

1 intimidating, possessive, and controlling. Id. When Ms. Eddins told the Defendant that she
2 no longer wanted to be in a dating relationship with him the Defendant was not happy about
3 that and, "would not take no for an answer." GJT p. 10.

4 On September 29, 2008, Ms. Eddins was at her home with her children. This home
5 is located at 1519 Laguna Palms in Las Vegas, Clark County, Nevada. Id. The Defendant
6 came over that day and became furious at the fact that he was no longer allowed access to
7 Ms. Eddins home. GJT p. 11. In fact, Ms. Eddins had gone as far as unplugging the garage
8 so that the Defendant could not use a garage opener to get into the home. Id. When asked
9 why Ms. Eddins unplugged the garage she responded, "Because I didn't want to be with him
10 and at that point I was definitely getting scared and fearing for my life because his behavior
11 had changed." Id. Therefore, after Ms. Eddins unplugged the garage, the Defendant had no
12 access to gain entry into the residence, and he no longer had permission to enter. GJT p. 11.
13 When the Defendant realized that Ms. Eddins had unplugged the garage he became furious
14 and began calling the house phone demanding that Ms. Eddins open the door. He then
15 jumped the wall in the backyard and listened at the window in an attempt to figure out who
16 Ms. Eddins was speaking with on the phone. GJT p. 12. When Ms. Eddins realized that
17 the Defendant was outside her window she told him that she was going to call the police and
18 the Defendant responded, "Go ahead, call the police." Id. The Defendant then went to the
19 front door and began to bang on it, eventually Ms. Eddins opened the door. Id. When the
20 Defendant entered the house he began asking where the house key was, he then went into the
21 backpack of one of the children and grabbed the keys to the home and then left. Id. Ms.
22 Eddins then went out front to see where the Defendant was and she realized that two of her
23 tires on her vehicle had been damaged. Id. Ms. Eddins then went inside and called 911.
24 Id. Ms. Eddins had her tires repaired that evening. GJT p. 14.

25 The next morning, September 30, 2008, Ms. Eddins received a phone call from the
26 Defendant. The Defendant was enraged at the fact that Ms. Eddins had called the police and
27 had gotten a restraining order against him. Id. She then went to work at around 11:30 in the
28 morning. While at work the Defendant continuously called Ms. Eddins and then ultimately

1 showed up at her place of employment at 4:15 pm. GJT p. 15. The Defendant came inside
2 Ms. Eddins work, stole her cell phone, and then slashed all four of her vehicle's tires again.
3 GJT p. 16. Ms. Eddins then called the police. Id. The Defendant continued to call Ms.
4 Eddins and threaten her with comments such as, "Give me my mother fucking shit. I know
5 you got my shit. I want my shit. If you don't give me my mother fucking shit I'm going to
6 knock all this shit off." GJT p. 17.

7 After Ms. Eddins called the police she immediately called her children and told them
8 to leave the house and go to the neighbors. Id. This occurred at 4:45 pm. GJT p. 18.

9 Vivian Furlow is a close friend of Shalana Eddins and has known her for about ten
10 years. GJT p. 23. On September 30, 2008 Ms. Furlow received a call from Shalana Eddins
11 father asking her to go pick up Shalana's children at the neighbor's house. Ms. Furlow got
12 to the neighborhood around 6:15 – 6:30 pm. As she was approaching the neighborhood of
13 Laguna Palms she saw the Defendant driving in a rush out of the neighborhood. Id. Ms.
14 Furlow then went to the neighbor's house to pick up the children. After picking up the
15 children she approached Ms. Eddins house and learned that it was on fire. Id.

16 Shortly after this incident, Ms. Furlow called the Defendant's cell number and
17 listened to a rap he had personally composed and recorded in his own voice which had been
18 downloaded as his ringtone. During the rap the Defendant talks about his "baby's mama"
19 and states that "if you can't stand the heat you got to get out of the kitchen or you'll burn up
20 just like her house." GJT p. 26.

21 Robert Eddins is Shalana Eddins father. He also had telephonic contact with the
22 Defendant on the day the fire occurred. GJT p. 44. In the first conversation the Defendant
23 told Mr. Eddins that he could tell his daughter "we're even now." GJT p. 45. Then around
24 6:15 – 6:30 pm, Mr. Eddins received another phone call from the Defendant, where the
25 Defendant told Mr. Eddins that his daughter's house was on fire. GJT p. 46. Mr. Eddins
26 stated that the Defendant notified him of the fire before the police even knew about it. GJT.
27 P. 48.

28 ///

1 Jeff Lomprey is the investigations captain for the North Las Vegas Fire Department's
2 fire arson unit. GJT p. 30. During his investigation Captain Lomprey found that there were
3 multiple fires set within the house, in three separate and distinct areas. GJT p. 34. The three
4 locations were the master bed which had female clothing on the bed; the master bedroom
5 closet with female clothing in the closet on the floor that was piled up and also burned; and
6 the living room couch. GJT p. 35. After Captain Lomprey's investigation he determined
7 the cause of the fires to be arson which Captain Lomprey testified means, "an intentional act,
8 willful and malicious, set with an open flame with a human hand with the intent to destroy
9 the house and its contents." GJT p. 37.

10 ARGUMENT

11 **A. THE GRAND JURY WAS PROPERLY INSTRUCTED AS TO** 12 **THE EXTENT TO WHICH THE STATEMENTS TESTIFIED TO** 13 **AT THE GRAND JURY COULD BE CONSIDERED**

14 During her testimony before the Grand Jury, Ms. Eddins did state that her and the
15 Defendant's relationship stopped shortly after he was released from prison. GJT p. 9.
16 However, right after Ms. Eddins statement the Grand Jury was admonished by the District
17 Attorney to completely disregard the statement. Id. In this case the State correctly and
18 promptly instructed the members of the Grand Jury to disregard the statement of Ms. Eddins.
19 The Grand Jury, as are all finders of fact, is assumed to follow the instructions as given. In
20 this case the comment was a passing one, the jurors were immediately instructed to disregard
21 the comment and questioning along another line resumed.

22 Assuming however, that this Court were to find that the statement referred to by the
23 Petitioner was improperly admitted, the remedy in this case would clearly not be a dismissal
24 of the Indictment as the Petitioner is requesting. In fact, the Nevada Supreme Court has
25 previously addressed exactly such an issue. In Franklin v. State, 89 Nev. 382, (1973), the
26 Court cites the decision in State v. Logan, 1 Nev. 509 (1865), in which the Court said: "[t]hat
27 a grand jury should receive none but legal proof, is an old and well-established rule, but that
28 the admission of evidence not strictly legal will authorize a setting aside of an indictment, is
a proposition which seems to have no authority to sanction it, and, if adopted, would only be

1 an impediment to the execution of criminal justice, but where there is the slightest legal
2 evidence, the court cannot inquire into its sufficiency, or set it aside, because some illegal
3 evidence was received with it." Nevada is not alone in this holding. In fact, a number of
4 other jurisdictions adhere to a similar rule.¹ Clearly in this case, there was more than the
5 "slightest legal evidence" and the Indictment should stand.

6
7 **B. THE STATE PRESENTED SUFFICIENT EVIDENCE AS TO
THE CHARGES OF BURGLARY AND ARSON**

8 The petitioner claims that, "The State provided no evidence that Mr. Collins entered
9 the residence, located at 1519 Laguna Palms, with the intent to commit the crime of arson,
10 and therefore, failed to meet its burden of proving each element of the offense charged by
11 'slight or marginal evidence.'" Petitioner also claims that the State, "provided no evidence
12 that Mr. Collins set fire to the residence."

13 The Nevada Supreme Court has set forth the standard of review for purposes of
14 supporting a charging document:

15 In Grand Jury proceedings, the State need only show that a crime has been
16 committed and that the accused probably committed it. The finding of
17 probable cause to support a criminal charge may be based on "slight, even
18 'marginal' evidence . . . because it does not involve a determination of the
19 guilt or innocence of the accused." Sheriff v. Hodges, 96 Nev. 184, 186,
20 606 P.2d 178, 180 (1980). "To commit an accused for trial, the State is not
21 required to negate all inferences which might explain his conduct, but only
22 to present enough evidence to support a reasonable inference that the
23 accused committed the offense." Kinsey v. Sheriff, 87 Nev. 361, 363, 487
24 P.2d 340, 341 (1971).

25 In the case at hand there were many things that the Defendant did and said
26 to show his intent while entering the house that day.

27 ///

28 ¹ See Coppedge v. United States, 114 U.S.App.D.C. 79, 311 F.2d 128 (1962); United States v. Doe, 455 F.2d 1270 (1st Cir. 1972); People v. Freudenberg, 121 Cal.App.2d 564, 263 P.2d 875 (1953); People v. Edwards, 42 Misc.2d 930, 249 N.Y.S.2d 325 (Orleans County Ct. 1964); Silbert v. State, 12 Md.App. 516, 280 A.2d 55 (1971); Wickline v. Alvis, 103 Ohio App. 1, 144 N.E.2d 207 (1957); State v. McDonald, 231 Or. 24, 361 P.2d 1001 (1962); Burton v. State, 214 Tenn. 9, 377 S.W.2d 900 (1964).

1 a. Defendant's increasing acts of threats and violence against the victim,
2 Shalana Eddins

3 Ms. Eddins testified before the grand jury that in the fall of 2008, after she had told
4 the Defendant she no longer wanted to be with him he became, "intimidating, possessive,
5 and controlling." GJT p. 9. The night before the fire was set the Defendant showed up at the
6 residence demanding to be let in. When he wasn't immediately allowed access he
7 continuously called the home and ultimately jumped the wall into the backyard. GJT p. 12.
8 When the Defendant was finally let in, he got what he wanted and then left the home angry.
9 After the Defendant left, Ms. Eddins immediately walked outside of her home to find that
10 the tires on her vehicle had been slashed. GJT p. 14

11 Furthermore, the next day, in the early morning hours the Defendant again began
12 continuously calling Ms. Eddins. The Defendant was angry that Ms. Eddins had called the
13 police on him and was also angry that Ms. Eddins had gotten a restraining order. GJT p. 14.
14 Later on in the day, just hours before the setting of the fire, the Defendant showed up at Ms.
15 Eddins place of employment where he went inside and stole her cell phone. He then again
16 slashed all four of Ms. Eddins tires and continuously called her and repeatedly threatened
17 her. GJT p. 17.

18 It is obvious from both the Defendant's threats and his behavior that he was very
19 angry with the victim Shalana Eddins because she no longer wanted to be in a relationship
20 with him, therefore, the Defendant's motive is evident. In the days leading up to the fire the
21 Defendant's behavior became more and more volatile and his threats became more serious
22 until he ultimately carried them out on the 30th.

23 b. The Defendant's access to the home

24 During her testimony to the grand jury Ms. Eddins stated that the night before the fire
25 was set the Defendant was trying to gain access to the house. When she finally allowed him
26 in, he started asking where the house key was. When Ms. Eddins would not give him the
27 key, he went into the backpack of one of the children and grabbed the keys to the house. He
28 then left. GJT p. 12.

1 The defendant did not have permission to access the home because he was no longer
2 welcome there. When the Defendant was no longer welcome he repeatedly tried to find
3 ways to gain access to the house such as using a garage opener, jumping the back fence etc.
4 If the Defendant wanted something inside of the house he could have gotten it on the night
5 before the fire was set, which was September 29, 2008. However, the Defendant did not get
6 anything out of the house except for the key to gain access to the house when nobody else
7 was there. If the Defendant did not have the intention of committing a crime upon entry on
8 the 30th of September, why did he not get whatever he needed out of the house when he was
9 there the night before? The State submits that it was the Defendant's intention to get a key
10 so could gain access to the home on the 30th to set the fire.

11 c. The Defendant was seen leaving the scene of the crime in a hurry by witness
12 Vivian Furlow

13 Shortly before picking up the children from their neighbor's house, Ms. Furlow saw
14 the Defendant driving out of the neighborhood in a hurry. GJT p. 24.

15 d. Defendant's statements to the Robert Eddins

16 Mr. Eddins testified that he had multiple conversations with the Defendant on the day
17 the fire was set. During one of these conversations the Defendant told Mr. Eddins that he
18 could tell his daughter that "they were even now." GJT p. 45. In another conversation the
19 Defendant notified Mr. Eddins that his daughter's house was on fire. GJT 46. The second of
20 these statements occurred before even the police were aware the house had been burned.

21 These comments to Mr. Eddins illustrate that the Defendant did have the intent to
22 enter the home to commit the crime of arson. He specifically tells Mr. Eddins to tell his
23 daughter that they are "now even." Furthermore, he notifies Mr. Eddins about the fire
24 within minutes of the fire being set. In fact he notified Mr. Eddins about the fire before the
25 police had even been called. GJT p. 48.

26 e. Defendant's ringtone on his cellular phone

27 Vivian Furlow testified that shortly after the fire was set, she attempted to call the
28 Defendant's cell phone. Instead of receiving a normal ring when calling the Defendant's cell

1 phone, he had recorded a rap which he made as his ring tone. In this rap he referred to his
2 baby's mama and stated, "If you can't stand the heat you got to get out of the kitchen or
3 you'll burn up just like her house." GJT p. 26.

4 Not only is there circumstantial evidence illustrating that the Defendant committed the
5 crimes that he has been charged with, but he also admitted to the crimes he committed by
6 recording a rap as his ringtone describing what he had done to the house of his "baby's
7 mama" Shalana Eddins.

8 The Petitioner's position is that the State failed to meet the requisite burden of proof
9 to show that both the crimes of Burglary and Arson were committed. However, the points
10 discussed above illustrate that the Petitioner is incorrect.

11 The Defendant entered 1519 Laguna Palms on September 30, 2008 with the intent to
12 commit Arson therein. His actions both the day before and the day of the fire illustrate how
13 angry and volatile the Defendant was towards the victim. When the Defendant learned Ms.
14 Eddins no longer wanted to be with him he could not handle it anymore. The Defendant was
15 in the house the night before the fire was set, anything he wanted to get in the house, he
16 could have gotten that night but he didn't. The only thing he did get was the key to gain
17 entry to the house later, once he had the key he immediately left.

18 Furthermore, testimony by Shalana Eddins, Vivian Furlow, and Robert Eddins all
19 illustrated that the children were sent to their neighbor's house immediately after the
20 Defendant left Ms. Eddins place of employment around 4:45 pm. Therefore, the Petitioner's
21 suggestion that the children let the Defendant into the home is incorrect.

22 Most importantly, the Defendant by his "lyrics", on his own phone illustrates his
23 intentions on September 30th. In that ringtone he discusses both his baby's mama and
24 burning up her house.

25 The Defendant's volatile behavior both the day before and the day of the incident
26 illustrate the Defendant's intentions and motive in this case. That, coupled with the fact that
27 he was seen leaving the crime scene, notified the victim's father that the house had been set
28 on fire and stated that they were now even, and the Defendant's own admissions on his

1 cellular phone ringtone illustrate that the State had more than the requisite slight and
2 marginal evidence to have an indictment returned.

3 CONCLUSION

4 Based on the foregoing, the State respectfully requests that this Honorable Court deny
5 Defendant's Petition for Writ of Habeas Corpus.

6 DATED this 29th day of May, 2009.

7 Respectfully submitted,

8 DAVID ROGER
9 Clark County District Attorney
10 Nevada Bar # 002781

11 BY /s/JOSHUA TOMSHECK

12 JOSHUA TOMSHECK
13 Deputy District Attorney
14 Nevada Bar #009210

15 BY /s/JACQUELINE M. JEANNEY

16 JACQUELINE M. JEANNEY
17 Deputy District Attorney
18 Nevada Bar #010625

19 CERTIFICATE OF ELECTRONIC FILING

20 I hereby certify that service of the above and foregoing, was made this 29th day of
21 May, 2009, by Electronic Filing to:

22 PUBLIC DEFENDER'S OFFICE
23 Email: pdclerk@co.clark.nv.us

24 /s/A. HARDY

25 Secretary for the District Attorney's
26 Office

27
28 08FN2225X/GCU:abh

EXHIBIT “1”

ORIGINAL

35

1 IND
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 JOSHUA TOMSHECK
6 Deputy District Attorney
7 Nevada Bar #009210
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

FILED

APR 8 2 08 PM '09

E. J. Smith
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

11 THE STATE OF NEVADA,

12 Plaintiff,

Case No. C253455
Dept. No. XI

13 -vs-

14 LESEAN TARUS COLLINS,
15 #0857181

16 Defendant(s).

INDICTMENT

18 STATE OF NEVADA }
19 COUNTY OF CLARK } ss.

20 The Defendant(s) above named, LESEAN TARUS COLLINS, accused by the Clark
21 County Grand Jury of the crime(s) of FIRST DEGREE ARSON (Felony - NRS 205.010);
22 BURGLARY (Felony - NRS 205.060) and MALICIOUS INJURY TO VEHICLE (Gross
23 Misdemeanor - NRS 205.274, 193.155), committed at and within the County of Clark, State
24 of Nevada, on or about the 30th day of September, 2008, as follows:

25 COUNT 1 - FIRST DEGREE ARSON

26 did then and there willfully, unlawfully, maliciously, and feloniously set fire to, and
27 thereby cause to be burned, a certain residence, the master bedroom therein, located at 1519
28 Laguna Palms Avenue, North Las Vegas, Clark County, Nevada, said property being then

CLERK OF THE COURT

APR 08 2009

RECEIVED

1 and there the property of SHALANA EDDINS, by use of open flame and flammable and/or
2 combustible materials, and/or by manner and means unknown.

3 COUNT 2 - BURGLARY

4 did then and there wilfully, unlawfully, and feloniously enter, with intent to commit
5 arson, that certain building occupied by SHALANA EDDINS, located at 1519 Laguna Palms
6 Avenue, North Las Vegas, Clark County, Nevada.

7 COUNT 3 - MALICIOUS INJURY TO VEHICLE

8 did wilfully, unlawfully, and maliciously break, injure, or tamper with that certain
9 motor vehicle owned by SHALANA EDDINS, to-wit: a FORD EXPEDITION, without the
10 consent of the owner thereof, for the purpose of injuring, defacing, or destroying such
11 vehicle, or temporarily or permanently preventing its useful operation, or for any purpose
12 against the will or without the consent of the owner thereof, by slashing and/or stabbing
13 and/or cutting into tires of said vehicle, the value of said damage being over \$250.00, and
14 less than \$5,000.00.

15 DATED this 7th day of April, 2009.

16
17 DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781

18
19 BY

20 J. Tomsheck
JOSHUA TOMSHECK
Deputy District Attorney
Nevada Bar #009210

21
22
23 ENDORSEMENT: A True Bill

24
25 Walter P. Chaudhry
26 Foreperson, Clark County Grand Jury

1 Names of witnesses testifying before the Grand Jury:

2 EDDINS, SHALANA 176 Judy Ct #B, Henderson, NV

3 FURLOW, VIVIAN 8429 Vast Horizon, LVN

4 LOMPNEY, JEFFREY 2626 E Carey Ave, NLVN

5 EDDINS, ROBERT 9012 Alpine Peaks Ave, LVN

6 Additional witnesses known to the District Attorney at time of filing the Indictment:

7 COLLINS, TYSARS 176 Judy Crt #B, Henderson, NV

8 COLLINS, TYSEAN 176 Judy Crt #B, Henderson, NV

9 CUSTODIAN OF RECORDS NLV FIRE DEPARTMENT

10 CUSTODIAN OF RECORDS NLV DETENTION CENTER

11 CUSTODIAN OF RECORDS NLV PD COMMUNICATIONS

12 CUSTODIAN OF RECORDS NLV PD RECORDS

13 HARDY, KENNETH LVMPD #3031

14 HEER, DARLENE PO Box 750754, LVN

15 VITAL, MANUEL NLV PD #1923

16 WATKINS, ANTHONY NLV PD #959

17

18

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21

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23

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25

26

27 08AGJ112X/08FN2225X/sam

28 NLVFD EV# 0825792

(TK3)

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

FILED

2009 JUL -8 P 2: 44

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

12 LESEAN TARUS COLLINS,

13 Defendant.

CASE NO. C253455X

DEPT. NO. XI

DATE: July 22, 2009

TIME: 9:00 a.m.

14 DEFENDANT'S MOTION TO COMPEL DISCLOSURE
15 OF EXCULPATORY EVIDENCE

16 COMES NOW, the Defendant, LESEAN TARUS COLLINS, by and through
17 TIERRA D. JONES, Deputy Public Defender and hereby requests that, pursuant to Brady v.
18 Maryland, 373 U.S. 83, 83 S.Ct. 1194 (1963), this Court order the State to produce any and all
19 exculpatory evidence in its actual or constructive possession.

20 This Motion is made and based upon all the papers and pleadings on file herein, the
21 attached Declaration of Counsel, and oral argument at the time set for hearing this Motion.

22 DATED this 8th day of July, 2009.

23 PHILIP J. KOHN
24 CLARK COUNTY PUBLIC DEFENDER

25 By Tierra D. Jones
26 TIERRA D. JONES, #10094
27 Deputy Public Defender
28

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CMC

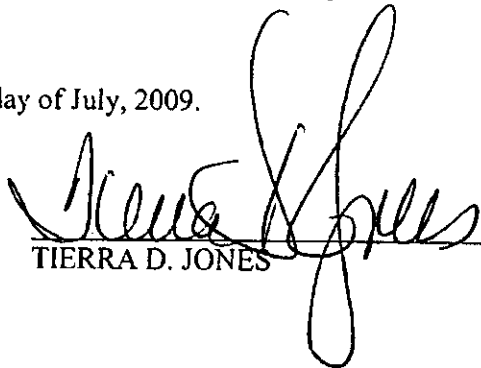
DECLARATION

TIERRA D. JONES makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and the Defendant has represented the following facts and circumstances of this case.

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

EXECUTED this 7th day of July, 2009.


TIERRA D. JONES

STATEMENT OF FACTS

The Defendant seeks to compel the State to produce any and all exculpatory information in the State's possession.

ARGUMENT

Prior to trial, the State must provide to the defense any and all exculpatory evidence in its actual or constructive possession. Failure to do so violates the Due Process Clauses of the Fifth and Fourteenth Amendments to the United States Constitution. Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194 (1963); Kyles v. Whitley, 514 U.S. 419, 115 S.Ct. 1555 (1995). Hereinafter this type of exculpatory evidence will be referred to as "Brady material." The State's duty to provide Brady material to the defense applies regardless of how the State has chosen to structure its overall discovery process. Strickler v. Greene, 527 U.S. 263, 119 S.Ct. 1936 (1999).

Brady material is evidence which is (1) material, (2) relevant to guilt or punishment, (3) favorable to the accused, and (4) within the actual or constructive possession of anyone acting on behalf of the State. Brady, supra.

I. Materiality

When the defense makes a specific request for Brady material and the State does not provide such material, the Nevada Supreme Court has held that there are grounds for reversal of a conviction "...if there exists a reasonable possibility that the claimed evidence would have affected the judgment of the trier of fact." Roberts v. State, 110 Nev. 1121 (1994); Jiminez v. State, 112 Nev. 610 (1996); State v. Bennett, 119 Nev. 589 (2003).

Even if a specific request has not been made, reversal is warranted "...if there exists a reasonable probability that, had the evidence been disclosed, the result of the proceeding would have been different." U.S. v. Bagley, 473 U.S. 667 (1985), Pennsylvania v. Ritchie, 480 U.S. 39 (1986). A "reasonable probability" is a probability sufficient to undermine confidence in the outcome of the proceeding. Bagley at 682.

Therefore, where, as here, a specific request for certain evidence is made, the evidence is considered "material" if there is a reasonable possibility that it could affect the factfinder's judgment.

1 *II. Relevancy to guilt or punishment*

2 Brady material encompasses not only evidence which might affect the defendant's guilt,
3 but also includes evidence which could serve to mitigate a defendant's sentence upon conviction.
4 Jimenez v. State, 112 Nev. 610 (1996).

5 An example of this kind of evidence might be where the victim of a robbery who identified
6 the defendant as one of two people who robbed him, also indicated that the defendant tried to keep
7 the co-defendant from further injuring him. Although the victim's statements would actually help
8 establish the defendant's guilt for the charged offense, they would also be Brady material, since
9 they could help mitigate the defendant's sentence. Essentially, anything which could convince the
10 Court to impose something less than a maximum sentence, or rebut alleged aggravating
11 circumstances, would be relevant to punishment, and must be provided to the defense pursuant to
12 Brady v. Maryland.

13 *III. Favorability to the accused*

14 The Nevada Supreme Court has defined what evidence is considered "favorable to the
15 accused" and therefore proper Brady material. In Mazzan v. Warden, 116 Nev. 48 (2000), the
16 Court stated:

17 Due process does not require simply the disclosure of "exculpatory"
18 evidence. Evidence also must be disclosed if it provides grounds for the
19 defense to attack the reliability, thoroughness, and good faith of the police
20 investigation, to impeach the credibility of the state's witnesses, or to bolster
21 the defense case against prosecutorial attacks. Furthermore, "discovery in a
22 criminal case is not limited to investigative leads or reports that are
23 admissible in evidence." Evidence "need not have been independently
24 admissible to have been material." Mazzan at 67. (citations omitted)

25 Therefore, Brady material under this standard, would include, but not be limited to, the
26 following examples: forensic testing which was ordered, but not done, or which was completed but
27 did not inculcate the defendant; criminal records or other evidence concerning State's witnesses
28 which might show their bias (e.g., civil litigation), or otherwise impeach their credibility; evidence
that the alleged victim has been the alleged victim of an unusual number of crimes; investigative
leads or ordinarily appropriate investigation which were not followed-up on or completed by law
enforcement; and, of course, anything which is inconsistent with any prior or present statements of

1 a State's witness, including the failure to previously make a statement which is later made or
2 testified to. Of course, traditionally exculpatory evidence such as that which could show that
3 someone else committed the charged crime or that no crime occurred, would also be included as
4 Brady material.

5 *IV. Actual or constructive possession of the State*

6
7 It is anticipated that the prosecution may assert that it has an "open file" policy, and that if
8 the requested material is not available in its file, the State is under no obligation to produce it.
9 This argument is unavailing. In Strickler v. Greene, 527 U.S. 263, 119 S.Ct. 1936 (1999), the
10 United States Supreme Court explicitly held that a prosecutor's open file policy does not in any
11 way substitute for or diminish the State's obligation to turn over Brady material. The Nevada
12 Supreme Court is in accord. "It is a violation of due process for the prosecutor to withhold
13 exculpatory evidence, and his motive for doing so is immaterial." Jimenez v. State, 112 Nev. 610,
14 618 (1996).

15 Furthermore, "...even if the detectives withheld their reports without the prosecutor's
16 knowledge, 'the state attorney is charged with constructive knowledge and possession of evidence
17 withheld by other state agents, such as law enforcement officers.'" Id., 112 Nev. at 620 (citation
18 omitted) (emphasis added). Defendant would submit that other state agents, such as probation and
19 parole officers, welfare workers, employees of Child Protective Services, jail personnel, and
20 similar agents of the State are also State agents from whom the prosecution must affirmatively
21 collect Brady material.

22 In Kyles v. Whitley, 514 U.S. 419, 115 S.Ct. 1555 (1995), the United States Supreme
23 Court made it clear that the prosecutor has an affirmative obligation to obtain Brady material and
24 provide it to the defense, even if the prosecutor is initially unaware of its existence. In so finding,
25 the Supreme Court noted that "[t]he prosecution's affirmative duty to disclose evidence favorable
26 to a defendant can trace its origins to early 20th century strictures against misrepresentation and is
27 of course most prominently associated with this Court's decision in Brady v. Maryland. . ." Id. at
28 432. The Kyles Court also made clear that this obligation exists even where the defense does not
make a request for such evidence. Id.

1 The Kyles Court additionally made the following observations in finding that the State had
2 breached its duty to Kyles and discussing the prosecutor's obligations.

3
4 This in turn means that the individual prosecutor has a duty to learn
5 of any favorable evidence known to the others acting on the govern-
6 ment's behalf in the case, including the police. But whether the
7 prosecutor succeeds or fails in meeting this obligation (whether, that
8 is, a failure to disclose is in good faith or bad faith), the prosecution's
9 responsibility for failing to disclose known, favorable evidence rising
10 to a material level of importance is inescapable.

11 The State of Louisiana would prefer an even more lenient rule. It pleads
12 that some of the favorable evidence in issue here was not disclosed
13 even to the prosecutor until after trial, and it suggested below that it
14 should not be held accountable under Bagley and Brady for evidence
15 known only to police investigators and not to the prosecutor. To
16 accommodate the State in this manner would, however, amount to a
17 serious change of course from the Brady line of cases. In the State's
18 favor it may be said that no one doubts that police investigators some-
19 times fail to inform a prosecutor of all they know.

20 But neither is there any serious doubt that "procedures and
21 regulations can be established to carry [the prosecutor's] burden
22 and to insure communication of all relevant information on each
23 case to every lawyer who deals with it." Since then, the prosecutor
24 has the means to discharge the government's Brady responsibility
25 if he will, any argument for excusing a prosecutor from disclosing
26 what he does not happen to know about boils down to a plea to
27 substitute the police for the prosecutor, and even for the courts
28 themselves, as the final arbiter's of the government's obligation to
ensure fair trials. Kyles at 437-438 (citations omitted).

There can be little question, therefore, that despite its "open file policy," the prosecution
has an affirmative duty to seek out the previously discussed Brady material, regardless of whether
such material is in the hands of the prosecutor or in the hands of some other entity acting on behalf
of the State.

V. Brady requests

Based on the foregoing law and analysis, the Defendant requests that the following Brady
material be produced by the State:

//

- *Disclosures of any and all compensation, express or implied promises of favorable treatment or leniency, or any other benefit that any of the State's witnesses received in exchange for their cooperation with this prosecution, including, but not limited to, any express or implied promise made to any witness.*
- *Complete criminal histories of all State witnesses, including, but not limited to, out-of-state arrests and convictions, outstanding arrest warrants or bench warrants, and cases which were dismissed or not pursued by the prosecuting agency.*
- *Disclosures of any and all records generated by the Las Vegas Metropolitan Police Department, the Clark County District Attorney's Office and/or any other state entity which are exculpatory as described above to either the issue of guilt or penalty.*
- *Any and all exculpatory evidence relating to Lashonda Eddin's arrest on the date of the alleged offense.*
- *Disclosures of any and all statements made by any State witness, or any other person, at any time that are in any manner inconsistent with the written and/or recorded statements previously provided to the defense.*
- *Requests for and/or results of any and all crime scene analysis and/or testing performed on any of the physical or biological evidence in this case.*
- *Photocopies or other reproduction of any and all handwritten or otherwise memorialized notes kept by the investigating police officers in this case, including, but not limited to, any notes documenting alternate suspects, investigative leads that were not followed up on, or any other matter bearing on the credibility of any State witness.*

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- 1 • Any statements made by the Defendant (recorded – audio and transcribed
2 versions).

3
4 DATED this 28 day of July, 2009.

5 PHILIP J. KOHN
6 CLARK COUNTY PUBLIC DEFENDER

7
8 By: Tierra D. Jones
9 TIERRA D. JONES, #10094
10 Deputy Public Defender
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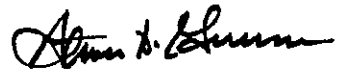
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CLERK OF THE COURT

OPPS

DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
JACQUELINE M. JEANNEY
Deputy District Attorney
Nevada Bar #010625
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)
)
) Plaintiff,)
)
) -vs-)
)
) LESEAN COLLINS,)
) #0857181)
)
) Defendant.)

CASE NO: C253455

DEPT NO: VIII

STATE'S OPPOSITION TO DEFENDANT'S MOTION TO PRECLUDE TESTIMONY
OF MINOR CHILD, TYSEAN COLLINS

DATE OF HEARING: September 16, 2009

TIME OF HEARING: 8:30 A.M.

COMES NOW, the State of Nevada, by DAVID ROGER, District Attorney, through
Deputy District Attorneys JOSHUA TOMSHECK and JACQUELINE JEANNEY, and
hereby submits the attached Points and Authorities in Opposition to DEFENDANT'S
MOTION TO PRECLUDE TESTIMONY OF MINOR CHILD, TYSEAN COLLINS.

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

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1 6:15 – 6:30 pm, Mr. Eddins received another phone call from the Defendant, where the
2 Defendant told Mr. Eddins that his daughter's house was on fire. GJT p. 46. Mr. Eddins
3 stated that the Defendant notified him of the fire before the police even knew about it. GJT.
4 P. 48.

5 Jeff Lomprey is the investigations captain for the North Las Vegas Fire Department's fire
6 arson unit. GJT p. 30. During his investigation Captain Lomprey found that there were
7 multiple fires set within the house, in three separate and distinct areas. GJT p. 34. The three
8 locations were the master bed which had female clothing on the bed; the master bedroom
9 closet with female clothing in the closet on the floor that was piled up and also burned; and
10 the living room couch. GJT p. 35. After Captain Lomprey's investigation he determined
11 the cause of the fires to be arson which Captain Lomprey testified means, "an intentional act,
12 willful and malicious, set with an open flame with a human hand with the intent to destroy
13 the house and its contents." GJT p. 37.

14 POINTS AND AUTHORITIES

15 **I. THE STATEMENT OF TYSEAN COLLINS SHOULD NOT BE** 16 **EXCLUDED FROM TESTIMONY**

17 It is important to initially note that nine year old Tysean Collins was never formally
18 interviewed. While on scene, Officer Manuel Vital briefly spoke to Tysean Collins and
19 Tysean did state that he saw his father drive up to their house and heard his father say he was
20 going to, "burn the house down." However, the Defendant's attempt to make it look like the
21 child was formally sat down, held against his will, and interviewed is false.

22 In viewing the police report it is clear that there were others at the scene that were
23 "interviewed." In those situations the word "interview" or "interviewed" was used,
24 however, in the five (5) lines used to discuss what Tysean Collins said, never once is the
25 word "interview" used but merely the term "spoke" to, when discussing, the brief encounter
26 the Officer had with Tysean Collins.

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1 It is the State's position that that Tysean Collins was never interviewed in the first
2 place, notwithstanding that, the State still believes that even if the child was interviewed, the
3 Defendant's position on this motion lacks authority.

4 **a. Field Interviews**

5 The Defendant's attempt to analogize the case at hand to Somee v. State fails as the two
6 cases have nothing in common.

7 In Somee, the Defendant was a gang member who was also a suspect in an attempt
8 murder case. He was ultimately convicted and then appealed his conviction on several
9 grounds, one of those being that his Constitutional rights were violated because of the field
10 interviews that were conducted.

11 The State fails to see how the Somee case is relatable to this case at all. Here the
12 Defendant's nine (9) year old son merely spoke to an Officer by telling him what he
13 observed his father doing and what his father told him he was going to do. The child never
14 was a suspect in this case in any way shape or form. Therefore, it never became necessary
15 for the police officer to advise Tysean of his constitutional rights. It is not essential that
16 every individual who was a witness to a crime be notified of their constitutional rights. The
17 Nevada Supreme Court made clear that it was addressing the rights of Defendant's in the
18 Somee case when it stated, "Unless a recognized exception applies, both physical evidence
19 and a defendant's statements obtained as a result of an illegal search or seizure should be
20 suppressed. Furthermore, involuntary statements should be suppressed as well as
21 incriminating statements made by a suspect under custodial interrogation unless *Miranda*
22 warnings have been given or other procedural safeguards have been followed." Somee v.
23 State, 187 P.3d 152, 159 (2008). In issuing its decision it is clear that the Supreme Court,
24 when addressing the issue of field interviews, was addressing the issues as to *Defendant's*
25 rights, not every individual that is interviewed. In the excerpt above the Court used the word
26 "suspect" and "Defendant" when discussing the issue, making it even more evident as to
27 which individuals are affected by this decision.

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1 As aforementioned, it is the State's position that Tysean Collins was never formally
2 interviewed, instead he briefly stated to Officer Vital what he observed. However, even if
3 Tysean was interviewed he is not and was never a suspect in this case, and therefore, the
4 safeguards put in place by the Nevada Supreme Court in Somee are not applicable here.

5 **b. Safeguards for Child Interviews**

6 Again, the State fails to see the connection between the facts in Mack-Manley and the
7 facts here. In Mack-Manley, the parents of minor children were in a bitter fight over
8 custody. During that divorce preceding the Mother of the child hired a private investigator
9 who interviewed, photographed, and videotaped the child. The father then contested these
10 actions. The court ruled that although the investigator was a private investigator and not a
11 "therapist, counselor, psychologist, or similar profession" as names in EDCR 5.12, their
12 "role is sufficiently similar to that of a therapist or psychologist to fall within the purview of
13 EDCR 5.12. Thus, under EDCR 5.12, an investigator may investigate child custody cases
14 without a court order but must obtain court approval to interview the child." Mack-Manley
15 v. Manley, 122 Nev. 849, 859 (2006).

16 After reviewing both the facts and the ruling in the Mack-Manley case it is clear that the
17 issue in that case has nothing to do with the facts at hand. Here, there was no claim being
18 made that Tysean Collins had been abused, therefore, EDCR 5.12 does not become
19 applicable. If the Defendant's position were true, it would make it impossible for police
20 officers to do their job. If every police officer who came upon a crime scene had to obtain
21 court approval before even speaking to any minor that may have seen or heard anything, a
22 plethora of crimes would go unsolved.

23 The Defendant's attempt to equate the position of a police officer to an investigator,
24 therapist, counselor, or psychologist is unfounded, and therefore, the motion should be
25 denied.

26 **c. Safeguards for Children in Custody**

27 After the Nevada Supreme Court's ruling in Shaw vs. State, 104 Nev. 100 (1988), the
28 Court clarified it's jurisprudence concerning parental notification as a prerequisite to

1 interrogating juveniles suspected of criminal offenses in Ford v. State, 122 Nev. 796
2 (2006). It should be mentioned that the last sentence is what's most important, it states
3 "interrogating juveniles suspected of criminal offenses." Again, these cases the Defendant
4 continuously brings up are not analogous in any way, shape, or form to the facts at hand.
5 Tysean Collins was never a suspect. Notwithstanding, that point, when the Court clarified
6 it's position it stated, "Our review of the parental notification requirement contained in NRS
7 62C.010 indicates that its purpose is to accomplish parental awareness of a child's custody
8 status, not to impose a legislative mandate precluding interrogations of juveniles without
9 parental notification." Id. at 504. The Court went on to state that, "NRS 62C.010 does not
10 impose a duty on law enforcement to notify a juvenile's parents as a condition to obtaining a
11 voluntary statement from the juvenile, regardless of the nature of the crime being
12 investigated. Rather, that statute serves only to notify parents that their child is in the
13 custody of the police, and it offers no remedy when police fail to do so." Id. Tysean Collins
14 was never in custody, so this case really has no bearing on these facts, however, even if he
15 was in custody, the Court makes clear in Ford, that the officer had no duty to notify Tysean's
16 parents as a condition to obtaining a voluntary statement from him. Therefore, the
17 Defendant's Motion should be denied.

18 CONCLUSION

19 In each section of the Defendant's motion, the Defendant continuously uses facts from
20 cases that in no way compare to the facts in this case. Tysean Collins was never in custody
21 in this case and was never a suspect, therefore, it was never necessary to make him aware of

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1 his Constitutional rights. Furthermore, the Ford case makes it clear that even if he were in
2 custody parental notification was never necessary. Therefore, the State respectfully requests
3 that the Defendant's motion be denied.

4 DATED this 15th day of September, 2009.

5 Respectfully submitted,

6 DAVID ROGER
7 Clark County District Attorney
8 Nevada Bar #002781

9 BY /s/JACQUELINE J. JEANNEY
10 JACQUELINE M. JEANNEY
11 Deputy District Attorney
12 Nevada Bar #0010625
13

14 CERTIFICATE OF FACSIMILE TRANSMISSION

15 I hereby certify that service of STATE'S OPPOSITION TO DEFENDANT'S
16 MOTION TO PRECLUDE TESTIMONY OF MINOR CHILD, TYSEAN COLLINS, was
17 made this 15th day of September, 2009, by facsimile transmission to:

18 TIERRA D. JONES
19 DEPUTY PUBLIC DEFENDER
20 PUBLIC DEFENDER'S OFFICE
21 FAX #366-1808

22 /s/P. Manis
23 Secretary for the District Attorney's
24 Office
25
26
27

28 JMJ/pm


CLERK OF THE COURT

1 **NOTC**
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 JACQUELINE M. JEANNEY
6 Deputy District Attorney
7 Nevada Bar #0010625
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 LESEAN TARUS COLLINS,
13 #0857181

14 Defendant.

CASE NO: C253455

DEPT NO: XI

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

17 TO: LESEAN TARUS COLLINS, Defendant; and

18 TO: PUBLIC DEFENDER, Counsel of Record:

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

<u>NAME</u>	<u>ADDRESS</u>
22 KOLSTAD, BRYAN	NLVPD
23 RYAN, SGT.	NLVPD
24 WHITE, CARALYN	NLVPD
25 WINGATE, BRUCE	NLVFD

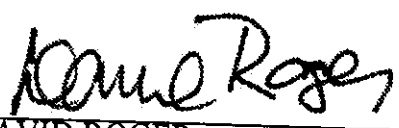
26 These witnesses are in addition to those witnesses endorsed on the Indictment and any

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1 other witness for which a separate Notice has been filed.
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4 BY


DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781

7
8 CERTIFICATE OF FACSIMILE TRANSMISSION

9 I hereby certify that service of NOTICE OF WITNESSES [NRS 174.234(1)(a)], was
10 made this 29th day of October, 2009, by facsimile transmission to:

11 PUBLIC DEFENDER'S OFFICE
12 ATTORNEY FOR DEFENDANT
13 FAX #366-1808

14 /s/P. Manis

15 Secretary for the District Attorney's
16 Office
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pm

NOTC
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
309 South Third Street, Suite #226
Las Vegas, Nevada 89155
(702) 455-4685
Attorney for Defendant

NOV - 2 2009

Arthur L. Johnson
CLERK OF COURT

THE STATE OF NEVADA,
Plaintiff,
v.
LESEAN TARUS COLLINS,
Defendant.

DATE: November 4, 2009
TIME: 9:00 a.m.

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NAME

ADDRESS

DESHAWN B. FLOYD

ADDRESS UNKNOWN

KIM MADDOX

Investigator

Clark Co. Public Defender's Office

309 S. THIRD STREET
LAS VEGAS, NV 89155

JANE EVERITT

Investigator

Clark Co. Public Defender's Office

309 S. THIRD STREET
LAS VEGAS, NV 89155

ROGER HOSFORD

Investigator

Clark Co. Public Defender's Office

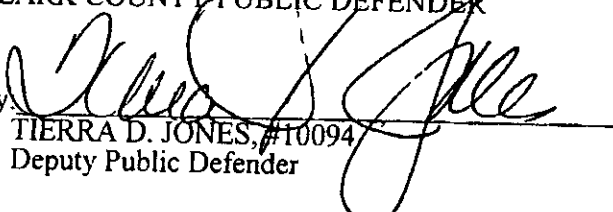
309 S. THIRD STREET
LAS VEGAS, NV 89155

DATED this 28 day of October, 2009.

PHILIP J. KOHN

CLARK COUNTY PUBLIC DEFENDER

By

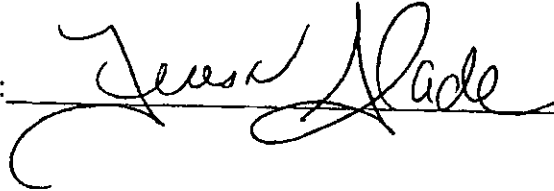

TIERRA D. JONES, #10094
Deputy Public Defender

RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing Notice is hereby acknowledged this

2 day of ^{Nov}~~October~~, 2009.

CLARK COUNTY DISTRICT ATTORNEY

By: 

Case Name: Lesean Tarus Collins
Case No.: C253455X
Dept. No.: XII

FILED

NOV - 2 2009

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CLERK OF COURT

1 NOTC
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

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,
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Plaintiff,
v.
LESEAN TARUS COLLINS,
Defendant.

CASE NO. C253455X

DEPT. NO. XII

DATE: November 4, 2009
TIME: 9:00 a.m.

DEFENDANT'S NOTICE OF ALIBI, PURSUANT TO NRS 174.087

TO: CLARK COUNTY DISTRICT ATTORNEY:

Pursuant to NRS 174.087, the Defendant, LESEAN COLLINS, by and through his attorney, TIERRA D. JONES, Deputy Public Defender, hereby files this Notice of Alibi.

The witnesses intended to be used by the defendant are:

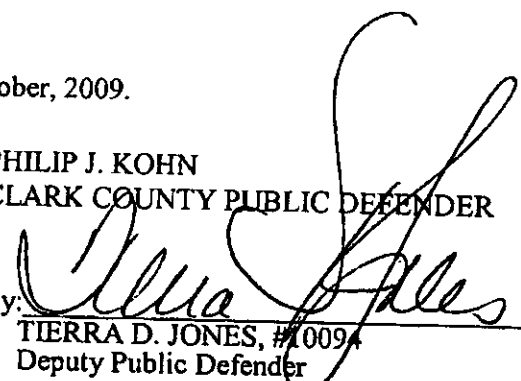
PATRICIA BREWER

5161 Holly St.
Pahrump, NV 89060

The pertinent testimony that the witnesses will furnish is that the defendant could not have been at 1519 Laguna Palms Drive, Las Vegas, Nevada at the time of the alleged arson, on September 30, 2008 because he was with her.

DATED this 31st day of October, 2009.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: 
TIERRA D. JONES, #10094
Deputy Public Defender

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CLERK OF THE COURT

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0001
 DAVID ROGER
 Clark County District Attorney
 Nevada Bar #002781
 JOSHUA TOMSHECK
 Deputy District Attorney
 Nevada Bar #009210
 200 Lewis Avenue
 Las Vegas, Nevada 89155-2212
 (702) 671-2500
 Attorney for Plaintiff

FILED IN OPEN COURT

NOV 02 2009

STEVEN D. GRIERSON
CLERK OF THE COURT

BY

APRIL WATKINS

DEPUTY

DISTRICT COURT
 CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

LESEAN COLLINS,
ID# 0857181

Defendant.

CASE NO: C253455

DEPT NO: XII

**NOTICE OF MOTION AND MOTION TO CONDUCT VIDEOTAPED
 DEPOSITION TESTIMONY OF MATERIAL WITNESS VIVIAN FURLOW**

DATE OF HEARING: 11/02/09
 TIME OF HEARING: 11:00 A.M.

TO: LESEAN COLLINS, Defendant; and

TO: TIERRA JONES, Deputy Public Defender, Counsel of Record; and

COMES NOW, the State of Nevada, by DAVID ROGER, District Attorney, through
 JOSHUA TOMSHECK, Deputy District Attorney, and files this Notice of Motion and
 Motion for Videotaped Deposition Testimony of Material Witness Vivian Furlow.

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

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1 garage she responded, "Because I didn't want to be with him and at that point I was
2 definitely getting scared and fearing for my life because his behavior had changed." GJT Id.
3 Therefore, after Ms. Eddins unplugged the garage, the Defendant had no access to gain
4 entry into the residence, and he no longer had permission to enter. GJT p. 11. When the
5 Defendant realized that Ms. Eddins had unplugged the garage he became furious and began
6 calling the house phone demanding that Ms. Eddins open the door. He then jumped the wall
7 in the backyard and listened at the window in an attempt to figure out who Ms. Eddins was
8 speaking with on the phone. GJT p. 12. When Ms. Eddins realized that the Defendant was
9 outside her window she told him that she was going to call the police and the Defendant
10 responded, "Go ahead, call the police." GJT Id. The Defendant then went to the front door
11 and began to bang on it, eventually Ms. Eddins opened the door. GJT Id. When the
12 Defendant entered the house he began asking where the house key was, he then went into the
13 backpack of one of the children and grabbed the keys to the home and then left. GJT Id.
14 Ms. Eddins then went out front to see where the Defendant was and she realized that two of
15 her tires on her vehicle had been damaged. GJT p. 13. Ms. Eddins then went inside and
16 called 911. GJT Id. Ms. Eddins had her tires repaired that evening. GJT p. 14.

17 The next morning, September 30, 2008, Ms. Eddins received a phone call from the
18 Defendant. The Defendant was enraged at the fact that Ms. Eddins had called the police and
19 had gotten a restraining order against him. GJT Id. She then went to work at around 11:30
20 in the morning. While at work the Defendant continuously called Ms. Eddins and then
21 ultimately showed up at her place of employment at 4:15 pm. GJT p. 15. The Defendant
22 came inside Ms. Eddins work, stole her cell phone, and then slashed all four of her vehicle's
23 tires again. GJT p. 16. Ms. Eddins then called the police. GJT Id. The Defendant
24 continued to call Ms. Eddins and threaten her with comments such as, "Give me my mother
25 fucking shit. I know you got my shit. I want my shit. If you don't give me my mother
26 fucking shit I'm going to knock all this shit off." GJT p. 17.

27 After Ms. Eddins called the police she immediately called her children and told them
28 to leave the house and go to the neighbors. GJT Id. This occurred at 4:45 pm. GJT p. 18.

1 Vivian Furlow is a close friend of Shalana Eddins and has known her for about ten
2 years. GJT p. 23. On September 30, 2008 Ms. Furlow received a call from Shalana Eddins
3 father asking her to go pick up Shalana's children at the neighbor's house. Ms. Furlow got
4 to the neighborhood around 6:15 – 6:30 pm. As she was approaching the neighborhood of
5 Laguna Palms she saw the Defendant driving in a rush out of the neighborhood. GJT p. 24.
6 Ms. Furlow then went to the neighbor's house to pick up the children. After picking up the
7 children she approached Ms. Eddins house and learned that it was on fire. GJT p. 26.

8 Shortly after this incident, Ms. Furlow called the Defendant's cell number and
9 listened to a rap he had composed and recorded as his ringtone. During the rap the
10 Defendant talks about his "baby's mama" and states that "if you can't stand the heat you got
11 to get out of the kitchen or you'll burn up just like her house." GJT p. 26.

12 Robert Eddins is Shalana Eddins father. He also had telephonic contact with the
13 Defendant on the day the fire occurred. GJT p. 44. In the first conversation the Defendant
14 told Mr. Eddins that he could tell his daughter "we're even now." GJT p. 45. Then around
15 6:15 – 6:30 pm, Mr. Eddins received another phone call from the Defendant, where the
16 Defendant told Mr. Eddins that his daughter's house was on fire. GJT p. 46. Mr. Eddins
17 stated that the Defendant notified him of the fire before the police even knew about it. GJT.
18 P. 48.

19 Jeff Lomprey is the investigations captain for the North Las Vegas Fire Department's
20 fire arson unit. GJT p. 30. During his investigation Captain Lomprey found that there were
21 multiple fires set within the house, in three separate and distinct areas. GJT p. 34. The three
22 locations were the master bed which had female clothing on the bed; the master bedroom
23 closet with female clothing in the closet on the floor that was piled up and also burned; and
24 the living room couch. GJT p. 35. After Captain Lomprey's investigation he determined
25 the cause of the fires to be arson which Captain Lomprey testified means, "an intentional act,
26 willful and malicious, set with an open flame with a human hand with the intent to destroy
27 the house and its contents." GJT p. 37.

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1 she would provide at Trial. Because of the above, it is necessary to take the deposition of
2 Furlow in order to prevent a failure of justice.

3 Additionally, it does not prejudice the Defendant for this Court to permit a videotaped
4 deposition of Vivian Furlow. In the event that the Court allows her video-taped deposition,
5 the defense will have the advantage of hearing her testimony prior to Trial commencing.
6 Moreover, she will be subject to cross examination just as if she was testifying live in front
7 of the Jury.

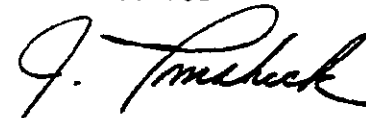
8 CONCLUSION

9 For the above reasons, the State respectfully requests this Court order the videotaped
10 deposition of Vivian Furlow before this Court to be held in a manner in accordance with
11 NRS 174.175.

12 DATED this 2nd day of November, 2009.

13 DAVID ROGER
14 DISTRICT ATTORNEY
15 Nevada Bar #002781

16 BY

17 
18 JOSHUA TOMSHECK
19 Deputy District Attorney
20 Nevada Bar #009210
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28 08FN2225X/GCU:abh

FILED IN OPEN COURT

NOV 06 2009

4:50pm

ORIGINAL

STEVEN D. GRIERSON
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

April Watkins
DEPUTY

APRIL WATKINS

1 INST

2
3 THE STATE OF NEVADA,

4 Plaintiff,

5 -vs-

6 LESEAN COLLINS,

7 Defendant.

CASE NO: C253455

DEPT NO: XII

8 INSTRUCTIONS TO THE JURY (INSTRUCTION NO. 1)

9 MEMBERS OF THE JURY:

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

13 You must not be concerned with the wisdom of any rule of law stated in these
14 instructions. Regardless of any opinion you may have as to what the law ought to be, it
15 would be a violation of your oath to base a verdict upon any other view of the law than that
16 given in the instructions of the Court.

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 Indictment 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 an Indictment that on or about the 30th day of September, 2008, 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 - FIRST DEGREE ARSON

did then and there willfully, unlawfully, maliciously, and feloniously set fire to, and thereby cause to be burned, a certain residence, the master bedroom therein, located at 1519 Laguna Palms Avenue, North Las Vegas, Clark County, Nevada, said property being then and there the property of SHALANA EDDINS, by use of open flame and flammable and/or combustible materials, and/or by manner and means unknown.

COUNT 2 - BURGLARY

did then and there wilfully, unlawfully, and feloniously enter, with intent to commit arson, that certain building occupied by SHALANA EDDINS, located at 1519 Laguna Palms Avenue, North Las Vegas, Clark County, Nevada.

COUNT 3 - MALICIOUS INJURY TO VEHICLE

did wilfully, unlawfully, and maliciously break, injure, or tamper with that certain motor vehicle owned by SHALANA EDDINS, to-wit: a FORD EXPEDITION, without the consent of the owner thereof, for the purpose of injuring, defacing, or destroying such vehicle, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner thereof, by slashing and/or stabbing and/or cutting into tires of said vehicle, the value of said damage being over \$250.00, and less than \$5,000.00.

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

Each charge and the evidence pertaining to it should be considered separately. The fact that

1 you may find a defendant guilty or not guilty as to one of the offenses charged should not
2 control your verdict as to any other defendant or offense charged.
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INSTRUCTION NO. 4

Any person who willfully and maliciously sets fire to or burns or causes to be burned, or who aids, counsels or procures the burning of any dwelling house or other structure, whether occupied or vacant, or other personal property which is occupied by one or more persons, whether the property of himself or of another, is guilty of arson in the first degree.

INSTRUCTION NO. 5

If you find the State has failed to prove beyond a reasonable doubt that the defendant willfully and maliciously set fire to or burned or caused to be burned, or who aided, counseled, or procured the burning of any dwelling house or other structure, whether occupied or vacant, or other personal property which is occupied by one or more persons, whether the property of himself or of another, you must return a verdict of not guilty.

INSTRUCTION NO. 6

As used in these instructions the word "willfully" means the doing of an act purposely and intentionally, not accidentally. The word "maliciously" means wrongfully, intentionally and without just cause or excuse.

INSTRUCTION NO. 7

It is not necessary that the building, object or articles of property involved be completely destroyed. Any person shall be deemed to have set fire to a building, structure or any property, whenever any part thereof or anything therein shall be scorched, charred or burned.

INSTRUCTION NO. 8

It is not a defense to a charge of arson that the defendant was not present at the time the fire was discovered.

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INSTRUCTION NO. 9

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

You are instructed that the crime of Arson is a felony.

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INSTRUCTION NO. 10

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

INSTRUCTION NO. 11

It is not necessary that the State prove the defendant actually committed an arson inside the house, room, apartment, or other building 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, room, apartment, or other building with the intent to commit an arson regardless of whether or not that crime occurred.

INSTRUCTION NO. 12

Any person who willfully breaks, injures, tampers with, or removes any part or parts of any vehicle for the purpose of injuring, defacing or destroying such vehicle, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner of such vehicle or who shall in any manner willfully or maliciously interfere with or prevent the running or operation of such vehicle which results in damage of \$250 or more, but less than \$5,000, is guilty of Malicious Injury to Vehicle.

INSTRUCTION NO. 13

Any person who willfully breaks, injures, tampers with, or removes any part or parts of any vehicle for the purpose of injuring, defacing, or destroying such vehicle, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner of such vehicle or who shall in any manner willfully or maliciously interfere with or prevent the running or operation of such vehicle which results in damage of \$249.99 or less is guilty of Malicious Injury to Vehicle, Value Less Than \$250.

INSTRUCTION NO. 14

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. 15

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. 14

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. 17

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. 18

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. 19

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. 20

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:


DISTRICT JUDGE

INSTRUCTION NO. 21

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.

1 VER

ORIGINAL

FILED IN OPEN COURT

NOV 06 2009

4:58 PM

DISTRICT COURT

STEVEN D. GRIERSON

CLARK COUNTY, NEVADA CLERK OF THE COURT

2
3
4 THE STATE OF NEVADA,

5 Plaintiff,

6 -vs-

7 LESEAN COLLINS,

8 Defendant.

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BY April Watkins DEPUTY

CASE NO: C253455

DEPT NO: XII APRIL WATKINS

VERDICT

We, the jury in the above entitled case, find the Defendant LeSean Collins, as follows:

COUNT 1 - FIRST DEGREE ARSON

(please check the appropriate box, select only one)

☒ Guilty of First Degree Arson

☐ Not Guilty

COUNT 2 - BURGLARY

(please check the appropriate box, select only one)

☒ Guilty of Burglary

☐ Not Guilty

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1 COUNT 3 – MALICIOUS INJURY TO VEHICLE

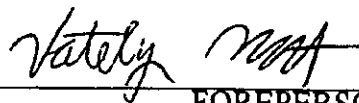
2 *(please check the appropriate box, select only one)*

3 ☒ Guilty of Malicious Injury to Vehicle, value \$250.00 or greater

4 ☐ Guilty of Malicious Injury to Vehicle, value \$249.99 or less

5 ☐ Not Guilty

6
7 DATED this 6th day of November, 2009

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10 FOREPERSON

ORIGINAL

FILED IN OPEN COURT

NOV 06 2009

STEVEN D. GRIERSON
CLERK OF THE COURT

BY: *April Watkins*
APRIL WATKINS DEPUTY

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

5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,)

8 Plaintiff,)

9 v.)

10 LESEAN TARUS COLLINS,)

11 Defendant.)
12

CASE NO. C253455X

DEPT. NO. XII

DATE: November 6, 2009
TIME: 10:00 a.m.

13 DEFENSE OFFER OF PROOF REGARDING DENIAL OF DEFENSE MOTION TO
14 CONTINUE

15 COMES NOW, the Defendant, LESEAN TARUS COLLINS, by and through
16 TIERRA D. JONES and ABBIE L. PAROLISE, Deputy Public Defenders to make the following
17 offer of proof.

18 This Motion is made and based upon all the papers and pleadings on file herein, the
19 attached Declaration of Counsel, and oral argument at the time set for hearing this Motion.

20 DATED this 6 day of November, 2009.

21 PHILIP J. KOHN
22 CLARK COUNTY PUBLIC DEFENDER

23 By: *Tierra D. Jones*
24 TIERRA D. JONES, #10694
25 Deputy Public Defender

26 By: *C. Parolise*
27 ABBIE L. PAROLISE, #10710
28 Deputy Public Defender

1 TIERRA D. JONES and ABBIE L. PAROLISE make the following declaration:

2 1. I am an attorney duly licensed to practice law in the State of Nevada; I am
3 the Deputy Public Defender assigned to represent the Defendant in the instant matter, and the
4 Defendant has represented the following facts and circumstances of this case.

5 2. We are currently experiencing extremely high caseloads that interfered with
6 our trial preparation in this case. Ms. Jones is currently assigned 164 active felony cases, not in
7 bench warrant and Ms. Parolise is currently assigned 179 active felony cases, not in bench warrant.

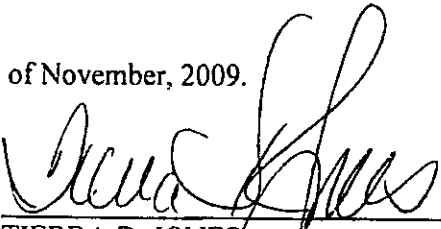
8 3. We announced that we were not ready to proceed with trial at this time. If
9 afforded more time to prepare, we would have done the following:

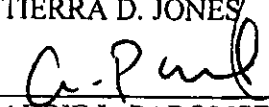
- 10 • Subpoenaed any police report for the alleged tire slashing on September 29, 2008.
 - 11 • Subpoenaed the video surveillance at Shalana Eddin's place or business from September
12 30, 2008.
 - 13 • Subpoenaed Officer Jaramillo as a rebuttal witness.
 - 14 • Driven the routes described by Shalana Eddins and Vivian Furlow to see the time required
15 to make those journeys.
 - 16 • Subpoenaed the narrative from the temporary protective order sought by Shalana Eddins on
17 September 30, 2008.
 - 18 • We would have looked into any recent arrests of Shalana Eddins.
 - 19 • Subpoenaed phone records for the following people: Vivian Furlow, Robert, Eddins,
20 Shalana Eddins, and Shalana's place of business.
 - 21 • Attempted to speak with Darlene Heers husband and daughter.
 - 22 • Attempted to speak with Anetra, the woman with whom Vivian Furlow said she obtained
23 Lesean Collins' phone number.
 - 24 • Fully interviewed Patricia Brewer and any other witnesses the Defense intended to call.
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I declare under penalty of perjury that the foregoing is true and correct. (NRS
53.045).

EXECUTED this 6 day of November, 2009.



TIERRA D. JONES


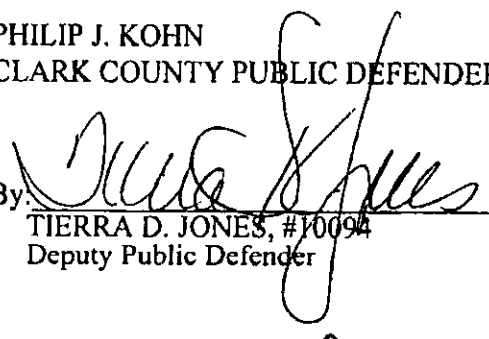
ABBIE L. PAROLISE

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DATED this 6 day of November, 2009.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By:


TIERRA D. JONES, #10094
Deputy Public Defender

By:


ABBIE L. PAROLISE, #10710
Deputy Public Defender

1 NOTC

2 DAVID ROGER
 Clark County District Attorney
 Nevada Bar #002781
 3 JOSHUA TOMSHECK
 Deputy District Attorney
 Nevada Bar #009210
 4 200 Lewis Avenue
 Las Vegas, Nevada 89155-2211
 5 (702) 671-2500
 6 Attorney for Plaintiff

FILED IN OPEN COURT

NOV 06 2009

STEVEN D. GRIERSON
 CLERK OF THE COURT

BY

APRIL WATKINS

DEPUTY

DISTRICT COURT
 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 LESEAN COLLINS,
 13 #857181

14 Defendant.

CASE NO: C253455

DEPT NO: XII

15 NOTICE OF HABITUAL CRIMINALITY

16 COMES NOW, the STATE OF NEVADA, through DAVID ROGER, District
 17 Attorney, by and through JOSHUA TOMSHECK, Deputy District Attorney, and hereby
 18 places Defendant LESEAN COLLINS on notice of the State's intent to enhance the
 19 Defendant's punishment pursuant to the provisions of NRS 207.010 in the event of
 20 conviction of some or all of the counts charged in the Indictment. This notice is filed
 21 pursuant to the provisions of NRS 207.010 and 173.095.

22 DATED this 6th day of November, 2009.

23 DAVID ROGER
 DISTRICT ATTORNEY
 Nevada Bar #002781

26 BY

27 J. Tomsheck
 JOSHUA TOMSHECK
 Deputy District Attorney
 Nevada Bar #009210

1 NOTICE OF HABITUAL CRIMINALITY

2 The instant notice is filed pursuant to the provisions of NRS 173.095(2) which
3 provides "if an Indictment is found charging a primary offense upon which a charge of
4 habitual criminality may be based, the District Attorney may file a notice of habitual
5 criminality with the court." In addition, NRS 207.010(2) provides in relevant part, "It is
6 within the discretion of the District Attorney whether or not to . . . file a notice of habitual
7 criminality if an Indictment is found."

8 The procedure to be followed at the time of sentencing is set forth at NRS 207.016.

9 Defendant LESEAN COLLINS has suffered the following prior felony convictions,
10 to-wit:

11 1. That in 2001, the Defendant was convicted in the County of Clark, State of
12 Nevada for the crime of Possession of Controlled Substance With Intent to Sell, in Case No.
13 C154516.

14 2. That in 2001, the Defendant was convicted in County of Clark, State of
15 Nevada for the crime of Possession of Controlled Substance, in Case No. C166115.

16 3. That in 2005, the Defendant was convicted in County of Clark, State of
17 Nevada for the crime of Stop Required On Signal Of Police Officer, in Case No. C184264.

18 DATED this 6th day of November, 2009.

19 DAVID ROGER
20 DISTRICT ATTORNEY
Nevada Bar #002781

21
22 BY



23 JOSHUA TOMSHECK
24 Deputy District Attorney
25 Nevada Bar #009210
26
27
28

1 0026
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
DEC 29 2009
CLERK OF COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,
8 Plaintiff,

9
10 LESEAN TARUS COLLINS,
11 Defendant.

CASE NO. C253455X

DEPT. NO. XII

DATE: January 12, 2010
TIME: 8:30 a.m.

MOTION TO CONTINUE SENTENCING DATE

14 COMES NOW the Defendant, LESEAN TARUS COLLINS, by and through his
15 attorney, TIERRA D. JONES, Deputy Public Defender, and respectfully moves this court for an
16 order vacating the January 28, 2010 sentencing date and requesting a new sentencing date of
17 February 2, 2010.

18 This Motion is made based upon all the papers and pleadings on file herein, the
19 attached Declaration of Counsel, Memorandum of Points and Authorities in support hereof, and oral
20 argument at the time set for hearing this Motion.

21 DATED this 29 day of December, 2009.

22 PHILIP J. KOHN
23 CLARK COUNTY PUBLIC DEFENDER

24 By Tierra D. Jones
25 TIERRA D. JONES, #10094
26 Deputy Public Defender
27
28

RECEIVED

DEC 29 2009

CLERK OF THE COURT

CMC

DECLARATION

TIERRA D. JONES makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and I am familiar with the facts and circumstances of this case.

2. Mr. Collins currently has a sentencing date set for January 28, 2010, in this Honorable Court.

3. His attorney is unavailable to make that sentencing date because of Justice Court preliminary hearings. Therefore, Ms. Jones is requesting that the sentencing date be continued until February 3, 2010, if that date is convenient for the Court and the State of Nevada.

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

EXECUTED this 29th day of December, 2009.


TIERRA D. JONES

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NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing Motion to Continue Sentencing Date will be heard on January 12, 2010, at 8:30 am in Department No. XII of the District Court.

DATED this 29th day of December, 2009.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By 
TIERRA D. JONES, #10094
Deputy Public Defender

RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing Motion to Continue Sentencing Date is hereby acknowledged this 29th day of December, 2009.

CLARK COUNTY DISTRICT ATTORNEY

By 

ORIGINAL

50

1 **EXPR**
2 DAVID M. SCHIECK
3 SPECIAL PUBLIC DEFENDER
4 Nevada Bar #0824
5 IVETTE A. MANINGO
6 Deputy Special Public Defender
7 Nevada Bar #7076
8 SCOTT BINDRUP
9 Deputy Special Public Defender
10 Nevada Bar #2537
11 330 So. Third Street, Suite #800
12 Las Vegas, Nevada 89155
13 (702) 455-6265
14 FAX: (702) 455-6273
15 E-MAIL: imaningo@co.clark.nv.us
16 E-MAIL: sbindrup@co.clark.nv.us
17 Attorneys for Lesean Collins

FILED

FEB 2 4 02 AM '02

John J. Schuman
CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

13 THE STATE OF NEVADA,
14 Plaintiff

15 vs.

16 LESEAN COLLINS, ID 0857181,
17 Defendant.

CASE NO. C253455
DEPT. NO. 12

18 **EX PARTE APPLICATION AND ORDER**
19 **TO PREPARE TRANSCRIPTS**

20 COMES NOW, DAVID M. SCHIECK, Special Public Defender, IVETTE A.
21 MANINGO, Deputy Special Public Defender, and SCOTT BINDRUP, Deputy Special Public
22 Defender, attorneys for Defendant LESEAN COLLINS in Case No. C252804 (State v. Collins,
23 District Court Department 9) and requests this Honorable Court for an Order instructing the
24 Court Reporter/Recorder to provide transcripts of the trial in the above entitled matter as and for
preparation in their trial in Case No. C252804.

After a jury trial, Mr. Collins was convicted on November 6, 2009 of Count 1 First
Degree Arson, Count 2 Burglary, and Count 3 Malicious Injury to vehicle. The sentencing was

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JAN 29 2010

DEPARTMENT 12

CLERK OF THE COURT

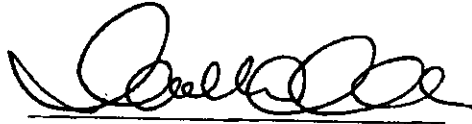
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1 continued until February 9, 2010. Mr. Collins is charged in Case No. C252804 with Murder
2 (non-capital) and Robbery and his trial is set to commence on March 1, 2010. It is anticipated
3 that some of the same witnesses will testify in his Murder trial that testified in the Arson trial.
4 Counsel requests that transcripts be prepared of the trial proceedings in the instant case at the
5 Court Reporter/Recorder's earliest convenience in order to assist in preparation of the Murder
6 trial.
7

8 DATED: January 27, 2010.

9
10 DAVID M. SCHIECK
SPECIAL PUBLIC DEFENDER

11
12 
13

14 IVETTE A. MANINGO
Deputy Special Public Defender
Nevada Bar #7076
330 So. Third Street, Suite #800
Las Vegas, Nevada 89155
15 (702) 455-6265
16

17 **ORDER TO PREPARE TRANSCRIPTS**

18 TO: KERRY ESPARZA, Reporter/Recorder:

19 IT IS HEREBY ORDERED, ADJUDGED AND DECREED based on the foregoing
20 Application that the Court Reporter/Recorder will prepare a transcript of trial proceedings as
21 follows:
22

23 November 2, 2009, Videotaped Trial Testimony of Vivian Furlow

24 November 4, 2009, Trial by Jury

25 November 5, 2009, Trial by Jury

26 November 6, 2009, Trial by Jury
27

28 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the transcript will be
prepared as soon as possible as the defense has indicated a need for expedited service.

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court
2 Reporter/Recorder will provide a copy of the filed transcript to the Special Public Defender's
3 Office and the State of Nevada.

4 DATED AND DONE this 2 day of February, 2010.

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7 DISTRICT COURT JUDGE
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1 **ROC**
2 DAVID M. SCHIECK
3 SPECIAL PUBLIC DEFENDER
4 Nevada Bar #0824
5 IVETTE A. MANINGO
6 Deputy Special Public Defender
7 Nevada Bar #7076
8 SCOTT BINDRUP
9 Deputy Special Public Defender
10 Nevada Bar #2537
11 330 So. Third Street, Suite #800
12 Las Vegas, Nevada 89155
13 (702) 455-6265
14 FAX: (702) 455-6273
15 E-MAIL: imaningo@co.clark.nv.us
16 E-MAIL: sbindrup@co.clark.nv.us
17 Attorneys for Lesean Collins

50
FILED

FEB 3 3 07 PM '10

Ann L. Lanning
CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

13 THE STATE OF NEVADA,
14 Plaintiff

15 vs.

16 LESEAN COLLINS, ID 0857181,
17 Defendant.

CASE NO. C253455
DEPT. NO. 12

RECEIPT OF COPY

18
19 RECEIPT of a copy of the Ex Parte Application and Order to Prepare Transcripts is
20 hereby acknowledged this 2nd day of February, 2010.
21

22 *Kerry Esparza*
23 KERRY ESPARZA
24 COURT REPORTER/RECORDER
25 DISTRICT COURT, DEPT. 12
26

27 **RECEIVED**

28 FEB 03 2010

CLERK OF THE COURT

JOC

ORIGINAL

FILED

MAR - 4 2010

Ann L. Blum
CLERK OF COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

LESEAN TARUS COLLINS
#0857181

Defendant.

CASE NO. C253455

DEPT. NO. XII

JUDGMENT OF CONVICTION

(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1 – FIRST DEGREE ARSON (Category B Felony) in violation of NRS 205.010, COUNT 2 – BURGLARY (Category B Felony) in violation of NRS 205.060, COUNT 3 – MALICIOUS INJURY TO VEHICLE (Gross Misdemeanor) in violation of NRS 205.274, 193.155; and the matter having been tried before a jury and the Defendant having been found guilty of the crimes of COUNT 1 – FIRST DEGREE ARSON (Category B Felony) in violation of NRS 205.010, 207.010; COUNT 2 – BURGLARY (Category B Felony) in violation of NRS 205.060, 207.010; and COUNT 3 – MALICIOUS INJURY TO VEHICLE (Gross Misdemeanor) in violation of NRS 205.274, 193.155, 207.010; thereafter, on the

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MAR - 3 2010

DEPARTMENT 12

1 2ND day of March, 2010, the Defendant was present in court for sentencing with his
2 counsel TIERRA D. JONES, Deputy Public Defender, and good cause appearing,
3

4 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses under the
5 LARGE HABITUAL CRIMINAL STATUTE and, in addition to the \$25.00 Administrative
6 Assessment Fee and a \$150.00 DNA Analysis Fee including testing to determine
7 genetic markers, the Defendant is SENTENCED to the Nevada Department of
8 Corrections (NDC) as follows: AS TO COUNT 1 - TO LIFE with a MINIMUM parole
9 eligibility after TEN (10) YEARS; AS TO COUNT 2 - TO LIFE with a MINIMUM parole
10 eligibility after TEN (10) YEARS, COUNT 2 to run CONCURRENT with COUNT 1; AS
11 TO COUNT 3 - to TWELVE (12) MONTHS in the Clark County Detention Center
12 (CCDC), COUNT 3 to run CONCURRENT with COUNTS 1 & 2; with FIVE HUNDRED
13 SIXTEEN (516) DAYS credit for time served.
14
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17 DATED this 3 day of March, 2010.

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21 MICHELLE LEAVITT
22 DISTRICT JUDGE
23
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5d

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

MAR 25 3 02 PM '10

CLERK OF COURT

8 DISTRICT COURT

9 CLARK COUNTY, NEVADA

11 THE STATE OF NEVADA,)
12)
13 Plaintiff,)
14 v.)
15 LESEAN TARUS COLLINS,)
16 Defendant.)

CASE NO. C253455X
DEPT. NO. XII

NOTICE OF APPEAL

17 TO: THE STATE OF NEVADA

18 DAVID ROGER, DISTRICT ATTORNEY, CLARK COUNTY, NEVADA and
19 DEPARTMENT NO. XII OF THE EIGHTH JUDICIAL DISTRICT COURT
20 OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK.

21 NOTICE is hereby given that Defendant, Lesean Tarus
22 Collins, presently incarcerated in the Nevada State Prison,
23 appeals to the Supreme Court of the State of Nevada from the
24 judgment entered against said Defendant on the 4th day of March,
25 2010, whereby he was convicted of Ct. 1 - First Degree Arson; Ct.
26 2 - Burglary; Ct. 3 - Malicious Injury to Vehicle and sentenced
27 under the Large Habitual Criminal Statute to \$25 Admin. Fee; \$150
28 DNA analysis fee; genetic testing; Cts. 1 & 2 - 10 years to Life

RECEIVED

MAR 25 2010

CLERK OF THE COURT

1 in prison; Ct. 2 to run concurrent with Ct. 1; Ct. 3 - 12 months
2 in CCDC; Ct. 3 to run concurrent with Cts. 1 & 2; 516 days CTS.

3 DATED this 25th day of March, 2010.

4 PHILIP J. KOHN
5 CLARK COUNTY PUBLIC DEFENDER

6
7 By: P. David Westbrook
8 P. DAVID WESTBROOK, #9278
9 Deputy Public Defender
309 S. Third Street, Ste. 226
Las Vegas, Nevada 89155
10 (702) 455-4685
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I declare under penalty of perjury that the foregoing is true and correct.

Carrie Connor
An employee of the Clark County
Public Defender's Office

DAVID ROGER
CLARK COUNTY DISTRICT ATTORNEY

By: Karentha Huelken

CRIMINAL COURT MINUTES

09-C-253455-C STATE OF NEVADA vs Collins, Lesean T

04/08/09 01:15 PM 00 GRAND JURY INDICTMENT

HEARD BY: David Barker, Judge; Dept. 18

OFFICERS: Tina Hurd, Court Clerk
Richard Kangas, Reporter/Recorder

PARTIES: STATE OF NEVADA
 000346 Mitchell, Scott S.
 009210 Tomsheck, Joshua L.

Y
Y
Y

Walter Olenderski, Grand Jury Foreman, stated to the Court that at least twelve members had concurred in the return of the true bill during deliberation, but had been excused for presentation to the Court. The State presented Grand Jury Case Number 08AGJ112X to the Court. COURT ORDERED, the indictment may be filed and is assigned Case Number C253455, Department 11. Mr. Tomsheck advised Deft. Collins is currently in custody with no bail on a Murder charge and was on a no-bail hold in Justice Court for these charges. Colloquy. COURT ORDERED, BENCH WARRANT WILL ISSUE, \$301,000.00 BAIL. Matter set for initial arraignment. Exhibit(s) 1, 1a & 2 lodged with Clerk of District Court.

B.W. (COC)

4-15-09 9:00 AM INITIAL ARRAIGNMENT (DEPT. XI)

04/13/09 01:30 PM 00 INDICTMENT WARRANT RETURN

HEARD BY: Kevin V Williams, Hearing Master; Dept. AA

OFFICERS: Sandy Harrell/Michele Tucker/mlt, Court Clerk
Sharon Coffman, Relief Clerk
Kiara Schmidt, Reporter/Recorder

PARTIES: STATE OF NEVADA
 009210 Tomsheck, Joshua L.

 0001 D1 Collins, Lesean T
 005620 Dickson, Dianne

Y
Y

Y
Y

Ms. Dixon advised this matter is on calendar for 4/15 for arraignment. COURT ORDERED, matter CONTINUED to that date.

CUSTODY (B.W.(COC)

CONTINUED TO: 04/15/09 01:30 PM 01

CRIMINAL COURT MINUTES

09-C-253455-C STATE OF NEVADA

vs Collins, Lesean T

CONTINUED FROM PAGE: 001

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

HEARD BY: Elizabeth Gonzalez, Judge; Dept. 11

OFFICERS: Kathy Klein, Court Clerk
Jill Hawkins, Reporter/Recorder

PARTIES: STATE OF NEVADA
007849 O'Brien, Glen
0001 D1 Collins, Lesean T
PUBDEF Public Defender
010458 Trauth, Jason

Y
Y
Y
Y
Y

BENCH WARRANT RETURN...INITIAL ARRAIGNMENT

State noted Mr. Tomsheck is the Attorney on this case. Mr. Trauth advised Deft. is in custody on other charges and requested a continuance and noted the Special Public Defender may take this case. COURT ORDERED, matter CONTINUED.

CUSTODY (COC)

04/29/09 9:00 AM BENCH WARRANT RETURN...INITIAL ARRAIGNMENT

04/29/09 09:00 AM 00 ALL PENDING MOTIONS (04/29/09)

HEARD BY: Elizabeth Gonzalez, Judge; Dept. 11

OFFICERS: Kathy Klein, Court Clerk
Jill Hawkins, Reporter/Recorder

PARTIES: STATE OF NEVADA
009210 Tomsheck, Joshua L.
0001 D1 Collins, Lesean T
PUBDEF Public Defender
010094 Jones, Tierra D.
010710 Parolise, Abigail

Y
Y
Y
Y
Y
Y

INDICTMENT WARRANT RETURN...INITIAL ARRAIGNMENT

Ms. Jones requested matters be continued, and noted the they did not receive the transcript. State noted the transcript was filed. COURT ORDERED, matter CONTINUED.

CUSTODY (COC)

05/06/09 9:00 AM INDICTMENT WARRANT RETURN...INITIAL ARRAIGNMENT

CRIMINAL COURT MINUTES

09-C-253455-C STATE OF NEVADA vs Collins, Lesean T

CONTINUED FROM PAGE: 002

05/06/09 09:00 AM 00 ALL PENDING MOTIONS (05/06/09)_

HEARD BY: Elizabeth Gonzalez, Judge; Dept. 11

OFFICERS: Kathy Klein, Court Clerk
Jill Hawkins, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
009210	Tomsheck, Joshua L.	Y
0001 D1	Collins, Lesean T	Y
PUBDEF	Public Defender	Y
010094	Jones, Tierra D.	Y

INDICTMENT WARRANT RETURN...INITIAL ARRAIGNMENT

Mr. Jones advised Deft. is ready to proceed. DEFT. COLLINS ARRAIGNED, PLED NOT GUILTY and WAIVED THE 60-DAY RULE. COURT ORDERED, matter set for trial.

CUSTODY (COC)

08/12/09 9:00 AM CALENDAR CALL

08/17/09 10:00 AM JURY TRIAL

06/01/09 09:00 AM 00 PTN FOR WRIT OF HABEAS CORPUS

HEARD BY: Elizabeth Gonzalez, Judge; Dept. 11

OFFICERS: Kathy Klein, Court Clerk
Jill Hawkins, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
009210	Tomsheck, Joshua L.	Y
0001 D1	Collins, Lesean T	Y
PUBDEF	Public Defender	Y
010094	Jones, Tierra D.	Y

At the request of Counsel, COURT ORDERED, matter CONTINUED.

CUSTODY (COC)

CONTINUED TO: 06/10/09 09:00 AM 01

CRIMINAL COURT MINUTES

09-C-253455-C

STATE OF NEVADA

vs Collins, Lesean T

CONTINUED FROM PAGE: 003

06/10/09 09:00 AM 01 PTN FOR WRIT OF HABEAS CORPUS

HEARD BY: Elizabeth Gonzalez, Judge; Dept. 11

OFFICERS: Kathy Klein, Court Clerk
Jill Hawkins, Reporter/Recorder

PARTIES: STATE OF NEVADA
009210 Tomsheck, Joshua L.

Y
Y

0001 D1 Collins, Lesean T
PUBDEF Public Defender
010094 Jones, Tierra D.

Y
Y
Y

Arguments by Counsel. COURT stated its findings and ORDERED, Petition DENIED.

CUSTODY (COC)

07/22/09 09:00 AM 00 DEFT'S MTN TO COMPEL DISCLOSURE OF
EXCULPATORY EVID/12

HEARD BY: Elizabeth Gonzalez, Judge; Dept. 11

OFFICERS: Kathy Klein, Court Clerk
Jill Hawkins, Reporter/Recorder

PARTIES: STATE OF NEVADA
009210 Tomsheck, Joshua L.

Y
Y

0001 D1 Collins, Lesean T
PUBDEF Public Defender
010094 Jones, Tierra D.

Y
Y
Y

Mr. Tomsheck noted this was Ms. Jeanneys' case and further noted the State had no objection. COURT ORDERED, Deft's Motion to Compel Disclosure of Exculpatory Evidence, GRANTED.

CUSTODY (COC)

CONTINUED ON PAGE: 005
MINUTES DATE: 07/22/09

CRIMINAL COURT MINUTES

09-C-253455-C STATE OF NEVADA

vs Collins, Lesean T

CONTINUED FROM PAGE: 004

08/12/09 08:30 AM 00 CALENDAR CALL

HEARD BY: Doug Smith, Judge; Dept. 8

OFFICERS: Katherine Streuber, Court Clerk
Melissa Benson/mb, Relief Clerk
Jill Jacoby, Reporter/Recorder

PARTIES: STATE OF NEVADA
009210 Tomsheck, Joshua L.
0001 D1 Collins, Lesean T
PUBDEF Public Defender
010094 Jones, Tierra D.

Y
Y
Y
Y
Y

Counsel stated the matter has not been resolved and requested a continuance. State had no opposition but did note readiness to proceed. COURT ORDERED, trial VACATED and RESET.

CUSTODY

10/28/09 8:30 AM CALENDAR CALL (FIRM SETTING)

11/02/09 10:00 AM TRIAL BY JURY (FIRM SETTING)

09/16/09 08:30 AM 00 DEFT'S MTN TO PRECLUDE TESTIMONY OF
MINOR CHILD TYSEAN COLLINS/15

HEARD BY: Doug Smith, Judge; Dept. 8

OFFICERS: Katherine Streuber, Court Clerk
Melissa Benson/mb, Relief Clerk
Patti Slattery, Reporter/Recorder

PARTIES: STATE OF NEVADA
010625 Jeanney, Jacqueline
0001 D1 Collins, Lesean T
PUBDEF Public Defender
010094 Jones, Tierra D.

Y
Y
Y
Y
Y

Counsel advised of receipt of States opposition. Arguments by counsel. COURT ORDERED, motion DENIED. Trial STANDS.

CUSTODY (COC)

CRIMINAL COURT MINUTES

09-C-253455-C STATE OF NEVADA

vs Collins, Lesean T

CONTINUED FROM PAGE: 005

10/28/09 08:30 AM 00 CALENDAR CALL (FIRM SETTING)

HEARD BY: Doug Smith, Judge; Dept. 8

OFFICERS: Katherine Streuber, Court Clerk
Jill Jacoby, Reporter/Recorder

PARTIES: STATE OF NEVADA
009210 Tomsheck, Joshua L.
0001 D1 Collins, Lesean T
PUBDEF Public Defender
010094 Jones, Tierra D.
010710 Parolise, Abigail

Y
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Ms. Jones advised Deft. had not been cooperating with their investigator and noted they are currently in another trial are not prepared to go forward. COURT ORDERED, trial VACATED and matter REFERRED to Overflow.

CUSTODY

10-29-09 9:00 AM OVERFLOW (8) - J. TOMSHECK/T. JONES/3-4 DAYS/10-13
WITNESSES/1 OUT OF STATE

10/29/09 09:00 AM 00 OVERFLOW(8)- J. TOMSHECK/T. JONES/3-4DAY
10-13 WITNESSES/1 OUT OF STATE

HEARD BY: David Barker, Judge; Dept. 18

OFFICERS: Tia Everett/te, Relief Clerk
Richard Kangas, Reporter/Recorder

PARTIES: STATE OF NEVADA
009210 Tomsheck, Joshua L.
010625 Jeanney, Jacqueline
0001 D1 Collins, Lesean T
PUBDEF Public Defender
010094 Jones, Tierra D.

Y
Y
Y
Y
Y
Y

Ms. Jones advised she has been in trial all week and there is additional investigation which needs to be done in this case before trial. Mr. Tomsheck informed the Court when Judge Smith continued the trial last time he told parties will be ready to go on this trial date. Ms. Jones advised an offer has been received in this case as well as the Defendant's other case which she and Ms. Maningo will discuss with Defendant about today. COURT ORDERED, Request to continued DENIED and matter REFERRED to Department 12 for trial.

CRIMINAL COURT MINUTES

09-C-253455-C STATE OF NEVADA

vs Collins, Lesean T

CONTINUED FROM PAGE: 006

CUSTODY (COC)

11/4/09 9:00 AM JURY TRIAL

11/02/09 11:00 AM 00 MOTION CONDUCT VIDEOTAPED DEPOSITION
TESTIMONY OF MATERIAL WITNESS

HEARD BY: Michelle Leavitt, Judge; Dept. 12

OFFICERS: April Watkins, Court Clerk
Kerry Esparza, Reporter/Recorder

PARTIES: STATE OF NEVADA
009210 Tomsheck, Joshua L.
010625 Jeanney, Jacqueline

0001 D1 Collins, Lesean T
PUBDEF Public Defender
010094 Jones, Tierra D.
010710 Parolise, Abigail

Y
Y
Y

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Y

State's Motion to Conduct Videotaped Deposition Testimony of Material
Witness Vivian Furlow FILED IN OPEN COURT.

Mr. Tomsheck advised State announced ready, sent to overflow, case was
suppose to start today, subpoenas went out and now Ms. Furlow advised she is
leaving tonight to go to Florida on a cruise until the 12th of this month.
Ms. Jones stated Deft's counsel announced not ready and argued counsel will
not even be ready to go on Wednesday but can be if the Court wants counsel
to be. Further, Ms. Jones argued her investigator is not done with
investigation as well as counsel being in trial last week and counsel is not
ready. Colloquy. Ms. Parolise objected to motion filed by the State and
argued not one judicial day notice. Further, Ms. Parolise does not believe
counsel has had time to respond and argued witness not permanently
unavailable, only not available for next two weeks. Offer of proof by the
State as to Ms. Furlow. Court stated standard met as being material.
Additional argument by Ms. Jones. Mr. Tomsheck argued Ms. Furlow is a
material witness. COURT ORDERED, motion GRANTED.

CUSTODY (COC)

CRIMINAL COURT MINUTES

09-C-253455-C STATE OF NEVADA

vs Collins, Lesean T

CONTINUED FROM PAGE: 007

11/02/09 01:00 PM 00 VIDEOTAPED TRIAL TESTIMONY OF VIVIAN FURLOW

HEARD BY: Michelle Leavitt, Judge; Dept. 12

OFFICERS: April Watkins, Court Clerk
Kerry Esparza, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
009210	Tomsheck, Joshua L.	Y
010625	Jeanney, Jacqueline	Y
0001 D1	Collins, Lesean T	Y
PUBDEF	Public Defender	Y
010094	Jones, Tierra D.	Y
010710	Parolise, Abigail	Y

Court stated she did go to the custody door attempting to speak to Deft. about his refusal to come into the courtroom. Further, Deft. stated he doe snot want to come in, believes his rights have been violated and advised the Deft. he had to come in and make a record of it.

Dianne Dickson, present and speaking to Deft. now.

Ms. Parolise inquired as to the Court's ruling regarding videotaped deposition of witness. Court stated she was advised through her staff that the State was seeking a request to take witness testimony as witness was leaving on vacation. Additionally, Court advised the State was advised to contact defense counsel immediately of the pending motion and defense would of had plenty of time to prepare cross examination. Ms. Parolise stated they were advised Thursday afternoon. Court stated she did not require the State to file an order shortening time (OST). Ms. Parolise inquired as to it not being one judicial day notice. Again Court stated she did not require the State to file OST but did instruct the State to advise Deft's counsel immediately. Further argument by Ms. Parolise. Court stated let the record reflect Deft. is now present. Court inquired of Deft's counsel as to what prevented Defts' counsel from preparing for cross examination. Ms. Parolise argued Defts' counsel not ready to go, investigation not completed and believes counsel is limited as to cross examination. Further, counsel argued she will be ineffective and advised she can provide an affidavit to the Court for in camera review. Mr. Tomsheck gave brief history of this case and advised Deft. has murder trial set for next year in March and argued it is obvious counsel wants this case to trail that case. Further, Mr. Tomsheck stated there is less then 100 pages of discovery in this case and Judge Smith told counsel this was a firm setting. Additionally, it was represented to Judge Smith Deft. was not cooperating with counsel and Judge Smith sent matter to overflow with the same representations being made there and Judge Barker gave counsel until Wednesday of this week to prepare.

CONTINUED ON PAGE: 009

PRINT DATE: 03/22/10

PAGE: 008

MINUTES DATE: 11/02/09

CRIMINAL COURT MINUTES

09-C-253455-C STATE OF NEVADA

vs Collins, Lesean T

CONTINUED FROM PAGE: 008

State's attorneys have exited the courtroom and this part of the record
ORDERED SEALED.

THIS PORTION SEALED BY THE COURT.

State's attorney's back in courtroom.

Vivian Furlow, sworn and testified.

CUSTODY (COC)

11/04/09 09:00 AM 00 TRIAL BY JURY

HEARD BY: Michelle Leavitt, Judge; Dept. 12

OFFICERS: April Watkins, Court Clerk
Kerry Esparza, Reporter/Recorder

PARTIES: STATE OF NEVADA
009210 Tomsheck, Joshua L.
010625 Jeanney, Jacqueline

0001 D1 Collins, Lesean T
PUBDEF Public Defender
010094 Jones, Tierra D.
010710 Parolise, Abigail

Y
Y
Y

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Y
Y
Y

PROSPECTIVE JURORS PRESENT:

Jury and one alternate selected and sworn.

OUTSIDE THE PRESENCE OF THE JURY:

Ms. Jones requested the Court admonish witness Eddins not to testify as to Deft's prior criminal history. Mr. Tomsheck stated witness has been instructed not to mention it. Court stated she will admonish witness if Deft's counsel request it. Ms. Jones stated she believes the State has admonished witness appropriately. Also, Ms. Jones stated when Deft. was arrested in this case, he was also wanted by North Las Vegas in a murder case and request this not be mentioned as well. Mr. Tomsheck stated he has instructed Ms. Eddins and other witnesses they are only suppose to talk about this case and not the murder case. COURT ORDERED, both request GRANTED. Ms. Jones stated on September 29, 2009, there was another tire slashing and request it not be talked about as well as Deft. was never charged with it. Mr. Tomsheck argued course and conduct by Deft. Ms. Jones stated she is o.k. with her saying something was wrong with her tires, just don't want it referenced Deft. did not because Deft. was not charged with

CONTINUED ON PAGE: 010
MINUTES DATE: 11/04/09

PRINT DATE: 03/22/10

PAGE: 009

CRIMINAL COURT MINUTES

09-C-253455-C STATE OF NEVADA

vs Collins, Lesean T

CONTINUED FROM PAGE: 009

it. Court stated witness can testify her tires were flat and that her father came over to help have them repaired. Additional argument by Mr. Tomsheck. Court FINDS it probative and relevant. Ms. Parolise argued Deft's counsel did not receive expert witness notice as to Detective Longpre. Mr. Tomsheck advised he is not a detective, he is the Arson Investigator for North Las Vegas and he investigated, made determinations in this case. Further, Mr. Tomsheck advised he will not give any opinion testimony. Further argument by Ms. Parolise. Court noted he has been identified and prepared report which was given to Deft's counsel. Mr. Tomsheck stated he will not ask any opinionated questions. Ms. Parolise argued it will be opinion testimony. Mr. Tomsheck further argued at time of Grand Jury he gave and recited his education and training experience. Court noted in transcripts, he talks about his 20 plus years experience. Additional arguments by counsel. Court FINDS State has met their burden and ORDERED, request DENIED.

JURY PRESENT:

Clerk read the Indictment to the jury and stated the Deft's plea thereto. Opening statements by counsel.

OUTSIDE THE PRESENCE OF THE JURY:

Court held hearing per State vs. Fernando Hernandez and Deft. agreed to concede to guilt freely, voluntarily and knowingly that he understands trial strategy and consented thereto.

State of Nevada present in the courtroom and advised by the Court determination was made Deft. has conceded to Count 3, each and every element except for the amount of damage being over \$250.00 and under \$5,000.00. Court also advised, the Court ordered the proceedings that just took place to be sealed and will not be unsealed except for an order from the Court.

JURY PRESENT:

Continuation of opening statements. Testimony and exhibits presented. (See worksheets.)

Court recessed.

CONTINUED TO: 11/05/09 11:00 AM 01

CRIMINAL COURT MINUTES

09-C-253455-C STATE OF NEVADA

vs Collins, Lesean T

CONTINUED FROM PAGE: 010

11/05/09 11:00 AM 01 TRIAL BY JURY

HEARD BY: Michelle Leavitt, Judge; Dept. 12

OFFICERS: April Watkins, Court Clerk
Tia Everett/te, Relief Clerk
Kerry Esparza, Reporter/Recorder

PARTIES: STATE OF NEVADA
009210 Tomsheck, Joshua L.
010625 Jeanney, Jacqueline

0001 D1 Collins, Lesean T
PUBDEF Public Defender
010094 Jones, Tierra D.
010710 Parolise, Abigail

Y
Y
Y
Y
Y
Y

JURY PRESENT:

Tia Everett, Court Clerk present. CONFERENCE AT BENCH. Testimony and exhibits presented. (See worksheets.)

April Watkins, Court Clerk present. Further testimony and exhibits. State rests.

OUTSIDE THE PRESENCE OF THE JURY:

Ms. Jones moved for a mistrial as to witnesses statements made during testimony and argued counsel believes jury knows Deft. was in custody doing time. Court stated the State's question did not call for her to respond as to Deft. being in custody. Further argument by Ms. Jones. Opposition by the State. Court stated witness called as an alibi witness who did not know him for a long time. Additional argument by Ms. Jones. Court FINDS statement does not rise to the level of mistrial and ORDERED, motion DENIED.

Deft. advised of his right not to testify.

Ms. Parolise stated as to denial of the trial continuance, request to file affidavit under seal as to what trial counsel would have done. Court stated counsel can file affidavit.

Court recessed.

CONTINUED TO: 11/06/09 10:30 AM 02

CRIMINAL COURT MINUTES

09-C-253455-C

STATE OF NEVADA

vs Collins, Lesean T

CONTINUED FROM PAGE: 011

11/06/09 10:30 AM 02 TRIAL BY JURY

HEARD BY: Michelle Leavitt, Judge; Dept. 12

OFFICERS: April Watkins, Court Clerk
Kerry Esparza, Reporter/Recorder

PARTIES: STATE OF NEVADA
009210 Tomsheck, Joshua L.
010625 Jeanney, Jacqueline

0001 D1 Collins, Lesean T
PUBDEF Public Defender
010094 Jones, Tierra D.
010710 Parolise, Abigail

Y
Y
Y
Y
Y
Y
Y

OUTSIDE THE PRESENCE OF THE JURY:

Defense Offer of Proof Regarding Denial of Defense Motion to Continue FILED
IN OPEN COURT AND FILED UNDER SEAL.

Notice of Habitual Criminality FILED IN OPEN COURT.

Upon Court's inquiry, Deft. advised he will be testifying.

Instructions settled.

Ms. Jones objected to the playing of the video when Deft. is being interviewed and argued prejudicial to Deft. Mr. Tomsheck stated he is not sure what will happen as counsel does not know how Deft. will testify. Court stated counsel will have to approach and request to play video. Ms. Jones further argued interview also talks about pending murder charge. Court stated she will rule if issue comes up, will clear the courtroom and will watch video.

Court inquired of Deft. as to why he is back in Clark County Detention Center (CCDC) clothing. Deft. stated he does not want to testify anymore. Court made a record as to the Court's practice when a Deft. who is in custody testifies. Further statement by Deft. Court stated there is no prejudice to the Deft. as to the Court's policy regarding in custody Deft's testifying. Additional statement by Deft. Court further stated there are times that there are witnesses that are already in witness box before jury comes in, depends on situation and not jut in custody Deft's. Deft. again advised he wants to now testify. Ms. Jones stated it is her understanding, if Deft. testifies, State will ask him questions as to the fire, advised it may lead into the pending murder charges and requested the State not get into that. Court stated she is not sure what questions counsel will ask and cannot make that ruling yet. Deft. now advised he no longer wants to testify.

CONTINUED ON PAGE: 013

PRINT DATE: 03/22/10

PAGE: 012

MINUTES DATE: 11/06/09

CRIMINAL COURT MINUTES

09-C-253455-C STATE OF NEVADA

vs Collins, Lesean T

CONTINUED FROM PAGE: 012

Court advised Juror #1, David Jones, has airline tickets to leave tonight, has to leave at 3:30 p.m., and he will be replaced with alternate juror #1, Katelyn Kraut. There being no objection, COURT ORDERED, Juror #1, David Jones, EXCUSED and Alternate Juror #1, Katelyn Kraut, SEATED as Juror #1.

Ms. Parolise argued Deft. being forced to choose between his Fifth and Sixth Amendment rights. Opposition by the State. Court stated if Deft. wants to testify, counsel knows how to limit direct so that would limit cross. Additional arguments by counsel. Court stated she will not make any type of ruling until after the Court hears direct examination.

JURY PRESENT:

Court instructed the jury. Closing arguments by counsel. At the hour of 3:09 p.m., the jury retired to deliberate. At the hour of 4:50 p.m., jury returned with a verdict of GUILTY of COUNT 1 FIRST DEGREE ARSON (F), GUILTY of COUNT 2 BURGLARY (F) and GUILTY of COUNT 3 MALICIOUS INJURY TO VEHICLE, VALUE \$250.00 OR GREATER (F).

Jury polled.

Court thanked and excused the jury.

OUTSIDE THE PRESENCE OF THE JURY:

Mr. Tomsheck requested bail be revoked and Deft. held without bail. Ms. Jones requested to have bail at it's current setting stand. COURT ORDERED, BAIL REVOKED; DEFT. HELD WITHOUT BAIL; matter REFERRED to the Division of Parole and Probation (P & P) and SET for sentencing.

CUSTODY

1/28/10 8:30 AM SENTENCING

CRIMINAL COURT MINUTES

09-C-253455-C

STATE OF NEVADA

vs Collins, Lesean T

CONTINUED FROM PAGE: 013

01/12/10 08:30 AM 00 DEFT'S MTN TO CONTINUE SENTENCING
DATE/22

HEARD BY: Michelle Leavitt, Judge; Dept. 12

OFFICERS: April Watkins, Court Clerk
Tia Everett/te, Relief Clerk
Kerry Esparza, Reporter/Recorder

PARTIES: STATE OF NEVADA
010435 Schifalacqua, Marc M.
0001 D1 Collins, Lesean T
PUBDEF Public Defender
010094 Jones, Tierra D.

Y
Y
Y
Y
Y

COURT ORDERED, Motion GRANTED.

CUSTODY

2/9/10 8:30 AM SENTENCING

02/18/10 08:30 AM 02 SENTENCING

HEARD BY: Michelle Leavitt, Judge; Dept. 12

OFFICERS: Kristen Brown/kb, Relief Clerk
Kerry Esparza, Reporter/Recorder

PARTIES: STATE OF NEVADA
009210 Tomsheck, Joshua L.
0001 D1 Collins, Lesean T
PUBDEF Public Defender
010094 Jones, Tierra D.

Y
Y
N
Y
Y

Mr. Tomsheck advised the Court that the deft. refused to be transported to court and requested a written order be prepared so that the deft. will be transported. Ms. Jones requested the deft. be given one chance and if he does not appear at the next hearing, then an order can be prepared. Court stated it will give the deft. one last opportunity to come and if the deft. refuses, and order will issue. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 02/25/10 08:30 AM 03

CRIMINAL COURT MINUTES

09-C-253455-C

STATE OF NEVADA

vs Collins, Lesean T

CONTINUED FROM PAGE: 014

03/02/10 08:30 AM 04 SENTENCING

HEARD BY: Michelle Leavitt, Judge; Dept. 12

OFFICERS: April Watkins, Court Clerk
Kerry Esparza, Reporter/Recorder

PARTIES: STATE OF NEVADA
009210 Tomsheck, Joshua L.
010625 Jeanney, Jacqueline

0001 D1 Collins, Lesean T
PUBDEF Public Defender
010094 Jones, Tierra D.

Y
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Y

DEFT. COLLINS ADJUDGED GUILTY as to COUNT 1 FIRST DEGREE ARSON (F), as to COUNT 2 BURGLARY (F) and as to COUNT 3 MALICIOUS INJURY TO VEHICLE (GM). Ms. Jones advised Deft. is requesting to be excused from proceedings. Colloquy between Court and Deft. COURT ORDERED, request DENIED. Exhibits presented. (See worksheet.) Arguments by counsel. Statement by Deft. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee and \$150.00 DNA Analysis fee including testing to determine genetic markers, Deft. SENTENCED UNDER THE LARGE HABITUAL CRIMINAL STATUTE as to COUNT 1 to LIFE in the Nevada Department of Corrections (NDC) with the possibility of parole after a MINIMUM of TEN (10) YEARS has been served, as to COUNT 2 to LIFE in the Nevada Department of Corrections (NDC) with the possibility of parole after a MINIMUM of TEN (10) YEARS has been served, CONCURRENT with COUNT 1 and as to COUNT 3 to the Clark County Detention Center (CCDC) for TWELVE (12) MONTHS, CONCURRENT with COUNTS 1 & 2 with FIVE HUNDRED SIXTEEN (516) DAYS credit for time served.

BOND, if any, EXONERATED.

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ORIGINAL
DISTRICT COURT
CLARK COUNTY, NEVADA

CLERK COURT

TRAN

STATE OF NEVADA,) CASE NO. C253455
Plaintiff,)
vs.) DEPT. NO. XI
LESEAN TARUS COLLINS,)
Defendant.)

BEFORE THE HONORABLE DAVID B. BARKER, DISTRICT COURT JUDGE

RECORDER'S TRANSCRIPT RE:
GRAND JURY INDICTMENT RETURN

WEDNESDAY, APRIL 8, 2009

APPEARANCES:

FOR THE STATE:

SCOTT S. MITCHELL, ESQ.
JOSHUA TOMSHECK, ESQ.
Deputy District Attorneys

FOR THE DEFENDANT:

None

ALSO PRESENT:

WALTER OLENDERSKI,
Grand Jury Foreman

RECORDER/TRANSCRIBER:

RICHARD L. KANGAS

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LAS VEGAS, CLARK COUNTY, NEVADA
WEDNESDAY, APRIL 8, 2009, 1:12 P.M.

* * * * *

MR. MITCHELL: Also, Your Honor, yesterday the Grand Jury met in Grand Jury Case Number 08AGJ112X, and by a vote of twelve or more returned an indictment charging Defendant Lesean Tarus Collins with one count of first degree arson, one count of burglary, and one count of malicious injury to vehicle.

May I approach the bench with the Indictment?

THE COURT: You may.

Mr. Olenderski, did twelve or more members of the Grand Jury meet and return A True Bill as to Defendant Collins on the counts outlined?

MR. OLENDERSKI: Yes, Your Honor.

THE COURT: All right, very well. We'll receive of the Indictment, give it - assign it Case Number C253455, track it to Department Number XI.

Mr. - it looks like Mr. Tomsheck.

MR. TOMSHECK: Correct, Judge.

MR. MITCHELL: Yes, Judge. He's here to address the Court on the bail issue.

THE COURT: All right.

MR. TOMSHECK: Judge, this is a defendant who's currently in custody with a no bail hold on a first degree

1 murder case. In addition to that he's a multi-time,
2 previously-convicted felon. And I just represent to the
3 Court I think his SCOPE is approximately thirteen pages
4 long.

5 Based on all of his criminal history, the fact that
6 he's in on other serious charges and he's [inaudible due to
7 someone sneezing], we'd ask for bail in the amount of a
8 hundred thousand dollars (\$100,000).

9 THE COURT: And you got a no bail out of Justice
10 Court, is that correct?

11 MR. TOMSHECK: Correct, Judge.

12 THE COURT: All right. At this point we'll
13 continue that no bail hold, and you'll address bail with the
14 assigned Department, Number XI, at the time of initial
15 arraignment.

16 MR. TOMSHECK: There was - on this particular case,
17 Judge, it was dismissed already at the Justice Court level,
18 so there's currently no bail outstanding at this time.

19 THE COURT: Oh, so we need to set a bail.

20 MR. TOMSHECK: We do.

21 THE COURT: All right.

22 MR. TOMSHECK: Would you rather have me do that in
23 front of the assigned judge, I have no problem with that.

24 THE COURT: Well, he's in custody on other charges,
25 you say.

1 MR. TOMSHECK: He is.

2 THE COURT: Is the first degree arson a residential?

3 MR. TOMSHECK: It's a residential; it's a house

4 that he shared with the mother of his five children. The

5 total damage to the house was I think approximately two

6 hundred and fifty dollars.

7 THE COURT: All right. The bail set: Count 1, two

8 hundred fifty thousand dollars (\$250,000); Count 2, burglary

9 fifty thousand dollars (\$50,000; Count 3, the gross

10 misdemeanor, a thousand dollars (\$1,000). And you can

11 address bail, if necessary, at the time of initial

12 arraignment in Department Number XI.

13 MR. TOMSHECK: Thank you, Judge.

14 THE COURT: Set it one week, felony arraignment.

15 MR. MITCHELL: Yes. And that would be in the Court

16 that it's going to, instead of lower level; is that correct?

17 THE COURT: Yeah.

18 MR. MITCHELL: All right.

19 THE COURT: Does the State wish to lodge Exhibits 1

20 and 2 with the clerk of the Court?

21 MR. TOMSHECK: Yes, Judge.

22 THE COURT: All right.

23 MR. MITCHELL: Yes.

24 THE CLERK: April 15, 9:00 a.m., Department XI.

25 THE COURT: Anything else?

1 MR. MITCHELL: Judge, just for the record, could
2 that be Exhibits 1, 1A, and 2? Because we've got three
3 exhibits, but one of them is 1A. You said 1 and 2.

4 THE COURT: 1, 1A, and 2.

5 MR. MITCHELL: Yes. Thank you.

6 THE COURT: You got it.

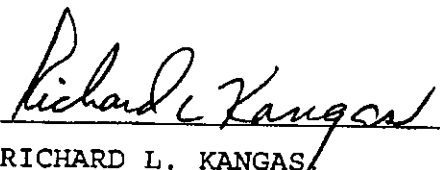
7 MR. MITCHELL: And also, Judge, could we get your
8 signature on a document here?

9 THE COURT: Sure.

10 PROCEEDING CONCLUDED AT 1:15 P.M.

11 * * * * *

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14 ATTEST: I do hereby certify that I have transcribed the audio-
15 video recording of this proceeding in the above-entitled case to
16 the best of my ability.

17 
18 RICHARD L. KANGAS,

19 Court Recorder/Transcriber

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Alison L. Harrison
CLERK OF COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

LESEAN TARUS COLLINS,

Defendant.

CASE NO. C253455

DEPT. XI

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE
WEDNESDAY, MAY 6, 2009

**TRANSCRIPT OF PROCEEDINGS
INITIAL ARRAIGNMENT**

APPEARANCES:

For the State:

JOSHUA L. TOMSHECK, ESQ.
Deputy District Attorney

For the Defendant:

TIERRA D. JONES, ESQ.
Deputy Public Defender

RECORDED BY: JILL HAWKINS, COURT RECORDER

1 LAS VEGAS, NEVADA, WEDNESDAY, MAY 6, 2009, 9:07 A.M.

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2
3 THE COURT: Good morning. If I could go to Lesean Collins, if I have
4 everybody present I need.

CLERK
COURT

5 MR. TOMSHECK: Good morning, Judge, Josh Tomsheck for the State.

6 MS. JONES: Your Honor, Tierra Jones on behalf of Lesean Collins.
7 We are ready for arraignment, Your Honor.

8 THE COURT: Good morning.

9 MS. JONES: This is going to be a not guilty plea.

10 THE COURT: Has a copy of the Indictment been provided to the
11 Defendant previously?

12 MS. JONES: It has, Your Honor.

13 THE COURT: Okay.

14 Sir, do you waive the reading of the Indictment at this time?

15 THE DEFENDANT: Yes I do, ma'am.

16 THE COURT: Have you had a chance to talk with your lawyer about
17 the Indictment?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Tell me what your true name is.

20 THE DEFENDANT: Lesean Tarus Collins.

21 THE COURT: And is Lesean, L-e-s-e-a-n?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Do you understand if that's not your true name, you
24 must disclose your true name to me today or all proceedings in this matter will be
25 under the name Lesean Tarus Collins?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: How old are you?

3 THE DEFENDANT: Thirty-four.

4 THE COURT: Tell me a little bit about your education.

5 THE DEFENDANT: Twelfth grade education.

6 THE COURT: Do you read, write, and understand the English
7 language?

8 THE DEFENDANT: Yes, I do, Your Honor.

9 THE COURT: Have you received a copy of the Indictment which was
10 filed in this case on April 8th?

11 THE DEFENDANT: Yes, I have, ma'am.

12 THE COURT: Have you had a chance to discuss it with your counsel?

13 THE DEFENDANT: Yes, I have.

14 THE COURT: Do you feel like you understand the charges that are
15 included in the Indictment?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Do you waive the formal reading of the Indictment, any
18 list of witnesses that are attached thereto?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: How do you plead to the charge of first degree arson, a
21 felony; burglary, a felony; and malicious injury to vehicle, a gross misdemeanor?

22 THE DEFENDANT: Not guilty, Your Honor.

23 THE COURT: You have a right to trial within 60 days. Do you wish to
24 invoke or waive that right?

25 THE DEFENDANT: Wish to waive, Your Honor.

1 THE COURT: Okay.

2 Counsel, have you talked to my clerk about a trial date?

3 MS. JONES: I have not, Your Honor.

4 We would just ask for the soonest setting you have in the ordinary
5 course.

6 THE COURT: I have some settings that are in the May, June
7 timeframe. I can then go to the August timeframe. So, I'm giving you options.

8 MS. JONES: June or August? We would ask for the August setting.

9 MR. TOMSHECK: It's fine with the State, Judge.

10 THE COURT: Okay. You have choices of August 3, 10, 17, 24, 31,
11 which works best with your trial schedules?

12 MS. JONES: I can do any of those days.

13 MR. TOMSHECK: Judge, I would ask for the 17th.

14 THE COURT: August 17th, with a calendar call on August 12th.

15 MS. JONES: Thank you, Your Honor.

16 MR. TOMSHECK: Thank you, Judge.

17 MS. JONES: And what would be the start time for trial?

18 THE CLERK: 10 a.m.

19 MS. JONES: 10 a.m.? Thank you.

20 THE COURT: It's a flexible 10 a.m.

21 MS. JONES: Thank you, Your Honor.

22 MR. TOMSHECK: Thank you, Your Honor.

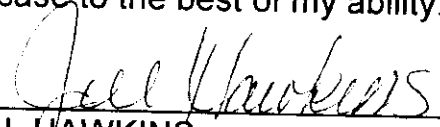
23 THE COURT: It depends on how long it takes to get done with
24 everything else.

25 MS. JONES: I totally understand. Thank you.

1 THE COURT: Thank you.

2 (Proceedings concluded at 9:09 a.m.)

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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video proceedings in the above-entitled case to the best of my ability.

23 
24 JILL HAWKINS
25 Court Recorder/Transcriber

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[Signature]
CLERK COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

LESEAN TARUS COLLINS,

Defendant.

CASE NO. C253455

DEPT. XI

F-09-04460
HSB

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE
WEDNESDAY, JUNE 10, 2009

**TRANSCRIPT OF PROCEEDINGS
DEFENDANT'S WRIT OF HABEAS CORPUS**

APPEARANCES:

For the State:

JOSHUA L. TOMSHECK, ESQ.
Deputy District Attorney

For the Defendant:

TIERRA D. JONES, ESQ.
Deputy Public Defender

RECORDED BY: JILL HAWKINS, COURT RECORDER

1 LAS VEGAS, NEVADA, WEDNESDAY, JUNE 10, 2009, 9:19 A.M.

2
3 THE COURT: Lesean Collins.

4 Good morning, sir. How are you?

5 THE DEFENDANT: Good morning, Your Honor.

6 MS. JONES: Good morning, Judge.

7 THE COURT: Good morning.

8 MS. JONES: Judge, we're ready.

9 THE COURT: It's your petition.

10 MS. JONES: Judge, this is our petition. And basically the State's
11 argument on the petition is that the grand jury was instructed to disregard the
12 statements that Ms. Eddins made. If this case were in trial at the time that
13 Ms. Eddins made the statement about my client doing prison time, that would have
14 been the point where we asked for a mistrial with this case. I don't believe that the
15 State cured the prejudice that my client suffered by saying: Hey, disregard those
16 statements.

17 She testified that they got back together after my client went to prison
18 which lets the grand jury know on the second or third page of the transcript that my
19 client is a convicted felon, 'cause that's the only way for you to have done prison
20 time is to be a convicted felon.

21 My client was prejudiced by that because the grand jury before they
22 deliberated and through the rest of the testimony that they heard at these
23 proceedings, they knew that my client was a convicted felon coming out of the gate.

24 The State's argument is that they had enough other evidence to put
25 forth that says that my client committed these crimes, that this case shouldn't be

1 dismissed. I disagree with that. I think the evidence the State brought out is
2 speculation at best. They brought out testimony from Shalana Eddins that -- they're
3 arguing that my client's actions that he was angry demonstrate a motive. Yes, the
4 things that Shalana Eddins testified to, which we plan to question those things at
5 trial in this case, demonstrate that my client was angry, but my client was not angry
6 about a restraining order, because he didn't even know that there was a restraining
7 order on him. Shalana Eddins testified that he was never ever served with the
8 restraining order. So it was impossible for him to have known that she had a
9 restraining order against him.

10 The State did not -- there was testimony from Shalana Eddins that her
11 tires were damaged the night of September 29th while they were at the house. But
12 the State doesn't have any proof that my client committed those crimes so there's
13 only speculation. She says that she -- he came over to the house, she went outside,
14 he was out there, and then she went outside and her tires were damaged. That's
15 mere speculation. They didn't charge him with that because they don't have enough
16 proof to prove that up. That's exactly what they have as to all the other allegations
17 here.

18 They're saying he was angry. Just because someone is angry does not
19 show that they burned down someone's house. The State also alleges that my
20 client left her a message -- left her father a message stating that now we're even.
21 My client left -- the father testified that my client left him a message stating: Tell
22 your daughter, now we're even for my car that got towed. That was the testimony.

23 Basically, the detective testified that my client admitted to slashing the
24 tires of her car. Then he calls and says: Now that we're even for my car that got
25 towed. My client never ever admitted to the arson. My client told Shalana Eddins'

1 father he did not commit the arson. The State also intends to prove this up by
2 allegations that my client was in -- stole the key the night before so he could get into
3 the house. There was no proof provided for that. Detective Lomprey had an
4 interview with my client where my client testified that his son let him in the house.

5 At the grand jury there was no testimony from the son. The son was
6 not there. He did not testify that I did not let my dad in the house. There was
7 testimony that my client is seen leaving the house at -- Vivian -- Vivian Furlow
8 shows up at the house at 6:30. There was testimony that Shalana Eddins called the
9 house and told the children to leave at 4:30, but there was never any testimony from
10 the neighbor about what time the children arrived at her house. There was nobody
11 there who testifies as to what time the children arrived at the house. So there was
12 no testimony to dispute the fact that my client's son is the one that let him in the
13 house.

14 The State wants to use my client's words to prove up everything else,
15 but then they want to discredit his words for the fact that he says that his son let him
16 in the house. Shalana Eddins testifies that he left her a message saying, basically, I
17 want my stuff back. So if there was any entry into the residence, the entry was so
18 he could get his stuff back.

19 The State hasn't given this Court any proof that the entry was so that he
20 could commit arson on this house to prove off the burglary. My client denies the
21 arson. There's no proof that my client set the fire. The -- he's seen leaving the
22 neighborhood at approximately six, but there's no -- Vivian Furlow sees the fire at
23 6:30. There was never any testimony from Detective Lomprey as to what time the
24 fire started, from anybody else from the fire department. We don't even know what
25 time the fire got started. So the State has not shown probable cause that my client

1 committed -- slight or marginal evidence that my client committed the arson, that my
2 client entered the residence to commit the arson for the burglary. Therefore, the
3 State doesn't have enough evidence to substantiate the prejudice that my client
4 suffered by Shalana Eddins testifying that he had just got out of prison when they
5 got back together.

6 THE COURT: Thank you.

7 Mr. Tomsheck.

8 MR. TOMSHECK: To take those arguments piece by piece, Judge, the
9 first issue having to do with the witness testifying about the Defendant having been
10 in prison, and just so we're clear about this, I don't think the members of the grand
11 jury necessarily have the same understanding that we, as lawyers do, that prison
12 means felony conviction. I think they understand it means incarceration. I don't
13 necessarily know that they can differentiate between jail and prison time.

14 That being said, it was an unsolicited statement. There was a question
15 asked that didn't have to do with him being in prison, it was about a particular period
16 of time and the witness chose to express that point in time by relating it to when he
17 had been released from prison. It wasn't solicited. It was a passing reference and
18 there was no other questions about it. The jury was admonished -- the grand jury
19 was admonished to disregard it and to not pay any heed to it. They are assumed to
20 follow the instructions that they're given, the same as jurors in a jury trial are
21 assumed to follow the instructions they are given.

22 In order for the Indictment to be dismissed based upon that fact, the
23 Court would have to believe there was no other evidence, because the case law in
24 the *Franklin Logan* case are clear that even if there's some improper evidence
25 brought forward, if there's still proper evidence brought forward that satisfies the

1 slight or marginal burden that we have in a grand jury proceeding, then the
2 Indictment should still stand. So the dismissal of the Indictment isn't appropriate.

3 And Ms. Jones arguments about they say this, we say that, precisely
4 proves that State's point, and that's this, if there's a question of fact that we can
5 argue about, that means it goes to a jury. That means the grand jury's purpose has
6 been fulfilled. And all of the arguments she just made are trial arguments, they're
7 not arguments having to do with sufficiency of the evidence. I just have to present
8 slight or marginal evidence to the grand jury. We did that.

9 Unless there be any doubt about what the Defendant knew or did at the
10 time, it was clearly brought out at the grand jury that he made statements to
11 individuals involved in the case that testified to the grand jury that the house was on
12 fire prior to the police and the fire department being aware it. But for the fact he set
13 the fire, no one would know that information. So, I think clearly there's been slight or
14 marginal evidence raised in front of the grand jury and the writ should be denied.

15 THE COURT: Thank you. Ms. Jones, anything else?

16 MS. JONES: And, Judge, I would like to just point out the fact that even
17 if the grand jury is not aware that you have to be a convicted felon to go to prison,
18 the grand jury was notified in the very beginning of those proceedings that my client
19 had been to prison. That testimony was followed up with a lot of testimony about
20 horrible allegations about threats, about threats of violence, about a horrible
21 relationship that went on between my client and Ms. Eddins. I think even though it
22 was unsolicited, putting it together with the other testimony that they heard, I think it
23 portrayed my client in a prejudicial light and he suffered prejudice in this case.

24 I don't believe the State has shown any slight or marginal evidence.
25 The State has shown some sort of speculation that my client -- that the witnesses

1 believe my client may have been involved. I don't think they met the slight or
2 marginal evidence burden and, therefore, I believe this Indictment should be
3 dismissed.

4 THE COURT: Thank you.

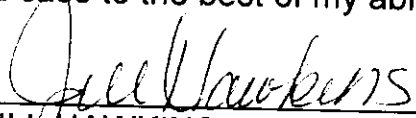
5 I'm going to deny the petition. The State showed slight or marginal
6 evidence and the comment regarding the prison time is harmless and the grand jury
7 was admonished not to consider that testimony. For that reason, I see no basis to
8 dismiss the Indictment.

9 MR. TOMSHECK: Thank you, Judge.

10 MS. JONES: Thank you, Judge.

11 (Proceedings concluded at 9:27 a.m.)
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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video proceedings in the above-entitled case to the best of my ability.

23 
24 JILL HAWKINS
25 Court Recorder/Transcriber

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[Signature]
CLERK COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

LESEAN TARUS COLLINS,

Defendant.

CASE NO. C253455

DEPT. XI

F-09-4460

Appeal #88 PDW

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE
WEDNESDAY, JULY 22, 2009

**TRANSCRIPT OF PROCEEDINGS
DEFENDANT'S MOTION TO COMPEL DISCLOSURE OF
EXCULPATORY EVIDENCE**

APPEARANCES:

For the State:

JOSHUA L. TOMSHECK, ESQ.
Deputy District Attorney

For the Defendant:

TIERRA D. JONES, ESQ.
Deputy Public Defender

RECORDED BY: JILL HAWKINS, COURT RECORDER

1 LAS VEGAS, NEVADA, WEDNESDAY, JULY 22, 2009, 9:44 A.M.

2
3 THE COURT: All right. Anybody else need a case pulled? Mr.
4 Tomscheck?

5 MR. TOMSHECK: Do you mind going back to Lesean Collins on eight?
6 Ms. Jones is now present.

7 THE COURT: I'd be happy to.

8 This is the defense's discovery motion?

9 MS. JONES: Yes it is, Judge.

10 And Judge, basically in speaking with Mr. Tomscheck and Ms. Jeanney,
11 they have no objection to any of the things if they have them in their possession. So
12 basically, if anything else comes up and becomes an issue, we can put it back on.

13 THE COURT: Okay.

14 The motion's granted since the State has recognized those items are to
15 be provided. Do you want me to set a status check on the delivery of those items?

16 MR. TOMSHECK: Judge, just so the record's clear, Ms. Jeanney is
17 counsel of record as the prosecutor on this case. She's got the actual physical file.
18 She's told me in discussions about the discovery in this case that the defense has
19 everything. I don't think that there's anything in particular that they don't have that
20 they're requesting. If there is, we'll certainly provide it to them and Ms. Jones knows
21 how to get ahold of us and she's welcome to anything we have.

22 THE COURT: Do you want me to set it for a status check or not?

23 . . .

24 . . .

25 . . .

1 MS. JONES: I don't think we need a status check, Judge.

2 THE COURT: Okay. Have a lovely day.

3 MS. JONES: Thank you, Your Honor.

4 (Proceedings concluded at 9:45 a.m.)

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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video proceedings in the above-entitled case to the best of my ability.

23
24 
25 JILL HAWKINS
Court Recorder/Transcriber

LESEAN TARUS COLLINS,
Appellant,
vi.
THE STATE OF NEVADA,
Respondent.

Employee, Clark County Public
Defender's Office

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

2 _____

3 LESEAN TARUS COLLINS,)

No. 55716

Electronically Filed
Aug 02 2011 08:15 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

4 Appellant,)

5 v.)

6 THE STATE OF NEVADA,)

7 Respondent.)

8 _____

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10

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C253455

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EIGHTH JUDICIAL DISTRICT COURT

ORIGINAL

CLARK COUNTY, NEVADA

FILED

APR 16 1 32 PM '09

BEFORE THE GRAND JURY IMPANELED BY THE AFORESAID

DISTRICT COURT
CLERK OF THE COURT

THE STATE OF NEVADA,

Plaintiff,

-vs-

LESEAN TARUS COLLINS,

Defendant.

Case No. 08AGJ112X

Taken at Las Vegas, Nevada

Tuesday, February 24, 2009

3:40 p.m.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

VOLUME 1

Reported by: Danette L. Antonacci, C.C.R. No. 222

CE15

DANETTE L. ANTONACCI, C.C.R. 222 (702) 361-1947

1 GRAND JURORS PRESENT ON FEBRUARY 24, 2009:

2
3 WALTER R. OLENDERSKI, Foreman

4 KARL MACDONALD, Deputy Foreman

5 TOMMY URIBE, Secretary

6 DEIDRA MARLEY, Assistant Secretary

7 MICHELLE ANDERTON

8 PAUL BACA

9 JAMES DUPLISEA

10 JOHN EATON

11 RUBYMIRA GERNHUBER

12 PATRICIA KELLY

13 JOAN MCMAKEN

14 JAMES PROVENZANO

15 THOMAS QUINLAN

16 JOHN SHIPP

17 LUIS SIMONEDI

18 JAMES TAYLOR

19
20
21 Also present at the request of the Grand Jury:
22 Joshua Tomsheck,
23 Jacqueline Jeanney,
24 Deputy District Attorneys
25

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8

1 LAS VEGAS, NEVADA, TUESDAY, FEBRUARY 24, 2009

2 * * * * *

3
4 DANETTE L. ANTONACCI,

5 having been first duly sworn to faithfully
6 and accurately transcribe the following
7 proceedings to the best of her ability.
8

9 MR. TOMSHECK: Good afternoon ladies and
10 gentlemen of the Grand Jury. My name is Joshua Tomsheck
11 and with me is Jacquelyn Jeanney. We are the deputy
12 district attorneys that are assigned to prosecute this case
13 which is the case of State of Nevada versus Lesean Tarus
14 Collins, the defendant. The record should reflect that a
15 copy of the proposed Indictment has been marked as Grand
16 Jury Exhibit 1 and that all members of the Grand Jury have
17 a copy of it. The defendant in this case is charged with
18 two felony counts as follows: Count 1, first degree arson,
19 and Count 2, burglary. These crimes were committed within
20 the County of Clark, State of Nevada, on or about September
21 30th of last year, 2008. I think the proposed Indictment
22 in front of you may have the incorrect date. We'll
23 obviously ask you to make the appropriate amendments
24 determined by what the testimony is today.

25 As you are aware we are required by law

DANETTE L. ANTONACCI, C.C.R. 222 (702) 361-1947

1 to advise you of the elements of these charges and I will
2 read the instructions that pertain to them now.

3 The elements of the charges are as
4 follows: Count 1, first degree arson. Any person who,
5 willfully and maliciously, sets fire to or burns or causes
6 to be burned, or who aids, counsels or procures the burning
7 of any dwelling, house or other structure, whether occupied
8 or vacant, or a mobile home, whether occupied or vacant, or
9 other personal property which is occupied by one or more
10 persons, whether the property of himself or of another, is
11 guilty of first degree arson.

12 As used in these instructions, the word
13 willfully means the doing of an act purposely and
14 intentionally, not accidentally.

15 The word maliciously means wrongfully,
16 intentionally and without just cause or excuse.

17 It is not necessary that the building,
18 object or articles of property involved be completely
19 destroyed. Any person shall be deemed to have set fire to
20 a building, structure or any property whenever any part
21 thereof or anything therein shall be scorched, charred or
22 burned.

23 Count 2, burglary. Any person who, by
24 day or night, enters any house, room, apartment, tenement
25 or other building, with the intent to commit a felony

1 therein, is guilty of burglary.

2 You are instructed that first degree
3 arson is a felony offense.

4 Are there any questions with regards to
5 the elements of the charged offenses?

6 THE FOREPERSON: None.

7 MR. TOMSHECK: Seeing none, the State's first
8 witness will be Shalana Eddins.

9 THE FOREPERSON: Please raise your right hand.

10 You do solemnly swear the testimony you
11 are about to give upon the investigation now pending before
12 this Grand Jury shall be the truth, the whole truth, and
13 nothing but the truth, so help you God?

14 MS. EDDINS: Yes.

15 THE FOREPERSON: Please be seated.

16 You are advised that you are here today
17 to give testimony in the investigation pertaining to the
18 offenses of first degree arson and burglary involving
19 Lesean Tarus Collins.

20 Do you understand this advisement?

21 MS. EDDINS: Yes.

22 THE FOREPERSON: Please state your first and
23 last name and spell both for the record.

24 MS. EDDINS: Shalana Eddins. Shalana,
25 S-h-a-l-a-n-a, Eddins, E-d-d-i-n-s.

1 THE FOREPERSON: Thank you.

2

3 SHALANA EDDINS,

4 having been first duly sworn by the Foreperson of the Grand
5 Jury to tell the truth, the whole truth, and nothing but
6 the truth, testified as follows:

7

8 EXAMINATION

9

10 BY MS. JEANNEY:

11 Q Hi, Shalana. Pretty soon I'm going to ask you
12 to turn your attention to Wednesday, September 29, 2008 and
13 then Thursday, September 30, 2008. But before that I'd
14 like to ask you some questions.

15 During that time period in October of
16 2008 were you involved in a relationship with someone?

17 A Yes.

18 Q I'm showing you what is marked for purposes of
19 identification as Grand Jury Exhibit Number 2. Do you
20 recognize this individual?

21 A Yes.

22 Q Okay. Can you please tell me who this is?

23 A Lesean Tarus Collins.

24 Q Okay. Is this the individual you were
25 involved in a relationship with?

13

1 A Yes.

2 Q What type of relationship was it?

3 A Me and Lesean, we share five children
4 together.

5 Q And at that point were you a couple?

6 A No.

7 Q When did you stop being a couple?

8 A Shortly after he had came, excuse me, shortly
9 after he was released from prison, which was July.

10 Q And ladies and gentlemen of the jury, I just
11 ask that you disregard that comment about Mr. Collins being
12 released from prison.

13 So about July --

14 A Yes.

15 Q -- you would say you stopped being a couple?

16 A Yes.

17 Q And that's July of 2008?

18 A Yes.

19 Q All right. And how would you explain Lesean's
20 behavior to you in October of 2008?

21 A Very intimidating, very possessive,
22 controlling.

23 Q At that point did you want to be engaged in
24 more than a friend relationship with him?

25 A No.

1 Q Did he know that?

2 A Yes, he did.

3 Q What was his reaction when you had told him
4 that?

5 A He wasn't happy about it. He wouldn't take no
6 for an answer.

7 Q What do you mean he wouldn't take no as an
8 answer?

9 A I told him I did not want to be in a
10 relationship with him, I just wanted us to be parents to
11 our children, and he refused to leave. So at that point,
12 because I feared for my life and my children's life, we
13 were packing up and we were leaving my home and were
14 staying with friends.

15 Q And this was your home?

16 A Yes.

17 Q And what was the location of that home?

18 A 1519 Laguna Palms.

19 Q That's here in Las Vegas, Clark County?

20 A Yes, North Las Vegas, Nevada.

21 Q Okay. And so now when you were packing up,
22 what day was that that you were packing up your belongings?

23 A I started packing up in August.

24 Q But yet you were still living there in
25 October?

1 A Yes, I was still residing in the home, but we
2 were packing up and we were leaving for days at a time and
3 I would come back to the house and just repack up more
4 clothes and do laundry.

5 Q Okay. And I'm sorry, I said October but I
6 meant September.

7 Let's turn your attention to Wednesday,
8 which would be September 29th of 2008, did you have any
9 type of contact with the defendant Lesean Collins that day
10 or that evening?

11 A Yes.

12 Q How did that contact begin?

13 A Lesean was furious. He would keep the garage
14 opener so that he would have access to get into the home,
15 and because he had the garage opener I unplugged the garage
16 so that he was no longer able to get into the home while me
17 and the children were there at the home.

18 Q Why did you do that?

19 A Because I didn't want to be with him and at
20 that point I was definitely getting scared and fearing for
21 my life because his behavior had changed.

22 Q Okay. So you undid the garage so he had no
23 access into the home?

24 A That's correct.

25 Q Did he have any permission to be in your home

1 during this time period?

2 A No, he didn't.

3 Q Okay. So what happened after you undid the
4 garage?

5 A He was very furious, he began calling me on
6 the house phone asking me to open the door and I refused to
7 open the door. He had jumped the wall in the backyard and
8 was listening in at the window to see who I was talking to
9 on the phone and I told Lesean when I was on the phone with
10 him, I said I hear a noise outside, I'm going to call the
11 police, and he said go ahead, call the police. So I then,
12 I did not call the police at that time, I just waited and
13 waited, and then about ten minutes later Lesean appeared at
14 the front door banging on the door and wanted me to let him
15 in and I told him no.

16 Q Did he ever make entrance into the house?

17 A Yes. I did eventually open the door because
18 he --

19 Q What did he do once he was inside?

20 A He was asking where was the house key and I
21 told him I don't know, and then our oldest son Tysean
22 (phonetic), his backpack was on the floor, and he picked up
23 the backpack, went through the backpack and grabbed the
24 keys to the house and walked out the front door.

25 Q Did you see where he went after he walked out

14

1 the front door?

2 A No.

3 Q And after he left did you notice any damage to
4 the house or to anything around the house?

5 A Nothing was damaged inside the house. I then,
6 my instinct told me just to go outside and look at my car
7 because when Lesean would get mad he would always tamper
8 with my vehicle. So then --

9 Q Go ahead.

10 A So then at that time I went outside and I
11 noticed that one of my, excuse me, two of my tires were on
12 flat.

15

13 Q Had there been any problems with your tires
14 when you had driven to your home that evening?

15 A No.

16 Q And what did you do after you realized that
17 your tires had been slashed?

18 A I then went into the home and I grabbed the
19 house phone and I called the police and after I had made
20 the 911 call I then went back outside to try to argue with
21 Lesean to keep him there on the premises for the police to
22 arrive because Lesean would always just run.

23 Q Okay. And did the police eventually come?

24 A Yes, they did.

25 Q Did you have any contact with Lesean after the

1 police came that evening?

2 A While the police were there on the premises
3 Lesean kept calling the house and the police was hearing
4 him on the phone. And he kept trying, he called to see if
5 the police were there at the house and I would never let
6 him know that the police were there at the house, but the
7 police, they had heard him talking to me on the phone.

8 Q All right. Let's move onto the next day which
9 would be Thursday, September 30th of 2008. What was around
10 the first time that you had contact with him on that day?

11 A About eight o'clock in the morning Lesean had
12 called me while I was on my way taking the kids to school
13 that morning. I had stopped by the store and went and got
14 another copy of the house keys made for the children.

15 Q Okay. And what type of conversation were you
16 having with him in the morning?

17 A He just kept raving on and on about me calling
18 the police on him the night before and at that time the
19 conversation just continued about me calling the police on
20 him. And I had went and put a restraining on him that
21 morning before I went to work.

22 Q Now before we go into the next day, your tires
23 were slashed the night before, did you fix those or --

24 A Yes, the night -- on Wednesday the 29th, by
25 then it was probably about two o'clock or so in the

1 morning, my dad had followed me and the kids in my vehicle
2 to go and replace the tires and after that we went and
3 stayed at a friend's house.

4 Q So the tires were repaired that night or maybe
5 earlier in the morning?

6 A Yes.

7 Q So at some point did you go to work on the
8 30th?

9 A Yes. After I put the retraining order on
10 Lesean I had arrived to work at about, about 11:30.

11 Q At any time while you were at work did you
12 come into contact with the defendant Lesean Collins?

13 A Yes. Lesean, he had continuously called my
14 cell phone and he kept asking me how am I going to pick up
15 my kids, I have to pick up my kids from school, and I told
16 him he didn't need to worry about the children, they would
17 be okay.

18 Q Did you ever see him on that day?

19 A Yes, I did.

20 Q Where did you see him at?

21 A Lesean came to my job that day at about 4:15
22 in the afternoon.

23 Q And where were you when you saw him?

24 A I was at my desk working.

25 Actually, no, I seen Lesean on video

1 camera at my job standing outside my job's door watching
2 me, where he entered into the company and he stole my cell
3 phone and from there he went to the parking lot and slashed
4 four of my tires.

5 Q Okay. And after you realized -- when did you
6 realize that your tires were slashed?

7 A Immediately after I noticed that my cell phone
8 was missing I ran outside to the parking lot and that's
9 where I seen all four tires slashed.

10 Q Did you personally witness him slash the
11 tires?

12 A No, but I personally witnessed him coming to
13 the office and taking the cell phone because all that was
14 caught on videotape.

15 Q Okay. All right. Now after you realized that
16 your tires are slashed what do you do next?

17 A I immediately go back upstairs and I call the
18 police.

19 Q Did you have anymore conversations with Lesean
20 after that?

21 A Lesean had called on my company phone and I
22 had, excuse me, an associate of mine, a co-worker answered
23 my desk phone and she -- he asked may I speak to Shalana,
24 she asked who was calling and he gave an officer's name and
25 she wrote down the officer's name, I don't recall what the

15

1 officer's name is, and she asked is there a number or a
2 badge number and he made up a badge number and then he gave
3 a number to call back which is 788-7790, and that is my
4 cell phone number.

5 Q Did you ever speak to him again that day?

6 A No. Not after that incident, no.

7 Q At any point on that day did he make any
8 threats towards you, on September 30th?

16

9 A He had called my cell phone and left several
10 messages and the message that he had left before he had
11 came to my job and took the cell phone was "Give me my
12 mother fucking shit. I know you got my shit. I want my
13 shit. If you don't give me my mother fucking shit I'm
14 going to knock all this shit off."

15 Q And that was left on your voice mail?

16 A And that was left on my voice mail.

17 Q Now after you said you called the police, what
18 did you do after you did that?

19 A After I had called the police I immediately
20 phoned home to the children and I told the children to
21 leave the house immediately, put on shoes, leave the house
22 immediately and go to the next door neighbor's house.

23 Q Why did you feel the like that was necessary?

24 A Because I knew that me and Lesean have been
25 having problems the night before and when I seen that he

1 was still on that same mode I just, my intuition just told
2 me to call my children. I didn't feel safe with the
3 children being there and Lesean arriving there at the
4 house.

5 Q Do you know what time it was when you made
6 that phone call to have your children leave the house?

7 A Probably it was about 4:30, 4:35.

8 Q At any time did you get to the house?

9 A No, I was unable to make it to the house
10 probably until about seven p.m. that night.

11 Q What was the status at the house at that point
12 about seven o'clock?

13 A The house was burning. The fire department
14 was outside and they were putting the fire out.

15 Q So you could tell that the house was on fire?

16 A Yes.

17 Q Did the defendant Lesean Collins have
18 permission to enter your house on the 30th?

19 A No, he didn't.

20 Q What type of damage was done to your house?

21 A My whole closet was set on fire. I have no
22 clothes, I didn't have any shoes left. He set my bed on
23 fire. My children's -- because I have three bedrooms, it
24 was a three bedroom home, and my two older boys, they
25 shared a room, all of their clothes were burnt, their TV,

1 their computer. And in the living room he attempted to set
2 the couch on fire but it didn't burn, he just made cuts
3 into the couch.

4 Q After this happened did you ever hear Lesean
5 make any type of admissions to this?

6 A On his voice mail he had, when you called his
7 cell phone he left a personal message that said "yeah, my
8 babies' mama's house is on fire, that bitch is burning."

9 Q Okay. Did you ever have the four tires on
10 your car, when they were slashed on the 30th, did you have
11 those repaired?

12 A That evening on the 30th I had the vehicle
13 towed to one of my friend's house and from there we had it
14 towed to the tire shop and I had them replaced.

15 Q What was the cost of that replacement?

16 A Seven hundred and fifty-two dollars.

17 Q Does that include the towing costs?

18 A No.

19 Q And do you know how much that is?

20 A I'm not quite sure exactly what the towing
21 cost is because I have it on my insurance service.

22 MS. JEANNEY: Okay. That's all my questioning
23 for Miss Eddins. Does anyone have any questions for her?

24 BY A JUROR:

25 Q Where were you working on September 29th and

1 30th.

2 A Bergman Walls and Associates, 2920 South
3 Jones, Las Vegas, Nevada.

4 Q Thank you.

5 A You're welcome.

6 MS. JEANNEY: Anyone else?

7 BY A JUROR:

8 Q I have one quick question. I'm sorry.

9 So my chronology may be a little mixed
10 up, was it the 1st that you came home and you found the
11 house on fire, October 1st?

12 A No, September 29th.

13 Q When you came home and found the house
14 burning?

15 A Excuse me, September 30th.

16 Q Okay. So it was the evening of September
17 30th?

18 A It was the evening of September 30th at about
19 seven p.m. I had finally made it from work.

20 Q Can I ask what age range are the children?

21 A My children are, at the time my children were
22 five -- excuse me, five, seven and nine and eleven.

23 Q Thank you.

24 MS. JEANNEY: If I could clarify something
25 real quick just because the dates got a little bit

1 information obtained by the Grand Jury.

2 Failure to comply with this admonition
3 is a gross misdemeanor punishable by a year in the Clark
4 County Detention Center and a \$2,000 fine. In addition,
5 you may be held in contempt of court punishable by an
6 additional \$500 fine and 25 days in the Clark County
7 Detention Center.

8 Do you understand this admonition?

9 THE WITNESS: Yes.

10 THE FOREPERSON: Thank you for your testimony.
11 You are excused, ma'am.

12 MS. JEANNEY: State's next witness is Vivian
13 Furlow.

14 THE FOREPERSON: Please raise your right hand.

15 You do solemnly swear the testimony you
16 are about to give upon the investigation now pending before
17 this Grand Jury shall be the truth, the whole truth, and
18 nothing but the truth, so help you God?

19 MS. FURLOW: Yes.

20 THE FOREPERSON: Please be seated.

21 You are advised that you are here today
22 to give testimony in the investigation pertaining to the
23 offense of first degree arson and burglary involving Lesean
24 Tarus Collins.

25 Do you understand this advisement?

17

1 MS. FURLOW: Yes.

2 THE FOREPERSON: Please state your first and
3 last name and spell both for the record.

4 MS. FURLOW: Vivian Furlow. V-i-v-i-a-n,
5 F-u-r-l-o-w.

6

7 VIVIAN FURLOW,
8 having been first duly sworn by the Foreperson of the Grand
9 Jury to tell the truth, the whole truth, and nothing but
10 the truth, testified as follows:

11

12 EXAMINATION

13

14 BY MS. JEANNEY:

15 Q Vivian, do you know an individual by the name
16 of Shalana Eddins?

17 A Yes, I do.

18 Q How do you know her?

19 A She's somewhat like my stepdaughter. Her dad
20 and I dated for a long time.

21 Q How long have you known her for?

22 A Approximately ten years.

23 Q I'm showing you what has been marked for
24 purposes of identification as Grand Jury Exhibit Number 2.
25 Do you recognize the person in this photograph?

1 A Yes, I do.

2 Q Who is this person?

3 A His name is Lesean Collins.

4 Q How do you know him?

5 A He was the boyfriend of Shalana Eddins, was
6 the ex-boyfriend at the time.

7 Q Now I'd like to turn your attention to
8 September 30th of 2008. On that day did you see Lesean
9 Collins?

10 A Yes, I did.

11 Q What time did you see him at?

12 A It was approximately about between 6:15 and
13 6:30 in the evening.

14 Q Where did you see him at?

15 A At her residence. Leaving her residence
16 actually as I was approaching.

17 Q How was he leaving?

18 A In a car. Heading west.

19 Q What type of car was it?

20 A It was like a blue four door sedan.

21 Q How was he driving?

22 A He was in a rush. He was going away.

23 Q And why were you in that area at that time?

24 A Because I received a phone call from Shalana's
25 father asking me to go pick up the children because Lesean

1 had went up to her job and slashed her tires and they were
2 fearing for the children and he asked me if I would go pick
3 up the grandkids.

4 Q At this point, ladies and gentlemen of the
5 Grand Jury, I just ask that any other statements are
6 hearsay, you can disregard those.

7 So you were in the area to pick up the
8 children?

9 A Right. Uh-huh.

10 Q And what time do you think you got to the
11 children at?

12 A That was approximately about 6:15, between
13 6:15 or 6:30.

14 Q So the same time period?

15 A Uh-huh.

16 Q At any point in time did you approach the
17 house that Shalana and the children live at?

18 A Yes, I did.

19 Q What time did you get to the house?

20 A That was probably about -- that I actually
21 went to her house? Because I went to the neighbor's house
22 to get the children first.

23 Q Yeah. What time did you get to the house
24 where Shalana and the children reside?

25 A I went over to that house, it was probably

1 about 7:15.

2 Q And when you approached the house did you
3 think anything seemed different or peculiar about it?

4 A Yes. And actually when I went to the house I
5 was actually with two other police officers and when we
6 approached the house to go near the house it was, the door
7 was hot and the officer wouldn't let me in.

8 Q And after this incident occurred did you ever
9 have any type of concerns with Lesean Collins?

10 A After this, no.

11 Q Okay. Did you ever call his phone?

12 A Yes.

13 Q Did you speak to him on his phone?

14 A I did not speak to him, I just heard his ring.

15 Q Did you hear his voice mail?

16 A Yes.

17 Q What did his voice mail say?

18 A Well, he had composed what they call a rap and
19 he was calling a lot of things, one of which he was
20 referring to his babies' mama, stating that if you can't
21 stand the heat you got to get out of the kitchen or you'll
22 burn up just like her house.

23 Q How did you know it was Lesean's voice on the
24 voice mail?

25 A Because I know his voice and also he had

17
18

1 called one of the other girls while we were there at the
2 fire.

3 Q Okay. So when you called his, when you call
4 his phone --

5 A Uh-huh.

6 Q -- it will ring and then his voice mail will
7 pick up?

8 A Well, that's the actual ring. You don't hear
9 a ringing. That's the ring. It's like a, what they call
10 ring tones. Instead of hearing the phone ring you hear
11 whatever message they can leave for you. So if it's a
12 particular record you hear that song or whatever. So he
13 composed his own. So instead of the phone actually ringing
14 you hear him wrapping.

15 MS. JEANNEY: Okay. I don't have anymore
16 questions for Miss Furlow. Does anyone?

17 BY A JUROR:

18 Q Yes. Was the fire department there when you
19 got to the house?

20 A No, they were not.

21 Q But the police were there?

22 A No. I was actually there for almost an hour
23 before the police got there.

24 Q Did you call the police?

25 A No, the neighbors had called the police where

1 the kids were at.

2 Q Oh, okay. Thank you.

3 A Uh-huh.

4 THE FOREPERSON: Anyone else? No?

5 By law these proceedings are secret and
6 you are prohibited from disclosing to anyone anything that
7 has transpired before us, including evidence and statements
8 presented to the Grand Jury, any event occurring or
9 statement made in the presence of the Grand Jury, and
10 information obtained by the Grand Jury.

11 Failure to comply with this admonition
12 is a gross misdemeanor punishable by a year in the Clark
13 County Detention Center and a \$2,000 fine. In addition,
14 you may be held in contempt of court punishable by an
15 additional \$500 fine and 25 days in the Clark County
16 Detention Center.

17 Do you understand this admonition?

18 THE WITNESS: Yes, I do.

19 THE FOREPERSON: Thank you for your testimony.
20 You are excused.

21 MS. JEANNEY: State's next witness is Robert
22 Eddins.

23 Actually the State's next witness is
24 going to be Detective Lomprey. Mr. Eddins is putting some
25 money in the meters.

1 THE FOREPERSON: Sir, please raise your right
2 hand.

3 Do you solemnly swear the testimony you
4 are about to give upon the investigation now pending
5 before this Grand Jury shall be the truth, the whole truth,
6 and nothing but the truth, so help you God?

7 MR. LOMPNEY: Yes.

8 THE FOREPERSON: Please be seated.

9 You are advised that you are here today
10 to give testimony in the investigation pertaining to the
11 offense of first degree arson and burglary involving Lesean
12 Tarus Collins.

13 Do you understand this advisement?

14 MR. LOMPNEY: Yes.

15 THE FOREPERSON: Please state your first and
16 last name and spell both for the record.

17 MR. LOMPNEY: Jeffrey Lompney. J-e-f-f-r-e-y,
18 L-o-m-p-r-e-y.

19 THE FOREPERSON: Thank you.

20

21 JEFFREY LOMPNEY,

22 having been first duly sworn by the Foreperson of the Grand
23 Jury to tell the truth, the whole truth, and nothing but
24 the truth, testified as follows:

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EXAMINATION

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BY MR. TOMSHECK:

Q Good afternoon. Do you go by Jeff?

A Yes.

Q Jeff, can you tell the ladies and gentlemen of the Grand Jury what it is you do for a living?

A I'm the investigations captain for the North Las Vegas Fire Department's fire arson unit.

Q Can you tell us in a nutshell what that means?

A I investigate non-criminal and criminal fires.

Q When you say you investigate fires, do you respond to locations where police or fire have responded to a 911 call?

A Yes.

Q Do you conduct an investigation to determine things like cause and origin of a fire?

A Origin and cause, yes.

Q Do you have certain education, training and experience that allows you to make determinations about how a fire started, where it started and things of that nature?

A I do.

Q Can you tell the ladies and gentlemen of the Grand Jury what some of that education, training and experience is?

1 A Certainly. I teach at the College of Southern
2 Nevada. I teach the Fire Cause Determination class and the
3 Advanced Fire Arson Investigation class. I attended UNLV,
4 I attended Community College. I'm one of the only
5 certified fire investigators in the State of Nevada through
6 the IWAI which is the International Association of Arson
7 Investigators.

8 Q And is there certain classroom requirements,
9 training, testing, in order to get the certification you
10 just mentioned?

11 A Yes, sir.

12 Q In addition to that, have you worked in the
13 capacity of a fire investigator in fire investigation for
14 the City of North Las Vegas for a period of time?

15 A Yes, sir.

16 Q In total how long have you worked
17 investigating fires and their causes?

18 A Public and private approximately twenty years.

19 Q In addition to your work investigating fires
20 do you also have a background in law enforcement?

21 A I do. I am also a police officer.

22 Q Where are you a police officer?

23 A City of North Las Vegas.

24 Q Prior to working as a police officer in the
25 City of North Las Vegas, did you work for another

1 jurisdiction here in Southern Nevada?

2 A I did.

3 Q Where was that?

4 A City of Boulder City, sir.

5 Q What types of, what was your assignment with
6 Boulder City?

7 A I was the senior police detective over the
8 detective bureau.

9 Q What types of crimes did you investigate as
10 the senior detective?

11 A Homicides, sexual assault and arson.

12 Q When is it that you became the captain in your
13 current role in North Las Vegas on a full time basis?

14 A I lateraled to that agency in October of 2007.

15 Q Okay. So were you working in that same
16 capacity on or about the 30th day of September of last year
17 2008?

18 A Yes, sir.

19 Q Were you called out to investigate a fire that
20 had occurred at 1519 Laguna Palms Avenue in North Las
21 Vegas?

22 A I was.

23 Q Can you describe for us how it was that you
24 arrived on scene, who were you with and what were the
25 circumstances?

1 A I was with Metropolitan Police Department.
2 They were doing a follow-up on another investigation. They
3 had a search warrant for the premises. I went in and did
4 an origin and cause investigation in a sealed property.

5 Q When you say sealed, does that mean the house
6 was closed so no one could get inside other than law
7 enforcement?

8 A Yes, sir.

9 Q You mentioned they had a search warrant at the
10 time and you accompanied them inside.

11 A Yes, sir.

12 Q While you were inside the house did you do an
13 investigation as to origin and cause as you just described?

14 A I did.

15 Q Can you tell us what it is exactly that you
16 did?

17 A We started our investigation from the least
18 amount of damage to the most amount of damage.

19 Q Why is it that you do that?

20 A We want to go from -- well, obviously to show
21 the area of origin, like in the living room for example
22 there was light soot so that told me from my training and
23 education and experience that was where the fire was
24 propagating to or, I'm sorry, going towards. We want to
25 find out the seat of the fire and I noticed several areas

1 of different origins, basically different fires,
2 unconnected.

3 Q Okay. When you investigate a fire is it safe
4 to say that one of the things you do is look for the area
5 where it's most badly burned?

6 A Yes.

7 Q Why do you do that?

8 A That's normally where it starts.

9 Q Because if it starts there that's probably
10 where it burns the longest, that's where the most damage
11 would be?

12 A Yes. Localized damage, yes.

13 Q Within the residence at 1519 Laguna Palms
14 Avenue, were you able to determine separate and distinct
15 fires apart from one another?

16 A I was. That's called non-communicative fires
17 and there was three of them.

18 Q And you can do that by determining that one
19 fire has only burned out to a particular location and then
20 it stops and there is other areas where you find something
21 similar in the residence?

22 A Yes, sir, they're called multiple sets.

23 Q How many multiple sets did you find within the
24 residence of 1519 Laguna Palms?

25 A Three.

1 Q Can you tell the ladies and gentlemen of the
2 Gand Jury where they were located?

3 A Of course. One was on the master bed with
4 female clothing on the middle of the bed. The second one
5 was in the master bedroom in the closet with female
6 clothing in the closet on the floor that was piled up, it
7 was also burned. And the third area of origin was in the
8 living room on a couch.

9 Q Apart from those three particular locations
10 was there also heat and smoke damage within the rest of the
11 residence?

12 A Yes, sir.

13 Q When you conduct an investigation like this do
14 you attempt to, process of elimination, to eliminate
15 different ways in which the fire could have started?

16 A And that's what fire investigation is, it's a
17 process of elimination.

18 Q Did you do that in this case?

19 A I did, sir.

20 Q Can you tell us what you looked at?

21 A In each area of origin we look at the seat of
22 the fire and we want to see what's able for, what can be a
23 competent heat source and fuel source, and you have to
24 eliminate electrical, mechanical, lightning. Once those
25 potential competent heat sources are eliminated you have

1 what's left is arson which is incendiary.

2 Q And in this particular case did you go through
3 the different sources of naturally caused fires to
4 determine if there was any evidence of that?

5 A I did.

6 Q And if I were to give you some specific areas
7 within the house, can you tell me if you made a
8 determination if the fire could have been caused by one of
9 the following things?

10 A Yes.

11 Q The HVAC unit, did you investigate that?

12 A Yes, that was ruled out.

13 Q The gas range.

14 A That was ruled out.

15 Q Hot water heater.

16 A Ruled out.

17 Q Television systems.

18 A Ruled out.

19 Q Any stereo systems in the house.

20 A That was ruled out.

21 Q Microwave oven.

22 A Ruled out.

23 Q Candles.

24 A Ruled out.

25 Q Was there any evidence that the fire started

19

1 by some type of tobacco or smoking product?

2 A No, sir.

3 Q Based on that did you reach an opinion about
4 the origin and cause of this fire?

5 A I did.

6 Q Can you tell us what that was?

20

7 A Incendiary.

8 Q What does that mean?

9 A Arson. Basically that means it is an
10 intentional act, willful and malicious, set with an open
11 flame with a human hand with the intent to destroy the
12 house and its contents.

13 Q Okay. In this particular case did you
14 document some of the work you did through photographs?

15 A I did.

16 Q After you completed your investigation did you
17 do an analysis of a property damage amount that was caused
18 by the actual burning of the fire?

19 A I did. We have a set formula that we use.

20 Q What is that?

21 A A hundred eighty-five dollars per square foot
22 and that's of actual charred damage.

23 Q Actual burned area within the house?

24 A Yes, sir.

25 Q Above and beyond that is the actual damage

1 caused by soot associated with the fire?

2 A Of course.

3 Q Smoke damage, things like that?

4 A Yes.

5 Q Okay. The damage of the actual burned area
6 within the house was how many square feet?

7 A Approximately seven hundred.

8 Q And so at seven hundred square feet, I believe
9 you said a hundred eighty-five dollars per square foot,
10 would that amount to roughly a hundred twenty-nine thousand
11 five hundred dollars?

12 A Yes.

13 Q After conducting -- let me ask you one other
14 thing about the inside of the house. When you did your
15 investigation did you look to see if there were smoke
16 alarms within the house?

17 A I did.

18 Q And were there smoke alarms within that
19 residence?

20 A Yes.

21 Q Did you check to see if there was an electric
22 breaker associated with the smoke alarm?

23 A I did and it was turned off.

24 Q Meaning to you that someone had turned it off?

25 A Deliberately turned it off.

1 Q The other breakers in the house, were they in
2 the appropriate position?

3 A Yes, sir.

4 Q Following your investigation -- let me ask you
5 this. What day did you get there and investigate?

6 A The 1st.

7 Q The 1st of October?

8 A Yes, sir.

9 Q So did you have an understanding that the fire
10 occurred on the 30th of September?

11 A In the evening.

12 Q Following the investigation on the 1st of
13 October, did you eventually come into contact with an
14 individual by the name of Lesean Collins?

15 A I did.

16 Q I'm going to show you Grand Jury Exhibit
17 Number 2. For the record do you recognize the person
18 depicted in Grand Jury Exhibit Number 2?

19 A That's the defendant.

20 Q Lesean Collins?

21 A Yes, sir.

22 Q Did you contact him and attempt to contact him
23 about his involvement in the burning of the house on the
24 30th of September?

25 A Yes.

1 Q And what day was it that you made contact with
2 him?

3 A The 2nd.

4 Q Of October?

5 A Yes, sir.

6 Q Did you provide to him what are commonly
7 referred to as his Miranda rights, Miranda warnings?

8 A Yes.

9 Q Did he agree to waive those and talk to you?

10 A Yes.

11 Q Did you ask him about whether or not he had
12 been at the residence at the time the fire was started?

13 A I did.

14 Q What did he tell you?

15 A He said he was there.

16 Q Did he tell you how he got into the house?

17 A He said that his older son let him in.

18 Q Did he tell you which older son or which, how
19 it was that the older son let him into the house?

20 A Through the door, but he wasn't supposed to be
21 there.

22 Q Did Mr. Collins admit to you he didn't have
23 permission to be in the residence?

24 A He did.

25 Q Did you talk to him about an allegation that

1 he had cut some tires belonging to Shalana Eddins' vehicle
2 prior to being at the house?

3 A Yes, sir.

4 Q Did he admit that he had in fact done that?

5 A Yes.

6 Q Following that did you talk to him about
7 whether or not he had set the fire within the residence?

8 A Yes.

9 Q What did he tell you about that?

10 A He denied it.

11 Q Did you discuss with him the fact that there
12 were witnesses that had seen him at the residence?

13 A I did.

14 Q What was his response to that?

15 A Very -- he became extremely agitated.

16 Q Did you ever talk to him about whether or not
17 anyone had seen what he had done inside the house?

18 A I did.

19 Q What did he tell you?

20 A He said it was impossible for them to know
21 what he has done.

22 Q Inside the house?

23 A Yes, sir.

24 Q Specifically he said that, specifically inside
25 the house during that --

1 A Yes, there was no witnesses, he was in the
2 house alone.

3 MR. TOMSHECK: I have no additional questions
4 of this witness.

5 THE FOREPERSON: Does anyone from the Grand
6 Jury? None?

7 By law these proceedings are secret and
8 you are prohibited from disclosing to anyone anything that
9 has transpired before us, including evidence and statements
10 presented to the Grand Jury, any event occurring or
11 statement made in the presence of the Grand Jury, and
12 information obtained by the Grand Jury.

13 Failure to comply with this admonition
14 is a gross misdemeanor punishable by a year in the Clark
15 County Detention Center and a \$2,000 fine. In addition,
16 you may be held in contempt of court punishable by an
17 additional \$500 fine and 25 days in the Clark County
18 Detention Center.

19 Do you understand this admonition?

20 THE WITNESS: Yes, sir.

21 THE FOREPERSON: Thank you for your testimony.
22 You are excused, sir.

23 THE WITNESS: Thank you.

24 MS. JEANNEY: State's next witness is Robert
25 Eddins.

1 THE FOREPERSON: Please raise your right hand.
2 You do solemnly swear the testimony you
3 are about to give upon the investigation now pending before
4 this Grand Jury shall be the truth, the whole truth, and
5 nothing but the truth, so help you God?
6 MR. EDDINS: I do.
7 THE FOREPERSON: Please be seated.
8 You are advised that you are here today
9 to give testimony in the investigation pertaining to the
10 offenses of first degree arson and burglary involving
11 Lesean Tarus Collins.
12 Do you understand this advisement?
13 MR. EDDINS: Yes.
14 THE FOREPERSON: Please state your first and
15 last name and spell both for the record.
16 MR. EDDINS: My name is Robert Eddins,
17 E-d-d-i-n-s.
18
19 ROBERT EDDINS,
20 having been first duly sworn by the Foreperson of the Grand
21 Jury to tell the truth, the whole truth, and nothing but
22 the truth, testified as follows:
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EXAMINATION

BY MS. JEANNEY:

Q Good afternoon Mr. Eddins.

I'm showing you what has been marked for
purposes of identification as Grand Jury Exhibit Number 2.

Do you recognize the individual in this photograph?

A Yes, I do.

Q Okay. Who is that person?

A That's Lesean Collins.

Q How do you know Mr. Collins?

A I've been knowing him for about twelve years.
He's my daughter's babies' father.

Q You said you've known him for about twelve
years?

A About twelve years.

Q I'd like to turn your attention to September
30th of 2008. On that day did you have any type of contact
with Mr. Collins?

A Yes, he made about two or three phone calls to
me.

Q What time did those phone calls start at?

A They probably started between five and six.

Q Let's talk about the first conversation first.
Who called who?

1 A Lesean called me on my cell phone.

2 Q And how did you know it was Lesean?

3 A His number came up.

4 Q So you've had his number previously?

5 A Yes.

6 Q Do you also recognize his voice?

7 A Oh, yes, I do.

8 Q What was said in the first conversation? What

9 did he say to you?

10 A He told me, he described to me that you can

11 tell your daughter, which is Shalana, that we're even now

12 for my car that was towed away, I mean that was damaged.

13 Q Okay. Is that, that was the first

14 conversation?

15 A Right. Uh-huh.

16 Q Did he say anything else?

17 A Yes. He started talking about -- well, when I

18 told him that he doesn't need to be telling me that, then I

19 let him talk to Metro. Metro was sitting there, because I

20 was there on Shalana Eddins' job because apparently someone

21 had flattened all four of her tires, so I was there and the

22 Metro police were there, so I handed the phone to the Metro

23 police and let them talk to him.

24 Q What time was the second telephone call?

25 A It was between six and 6:30.

1 Q What was said in that conversation?

2 A That conversation he was telling me that he
3 heard my daughter's house is on fire.

4 Q Did he say anything else?

5 A Yes. He told me, I said oh, how did the house
6 catch on fire, and he said well, he had told me that, prior
7 to that conversation I had already called Vivian Furlow to
8 pick up the grandkids from next door so I had already asked
9 Vivian to go next door to see if the house was okay and at
10 that particular time when she went outside, the police
11 officers were there, and that's when Lesean called me, he
12 called me to tell me that my daughter's house was on fire
13 and I told him, I said well, you just left there, how did
14 the house get caught on fire, he said I don't know, I just
15 heard that, it wasn't nothing of me. Then he started
16 telling me it wasn't him that did something like that. I
17 said at that particular time you had just left there and
18 you had already expressed to the kids what your intention
19 was, that's why they were next door and I had Vivian come
20 over to pick them up.

21 Q Was that conversation over -- and there was a
22 third one -- or did anything else go on in that second
23 conversation?

24 A No, I don't -- I don't remember the third
25 conversation if there was one, but we talked quite often,

1 but that those were the two that I mainly remember on that
2 particular --

3 Q Did he make any admissions to you in the
4 second phone call?

5 A About the fire?

6 Q Correct.

7 A Yeah, he said he knew about the fire but he
8 tried to tell me that he didn't start the fire.

9 Q And that was the last time you have spoken to
10 him since then?

11 A Yes. Uh-huh.

12 Q When you spoke to Lesean these two times that
13 day, was it September 30th of 2008?

14 A Uh-huh.

15 MS. JEANNEY: I have no further questions for
16 this witness.

17 BY A JUROR:

18 Q Did Lesean tell you where he was when the fire
19 started?

20 A No. He said he had just left the house but he
21 didn't start the fire.

22 Q Okay. Thank you.

23 THE FOREPERSON: Anyone else?

24 Go ahead.

25 ///

1 BY A JUROR:

2 Q What time did he tell you this, that the house
3 was on fire?

4 A This had to be between six and 6:30, somewhere
5 along -- I don't really have the correct time because I
6 was, like I say I was there talking to Metro and he just
7 happened to call.

8 Q But that was before the police discovered the
9 fire?

10 A Right. He told me about the fire before the
11 police even -- because I had Vivian go next door to check
12 on the house, she hadn't gone there by the time that he had
13 actually called me to tell me that there was a fire.

14 Q So he knew about it before the police did?

15 A Right.

16 BY A JUROR:

17 Q Mr. Eddins, Lesean had said that the oldest
18 boy had left him in the house. But all of the children
19 were over at the neighbor's, correct?

20 A Beg your pardon?

21 Q Lesean had stated that the oldest boy had let
22 him in the house, but all of the children were at the
23 neighbor's; is that correct?

24 A I don't really have any knowledge of that part
25 of the evening because by the time that I had contact with

2 1 any of the kids all of them were over to the neighbor's
2 house and I was trying to find somebody to pick them up
3 because I was down there at my daughter's job dealing with
4 her car issues.

5 MS. JEANNEY: Anybody else?

6 THE FOREPERSON: All right. Anybody else?

7 No?

8 By law these proceedings are secret and
9 you are prohibited from disclosing to anyone anything that
10 has transpired before us, including evidence and statements
11 presented to the Grand Jury, any event occurring or
12 statement made in the presence of the Grand Jury, and
13 information obtained by the Grand Jury.

14 Failure to comply with this admonition
15 is a gross misdemeanor punishable by a year in the Clark
16 County Detention Center and a \$2,000 fine. In addition,
17 you may be held in contempt of court punishable by an
18 additional \$500 fine and 25 days in the Clark County
19 Detention Center.

20 Do you understand this admonition?

21 THE WITNESS: Yes, I do.

22 THE FOREPERSON: Thank you for your testimony.
23 You are excused, sir.

24 THE WITNESS: Thanks.

25 ///

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1 MR. TOMSHECK: Ladies and gentlemen, we have
2 no additional witnesses at this time, however we would ask
3 that you reserve your deliberation for future evidence and
4 testimony or amendments to the proposed Indictment

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6 (Proceedings adjourned, to reconvene
7 at a later, undetermined time.)

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The undersigned does hereby affirm that the preceding TRANSCRIPT filed in GRAND JURY CASE NUMBER 08AGJ112X:

-OR-

A. A specific state or federal law, to-wit: NRS 656.250

-or-

Danette L Cioforacci

Signature

Official Court Reporter
Title

ORIGINAL

1 IND
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 JOSHUA TOMSHECK
6 Deputy District Attorney
7 Nevada Bar #009210
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

FILED

APR 8 2 08 PM '09

Earl H. Smith
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

11 THE STATE OF NEVADA,
12 Plaintiff,

Case No. C253455
Dept. No. XI

13 -vs-

14 LESEAN TARUS COLLINS,
15 #0857181

16 Defendant(s).

INDICTMENT

18 STATE OF NEVADA }
19 COUNTY OF CLARK } ss.

20 The Defendant(s) above named, LESEAN TARUS COLLINS, accused by the Clark
21 County Grand Jury of the crime(s) of FIRST DEGREE ARSON (Felony - NRS 205.010);
22 BURGLARY (Felony - NRS 205.060) and MALICIOUS INJURY TO VEHICLE (Gross
23 Misdemeanor - NRS 205.274, 193.155), committed at and within the County of Clark, State
24 of Nevada, on or about the 30th day of September, 2008, as follows:

25 COUNT 1 - FIRST DEGREE ARSON

26 did then and there willfully, unlawfully, maliciously, and feloniously set fire to, and
27 thereby cause to be burned, a certain residence, the master bedroom therein, located at 1519
28 Laguna Palms Avenue, North Las Vegas, Clark County, Nevada, said property being then

CLERK OF THE COURT

APR 08 2009

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1 and there the property of SHALANA EDDINS, by use of open flame and flammable and/or
2 combustible materials, and/or by manner and means unknown.

3 COUNT 2 - BURGLARY

4 did then and there wilfully, unlawfully, and feloniously enter, with intent to commit
5 arson, that certain building occupied by SHALANA EDDINS, located at 1519 Laguna Palms
6 Avenue, North Las Vegas, Clark County, Nevada.

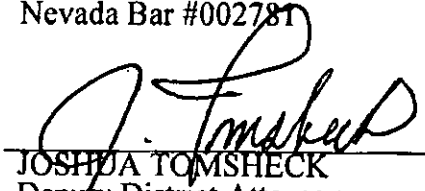
7 COUNT 3 - MALICIOUS INJURY TO VEHICLE

8 did wilfully, unlawfully, and maliciously break, injure, or tamper with that certain
9 motor vehicle owned by SHALANA EDDINS, to-wit: a FORD EXPEDITION, without the
10 consent of the owner thereof, for the purpose of injuring, defacing, or destroying such
11 vehicle, or temporarily or permanently preventing its useful operation, or for any purpose
12 against the will or without the consent of the owner thereof, by slashing and/or stabbing
13 and/or cutting into tires of said vehicle, the value of said damage being over \$250.00, and
14 less than \$5,000.00.

15 DATED this 7th day of April, 2009.

16
17 DAVID ROGER
DISTRICT ATTORNEY
18 Nevada Bar #002781

19
20 BY


21 JOSHUA TOMSHECK
Deputy District Attorney
22 Nevada Bar #009210

23 ENDORSEMENT: A True Bill

24
25 
26 Foreperson, Clark County Grand Jury

1 Names of witnesses testifying before the Grand Jury:

2 EDDINS, SHALANA 176 Judy Ct #B, Henderson, NV

3 FURLOW, VIVIAN 8429 Vast Horizon, LVN

4 LOMPNEY, JEFFREY 2626 E Carey Ave, NLVN

5 EDDINS, ROBERT 9012 Alpine Peaks Ave, LVN

6 Additional witnesses known to the District Attorney at time of filing the Indictment:

7 COLLINS, TYSARS 176 Judy Crt #B, Henderson, NV

8 COLLINS, TYSEAN 176 Judy Crt #B, Henderson, NV

9 CUSTODIAN OF RECORDS NLV FIRE DEPARTMENT

10 CUSTODIAN OF RECORDS NLV DETENTION CENTER

11 CUSTODIAN OF RECORDS NLV PD COMMUNICATIONS

12 CUSTODIAN OF RECORDS NLV PD RECORDS

13 HARDY, KENNETH LVMPD #3031

14 HEER, DARLENE PO Box 750754, LVN

15 VITAL, MANUEL NLV PD #1923

16 WATKINS, ANTHONY NLV PD #959

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27 08AGJ112X/08FN2225X/sam

28 NLVFD EV# 0825792

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EIGHTH JUDICIAL DISTRICT COURT
COUNTY OF CLARK, STATE OF NEVADA
BEFORE THE GRAND JURY IMPANELED BY THE AFORESAID
DISTRICT COURT
CLERK OF THE COURT

FILED
APR 14 1 33 PM '09
ORIGINAL
C253455
CASE NO. 08AGJ112X

STATE OF NEVADA)
Plaintiff,)
vs.)
LESEAN TARUS COLLINS,)
Defendant.)

Taken at Las Vegas, Nevada
TUESDAY, APRIL 7, 2009
11:01 A.M.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

VOLUME 2

REPORTED BY: DONNA J. McCORD, CCR #337

Donna J. McCord
CCR #337
(702) 671-3365

CE15

1 E X H I B I T S

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3 GRAND JURY EXHIBITSIDENTIFIED

4 1 - proposed Indictment

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Donna J. McCord
CCR #337
(702) 671-3365

1 LAS VEGAS, NEVADA, TUESDAY, APRIL 7, 2009

2 * * * * *

3

4 DONNA J. McCORD,

5 having been first duly sworn to faithfully

6 and accurately transcribe the following

7 proceedings to the best of her ability.

8

9 MR. TOMSHECK: Good morning, ladies and

10 gentlemen of the Grand Jury. My name is Josh

11 Tomsheck and I'm a Deputy District Attorney with the

12 Clark County District Attorney's office. We are

13 back on the record in case number 08AGJ112X, State

14 of Nevada versus Lesean Tarus Collins, the

15 defendant.

16 The record should reflect that

17 previously back on Tuesday, February 24th of 2009,

18 we presented evidence in this case consisting of the

19 testimony of four witnesses, Shalana Eddins, Vivian

20 Furlow, Jeffrey Lomprey and Robert Eddins.

21 At this time we have no additional

22 witnesses or testimony to put before the Grand Jury

23 so at this time we would submit the matter for your

24 deliberation on the proposed Indictment that has

25 been provided to you this morning.

Donna J. McCord

CCR #337

(702) 671-3365

1 (At this time, all persons, except
2 for members of the Grand Jury, exited the room at
3 11:02 a.m. and returned at 11:07 a.m.)
4

5 THE FOREPERSON: Mr. District Attorney, by
6 a vote of 12 or more Grand Jurors a true bill has
7 been returned against defendant Lesean Collins
8 charging the crimes of first degree arson, burglary
9 and malicious injury to a vehicle in Grand Jury case
10 number 08AGJ112X.

11 We instruct you to prepare an
12 Indictment in conformance with the proposed
13 Indictment previously submitted to us.

14 MR. TOMSHECK: Thank you very much.
15

16 (Proceedings concluded.)

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1 REPORTER'S CERTIFICATE

2

3 STATE OF NEVADA)

:

4 COUNTY OF CLARK)

5

6 I, Donna J. McCord, CCR #337, do

7 hereby certify that I took down in Shorthand

8 (Stenotype) all of the proceedings had in the

9 before-entitled matter at the time and place

10 indicated and thereafter said shorthand notes were

11 transcribed at and under my direction and

12 supervision and that the foregoing transcript

13 constitutes a full, true, and accurate record of the

14 proceedings had.


15 Dated at Las Vegas, Nevada, Saturday,

16 April 11, 2009.

17

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19



20

DONNA J. McCORD, CCR #337

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Donna J. McCord
CCR #337
(702) 671-3365

0014
 PHILIP J. KOHN, PUBLIC DEFENDER
 NEVADA BAR NO. 0556
 309 South Third Street, Suite #226
 Las Vegas, Nevada 89155
 (702) 455-4685
 Attorney for Defendant

FILED

2009 MAY 12 P 2:43

DISTRICT COURT
 CLARK COUNTY, NEVADA

Earl D. Smith
 CLERK OF THE COURT

In the Matter of the Application of,)

CASE NO. C253455X

DEPT. NO. XI

Lesean Tarus Collins,
 for a Writ of Habeas Corpus.)

DATE: June 1, 2009
 TIME: 9:00 a.m.

PETITION FOR WRIT OF HABEAS CORPUS

TO: The Honorable Judge of the Eighth Judicial District Court of
 The State of Nevada, in and for the County of Clark

The Petition of Lesean Tarus Collins submitted by TIERRA D. JONES, Deputy
 Public Defender, as attorney for the above-captioned individual, respectfully affirms:

1. That she is a duly qualified, practicing and licensed attorney in the City of Las
 Vegas, County of Clark, State of Nevada.

2. That Petitioner makes application for a Writ of Habeas Corpus; that the place
 where the Petitioner is imprisoned actually or constructively imprisoned and restrained of his liberty
 is the Clark County Detention Center; that the officer by whom he is imprisoned and restrained is
 Doug Gillespie, Sheriff.

3. That the imprisonment and restraint of said Petitioner is unlawful in that:
- (A) Improper evidence was presented to the Grand Jury to inexplicably alert them that Mr.
 Collins had just been released from prison, and is therefore a convicted felon.
- (B) There was insufficient evidence adduced at the Grand Jury proceedings upon which to
 hold Mr. Collins to answer to the charge of Burglary.

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CLERK OF THE COURT

1
2 (C) There was insufficient evidence adduced at the Grand Jury proceedings upon which to
3 hold Mr. Collins to answer to the charge of First Degree Arson.

4 4. That Petitioner waives his right to be brought to trial within 60 days.

5 5. That Petitioner consents that if Petition is not decided within 15 days before
6 the date set for trial, the Court may, without notice of hearing, continue the trial indefinitely to a date
7 designated by the Court.

8 6. That Petitioner personally authorized his aforementioned attorney to
9 commence this action.

10 WHEREFORE, Petitioner prays that this Honorable Court make an order directing
11 the County of Clark to issue a Writ of Habeas Corpus directed to the said Doug Gillespie, Sheriff,
12 commanding him to bring the Petitioner before your Honor, and return the cause of his
13 imprisonment.

14 DATED this 15th of May, 2009.

15 PHILIP J. KOHN
16 CLARK COUNTY PUBLIC DEFENDER

17 By: 

18 TERRA D. JONES, #10094
19 Deputy Public Defender
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DECLARATION

TIERRA D. JONES makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and I am familiar with the facts and circumstances of this case.

2. That I am the attorney of record for Petitioner in the above matter; that I have read the foregoing Petition, know the contents thereof, and that the same is true of my own knowledge, except for those matters therein stated on information and belief, and as to those matters, I believe them to be true; that Petitioner, LESEAN TARUS COLLINS, personally authorizes me to commence this Writ of Habeas Corpus action.

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

EXECUTED this 15th day of May, 2009.


TIERRA D. JONES

1 **MEMORANDUM OF POINTS AND AUTHORITIES**
2 **IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

3 COMES NOW the Petitioner, LESEAN TARUS COLLINS, by and through his
4 counsel, TIERRA D. JONES, the Clark County Public Defender's Office, and submits the following
5 Points and Authorities in Support of Defendant's Petition for a pre-trial Writ of Habeas Corpus.
6

7 **STATEMENT OF FACTS**

8 By way of Indictment, the State charges Mr. Collins with First Degree Arson (Count 1),
9 Burglary (Count 2), and Malicious Injury to Vehicle (Count 3). All of these charges arise out of
10 incidents that occurred on September 30, 2008.
11

12 **POINTS AND AUTHORITIES**

13 A. **IMPROPER EVIDENCE WAS PRESENTED TO THE GRAND JURY TO**
14 **INEXPLICABLY ALERT THEM THAT MR. COLLINS WAS A CONVICTED**
15 **FELON.**

16 The State of Nevada requires that "the grand jury can receive none but legal evidence, and
17 the best evidence in degree, to the exclusion of hearsay or secondary evidence." Nev. Rev Stat. §
18 172.135(2). Generally, this requires that grand juries consider only legally admissible evidence.

19 Similarly, one of the most important elements of a criminal proceeding is that the "jury
20 consider only relevant and competent evidence bearing on issue of guilt or innocence." Bruton v.
21 U.S., 391 U.S. 123, 131 (1968). While not all admissions of inadmissible evidence constitute
22 reversible error "there are some contexts in which the risk that jury will not, or cannot, follow
23 [limiting] instructions is so great and consequences of failure so vital to a defendant in a criminal
24 case that practical and human limitations of jury system cannot be ignored." Id. at 135-136.

25 While merely persuasive authority, in State v. Emery, the Arizona Supreme Court stated that
26 when "a state resorts to the grand jury procedure, the due process and equal protection clause of the
27 Fourteenth Amendment require utilization of an unbiased grand jury and the presentation of
28 evidence in a fair and impartial manner." 642 P.2d 838, 851 (1982), See also U.S.C.A. Const.

1 Amend. 14. In U.S. v. Hogan, the Second Circuit Court of Appeals held that "dismissal of an
2 indictment is justified to . . . to eliminate prejudice to a defendant." 712 F.2d 757, 761
3 (Conn.1983).

4 Here, the introduction of wholly unrelated and irrelevant prior bad acts was so prejudicial
5 that it undoubtedly and unfairly prejudiced the grand jury and deprived Mr. Collins his Due Process
6 of law. The State called Shalana Eddins as their first witness. Ms. Eddins was questioned about her
7 personal relationship with Mr. Collins and in response she testified that she and Mr. Collins stopped
8 being a couple after he was released from prison, alerting the jury that Mr. Collins is a convicted
9 felony, who has been to prison. See Exhibit A, Grand Jury Transcript, hereinafter "GJ" at 9.

10 In short, the statement made by Ms. Eddins, that Mr. Collins recently got out of prison, and is
11 therefore a convicted felon, was powerfully prejudicial and wholly irrelevant to the instant case.
12 The great prejudicial force of this non-legal evidence, as required by N.R.S. § 172.135(2),
13 particularly when presented so early in the Grand Jury proceeding, tainted the juror's view of Mr.
14 Collins, depriving him of a fair and impartial Grand Jury proceeding and therefore deprived him his
15 Due Process of Law. As such, this indictment must be quashed to afford Mr. Collins his
16 constitutionally guaranteed Due Process.
17
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20 **B. THE STATE PROVIDED NO EVIDENCE THAT MR. COLLINS ENTERED THE**
21 **RESIDENCE, LOCATED AT 1519 LAGUNA PALMS, WITH THE INTENT TO**
22 **COMMIT THE CRIME OF ARSON, AND THEREFORE FAILED TO MEET ITS**
23 **BURDEN OF PROVING EACH ELEMENT OF THE OFFENSE CHARGED BY**
24 **"SLIGHT OR MARGINAL EVIDENCE."**

25 The State's burden at the Grand Jury is to prove each element of the charged offense by
26 slight or marginal evidence. In the instant case, Mr. Collins is charged with 3 counts; one count of
27 First Degree Arson, one count of Burglary and one count of Malicious Injury to Vehicle. In order to
28 prove the Burglary count, the State is required to prove that Mr. Collins entered the residence,
located at 1519 Laguna Palms, with the intent to commit the crime of arson. NRS 205.060.

1 Nevada Revised Statute 205.060 defines Burglary as the entering a dwelling with the intent
2 to commit larceny or any felony. NRS 205.060. Pursuant to the statute, in order to prove Burglary,
3 the State must prove entry with the intent to commit a crime.

4 At the Grand Jury proceedings, the State called Shalana Eddins as a witness. Ms. Eddins
5 testified that Mr. Collins left several messages on her phone saying "Give me my motherfucking
6 shit. I know you got my shit. I want my shit." GJ at 17. Ms. Eddins further testified that Mr.
7 Collins did not have permission to be in her home on September 30, 2008; but Ms. Eddins was not
8 home at the time that Mr. Collins is alleged to have been inside the house and did not prove any
9 testimony regarding her knowledge of whether or not the children let Mr. Collins into the home. GJ
10 at 11-12. Detective Lomprey testified that Mr. Collins told him that his older son let him in the
11 house. GJ at 40. Vivian Furlow testified that she picked up the children from the neighbor at 6:15
12 or 6:30. GJ at 25. But, there was no testimony presented regarding the time that the children arrived
13 at the neighbor's home and Robert Eddins could not confirm that the children were at the neighbor's
14 home when Mr. Collins said that his son let him in the house. GJ at 48.

17 It was the State's burden to provide evidence that Mr. Collins entered the residence with the
18 intent to commit arson, to prove the charged Burglary offense. The State failed to carry its burden.
19 The testimony from Shalana Eddins, Detective Lomprey, Vivian Furlow, and Robert Eddins only
20 established that Mr. Collins was let into the house by his older son and that he was inside the home
21 to retrieve his personal belongings. This testimony does not prove that Mr. Collins entered the
22 residence with the intent to commit arson; but instead that he entered the residence to retrieve his
23 belongings. Therefore, the State has not proven any of the elements of a Burglary, pursuant to NRS
24 205.060. Thus, the Grand Jury erred in returning an Indictment without sufficient evidence, in
25 violation of Mr. Collins' Due Process rights under the 5th and 14th Amendments to the United States
26 Constitution.
27
28

1 C. THE STATE PROVIDED NO EVIDENCE THAT MR. COLLINS SET FIRE TO THE
2 RESIDENCE AT 1519 LAGUNA PALMS, AND THEREFORE FAILED TO MEET
3 ITS BURDEN OF SHOWING "SLIGHT OR MARGINAL" EVIDENCE THAT THE
4 CRIMES CHARGED WERE COMMITTED.

5 The State's burden at the Grand Jury proceedings is to show, by slight or marginal evidence,
6 probable cause that the crimes charged were committed. In the instant case, in order to prove the
7 Arson count, the State is required to prove that Mr. Collins willfully and maliciously set fire to the
8 master bedroom, located at 1519 Laguna Palms Avenue. NRS 205.010.

9 Nevada Revised Statute 205.010 defines First Degree Arson as willfully and maliciously
10 setting fire to or burning or causing to be burned a (1) dwelling house or other structure of mobile
11 home, whether occupied or vacant; or (2) personal property which is occupied by one or more
12 persons. NRS 205.010. Pursuant to the statute, in order to prove Arson, the State must prove a
13 willful and malicious burning of personal property.

14 At the Grand Jury proceedings, the State presented testimony from Shalana Eddins that a
15 portion of her home was burned on September 30, 2008. GJ at 18. Vivian Furlow testified that she
16 saw Mr. Collins leaving the residence, on September 30th, in a blue sedan. GJ at 24. But there was
17 no testimony that anyone monitored the home and knew whether or not anyone else was at the
18 home, before the fire started. There was also no evidence that anyone witnessed Mr. Collins setting
19 the fire, or that Lesean Collins was even at the residence when the fire was started. But there was
20 testimony from two witnesses that Mr. Collins denied having anything to do with the fire. Detective
21 Lomprey testified that Mr. Collins denied setting the fire inside the residence, and Robert Eddins
22 testified that Mr. Collins denied setting the fire inside the residence, and Robert Eddins testified that
23 Mr. Collins told him that he didn't know how the house caught fire and that it wasn't him who set
24 the fire. GJ at 41, 46-47.

25 It was the State's burden to provide evidence that Mr. Collins set fire to the residence located
26 at 1519 Laguna Palms, to prove the charged offense. Again, the State failed to carry its burden. The
27 testimony of Shalana Eddins, Detective Lomprey, Vivian Furlow, and Robert Eddins only
28 established that Mr. Collins was outside the house on September 30, 2008, before the fire was
reported and that he denied setting the fire. This testimony does not prove that Mr. Collins set fire to

1 the residence, and there was no testimony that anyone witnessed him starting the fire, or that he was
2 present at the house when the fire was started. The only conclusion that can be drawn from the
3 testimony is that Mr. Collins was at the residence on September 30, 2008 and that he told a
4 Detective and Mr. Eddins that he had nothing to do with the fire. Therefore, the State has not proven
5 the crime of Arson, by slight or marginal evidence, pursuant to NRS 205.010. Thus, the Grand Jury
6 erred in returning an Indictment without sufficient evidence, in violation of Mr. Collins' Due
7 Process rights under the 5th and 14th Amendments to the United States Constitution.

8
9 **CONCLUSION**

10 For the reasons listed in section A, the entire Indictment against Mr. Collins should be
11 dismissed. Further, in considering the fact that the State didn't provide sufficient evidence to
12 support the Burglary or the Arson count; those must be dismissed.

13
14
15
16 DATED this 12th of May, 2009.

17 PHILIP J. KOHN
18 CLARK COUNTY PUBLIC DEFENDER

19
20 By:

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22 TIERRA D. JONES, #10094
23 Deputy Public Defender
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NOTICE

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing PETITION FOR WRIT OF
HABEAS CORPUS will be heard on 1st day of June, 2009, at 9:00 a.m. in Department No. XI
District Court.

DATED this 12th day of May, 2009.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: 

TIERRA D. JONES, #10094
Deputy Public Defender

RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing PETITION FOR WRIT OF
HABEAS CORPUS is hereby acknowledged this 12th day of May, 2009.

CLARK COUNTY DISTRICT ATTORNEY

By: Unimadonado

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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

FILED

APR 16 1 32 PM '09

BEFORE THE GRAND JURY IMPANELED BY THE AFORESAID

DISTRICT COURT

CLERK OF THE COURT

0253455

THE STATE OF NEVADA,

Case No. 08AGJ112X

Plaintiff,

-vs-

LESEAN TARUS COLLINS,

Defendant.

Taken at Las Vegas, Nevada

Tuesday, February 24, 2009

3:40 p.m.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

VOLUME 1)

Exhibit "A"

Reported by: Danette L. Antonacci, C.C.R. No. 222

DANETTE L. ANTONACCI, C.C.R. 222 (702) 361-1947

13 ' 1 GRAND JURORS PRESENT ON FEBRUARY 24, 2009:

2

3

WALTER R. OLENDERSKI, Foreman

4

KARL MACDONALD, Deputy Foreman

5

TOMMY URIBE, Secretary

6

DEIDRA MARLEY, Assistant Secretary

7

MICHELLE ANDERTON

8

PAUL BACA

9

JAMES DUPLISEA

10

JOHN EATON

11

RUBYMIRA GERNHUBER

12

PATRICIA KELLY

13

JOAN MCMAKEN

14

JAMES PROVENZANO

15

THOMAS QUINLAN

16

JOHN SHIPP

17

LUIS SIMONEDI

18

JAMES TAYLOR

19

20

21

Also present at the request of the Grand Jury:

22

Joshua Tomsheck,

23

Jacqueline Jeanney,

24

Deputy District Attorneys

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13

1

INDEX OF WITNESSES

2

3

Examined

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SHALANA EDDINS

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VIVIAN FURLOW

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JEFFREY LOMPNEY

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ROBERT EDDINS

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INDEX OF EXHIBITSGrand Jury ExhibitsIdentified

1 - proposed Indictment

5

2 - photograph

8

13 1 LAS VEGAS, NEVADA, TUESDAY, FEBRUARY 24, 2009

2 * * * * *

3
4 DANETTE L. ANTONACCI,

5 having been first duly sworn to faithfully
6 and accurately transcribe the following
7 proceedings to the best of her ability.
8

9 MR. TOMSHECK: Good afternoon ladies and
10 gentlemen of the Grand Jury. My name is Joshua Tomsheck
11 and with me is Jacquelyn Jeanney. We are the deputy
12 district attorneys that are assigned to prosecute this case
13 which is the case of State of Nevada versus Lesean Tarus
14 Collins, the defendant. The record should reflect that a
15 copy of the proposed Indictment has been marked as Grand
16 Jury Exhibit 1 and that all members of the Grand Jury have
17 a copy of it. The defendant in this case is charged with
18 two felony counts as follows: Count 1, first degree arson,
19 and Count 2, burglary. These crimes were committed within
20 the County of Clark, State of Nevada, on or about September
21 30th of last year, 2008. I think the proposed Indictment
22 in front of you may have the incorrect date. We'll
23 obviously ask you to make the appropriate amendments
24 determined by what the testimony is today.

25 As you are aware we are required by law

DANETTE L. ANTONACCI, C.C.R. 222 (702) 361-1947

13 . 1 to advise you of the elements of these charges and I will
2 read the instructions that pertain to them now.

3 The elements of the charges are as
4 follows: Count 1, first degree arson. Any person who,
5 willfully and maliciously, sets fire to or burns or causes
6 to be burned, or who aids, counsels or procures the burning
7 of any dwelling, house or other structure, whether occupied
8 or vacant, or a mobile home, whether occupied or vacant, or
9 other personal property which is occupied by one or more
10 persons, whether the property of himself or of another, is
11 guilty of first degree arson.

12 As used in these instructions, the word
13 willfully means the doing of an act purposely and
14 intentionally, not accidentally.

15 The word maliciously means wrongfully,
16 intentionally and without just cause or excuse.

17 It is not necessary that the building,
18 object or articles of property involved be completely
19 destroyed. Any person shall be deemed to have set fire to
20 a building, structure or any property whenever any part
21 thereof or anything therein shall be scorched, charred or
22 burned.

23 Count 2, burglary. Any person who, by
24 day or night, enters any house, room, apartment, tenement
25 or other building, with the intent to commit a felony

13 1 therein, is guilty of burglary.

2 You are instructed that first degree
3 arson is a felony offense.

4 Are there any questions with regards to
5 the elements of the charged offenses?

6 THE FOREPERSON: None.

7 MR. TOMSHECK: Seeing none, the State's first
8 witness will be Shalana Eddins.

9 THE FOREPERSON: Please raise your right hand.

10 You do solemnly swear the testimony you
11 are about to give upon the investigation now pending before
12 this Grand Jury shall be the truth, the whole truth, and
13 nothing but the truth, so help you God?

14 MS. EDDINS: Yes.

15 THE FOREPERSON: Please be seated.

16 You are advised that you are here today
17 to give testimony in the investigation pertaining to the
18 offenses of first degree arson and burglary involving
19 Lesean Tarus Collins.

20 Do you understand this advisement?

21 MS. EDDINS: Yes.

22 THE FOREPERSON: Please state your first and
23 last name and spell both for the record.

24 MS. EDDINS: Shalana Eddins. Shalana,
25 S-h-a-l-a-n-a, Eddins, E-d-d-i-n-s.

1 THE FOREPERSON: Thank you.

2

3

SHALANA EDDINS,

4

having been first duly sworn by the Foreperson of the Grand
5 Jury to tell the truth, the whole truth, and nothing but
6 the truth, testified as follows:

7

8

EXAMINATION

9

10 BY MS. JEANNEY:

11

Q Hi, Shalana. Pretty soon I'm going to ask you
12 to turn your attention to Wednesday, September 29, 2008 and
13 then Thursday, September 30, 2008. But before that I'd
14 like to ask you some questions.

15

During that time period in October of
16 2008 were you involved in a relationship with someone?

17

A Yes.

18

Q I'm showing you what is marked for purposes of
19 identification as Grand Jury Exhibit Number 2. Do you
20 recognize this individual?

21

A Yes.

22

Q Okay. Can you please tell me who this is?

23

A Lesean Tarus Collins.

24

Q Okay. Is this the individual you were
25 involved in a relationship with?

13 1 A Yes.

2 Q What type of relationship was it?

3 A Me and Lesean, we share five children

4 together.

5 Q And at that point were you a couple?

6 A No.

14 7 Q When did you stop being a couple?

8 A Shortly after he had came, excuse me, shortly

9 after he was released from prison, which was July.

10 Q And ladies and gentlemen of the jury, I just

11 ask that you disregard that comment about Mr. Collins being

12 released from prison.

13 So about July --

14 A Yes.

15 Q -- you would say you stopped being a couple?

16 A Yes.

17 Q And that's July of 2008?

18 A Yes.

19 Q All right. And how would you explain Lesean's

20 behavior to you in October of 2008?

21 A Very intimidating, very possessive,

22 controlling.

23 Q At that point did you want to be engaged in

24 more than a friend relationship with him?

25 A No.

14 1 Q Did he know that?

2 A Yes, he did.

3 Q What was his reaction when you had told him

4 that?

5 A He wasn't happy about it. He wouldn't take no

6 for an answer.

7 Q What do you mean he wouldn't take no as an

8 answer?

9 A I told him I did not want to be in a

10 relationship with him, I just wanted us to be parents to

11 our children, and he refused to leave. So at that point,

12 because I feared for my life and my children's life, we

13 were packing up and we were leaving my home and were

14 staying with friends.

15 Q And this was your home?

16 A Yes.

17 Q And what was the location of that home?

18 A 1519 Laguna Palms.

19 Q That's here in Las Vegas, Clark County?

20 A Yes, North Las Vegas, Nevada.

21 Q Okay. And so now when you were packing up,

22 what day was that that you were packing up your belongings?

23 A I started packing up in August.

24 Q But yet you were still living there in

25 October?

14 . 1 A Yes, I was still residing in the home, but we
2 were packing up and we were leaving for days at a time and
3 I would come back to the house and just repack up more
4 clothes and do laundry.

5 Q Okay. And I'm sorry, I said October but I
6 meant September.

7 Let's turn your attention to Wednesday,
8 which would be September 29th of 2008, did you have any
9 type of contact with the defendant Lesean Collins that day
10 or that evening?

11 A Yes.

12 Q How did that contact begin?

13 A Lesean was furious. He would keep the garage
14 opener so that he would have access to get into the home,
15 and because he had the garage opener I unplugged the garage
16 so that he was no longer able to get into the home while me
17 and the children were there at the home.

18 Q Why did you do that?

19 A Because I didn't want to be with him and at
20 that point I was definitely getting scared and fearing for
21 my life because his behavior had changed.

22 Q Okay. So you undid the garage so he had no
23 access into the home?

24 A That's correct.

25 Q Did he have any permission to be in your home

14 1 during this time period?.

2 A No, he didn't.

3 Q Okay. So what happened after you undid the
4 garage?

5 A He was very furious, he began calling me on
6 the house phone asking me to open the door and I refused to
7 open the door. He had jumped the wall in the backyard and
8 was listening in at the window to see who I was talking to
9 on the phone and I told Lesean when I was on the phone with
10 him, I said I hear a noise outside, I'm going to call the
11 police, and he said go ahead, call the police. So I then,
12 I did not call the police at that time, I just waited and
13 waited, and then about ten minutes later Lesean appeared at
14 the front door banging on the door and wanted me to let him
15 in and I told him no.

16 Q Did he ever make entrance into the house?

17 A Yes. I did eventually open the door because
18 he --

19 Q What did he do once he was inside?

20 A He was asking where was the house key and I
21 told him I don't know, and then our oldest son Tysean
22 (phonetic), his backpack was on the floor, and he picked up
23 the backpack, went through the backpack and grabbed the
24 keys to the house and walked out the front door.

25 Q Did you see where he went after he walked out

14 1 the front door?

2 A No.

3 Q And after he left did you notice any damage to

4 the house or to anything around the house?

5 A Nothing was damaged inside the house. I then,

6 my instinct told me just to go outside and look at my car

7 because when Lesean would get mad he would always tamper

8 with my vehicle. So then --

9 Q Go ahead.

10 A So then at that time I went outside and I

11 noticed that one of my, excuse me, two of my tires were on

12 flat.

15 13 Q Had there been any problems with your tires

14 when you had driven to your home that evening?

15 A No.

16 Q And what did you do after you realized that

17 your tires had been slashed?

18 A I then went into the home and I grabbed the

19 house phone and I called the police and after I had made

20 the 911 call I then went back outside to try to argue with

21 Lesean to keep him there on the premises for the police to

22 arrive because Lesean would always just run.

23 Q Okay. And did the police eventually come?

24 A Yes, they did.

25 Q Did you have any contact with Lesean after the

15 1 police came that evening?

2 A While the police were there on the premises
3 Lesean kept calling the house and the police was hearing
4 him on the phone. And he kept trying, he called to see if
5 the police were there at the house and I would never let
6 him know that the police were there at the house, but the
7 police, they had heard him talking to me on the phone.

8 Q All right. Let's move onto the next day which
9 would be Thursday, September 30th of 2008. What was around
10 the first time that you had contact with him on that day?

11 A About eight o'clock in the morning Lesean had
12 called me while I was on my way taking the kids to school
13 that morning. I had stopped by the store and went and got
14 another copy of the house keys made for the children.

15 Q Okay. And what type of conversation were you
16 having with him in the morning?

17 A He just kept raving on and on about me calling
18 the police on him the night before and at that time the
19 conversation just continued about me calling the police on
20 him. And I had went and put a restraining on him that
21 morning before I went to work.

22 Q Now before we go into the next day, your tires
23 were slashed the night before, did you fix those or --

24 A Yes, the night -- on Wednesday the 29th, by
25 then it was probably about two o'clock or so in the

15 - 1 morning, my dad had followed me and the kids in my vehicle
2 to go and replace the tires and after that we went and
3 stayed at a friend's house.

4 Q So the tires were repaired that night or maybe
5 earlier in the morning?

6 A Yes.

7 Q So at some point did you go to work on the
8 30th?

9 A Yes. After I put the retraining order on
10 Lesean I had arrived to work at about, about 11:30.

11 Q At any time while you were at work did you
12 come into contact with the defendant Lesean Collins?

13 A Yes. Lesean, he had continuously called my
14 cell phone and he kept asking me how am I going to pick up
15 my kids, I have to pick up my kids from school, and I told
16 him he didn't need to worry about the children, they would
17 be okay.

18 Q Did you ever see him on that day?

19 A Yes, I did.

20 Q Where did you see him at?

21 A Lesean came to my job that day at about 4:15
22 in the afternoon.

23 Q And where were you when you saw him?

24 A I was at my desk working.

25 Actually, no, I seen Lesean on video

15 1 camera at my job standing outside my job's door watching
2 me, where he entered into the company and he stole my cell
3 phone and from there he went to the parking lot and slashed
4 four of my tires.

5 Q Okay. And after you realized -- when did you
6 realize that your tires were slashed?

7 A Immediately after I noticed that my cell phone
8 was missing I ran outside to the parking lot and that's
9 where I seen all four tires slashed.

10 Q Did you personally witness him slash the
11 tires?

12 A No, but I personally witnessed him coming to
13 the office and taking the cell phone because all that was
14 caught on videotape.

15 Q Okay. All right. Now after you realized that
16 your tires are slashed what do you do next?

17 A I immediately go back upstairs and I call the
18 police.

19 Q Did you have anymore conversations with Lesean
20 after that?

21 A Lesean had called on my company phone and I
22 had, excuse me, an associate of mine, a co-worker answered
23 my desk phone and she -- he asked may I speak to Shalana,
24 she asked who was calling and he gave an officer's name and
25 she wrote down the officer's name, I don't recall what the

15 1 officer's name is, and she asked is there a number or a
2 badge number and he made up a badge number and then he gave
3 a number to call back which is 788-7790, and that is my
4 cell phone number.

5 Q Did you ever speak to him again that day?

6 A No. Not after that incident, no.

7 Q At any point on that day did he make any
8 threats towards you, on September 30th?

16 9 A He had called my cell phone and left several
10 messages and the message that he had left before he had
11 came to my job and took the cell phone was "Give me my
12 mother fucking shit. I know you got my shit. I want my
13 shit. If you don't give me my mother fucking shit I'm
14 going to knock all this shit off."

15 Q And that was left on your voice mail?

16 A And that was left on my voice mail.

17 Q Now after you said you called the police, what
18 did you do after you did that?

19 A After I had called the police I immediately
20 phoned home to the children and I told the children to
21 leave the house immediately, put on shoes, leave the house
22 immediately and go to the next door neighbor's house.

23 Q Why did you feel the like that was necessary?

24 A Because I knew that me and Lesean have been
25 having problems the night before and when I seen that he

16 1 was still on that same mode I just, my intuition just told
2 me to call my children. I didn't feel safe with the
3 children being there and Lesean arriving there at the
4 house.

5 Q Do you know what time it was when you made
6 that phone call to have your children leave the house?

7 A Probably it was about 4:30, 4:35.

8 Q At any time did you get to the house?

9 A No, I was unable to make it to the house
10 probably until about seven p.m. that night.

11 Q What was the status at the house at that point
12 about seven o'clock?

13 A The house was burning. The fire department
14 was outside and they were putting the fire out.

15 Q So you could tell that the house was on fire?

16 A Yes.

17 Q Did the defendant Lesean Collins have
18 permission to enter your house on the 30th?

19 A No, he didn't.

20 Q What type of damage was done to your house?

21 A My whole closet was set on fire. I have no
22 clothes, I didn't have any shoes left. He set my bed on
23 fire. My children's -- because I have three bedrooms, it
24 was a three bedroom home, and my two older boys, they
25 shared a room, all of their clothes were burnt, their TV,

16 1 their computer. And in the living room he attempted to set
2 the couch on fire but it didn't burn, he just made cuts
3 into the couch.

4 Q After this happened did you ever hear Lesean
5 make any type of admissions to this?

6 A On his voice mail he had, when you called his
7 cell phone he left a personal message that said "yeah, my
8 babies' mama's house is on fire, that bitch is burning."

9 Q Okay. Did you ever have the four tires on
10 your car, when they were slashed on the 30th, did you have
11 those repaired?

12 A That evening on the 30th I had the vehicle
13 towed to one of my friend's house and from there we had it
14 towed to the tire shop and I had them replaced.

15 Q What was the cost of that replacement?

16 A Seven hundred and fifty-two dollars.

17 Q Does that include the towing costs?

18 A No.

19 Q And do you know how much that is?

20 A I'm not quite sure exactly what the towing
21 cost is because I have it on my insurance service.

22 MS. JEANNEY: Okay. That's all my questioning
23 for Miss Eddins. Does anyone have any questions for her?

24 BY A JUROR:

25 Q Where were you working on September 29th and

16 1 30th.
2 A Bergman Walls and Associates, 2920 South
3 Jones, Las Vegas, Nevada.

4 Q Thank you.

5 A You're welcome.

6 MS. JEANNEY: Anyone else?

7 BY A JUROR:

8 Q I have one quick question. I'm sorry.

9 So my chronology may be a little mixed
10 up, was it the 1st that you came home and you found the
11 house on fire, October 1st?

12 A No, September 29th.

13 Q When you came home and found the house
14 burning?

15 A Excuse me, September 30th.

16 Q Okay. So it was the evening of September
17 30th?

18 A It was the evening of September 30th at about
19 seven p.m. I had finally made it from work.

20 Q Can I ask what age range are the children?

21 A My children are, at the time my children were
22 five -- excuse me, five, seven and nine and eleven.

23 Q Thank you.

24 MS. JEANNEY: If I could clarify something
25 real quick just because the dates got a little bit

16 1 confusing in the beginning and that was my fault.

2 MS. JEANNEY:

3 Q I just want to clarify with you, Shalana,
4 really quick, the incident with the two tires on the
5 evening before the fire, that date is September 29th?

6 A Yes, September 29th, Wednesday evening, yes.

7 Q Wednesday evening. And then the next day when
8 the events occurred at your work with the four tires and
9 then the fire, that would be Thursday, September 30, 2008?

10 A Yes. Yes.

11 BY A JUROR:

17 12 Q The house that you were living in at the time,
13 was his name on the lease or was it an owned home?

14 A No. Me and -- my name was on the lease. He
15 didn't have any part.

16 Q The TPO that you obtained on the morning of
17 September 30th, that hadn't been served on him at that time
18 yet?

19 A No, not at that time.

20 THE FOREPERSON: Anyone else? No?

21 By law these proceedings are secret and
22 you are prohibited from disclosing to anyone anything that
23 has transpired before us, including evidence and statements
24 presented to the Grand Jury, any event occurring or
25 statement made in the presence of the Grand Jury, and

17 1 information obtained by the Grand Jury.

2 Failure to comply with this admonition
3 is a gross misdemeanor punishable by a year in the Clark
4 County Detention Center and a \$2,000 fine. In addition,
5 you may be held in contempt of court punishable by an
6 additional \$500 fine and 25 days in the Clark County
7 Detention Center.

8 Do you understand this admonition?

9 THE WITNESS: Yes.

10 THE FOREPERSON: Thank you for your testimony.
11 You are excused, ma'am.

12 MS. JEANNEY: State's next witness is Vivian
13 Furlow.

14 THE FOREPERSON: Please raise your right hand.

15 You do solemnly swear the testimony you
16 are about to give upon the investigation now pending before
17 this Grand Jury shall be the truth, the whole truth, and
18 nothing but the truth, so help you God?

19 MS. FURLOW: Yes.

20 THE FOREPERSON: Please be seated.

21 You are advised that you are here today
22 to give testimony in the investigation pertaining to the
23 offense of first degree arson and burglary involving Lesean
24 Tarus Collins.

25 Do you understand this advisement?

1 MS. FURLOW: Yes.

2 THE FOREPERSON: Please state your first and
3 last name and spell both for the record.

4 MS. FURLOW: Vivian Furlow. V-i-v-i-a-n,
5 F-u-r-l-o-w.

6
7 VIVIAN FURLOW,
8 having been first duly sworn by the Foreperson of the Grand
9 Jury to tell the truth, the whole truth, and nothing but
10 the truth, testified as follows:

11

12 EXAMINATION

13

14 BY MS. JEANNEY:

15 Q Vivian, do you know an individual by the name
16 of Shalana Eddins?

17 A Yes, I do.

18 Q How do you know her?

19 A She's somewhat like my stepdaughter. Her dad
20 and I dated for a long time.

21 Q How long have you known her for?

22 A Approximately ten years.

23 Q I'm showing you what has been marked for
24 purposes of identification as Grand Jury Exhibit Number 2.
25 Do you recognize the person in this photograph?

17 1 A Yes, I do.

2 Q Who is this person?

3 A His name is Lesean Collins.

4 Q How do you know him?

5 A He was the boyfriend of Shalana Eddins, was

6 the ex-boyfriend at the time.

7 Q Now I'd like to turn your attention to

8 September 30th of 2008. On that day did you see Lesean

9 Collins?

10 A Yes, I did.

11 Q What time did you see him at?

12 A It was approximately about between 6:15 and

13 6:30 in the evening.

14 Q Where did you see him at?

15 A At her residence. Leaving her residence

16 actually as I was approaching.

17 Q How was he leaving?

18 A In a car. Heading west.

19 Q What type of car was it?

20 A It was like a blue four door sedan.

21 Q How was he driving?

22 A He was in a rush. He was going away.

23 Q And why were you in that area at that time?

24 A Because I received a phone call from Shalana's

25 father asking me to go pick up the children because Lesean

1 had went up to her job and slashed her tires and they were
2 fearing for the children and he asked me if I would go pick
3 up the grandkids.

4 Q At this point, ladies and gentlemen of the
5 Grand Jury, I just ask that any other statements are
6 hearsay, you can disregard those.

7 So you were in the area to pick up the
8 children?

9 A Right. Uh-huh.

10 Q And what time do you think you got to the
11 children at?

12 A That was approximately about 6:15, between
13 6:15 or 6:30.

14 Q So the same time period?

15 A Uh-huh.

16 Q At any point in time did you approach the
17 house that Shalana and the children live at?

18 A Yes, I did.

19 Q What time did you get to the house?

20 A That was probably about -- that I actually
21 went to her house? Because I went to the neighbor's house
22 to get the children first.

23 Q Yeah. What time did you get to the house
24 where Shalana and the children reside?

25 A I went over to that house, it was probably

17 1 about 7:15.

2 Q And when you approached the house did you
3 think anything seemed different or peculiar about it?

4 A Yes. And actually when I went to the house I
5 was actually with two other police officers and when we
6 approached the house to go near the house it was, the door
7 was hot and the officer wouldn't let me in.

8 Q And after this incident occurred did you ever
9 have any type of concerns with Lesean Collins?

10 A After this, no.

11 Q Okay. Did you ever call his phone?

12 A Yes.

13 Q Did you speak to him on his phone?

14 A I did not speak to him, I just heard his ring.

15 Q Did you hear his voice mail?

16 A Yes.

17 Q What did his voice mail say?

18 A Well, he had composed what they call a rap and
19 he was calling a lot of things, one of which he was
20 referring to his babies' mama, stating that if you can't
21 stand the heat you got to get out of the kitchen or you'll
22 burn up just like her house.

23 Q How did you know it was Lesean's voice on the
24 voice mail?

25 A Because I know his voice and also he had

17
18

1 called one of the other girls while we were there at the
2 fire.

3 Q Okay. So when you called his, when you call
4 his phone --

5 A Uh-huh.

6 Q -- it will ring and then his voice mail will
7 pick up?

8 A Well, that's the actual ring. You don't hear
9 a ringing. That's the ring. It's like a, what they call
10 ring tones. Instead of hearing the phone ring you hear
11 whatever message they can leave for you. So if it's a
12 particular record you hear that song or whatever. So he
13 composed his own. So instead of the phone actually ringing
14 you hear him wrapping.

15 MS. JEANNEY: Okay. I don't have anymore
16 questions for Miss Furlow. Does anyone?

17 BY A JUROR:

18 Q Yes. Was the fire department there when you
19 got to the house?

20 A No, they were not.

21 Q But the police were there?

22 A No. I was actually there for almost an hour
23 before the police got there.

24 Q Did you call the police?

25 A No, the neighbors had called the police where

1 the kids were at.

2 Q Oh, okay. Thank you.

3 A Uh-huh.

4 THE FOREPERSON: Anyone else? No?

5 By law these proceedings are secret and
6 you are prohibited from disclosing to anyone anything that
7 has transpired before us, including evidence and statements
8 presented to the Grand Jury, any event occurring or
9 statement made in the presence of the Grand Jury, and
10 information obtained by the Grand Jury.

11 Failure to comply with this admonition
12 is a gross misdemeanor punishable by a year in the Clark
13 County Detention Center and a \$2,000 fine. In addition,
14 you may be held in contempt of court punishable by an
15 additional \$500 fine and 25 days in the Clark County
16 Detention Center.

17 Do you understand this admonition?

18 THE WITNESS: Yes, I do.

19 THE FOREPERSON: Thank you for your testimony.
20 You are excused.

21 MS. JEANNEY: State's next witness is Robert
22 Eddins.

23 Actually the State's next witness is
24 going to be Detective Lomprey. Mr. Eddins is putting some
25 money in the meters.

1 THE FOREPERSON: Sir, please raise your right
2 hand.

3 Do you solemnly swear the testimony you
4 are about to give upon the investigation now pending
5 before this Grand Jury shall be the truth, the whole truth,
6 and nothing but the truth, so help you God?

7 MR. LOMPNEY: Yes.

8 THE FOREPERSON: Please be seated.

9 You are advised that you are here today
10 to give testimony in the investigation pertaining to the
11 offense of first degree arson and burglary involving Lesean
12 Tarus Collins.

13 Do you understand this advisement?

14 MR. LOMPNEY: Yes.

15 THE FOREPERSON: Please state your first and
16 last name and spell both for the record.

17 MR. LOMPNEY: Jeffrey Lomprey. J-e-f-f-r-e-y,
18 L-o-m-p-r-e-y.

19 THE FOREPERSON: Thank you.

20

21 JEFFREY LOMPNEY,

22 having been first duly sworn by the Foreperson of the Grand
23 Jury to tell the truth, the whole truth, and nothing but
24 the truth, testified as follows:

25

EXAMINATION

BY MR. TOMSHECK:

Q Good afternoon. Do you go by Jeff?

A Yes.

Q Jeff, can you tell the ladies and gentlemen of the Grand Jury what it is you do for a living?

A I'm the investigations captain for the North Las Vegas Fire Department's fire arson unit.

Q Can you tell us in a nutshell what that means?

A I investigate non-criminal and criminal fires.

Q When you say you investigate fires, do you respond to locations where police or fire have responded to a 911 call?

A Yes.

Q Do you conduct an investigation to determine things like cause and origin of a fire?

A Origin and cause, yes.

Q Do you have certain education, training and experience that allows you to make determinations about how a fire started, where it started and things of that nature?

A I do.

Q Can you tell the ladies and gentlemen of the Grand Jury what some of that education, training and experience is?

18 1 A Certainly. I teach at the College of Southern
2 Nevada. I teach the Fire Cause Determination class and the
3 Advanced Fire Arson Investigation class. I attended UNLV,
4 I attended Community College. I'm one of the only
5 certified fire investigators in the State of Nevada through
6 the IWA which is the International Association of Arson
7 Investigators.

8 Q And is there certain classroom requirements,
9 training, testing, in order to get the certification you
10 just mentioned?

11 A Yes, sir.

12 Q In addition to that, have you worked in the
13 capacity of a fire investigator in fire investigation for
14 the City of North Las Vegas for a period of time?

15 A Yes, sir.

16 Q In total how long have you worked
17 investigating fires and their causes?

18 A Public and private approximately twenty years.

19 Q In addition to your work investigating fires
20 do you also have a background in law enforcement?

21 A I do. I am also a police officer.

22 Q Where are you a police officer?

23 A City of North Las Vegas.

24 Q Prior to working as a police officer in the
25 City of North Las Vegas, did you work for another

18

1 jurisdiction here in Southern Nevada?

2 A I did.

3 Q Where was that?

4 A City of Boulder City, sir.

5 Q What types of, what was your assignment with
6 Boulder City?

7 A I was the senior police detective over the
8 detective bureau.

9 Q What types of crimes did you investigate as
10 the senior detective?

11 A Homicides, sexual assault and arson.

12 Q When is it that you became the captain in your
13 current role in North Las Vegas on a full time basis?

14 A I lateraled to that agency in October of 2007.

15 Q Okay. So were you working in that same
16 capacity on or about the 30th day of September of last year
17 2008?

18 A Yes, sir.

19 Q Were you called out to investigate a fire that
20 had occurred at 1519 Laguna Palms Avenue in North Las
21 Vegas?

22 A I was.

23 Q Can you describe for us how it was that you
24 arrived on scene, who were you with and what were the
25 circumstances?

19

19 1 A I was with Metropolitan Police Department.
2 They were doing a follow-up on another investigation. They
3 had a search warrant for the premises. I went in and did
4 an origin and cause investigation in a sealed property.
5 Q When you say sealed, does that mean the house
6 was closed so no one could get inside other than law
7 enforcement?
8 A Yes, sir.
9 Q You mentioned they had a search warrant at the
10 time and you accompanied them inside.
11 A Yes, sir.
12 Q While you were inside the house did you do an
13 investigation as to origin and cause as you just described?
14 A I did.
15 Q Can you tell us what it is exactly that you
16 did?
17 A We started our investigation from the least
18 amount of damage to the most amount of damage.
19 Q Why is it that you do that?
20 A We want to go from -- well, obviously to show
21 the area of origin, like in the living room for example
22 there was light soot so that told me from my training and
23 education and experience that was where the fire was
24 propagating to or, I'm sorry, going towards. We want to
25 find out the seat of the fire and I noticed several areas

19 1 of different origins, basically different fires,
2 unconnected.

3 Q Okay. When you investigate a fire is it safe
4 to say that one of the things you do is look for the area
5 where it's most badly burned?

6 A Yes.

7 Q Why do you do that?

8 A That's normally where it starts.

9 Q Because if it starts there that's probably
10 where it burns the longest, that's where the most damage
11 would be?

12 A Yes. Localized damage, yes.

13 Q Within the residence at 1519 Laguna Palms
14 Avenue, were you able to determine separate and distinct
15 fires apart from one another?

16 A I was. That's called non-communicative fires
17 and there was three of them.

18 Q And you can do that by determining that one
19 fire has only burned out to a particular location and then
20 it stops and there is other areas where you find something
21 similar in the residence?

22 A Yes, sir, they're called multiple sets.

23 Q How many multiple sets did you find within the
24 residence of 1519 Laguna Palms?

25 A Three.

1 Q Can you tell the ladies and gentlemen of the
2 Gand Jury where they were located?

3 A Of course. One was on the master bed with
4 female clothing on the middle of the bed. The second one
5 was in the master bedroom in the closet with female
6 clothing in the closet on the floor that was piled up, it
7 was also burned. And the third area of origin was in the
8 living room on a couch.

9 Q Apart from those three particular locations
10 was there also heat and smoke damage within the rest of the
11 residence?

12 A Yes, sir.

13 Q When you conduct an investigation like this do
14 you attempt to, process of elimination, to eliminate
15 different ways in which the fire could have started?

16 A And that's what fire investigation is, it's a
17 process of elimination.

18 Q Did you do that in this case?

19 A I did, sir.

20 Q Can you tell us what you looked at?

21 A In each area of origin we look at the seat of
22 the fire and we want to see what's able for, what can be a
23 competent heat source and fuel source, and you have to
24 eliminate electrical, mechanical, lightning. Once those
25 potential competent heat sources are eliminated you have

19 1 what's left is arson which is incendiary.

2 Q And in this particular case did you go through
3 the different sources of naturally caused fires to
4 determine if there was any evidence of that?

5 A I did.

6 Q And if I were to give you some specific areas
7 within the house, can you tell me if you made a
8 determination if the fire could have been caused by one of
9 the following things?

10 A Yes.

11 Q The HVAC unit, did you investigate that?

12 A Yes, that was ruled out.

13 Q The gas range.

14 A That was ruled out.

15 Q Hot water heater.

16 A Ruled out.

17 Q Television systems.

18 A Ruled out.

19 Q Any stereo systems in the house.

20 A That was ruled out.

21 Q Microwave oven.

22 A Ruled out.

23 Q Candles.

24 A Ruled out.

25 Q Was there any evidence that the fire started

19 1 by some type of tobacco or smoking product?

2 A No, sir.

3 Q Based on that did you reach an opinion about
4 the origin and cause of this fire?

5 A I did.

6 Q Can you tell us what that was?

20

7 A Incendiary.

8 Q What does that mean?

9 A Arson. Basically that means it is an
10 intentional act, willful and malicious, set with an open
11 flame with a human hand with the intent to destroy the
12 house and its contents.

13 Q Okay. In this particular case did you
14 document some of the work you did through photographs?

15 A I did.

16 Q After you completed your investigation did you
17 do an analysis of a property damage amount that was caused
18 by the actual burning of the fire?

19 A I did. We have a set formula that we use.

20 Q What is that?

21 A A hundred eighty-five dollars per square foot
22 and that's of actual charred damage.

23 Q Actual burned area within the house?

24 A Yes, sir.

25 Q Above and beyond that is the actual damage

20 1 caused by soot associated with the fire?

2 A Of course.

3 Q Smoke damage, things like that?

4 A Yes.

5 Q Okay. The damage of the actual burned area
6 within the house was how many square feet?

7 A Approximately seven hundred.

8 Q And so at seven hundred square feet, I believe
9 you said a hundred eighty-five dollars per square foot,
10 would that amount to roughly a hundred twenty-nine thousand
11 five hundred dollars?

12 A Yes.

13 Q After conducting -- let me ask you one other
14 thing about the inside of the house. When you did your
15 investigation did you look to see if there were smoke
16 alarms within the house?

17 A I did.

18 Q And were there smoke alarms within that
19 residence?

20 A Yes.

21 Q Did you check to see if there was an electric
22 breaker associated with the smoke alarm?

23 A I did and it was turned off.

24 Q Meaning to you that someone had turned it off?

25 A Deliberately turned it off.

20 1 Q The other breakers in the house, were they in
2 the appropriate position?
3 A Yes, sir.
4 Q Following your investigation -- let me ask you
5 this. What day did you get there and investigate?
6 A The 1st.
7 Q The 1st of October?
8 A Yes, sir.
9 Q So did you have an understanding that the fire
10 occurred on the 30th of September?
11 A In the evening.
12 Q Following the investigation on the 1st of
13 October, did you eventually come into contact with an
14 individual by the name of Lesean Collins?
15 A I did.
16 Q I'm going to show you Grand Jury Exhibit
17 Number 2. For the record do you recognize the person
18 depicted in Grand Jury Exhibit Number 2?
19 A That's the defendant.
20 Q Lesean Collins?
21 A Yes, sir.
22 Q Did you contact him and attempt to contact him
23 about his involvement in the burning of the house on the
24 30th of September?
25 A Yes.

20 1 Q And what day was it that you made contact with
2 him?
3 A The 2nd.
4 Q Of October?
5 A Yes, sir.
6 Q Did you provide to him what are commonly
7 referred to as his Miranda rights, Miranda warnings?
8 A Yes.
9 Q Did he agree to waive those and talk to you?
10 A Yes.
11 Q Did you ask him about whether or not he had
12 been at the residence at the time the fire was started?
13 A I did.
14 Q What did he tell you?
15 A He said he was there.
16 Q Did he tell you how he got into the house?
17 A He said that his older son let him in.
18 Q Did he tell you which older son or which, how
19 it was that the older son let him into the house?
20 A Through the door, but he wasn't supposed to be
21 there.
22 Q Did Mr. Collins admit to you he didn't have
23 permission to be in the residence?
24 A He did.
25 Q Did you talk to him about an allegation that

20 1 he had cut some tires belonging to Shalana Eddins' vehicle
2 prior to being at the house?

3 A Yes, sir.

4 Q Did he admit that he had in fact done that?

5 A Yes.

6 Q Following that did you talk to him about
7 whether or not he had set the fire within the residence?

8 A Yes.

9 Q What did he tell you about that?

10 A He denied it.

11 Q Did you discuss with him the fact that there
12 were witnesses that had seen him at the residence?

13 A I did.

14 Q What was his response to that?

15 A Very -- he became extremely agitated.

16 Q Did you ever talk to him about whether or not
17 anyone had seen what he had done inside the house?

18 A I did.

19 Q What did he tell you?

20 A He said it was impossible for them to know
21 what he has done.

22 Q Inside the house?

23 A Yes, sir.

24 Q Specifically he said that, specifically inside
25 the house during that --

1 A Yes, there was no witnesses, he was in the
2 house alone.

3 MR. TOMSHECK: I have no additional questions
4 of this witness.

5 THE FOREPERSON: Does anyone from the Grand
6 Jury? None?

7 By law these proceedings are secret and
8 you are prohibited from disclosing to anyone anything that
9 has transpired before us, including evidence and statements
10 presented to the Grand Jury, any event occurring or
11 statement made in the presence of the Grand Jury, and
12 information obtained by the Grand Jury.

13 Failure to comply with this admonition
14 is a gross misdemeanor punishable by a year in the Clark
15 County Detention Center and a \$2,000 fine. In addition,
16 you may be held in contempt of court punishable by an
17 additional \$500 fine and 25 days in the Clark County
18 Detention Center.

19 Do you understand this admonition?

20 THE WITNESS: Yes, sir.

21 THE FOREPERSON: Thank you for your testimony.
22 You are excused, sir.

23 THE WITNESS: Thank you.

24 MS. JEANNEY: State's next witness is Robert
25 Eddins.

1 THE FOREPERSON: Please raise your right hand.
2 You do solemnly swear the testimony you
3 are about to give upon the investigation now pending before
4 this Grand Jury shall be the truth, the whole truth, and
5 nothing but the truth, so help you God?
6 MR. EDDINS: I do.
7 THE FOREPERSON: Please be seated.
8 You are advised that you are here today
9 to give testimony in the investigation pertaining to the
10 offenses of first degree arson and burglary involving
11 Lesean Tarus Collins.
12 Do you understand this advisement?
13 MR. EDDINS: Yes.
14 THE FOREPERSON: Please state your first and
15 last name and spell both for the record.
16 MR. EDDINS: My name is Robert Eddins,
17 E-d-d-i-n-s.
18
19 ROBERT EDDINS,
20 having been first duly sworn by the Foreperson of the Grand
21 Jury to tell the truth, the whole truth, and nothing but
22 the truth, testified as follows:
23
24 ///
25 ///

EXAMINATION

BY MS. JEANNEY:

Q Good afternoon Mr. Eddins.

I'm showing you what has been marked for purposes of identification as Grand Jury Exhibit Number 2.

Do you recognize the individual in this photograph?

A Yes, I do.

Q Okay. Who is that person?

A That's Lesean Collins.

Q How do you know Mr. Collins?

A I've been knowing him for about twelve years. He's my daughter's babies' father.

Q You said you've known him for about twelve years?

A About twelve years.

Q I'd like to turn your attention to September 30th of 2008. On that day did you have any type of contact with Mr. Collins?

A Yes, he made about two or three phone calls to me.

Q What time did those phone calls start at?

A They probably started between five and six.

Q Let's talk about the first conversation first. Who called who?

1 A Lesean called me on my cell phone.

2 Q And how did you know it was Lesean?

3 A His number came up.

4 Q So you've had his number previously?

5 A Yes.

6 Q Do you also recognize his voice?

7 A Oh, yes, I do.

8 Q What was said in the first conversation? What

9 did he say to you?

10 A He told me, he described to me that you can

11 tell your daughter, which is Shalana, that we're even now

12 for my car that was towed away, I mean that was damaged.

13 Q Okay. Is that, that was the first

14 conversation?

15 A Right. Uh-huh.

16 Q Did he say anything else?

17 A Yes. He started talking about -- well, when I

18 told him that he doesn't need to be telling me that, then I

19 let him talk to Metro. Metro was sitting there, because I

20 was there on Shalana Eddins' job because apparently someone

21 had flattened all four of her tires, so I was there and the

22 Metro police were there, so I handed the phone to the Metro

23 police and let them talk to him.

24 Q What time was the second telephone call?

25 A It was between six and 6:30.

1 Q What was said in that conversation?

2 A That conversation he was telling me that he
3 heard my daughter's house is on fire.

4 Q Did he say anything else?

5 A Yes. He told me, I said oh, how did the house
6 catch on fire, and he said well, he had told me that, prior
7 to that conversation I had already called Vivian Furlow to
8 pick up the grandkids from next door so I had already asked
9 Vivian to go next door to see if the house was okay and at
10 that particular time when she went outside, the police
11 officers were there, and that's when Lesean called me, he
12 called me to tell me that my daughter's house was on fire
13 and I told him, I said well, you just left there, how did
14 the house get caught on fire, he said I don't know, I just
15 heard that, it wasn't nothing of me. Then he started
16 telling me it wasn't him that did something like that. I
17 said at that particular time you had just left there and
18 you had already expressed to the kids what your intention
19 was, that's why they were next door and I had Vivian come
20 over to pick them up.

21 Q Was that conversation over -- and there was a
22 third one -- or did anything else go on in that second
23 conversation?

24 A No, I don't -- I don't remember the third
25 conversation if there was one, but we talked quite often,

1 1 but that those were the two that I mainly remember on that
2 2 particular --

3 Q Did he make any admissions to you in the
4 4 second phone call?

5 A About the fire?

6 Q Correct.

7 A Yeah, he said he knew about the fire but he
8 8 tried to tell me that he didn't start the fire.

9 Q And that was the last time you have spoken to
10 10 him since then?

11 A Yes. Uh-huh.

12 Q When you spoke to Lesean these two times that
13 13 day, was it September 30th of 2008?

14 A Uh-huh.

15 MS. JEANNEY: I have no further questions for
16 16 this witness.

17 BY A JUROR:

18 Q Did Lesean tell you where he was when the fire
19 19 started?

20 A No. He said he had just left the house but he
21 21 didn't start the fire.

22 Q Okay. Thank you.

23 THE FOREPERSON: Anyone else?

24 Go ahead.

25 ///
2

2 1 BY A JUROR:

2 Q What time did he tell you this, that the house
3 was on fire?

4 A This had to be between six and 6:30, somewhere
5 along -- I don't really have the correct time because I
6 was, like I say I was there talking to Metro and he just
7 happened to call.

8 Q But that was before the police discovered the
9 fire?

10 A Right. He told me about the fire before the
11 police even -- because I had Vivian go next door to check
12 on the house, she hadn't gone there by the time that he had
13 actually called me to tell me that there was a fire.

14 Q So he knew about it before the police did?

15 A Right.

16 BY A JUROR:

17 Q Mr. Eddins, Lesean had said that the oldest
18 boy had left him in the house. But all of the children
19 were over at the neighbor's, correct?

20 A Beg your pardon?

21 Q Lesean had stated that the oldest boy had let
22 him in the house, but all of the children were at the
23 neighbor's; is that correct?

24 A I don't really have any knowledge of that part
25 of the evening because by the time that I had contact with

2 1 any of the kids all of them were over to the neighbor's
2 house and I was trying to find somebody to pick them up
3 because I was down there at my daughter's job dealing with
4 her car issues.

5 MS. JEANNEY: Anybody else?

6 THE FOREPERSON: All right. Anybody else?
7 No?

8 By law these proceedings are secret and
9 you are prohibited from disclosing to anyone anything that
10 has transpired before us, including evidence and statements
11 presented to the Grand Jury, any event occurring or
12 statement made in the presence of the Grand Jury, and
13 information obtained by the Grand Jury.

14 Failure to comply with this admonition
15 is a gross misdemeanor punishable by a year in the Clark
16 County Detention Center and a \$2,000 fine. In addition,
17 you may be held in contempt of court punishable by an
18 additional \$500 fine and 25 days in the Clark County
19 Detention Center.

20 Do you understand this admonition?

21 THE WITNESS: Yes, I do.

22 THE FOREPERSON: Thank you for your testimony.
23 You are excused, sir.

24 THE WITNESS: Thanks.

25 ///

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MR. TOMSHECK: Ladies and gentlemen, we have
no additional witnesses at this time, however we would ask
that you reserve your deliberation for future evidence and
testimony or amendments to the proposed Indictment

(Proceedings adjourned, to reconvene
at a later, undetermined time.)

--ooOoo--

REPORTER'S CERTIFICATE

STATE OF NEVADA)
: SS
COUNTY OF CLARK)

I, Danette L. Antonacci, C.C.R. 222, do hereby
certify that I took down in Shorthand (Stenotype) all of
the proceedings had in the before-entitled matter at the
time and place indicated and thereafter said shorthand
notes were transcribed at and under my direction and
supervision and that the foregoing transcript constitutes a
full, true and accurate record of the proceedings had.

Dated at Las Vegas, Nevada, March 11, 2009.



Danette L. Antonacci, C.C.R. No. 222

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding TRANSCRIPT filed in GRAND JURY CASE NUMBER

08AGJ112X:

Does not contain the social security number of any person,

-OR-

Contains the social security number of a person as required by:

A. A specific state or federal law, to-wit: NRS 656.250

-or-

B. For the administration of a public program or for an application for a federal or state grant.

Danette L. Antonacci

Signature

3/11/09
Date

Danette L. Antonacci
Print Name

Official Court Reporter
Title

DANETTE L. ANTONACCI, C.C.R. 222 (702) 361-1947

1 ORDR
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

73
FILED

2009 MAY 15 P 2:28

Ed Friedland
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,

8 Plaintiff,

9 v.

10 LESEAN TARUS COLLINS,

11 Defendant.

CASE NO. C253455X

DEPT. NO. XI

12 ORDER

13
14 The Petition of LESEAN TARUS COLLINS submitted by TIERRA D. JONES,
15 Deputy Public Defender, as attorney for the above-captioned individual, having been filed in the
16 above-entitled matter,

17 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that you, EDWARD S.
18 FRIEDLAND, Clerk of the Eighth Judicial District Court of the State of Nevada, in and for the
19 County of Clark, issue a Writ of Habeas Corpus.

20 DATED AND DONE at Las Vegas, Nevada, this 14 of May, 2009.

21 *Edward S. Friedland*
22 DISTRICT COURT JUDGE

23 Submitted By:
24 PHILIP J. KOHN
25 CLARK COUNTY PUBLIC DEFENDER

26 By *Tierra D. Jones*
27 TIERRA D. JONES, #10094
28 Deputy Public Defender

RECEIVED
MAY 16 2009
05-13-09A10:25 RCVD
CLERK OF THE COURT

RECEIPT OF COPY

RECEIPT OF COPY of the foregoing Order is hereby acknowledged this 15th day
of May, 2009.

CLARK COUNTY DISTRICT ATTORNEY

By 

Case Name: LESEAN TARUS COLLINS

Case No.: C253455X

Dept. No.: XI

ORIGINAL

13

1 WRTH
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

2009 MAY 18 A 9:23

DISTRICT COURT

Ed Friedland
CLERK OF THE COURT

CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,

8 Plaintiff,

CASE NO. C253455X

9 DEPT. NO. XI

10 LESEAN TARUS COLLINS,

11 Defendant.

DATE: June 1, 2009
TIME: 9:00 a.m.

12
13 WRIT OF HABEAS CORPUS

14 To: Clark County Sheriff
15 Clark County, Nevada

16 GREETINGS:

17 We command that you have the body of the above-captioned person, by you
18 imprisoned and detained, as it is alleged, together with the time and cause of such imprisonment and
19 detention, by whatever name said above-captioned person shall be called or charged, before the
20 Honorable Elizabeth Gonzalez, District Court Judge, at her chambers or her courtroom in the County
21 Courthouse Building in the City of Las Vegas, County of Clark, State of Nevada, on June 1, 2009 at
22 the hour of 9:00 a.m., to do and receive that which shall then and there be considered concerning the
23 said above-captioned person; and have you then and there this Writ.

DATED AND DONE this _____ of May, 2009.

EDWARD S. FRIEDLAND, COUNTY CLERK

By *J. Arevalo*
DEPUTY

JENNIFER AREVALO

MAY 15 2009

RECEIVED

MAY 18 2009

CLERK OF THE COURT

RECEIPT OF COPY

RECEIPT OF COPY of the foregoing Writ of Habeas Corpus is hereby
acknowledged this 15th day of May, 2009.

CLARK COUNTY SHERIFF

CLARK COUNTY DISTRICT ATTORNEY

By: 

By: 

Case Name: LESEAN TARUS COLLINS

Case No.: C253455X

Dept. No. XI


CLERK OF THE COURT

RWHC
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
JOSHUA TOMSHECK
Deputy District Attorney
Nevada Bar #009210
JACQUELINE M. JEANNEY
Deputy District Attorney
Nevada Bar #0010625
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
State of Nevada

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of Application,
of
LESEAN COLLINS
ID #0857181
for a Writ of Habeas Corpus.

Case No. C253455
Dept No. XI

RETURN TO WRIT OF HABEAS CORPUS

DATE OF HEARING: June 1, 2009
TIME OF HEARING: 9:00 A.M.

COMES NOW, DOUGLAS C. GILLESPIE, Sheriff of Clark County, Nevada, Respondent, through his counsel, DAVID ROGER, District Attorney, through JOSHUA TOMSHECK and JACQUELINE M. JEANNEY, Deputy District Attorneys, in obedience to a writ of habeas corpus issued out of and under the seal of the above-entitled Court on the 18th day of May, 2009, and made returnable on the 1st day of June, 2009, at the hour of 9:00 o'clock A.M., before the above-entitled Court, and states as follows:

///

1 1. Respondent admits the allegations of Paragraph(s) 1 and 2 of the Petitioner's
2 Petition for Writ of Habeas Corpus.

3 2. Respondent denies the allegations of Paragraph 3 of the Petitioner's Petition for
4 Writ of Habeas Corpus.

5 3. Paragraph(s) 4, 5, 6 do not require admission or denial.

6 4. The Petitioner is in the actual custody of DOUGLAS C. GILLESPIE, Clark
7 County Sheriff, Respondent herein, pursuant to a Criminal Information, a copy of which is
8 attached hereto as Exhibit 1 and incorporated by reference herein.

9 Wherefore, Respondent prays that the Writ of Habeas Corpus be discharged and the
10 Petition be dismissed.

11 DATED this 29th day of May, 2009.

12 Respectfully submitted,

13 DAVID ROGER
14 Clark County District Attorney
15 Nevada Bar # 002781

16 BY /s/JOSHUA TOMSHECK
17 JOSHUA TOMSHECK
18 Deputy District Attorney
19 Nevada Bar #009210

20 BY /s/JACQUELINE M. JEANNEY
21 JACQUELINE M. JEANNEY
22 Deputy District Attorney
23 Nevada Bar #010625

24 POINTS AND AUTHORITIES

25 FACTUAL HISTORY

26 Shalana Eddins and the Defendant in this case, Lesean Tarus Collins, share five (5)
27 children together. GJT p. 9. The Defendant and Shalana Eddins had previously been in a
28 dating relationship, however, in the Summer of 2008, that dating relationship ended. Id.
 Shortly thereafter in the Fall of 2008, the Defendant's behavior towards Ms. Eddins became