted the motion was heard and the case needs to be reassigned. Counsel concurred. Conference at bench. COURT ORDERED, status check set in one week. Reassignment will be through Chief Judge Hardcastle.

CUSTODY

1/10/07 8:30 AM STATUS CHECK: REASSIGNMENT

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 030

01/10/07 08:30 AM 00 STATUS CHECK: CASE VA 1/12/07

HEARD BY: David Wall, Judge; Dept. 20

OFFICERS: Carol Foley, Court Clerk
Angela Lee, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	005056 Luzaich, Elissa	Y
	0001 D1 Porter, Justin D	Y
	PUBDEF Public Defender	Y
	004546 Brown, Curtis	Y

Court advised it must recuse because Court was in the District Attorney's Office when the case came through.

To avoid the appearance of impropriety and implied bias, this Court hereby disqualifies itself and ORDERS, this matter be REASSIGNED at random.

CUSTODY

CONTINUED TO: 01/23/07 08:30 AM 01

01/19/07 08:45 AM 00 MINUTE ORDER RE: RECUSAL DEPT VII

HEARD BY: Stewart L. Bell, Judge; Dept. 7

OFFICERS: Tina Hurd, Court Clerk

PARTIES: NO PARTIES PRESENT

To avoid the appearance of impropriety and implied bias, this Court hereby disqualifies itself and ORDERS, this matter be REASSIGNED at random as this Court has previously recused as he worked on this case as a prosecutor. Court further advised this case cannot be assigned to Dept. III - Judge Herndon or Dept. XX - Judge Wall as they too worked on this case as prosecutors.

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 031

01/31/07 09:00 AM 00 STATUS CHECK: STATUS OF CASE

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: Sharon Coffman, Court Clerk
Sonia Riley, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004501	Abood, Joseph K.	Y
004546	Brown, Curtis	Y

Parties advised this matter needs to be set for trial. Upon Court's inquiry, parties advised the Information was filed 4/26/01. COURT ORDERED, TRIAL DATE SET and advised there will be no continuances.

CUSTODY

9/5/07 9:00 A.M. CALENDAR CALL

9/10/07 10:00 A.M. TRIAL BY JURY (#1 FIRM DATE)

09/05/07 09:00 AM 00 CALENDAR CALL

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: Katherine Streuber, Court Clerk
Sonia Riley, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y
004501	Abood, Joseph K.	Y

Counsel advised they were still working on negotiations and were not prepared for trial. State noted this first trial setting in this case and there have been several Evidentiary hearings. Court stated its findings and ORDERED, trial date VACATED and matter SET for status check.

CUSTODY

09-19-07 9:00 AM STATUS CHECK: NEGOTIATIONS

CONTINUED ON PAGE: 033

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 032

09/19/07 09:00 AM 00 STATUS CHECK: NEGOTIATIONS

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: Carole D'Aloia/cd//Phyllis Irby, Relief Clerk
Sonia Riley, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y
004501	Abood, Joseph K.	Y

Statements by Mr. Brown regarding the history of the case. Mr. Brown advised parties have been in discussions on trying to negotiate the matter. Ms. Luzaich stated she did make an offer to resolve the matter. Defendant stated he does not want to accept negotiations and wants to proceed to trial. Mr. Brown advised he cannot be prepared for trial until June of 2008 because of this trial schedule and the amount of work that needs to be done on this case. COURT ORDERED, matter set for JURY TRIAL AND ADVISED THIS IS A FIRM DATE.

CUSTODY

6/23/08 9:00 AM CALENDAR CALL

7/1/08 10:00 AM JURY TRIAL

05/28/08 09:00 AM 00 DEFT'S MTN TO SEVER COUNTS XXX, XXXI &
XXXII/73

HEARD BY: Valerie Adair, Judge; Dept. 21

OFFICERS: Katherine Streuber, Court Clerk
Janie Olsen, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005144	Sweetin, James R.	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y

State requested a continuance in order to file opposition. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 06/18/08 09:00 AM 01

CONTINUED ON PAGE: 034

PRINT DATE: 10/22/09

PAGE: 033

MINUTES DATE: 09/28/08

001087

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 033

06/16/08 09:00 AM 00 DEFT'S MTN TO REMAND CASE TO JUVENILE
COURT/74

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: Katherine Streuber, Court Clerk
Sonia Riley, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
006541	Lewis, Linda Y.	Y
0001 D1	Porter, Justin D	N
PUBDEF	Public Defender	Y
004501	Abood, Joseph K.	Y

At request of parties, COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 06/18/08 09:00 AM 01

06/18/08 09:00 AM 00 ALL PENDING MOTIONS (06/18/08)

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: Katherine Streuber, Court Clerk
Sonia Riley, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzach, Elissa	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y
004501	Abood, Joseph K.	Y

DEFT'S MOTION TO REMAND CASE TO JUVENILE COURT...DEFT'S MOTION TO SEVER
COUNTS XXX, XXXI AND XXXII

Counsel advised matter needs to be before Juvenile Court for hearing regarding certifying Deft. up as an adult. Argument by State regarding Chicago charges. Court advised Deft. needed to be adjudicated on previous sexual assault case and whether it was a felony, parties to inquire with Chicago. Counsel advised Chicago attorney would be contacted and noted Count XXXII does not apply as there are no connections with other charges. Counsel further noted if homicide is tried with other counts it may make State's case stronger as jury might assume Deft's guilt and requested severance. Arguments by counsel regarding relation of cases to which Deft. had confessed. Court stated its findings and ORDERED, Motion to Sever GRANTED

CONTINUED ON PAGE: 035

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 034

and Motion to Remand CONTINUED.

CUSTODY

06-23-08 9:00 AM DEFT'S MOTION TO REMAND CASE TO JUVENILE COURT

06/23/08 09:00 AM 00 ALL PENDING MOTIONS (06/23/08)

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: Katherine Streuber, Court Clerk
Sonia Riley, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y

CALENDAR CALL...DEFT'S MOTION TO REMAND CASE TO JUVENILE COURT

State advised no new information has been received due to age of case, contact has been made with Chicago authorities and requested a continuance. Counsel argued regarding loss of current trial setting and requested Court grant motion. Court pointed out Juvenile Court would have to do same discovery. Counsel requested trial setting of severed counts. State requested matter remain together as a new offer may be given. COURT ORDERED, matters are CONTINUED and SET for status check.

CUSTODY

06-25-08 9:00 AM CALENDAR CALL...DEFT'S MOTION TO REMAND CASE TO JUVENILE COURT...STATUS CHECK: TRIAL SETTING FOR SEVERED COUNTS

07-21-08 9:00 AM STATUS CHECK: DISCOVERY RE: OTHER CHARGES

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 035

06/25/08 09:00 AM 00 ALL PENDING MOTIONS (06/25/08)

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: Katherine Streuber, Court Clerk
Sonia Riley, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y

STATUS CHECK: TRIAL SETTING FOR SEVERED COUNTS...DEFT'S MOTION TO REMAND
CASE TO JUVENILE COURT...CALENDAR CALL

Counsel requested setting of trial for severed counts. State advised information regarding Deft's other charges from Chicago might be received before previous set status check date. Statement by counsel. COURT ORDERED, matters are CONTINUED. Trial date and future status check date are VACATED.

CUSTODY

07-09-08 9:00 AM STATUS CHECK: TRIAL SETTING FOR SEVERED COUNTS...DEFT'S
MOTION TO REMAND CASE TO JUVENILE COURT

07/09/08 09:00 AM 00 ALL PENDING MOTIONS 7/09/08

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: Nora Pena, Relief Clerk
Sonia Riley, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y

STATUS CHECK: TRIAL SETTING FOR SEVERED COUNTS...DEFT'S MOTION TO REMAND
CASE TO JUVENILE COURT

Ms. Luzaich advised she needed to obtain documents from Chicago and she is doing everything to get them. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED ON PAGE: 037

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 036

CONTINUED TO: 7/21/08 9:00 AM

07/21/08 09:00 AM 00 ALL PENDING MOTIONS (07/21/08)

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: Katherine Streuber, Court Clerk
Sonia Riley, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y

STATUS CHECK: TRIAL SETTING FOR SEVERED COUNTS...DEFT'S MOTION TO REMAND
CASE TO JUVENILE COURTState advised some documents have been received and a felony plea was
entered by Deft. State further advised they had asked for transcripts of
Deft's plea and sentencing and requested continuance in order to obtain
items. There being no opposition, COURT ORDERED, matter CONTINUED.

CUSTODY

08-04-08 9:00 AM STATUS CHECK: TRIAL SETTING FOR SEVERED COUNTS...DEFT'S
MOTION TO REMAND CASE TO JUVENILE COURT

08/04/08 09:00 AM 00 ALL PENDING MOTIONS 8/04/08

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: Nora Pena, Relief Clerk
Sonia Riley, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y
004501	Abood, Joseph K.	Y

STATUS CHECK: TRIAL SETTING FOR SEVERED COUNTS...DEFT'S MOTION TO REMAND
CASE TO JUVENILE COURT

CONTINUED ON PAGE: 038

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 037

Ms. Luzaich advised she got the transcript from Chicago for March 1996 and the Deft. was placed on probation, it indicates it was a felony, therefore, you don't need to remand Deft. back and she provided a copy of the transcript to Court and Counsel. Mr. Brown advised he reads the transcript differently than Ms. Luzaich, he reads it was a wobbler and the State's motion was denied; however, Deft. received one year of probation and the transcript is not clear. Ms. Luzaich argued on the distinction is whether it's forceable felony or non forceable. Court noted Deft. was charged with Attempt Vehicler Hijacking and asked the State to check their statute. Mr. Brown asked to try and find out what the Court's discretion was. Court believed the Judge was concerned about the Deft. being 13 years old and he agreed it's not clear, therefore, he asked the State to provide a statute on Attempt then asked the State to find out what is it for Chicago on Attempt. Mr. Brown asked did they clarify the terms. Ms. Luzaich stated she has asked for the original plea transcript. COURT ORDERED, matter CONTINUED two weeks.

CUSTODY

CONTINUED TO: 8/18/08 9:00 AM

08/18/08 09:00 AM 00 ALL PENDING MOTIONS (8/18/08)

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: Willa Pettice, Court Clerk
Robin Mucciarone/rm, Relief Clerk
Sonia Riley, Reporter/Recorder

PARTIES:	0001 D1	Porter, Justin D	Y
	PUBDEF	Public Defender	Y
	004501	Abood, Joseph K.	Y

STATUS CHECK: TRIAL SETTING FOR SEVERED COUNTS...DEFT'S MOTION TO REMAND
CASE TO JUVENILE COURT

Prior to Court, Mr. Abood requested a continuance and advised Ms. Luzaich is
aware of the request. COURT ORDERED, matter CONTINUED.

CUSTODY

9/3/08 9:00 AM STATUS CHECK: TRIAL SETTING FOR SEVERED COUNTS

9/3/08 9:00 AM DEFT'S MOTION TO REMAND CASE TO JUVENILE COURT

CONTINUED ON PAGE: 039

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA vs Porter, Justin D
CONTINUED FROM PAGE: 038

09/03/08 09:00 AM 00 ALL PENDING MOTIONS (09/03/08)

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: Katherine Streuber/ks, Court Clerk
Susan Jovanovich, Relief Clerk
Sonia Riley, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	005056 Luzaich, Elissa	Y
	0001 D1 Porter, Justin D	Y
	PUBDEF Public Defender	Y
	004501 Abood, Joseph K.	Y

STATUS CHECK: TRIAL SETTING FOR SEVERED COUNTS...DEFT'S MOTION TO REMAND
CASE TO JUVENILE COURT

State advised Court requested more documentation from Chicago regarding
Deft's cases and noted documents had not been received. CONFERENCE AT THE
BENCH. Court noted counts had been severed and trial should be set as to
murder counts and ORDERED, matters are CONTINUED. FURTHER, matter SET for
trial.

CUSTODY

10-01-08 9:00 AM STATUS CHECK: TRIAL SETTING FOR SEVERED COUNTS...DEFT'S
MOTION TO REMAND CASE TO JUVENILE COURT

02-02-09 9:00 AM CALENDAR CALL

02-10-09 10:00 AM TRIAL BY JURY

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 039

10/01/08 09:00 AM 00 ALL PENDING MOTIONS (10/01/08)

HEARD BY: David Barker, Judge; Dept. 18

OFFICERS: Katherine Streuber, Court Clerk
Sonia Riley, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004501	Abood, Joseph K.	Y

STATUS CHECK: TRIAL SETTING FOR SEVERED COUNTS...DEFT'S MOTION TO REMAND
CASE TO JUVENILE COURT

At the request of Judge Gates, COURT ORDERED, matters are CONTINUED.

CUSTODY

10-06-08 9:00 AM STATUS CHECK: TRIAL SETTING FOR SEVERED COUNTS...DEFT'S
MOTION TO REMAND CASE TO JUVENILE COURT

10/06/08 09:00 AM 00 ALL PENDING MOTIONS (10/06/08)

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: Katherine Streuber, Court Clerk
Sonia Riley, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004501	Abood, Joseph K.	Y

STATUS CHECK: TRIAL SETTING FOR SEVERED COUNTS...DEFT'S MOTION TO REMAND
CASE TO JUVENILE COURTAt request of State, COURT ORDERED, matters are CONTINUED. State provide
transcript from Deft's case in Chicago.

CUSTODY

10-13-08 9:00 AM STATUS CHECK: TRIAL SETTING FOR SEVERED COUNTS...DEFT'S
MOTION TO REMAND CASE TO JUVENILE COURT

CONTINUED ON PAGE: 041

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 040

10/13/08 09:00 AM 00 ALL PENDING MOTIONS (10/13/08)

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: Katherine Streuber, Court Clerk
Sonia Riley, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004501	Abood, Joseph K.	Y

STATUS CHECK: TRIAL SETTING FOR SEVERED COUNTS...DEFT'S MOTION TO REMAND
CASE TO JUVENILE COURT

Counsel argued documents provided by State show vehicular high-jacking, Deft. did not plead guilty to which no Judgment of Conviction (JOC) was prepared. Counsel noted Deft. was 12 years of age at time of incident and requested case be remanded back to Juvenile Court. State argued conviction took place in Juvenile Court and Deft. was adjudged a juvenile delinquent and problem being the age of case, most of records had been destroyed. Court noted Supreme Court states certified copy of JOC is needed. Further argument by State regarding Deft's current age of 26, he has been aged out of juvenile system. COURT ORDERED, matter taken UNDER ADVISEMENT.

10/15/08 09:00 AM 00 MINUTE ORDER RE: DECISION FOR REMAND TO
JUVENILE COURT

HEARD BY: Lee A Gates, Judge; Dept. 8

PARTIES: NO PARTIES PRESENT

Court believes Deft. had been convicted of vehicular high-jacking and he would have been charged with felony if he were an adult. Court hereby ORDERS, Deft's Motion to Remand to Juvenile Court DENIED. Ms. Elissa Luzaich to prepare the order.

NDC

CLERK'S NOTE: The above minute order has been distributed to: Elissa Luzaich Deputy D.A. and Joseph Abood Deputy P.D. 10/15/08 kls

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 041

02/02/09 08:30 AM 00 CALENDAR CALL

HEARD BY: ELISSA CADISH, Judge; Dept. 6

OFFICERS: Keith Reed, Court Clerk
Patty Slattery, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	005056 Luzaich, Elissa	Y
	0001 D1 Porter, Justin D	Y
	PUBDEF Public Defender	Y
	004546 Brown, Curtis	Y
	004501 Abood, Joseph K.	Y

Mr. Brown requested a continuance of the trial. Colloquy between court and counsel regarding the history of the case and the need for the continuance. Ms. Luzaich advised the trial will proceed in 2 parts, first will be the murder and the other part will deal with the sexual assaults and robbery; the murder portion can be completed in a week and was separated from the sexual assault by Judge Gates. Colloquy regarding further proceedings. Parties advised the sexual assault portion of the trial will take approximately 5 weeks. COURT ORDERED, trial CONTINUED.

CUSTODY

4-27-09 9:30 AM CALENDAR CALL

5-4-09 10:00 AM JURY TRIAL

04/27/09 08:30 AM 00 ALL PENDING MOTIONS 4-27-09

HEARD BY: ELISSA CADISH, Judge; Dept. 6

OFFICERS: Keith Reed, Court Clerk
Jessica Ramirez, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	005056 Luzaich, Elissa	Y
	009210 Tomsheck, Joshua L.	Y
	0001 D1 Porter, Justin D	Y
	PUBDEF Public Defender	Y
	004501 Abood, Joseph K.	Y
	004546 Brown, Curtis	Y

CALENDAR CALL...DEFT'S MOTION IN LIMINE TO PROHIBIT STATE FROM REFERRING TO DECEDENT, GYALTSO LUNG TOK AS A FORMER MONK...DEFT'S MOTION FOR JURY QUESTIONNAIRE

CONTINUED ON PAGE: 043

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 042

There being no opposition, COURT ORDERED, motion in limine to preclude the decedent from being referred to as a monk GRANTED. Arguments by counsel regarding the need for a jury questionnaire. Court stated findings & ORDERED, motion for jury questionnaire DENIED. Colloquy regarding further proceedings as to the trial. COURT ORDERED, trial date stands with proposed jury instructions to be provided electronically in word to the Judicial Executive Assistant by Thursday or at latest by noon Friday, additional instructions will be allowed to be submitted should something come up in the course of the trial, parties to contact Chambers should there be any issues.

CUSTODY

5-4-09 10:00 AM JURY TRIAL

05/04/09 10:00 AM 00 TRIAL BY JURY

HEARD BY: ELISSA CADISH, Judge; Dept. 6

OFFICERS: Keith Reed, Court Clerk
Jessica Ramirez, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
009210	Tomsheck, Joshua L.	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y
004501	Abood, Joseph K.	Y

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy regarding trial logistics, methodology for preemptory challenges and further proceedings. Ms. Luzaich advised should there be a conviction for first degree murder, parties have waived the right of the Jury to sentence the Deft. and will have the Court do so. Mr. Brown stated in the event there is a conviction, a stipulation will be prepared for the signature of the Court. IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Role of prospective Jurors called and sworn. Voir Dire. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Ms. Luzaich advised a Third Amended Information has been filed for which the language was agreed to by the state and defense counsel. IN THE PRESENCE OF THE PROSPECTIVE JURY PANE: Voir Dire. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy regarding further proceedings. IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Voir Dire. COURT ORDERED, proceedings CONTINUED to May 5th @ 10 AM.

CONTINUED TO: 05/05/09 10:00 AM 01

CONTINUED ON PAGE: 044

PRINT DATE: 10/22/09

PAGE: 043

MINUTES DATE: 05/04/09

001097

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 043

05/05/09 10:00 AM 01 TRIAL BY JURY

HEARD BY: ELISSA CADISH, Judge; Dept. 6

OFFICERS: Keith Reed, Court Clerk
Jessica Ramirez, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
009210	Tomsheck, Joshua L.	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004501	Abood, Joseph K.	Y
004546	Brown, Curtis	Y

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy regarding further proceedings. IN THE PRESENCE OF THE JURY: Voir Dire. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Court and counsel addressed prospective juror #065 Hidrosollo outside the presence of the prospective jury panel. COURT ORDERED, Juror #65, Hidrosollo EXCUSED. IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Voir Dire. Peremptory challenges exercised. Jury impaneled. IN THE PRESENCE OF THE JURY: Jury panel sworn, admonished and released to return May 6th @ 10AM. OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding further proceedings with the trial schedule. Mr. Brown advised a language barrier was previously noted as to juror #52 Yao, and the defense moved for her to be excused for cause, understanding the Court's ruling, Mr. Brown requested a Tagolian interpreter be provided for Ms. Yao. Court stated findings and ORDERED, request DENIED.

CONTINUED TO: 05/06/09 10:00 AM 02

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 044

05/06/09 10:00 AM 02 TRIAL BY JURY

HEARD BY: ELISSA CADISH, Judge; Dept. 6

OFFICERS: Keith Reed, Court Clerk
Jessica Ramirez, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
009210	Tomsheck, Joshua L.	Y
005056	Luzaich, Elissa	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004501	Abood, Joseph K.	Y
004546	Brown, Curtis	Y

OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding further proceedings. Arguments by Mr. Brown in regards to the states opening statements and statements that will be made by them throughout the trial in regards to statements made by the Deft. to investigators. Mr. Brown requested the statements not be mentioned in openings. Argument in opposition by Mr. Tomsheck. Court stated findings noting any statements denying the commission of any crimes are relevant & ORDERED, motion DENIED. For the record, Mr. Brown requested the state reveal what will be said in their opening statement and the testimony that will be elicited from Detective Jenson. Content of the state's opening statements presented by Mr. Tomsheck. IN THE PRESENCE OF THE JURY: Charging Information read by the Clerk. Opening statements on behalf of the state by Mr. Tomsheck & on behalf of the Deft. by Mr. Abood. Exclusionary rule INVOKED. Testimony & Exhibits Presented (See Worksheet). OUTSIDE THE PRESENCE OF THE JURY: Mr. Brown advised of a juror potentially over hearing a conversation by counsel in regards to severance and a specific conviction of the Deft's. Colloquy regarding further proceedings in regards to the representations of Mr. Brown. Court stated the issue will be addressed with the Juror outside the presence of the remaining Juror's. Upon the inquiry of the Court, Juror #52 Yao stated she did not overhear any conversations between counsel. IN THE PRESENCE OF THE JURY: Testimony & Exhibits (See Worksheets). COURT ORDERED, proceedings CONTINUED to May 7th @ 10:00 AM.

CONTINUED TO: 05/07/09 10:00 AM 03

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 045

05/07/09 10:00 AM 03 TRIAL BY JURY

HEARD BY: ELISSA CADISH, Judge; Dept. 6

OFFICERS: Keith Reed, Court Clerk
Jessica Ramirez, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
009210	Tomsheck, Joshua L.	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y
004501	Abood, Joseph K.	Y

OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding further proceedings. IN THE PRESENCE OF THE JURY: Testimony and exhibits presented. (See worksheets.) OUTSIDE THE PRESENCE OF THE JURY: Upon agreement of parties COURT ORDERED, transcript of preliminary hearing testimony of Detective Jensen ADMITTED as a Court's exhibit. IN THE PRESENCE OF THE JURY: Testimony and exhibits presented. (See worksheets.) OUTSIDE THE PRESENCE OF THE JURY: For appellant purposes Mr. Brown advised the testimony of Detective LaRochelle in regards to findings & conclusions drawn by firearms expert Good & DNA results from Welch were stipulated with the state to be allowed to be brought in so they did not have to appear. Mr. Tomsheck stated the reason for the stipulation is because both are retired, there are severance issues and testing by Good was done in another event linking matters and there were concerns about spillover. IN THE PRESENCE OF THE JURY: Testimony and exhibits presented. (See worksheets.) State REST. Jury admonished and released to return May 8th @ 10:30 AM. OUTSIDE THE PRESENCE OF THE JURY: Court advised Deft. of his rights as to testimony. Instructions settled. Colloquy regarding further proceedings.

CONTINUED TO: 05/08/09 10:30 AM 04

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 046

05/08/09 10:30 AM 04 TRIAL BY JURY

HEARD BY: ELISSA CADISH, Judge; Dept. 6

OFFICERS: Keith Reed, Court Clerk
Jessica Ramirez, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
009210	Tomsheck, Joshua L.	Y
0001 D1	Porter, Justin D	Y
PUBDEF	Public Defender	Y
004501	Abood, Joseph K.	Y
004546	Brown, Curtis	Y

OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding, jury instructions, verdict form & further proceedings. IN THE PRESENCE OF THE JURY: Defense REST. Jury instructions read by the Court. Closing arguments on behalf of the state by Ms. Luzaich and on behalf of the Deft. by Mr. Brown. Closing rebuttal arguments on behalf of the state by Mr. Tomsheck. 2 Alternate Jurors selected, admonished and released. At the hour of 12:40 PM the jury retired to commence deliberations. At the hour 4PM the Jury returned with verdicts as follows: COUNT I., BURGLARY WHILE IN POSSESSION OF A FIREARM- NOT GUILTY, COUNT II., ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON- NOT GUILTY, COUNT III., MURDER WITH USE OF A DEADLY WEAPON, GUILTY OF SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON. Court thanked and excused the jury. OUTSIDE THE PRESENCE OF THE JURY: COURT ORDERED, matter referred to the Division of Parole and Probation (P & P) and set for sentencing.

CUSTODY

7-8-09 8:30 AM SENTENCING

CRIMINAL COURT MINUTES

01-C-174954-C

STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 047

07/08/09 08:30 AM 00 SENTENCING

HEARD BY: ELISSA CADISH, Judge; Dept. 6

OFFICERS: Susan Jovanovich /sj, Relief Clerk
Jessica Ramirez, Reporter/Recorder

PARTIES: STATE OF NEVADA
009210 Tomsheck, Joshua L.
0001 D1 Porter, Justin D
PUBDEF Public Defender
004546 Brown, Curtis
004501 Abood, Joseph K.

Y
Y
Y
Y
Y
Y

Court stated she does not have Pre Sentence Investigation (PSI) Report. Additionally, message from P&P was received, stating they never received the case file from District Attorney's office. Mr. Tomsheck advised this issue has been addressed, further noting P&P will prepare the report quickly, and the file will be forwarded to them as soon as possible. Mr. Brown requested continuance for thirty days. COURT ORDERED, matter CONTINUED for P&P to prepare the PSI.

CUSTODY

CONTINUED TO: 08/05/09 08:30 AM 01

08/05/09 08:30 AM 01 SENTENCING

HEARD BY: ELISSA CADISH, Judge; Dept. 6

OFFICERS: Keith Reed, Court Clerk
Jessica Ramirez, Reporter/Recorder

PARTIES: STATE OF NEVADA
005056 Luzaich, Elissa
0001 D1 Porter, Justin D
PUBDEF Public Defender
004546 Brown, Curtis

Y
Y
Y
Y
Y

Mr. Brown advised the Presentence Investigation Report (PSI) has still not been received; 45 days is required for P & P to complete the PSI if the Deft. is in custody. COURT ORDERED, proceedings CONTINUED for the receipt of the PSI.

CUSTODY

CLERK'S NOTE: COURT ORDERED, sentencing CONTINUED from September 28th to

CONTINUED ON PAGE: 049

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 048

September 30th @ 8:30 AM. Minutes Distributed To: District Attorney Elissa Luzaich and Public Defender, Curtis Brown. kar 8-24-09

CONTINUED TO: 09/28/09 08:30 AM 02

09/30/09 08:30 AM 03 SENTENCING

HEARD BY: ELISSA CADISH, Judge; Dept. 6

OFFICERS: Keith Reed, Court Clerk
Jessica Ramirez, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	005056 Luzaich, Elissa	Y
	0001 D1 Porter, Justin D	Y
	PUBDEF Public Defender	Y
	004501 Abood, Joseph K.	Y
	004546 Brown, Curtis	Y

Pursuant to the verdict of the Jury, DEFT. PORTER ADJUDGED GUILTY of COUNT III, SECOND DEGREE MURDER WITH THE USE OF A DEADLY WEAPON (F). Statements by counsel & Deft. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, \$425.00 Restitution, \$2,421.50 Extradition fees and a \$150.00 DNA Analysis fee including testing to determine genetic markers, Deft. SENTENCED to LIFE in the Nevada Department of Corrections (NDC) with PAROLE ELIGIBILITY after a MINIMUM of ONE HUNDRED TWENTY (120) MONTHS, plus an equal and CONSECUTIVE term of LIFE in the Nevada Department of Corrections (NDC) with PAROLE ELIGIBILITY after a MINIMUM of ONE HUNDRED TWENTY (120) MONTHS; THREE THOUSAND THREE HUNDRED THIRTY-EIGHT (3338) DAYS credit for time served. Colloquy regarding trial setting with an expected time frame of 4 weeks. COURT ORDERED, matter set for status check.

NDC

10-14-09 8:30 AM STATUS CHECK: TRIAL SETTING

CRIMINAL COURT MINUTES

01-C-174954-C STATE OF NEVADA

vs Porter, Justin D

CONTINUED FROM PAGE: 049

10/14/09 08:30 AM 00 STATUS CHECK: TRIAL SETTING

HEARD BY: ELISSA CADISH, Judge; Dept. 6

OFFICERS: Keith Reed, Court Clerk
Jessica Ramirez, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	005056 Luzaich, Elissa	Y
	0001 D1 Porter, Justin D	Y
	PUBDEF Public Defender	Y
	004546 Brown, Curtis	Y
	004501 Abood, Joseph K.	Y

Colloquy regarding the scheduling of the trial which is expected to last 4 weeks. COURT ORDERED, matter set for trial, Deft. can be transported to the Nevada Department of Corrections to serve his other sentence.

CUSTODY(NDC)

11-8-09 9:30 AM CALENDAR CALL

11-15-09 10:00 AM JURY TRIAL

JUSTIN JUG CAPRI PORTER,) No. 54866
)
 Appellant,)
)
 vi.)
)
 THE STATE OF NEVADA,)
)
 Respondent.)

Employee, Clark County Public
Defender's Office