

1 we will wait for him to come back. We are going to serve
2 a search warrant with Detective Pena. That was approved
3 and then myself and Detective Hartshorn were assigned to
4 interview Delarian.

5 Q. And did you do that?

6 A. Yes, we did.

7 Q. And where did you do that?

8 A. In a like security room. It had tables in
9 there. I don't know if it was a break room or a security
10 room, but it was right next to it.

11 Q. But it was in the Circus Circus?

12 A. Right.

13 Q. Okay. And did you read him his rights per
14 Miranda?

15 A. Yes, I did.

16 Q. And did he admit or deny that he had been
17 at the residence at 690 Great Dane?

18 A. He admitted.

19 Q. Did you talk to him about whether or not
20 he was there alone or with another individual?

21 A. He said that he was with somebody.

22 Q. Did he give you the name of the person he
23 was with?

24 A. Yes.

25 Q. What was the name he gave you?

1 A. Narcus.

2 Q. Did he give you any other information
3 about Narcus?

4 A. He said that he played football for UNLV.
5 He lived on the west side with his parents, and he drove
6 a white Chrysler 300.

7 Q. Okay. When you had that information, what
8 did you then do?

9 A. At that point, it was late at night, we
10 wrapped up our interview.

11 We went through the details of everything, and
12 wrapped up our interview, got with Sergeant Pena and took
13 what he was going to take out of the room.

14 We had Delarian transported to the jail, took
15 everything back to the station, and I completed my arrest
16 report, and my witness stuff, and we were probably there
17 until midnight, one o'clock in the morning.

18 Q. So you actually did arrest Delarian Wilson?

19 A. We arrested him, got all through the
20 paperwork that we needed to have done that night so he
21 was taken to jail, there was a certain amount that we had
22 done. I believe we got done early in the morning, we were
23 told to get a couple of hours sleep, and come back, you
24 know, mid morning, and so that's what we did. We come back
25 mid morning.

1 Q. Now, I'm sorry, when you say you came back
2 mid morning, would that by then be Tuesday?

3 A. The 20th, so this happened, I believe that's
4 Tuesday, the 20th.

5 Q. Sunday night to Monday is the offense, and
6 then Monday night you are working and come back Tuesday?

7 A. Right.

8 Q. Okay.

9 So when you came back Tuesday, you and Detective
10 Hartshorn again?

11 A. Yes.

12 Q. And what did you do Tuesday when you came
13 back?

14 A. Tuesday, I mean, the early detectives was
15 already, Detective Niswonger, because he works the early
16 shift, so they were already there, and then we briefed
17 him on what we had, and what the second suspect we
18 believed his name was, and so Detective Bakalas, who
19 I work with, used to work at UNLV as a strength trainer
20 for sports.

21 So he said he had somebody over there that he
22 could talk to.

23 So he went over there, and he went down there
24 and talked to, I believe, the director of athletics.

25 Q. Okay. And can you spell his name for

1 the court reporter?

2 A. B-a-k-a-l-a-s.

3 Q. Okay. And when he went down and talked
4 to the athletic director at UNLV, or whoever it is that
5 he talked to at UNLV, did he then give you information?

6 A. Yes, a little while later he called and
7 said they he had a football roster in his hane, and he
8 had the name Narcus Wesley.

9 Q. Did he also give you information about
10 where Narcus Wesley indicated at least to the football
11 department where he was living at the time?

12 A. Yes.

13 Q. And where was that?

14 A. I believe it was 2372 Valley Drive in
15 Las Vegas.

16 Q. Okay.

17 And did he give you any other information at
18 that time, Detective Bakalas?

19 A. Not at that time.

20 Q. Okay. So what did you do once you had
21 that information?

22 A. Once I had that information, I called
23 Nevada Power and spoke to a Donna Lamonte, and I asked
24 Donna, I would like to check a residence for power, and
25 she said, okay.

1 I said it is 2372 Valley Drive, and I said the
2 name that we are looking for is Narcus Wesley, and she
3 said, okay.

4 A couple seconds later, a minute or two later
5 she said, well, you know that power has been turned off
6 there, hang on a second. Let me check another thing.

7 Okay. Well, that power is turned off, and now
8 it's re-turned on at I think it's 4232, I would have to
9 look at my notes, 4232 Gay Lane, if it was the same name.

10 I said, thanks a lot, we are sending you a
11 subpoena, you know, I explained the case to her, you
12 know, before, before we talked. I told her the seriousness
13 of it, and so I faxed off a subpoena, and Detective Hartshorn
14 immediately left and went to Gay Lane.

15 Q. And why did you go to Gay Lane?

16 A. Because that's where the power was turned
17 on with that same name, and we wanted to go over and confirm
18 if he lived there.

19 Q. Okay.

20 Was it your intention to get a search warrant for
21 that location?

22 A. Yes.

23 Q. And if by confirming that he lived there,
24 what were you looking for?

25 A. His vehicle, him out in the front yard, or

1 anything, you know.

2 Q. About what time of day is it that you
3 physically went there?

4 A. It was in the afternoon.

5 Q. So it was still light out?

6 A. Right, right.

7 Q. Okay. And when you went to Gay Lane, what
8 did you see?

9 A. I saw his white Chrysler 300-N that I ran
10 the registration on, and it came back to Narcus Wesley and
11 a female that I can't recall.

12 Q. And a female's name?

13 A. Yes.

14 Q. Did you get any other information at that
15 point?

16 A. I believe that the registration came back
17 to the Valley address, but we sat there for a little while,
18 watched the car. It didn't move, and at that time, I
19 immediately called Sergeant Hart, H-a-r-t, who is the SWAT
20 Sergeant, and I said, I think we have located the second
21 suspect.

22 I have a vehicle here. I have got the house,
23 and I am going to fill out an affidavit for a search
24 warrant. If you guys wanted to start to recon so when
25 we get it done, you guys can decide what you want to

1 do.

2 Q. Okay.

3 And did you then go and fill out an affidavit
4 for a search warrant?

5 A. Yes.

6 Q. And where did you go to do that?

7 A. I went to the Henderson Police Department.

8 Q. Okay. And did you actually prepare a search
9 warrant?

10 A. Yes, I did.

11 Q. Did you take it to get it signed by a
12 Judge?

13 A. Yes, I did.

14 Q. And when you got it signed by a Judge,
15 what did you do?

16 A. I notified Sergeant Hart that it was signed,
17 we are good to go.

18 I believe we went back and made copies, and we
19 have to leave one with the residence, and then after we
20 did that, we went down and met -- I can't remember the
21 name of the place, but it was a bar. We met behind a bar
22 close to the residence with SWAT.

23 Q. What was the purpose of that?

24 A. To brief it, you know, they do the recon,
25 and do all the briefing.

1 Q. Okay. Had you asked them to be on the
2 lookout for anybody who comes and goes from the residence?

3 A. Yes.

4 Q. And did they indicate to you whether or
5 not anybody came or went from the residence while you
6 were gone?

7 A. They didn't indicate that they had anybody
8 leaving or not. But once we got to the scene with the
9 police, then we immediately, Detective Hartshorn and I
10 immediately went and sat, sat at the residence and put
11 eyes on there, took up the surveillance and the vehicle
12 was still parked there, and so we just sat there.

13 Q. Okay.

14 A. And we saw SWAT serve the warrant.

15 Q. And did you have SWAT serve the warrant?

16 A. Because of the nature of the crime, because
17 there was a gun involved, that we had information that
18 there was a gun involved, sexual assault, robbery.

19 Q. Did you watch SWAT serve the warrant?

20 A. Yes.

21 Q. And when they served the warrant, did
22 they knock, announce and enter?

23 A. Yeah, we watched it from afar, I mean, we
24 stayed away.

25 Q. Right, but you could see --

1 A. Yes.

2 Q. -- that it was happening?

3 A. Yes.

4 Q. Okay. And then what did you do?

5 A. Waited for them to clear the residence,
6 and once they say it is okay, you know, then we go in.

7 And, basically, at that time, I was getting my
8 stuff ready. I was out of the vehicle. I just pulled the
9 vehicle up closer to the house, and I was at our car getting
10 our stuff ready, and Narcus came out. They brought Narcus
11 out, and that's where I began to do our interview, and
12 everybody else went in and searched.

13 Q. Okay, you are pointing somebody out.

14 Was there an individual in the residence that
15 physically walked outside that you see here in court
16 today?

17 A. Yes.

18 Q. Can you describe where he is sitting and
19 what he is wearing?

20 A. He is wearing a pants and suit jacket, a
21 brown gray tie, sitting at the Defendant's table in the
22 middle.

23 MS. LUZAICH: Your Honor, may the record reflect
24 identification of the Defendant?

25 THE COURT: The record will so show.

1 MS. LUZAICH: Thank you.

2 Q. Was it your understanding that there were
3 also other individuals in the house?

4 A. Yes.

5 Q. And did you ultimately speak with them as
6 well?

7 A. Yes, I did.

8 Q. Okay. You spoke with the Defendant?

9 A. Yes.

10 Q. Did you give him his rights per Miranda?

11 A. Yes, I did.

12 Q. Did you do it by memory or from a card?

13 A. I believe I was handed a card.

14 Q. Okay. And did he express to you that he
15 understood his rights?

16 A. Yes, he did.

17 Q. And then did he talk to you?

18 A. Yes, he did.

19 Q. Okay. Now, did some -- after you spoke
20 with the Defendant, did something happen?

21 Did you find something out, relating to his
22 father?

23 A. Okay. With his father, you know, once we
24 went back in there --

25 Q. Okay. Maybe I should rephrase that. I

1 don't know if it was after.

2 A. Right.

3 Q. Did something happen with his father?

4 A. Yes.

5 Q. What?

6 A. Well, his father demanded -- his father
7 and mother, I believe it's his mother, demanded a copy
8 of the search warrant, and I said it's out in the car, I
9 will get it in just a second, went out to the car and got
10 it, gave it back to them, and while he was reading it,
11 you know, I asked if there is any guns in the house, he
12 said his nephew used to have them, and all of a sudden,
13 he said:

14 "This is wrong. The power is in my name. It's
15 not in Nascus's name."

16 And I got his name, and his name is Narbis.

17 Q. Could you spell that?

18 A. Well, it's spelled two different ways, I
19 mean, on record, in scope, it's N-a-r-b-i-s, or b-i-z,
20 and I believe in Nevada Power it was N-a-r-b-i-z.

21 Q. Okay.

22 So the Defendant's daddy indicated to you that
23 there was some incorrect information in the search warrant?

24 A. Yes.

25 Q. Once you found that out, did you do anything?

1 A. Not right at that moment.

2 We finished what we had there, got his stuff,
3 and then transported him to the jail, booked him into the
4 jail, and then the next morning when I came back in, I
5 looked in my mailbox. We have a box there, and there was
6 a copy of the subpoena. So I looked at that, and that's
7 where it said:

8 An asterisk: "Please note..." I have to look
9 at my notes, something to the effect:

10 "Please note. Individual's first name is
11 different from your request."

12 Q. Okay.

13 Now, when you say there was a copy of the subpoena
14 in your box, would that be the subpoena that you had sent
15 to Nevada Power?

16 A. It was her reply. Her reply, I'm sorry.

17 Q. But pertaining to the subpoena?

18 A. To my subpoena.

19 Q. Okay. That you sent to Nevada Power?

20 A. Yes.

21 MS. LUZAICH: May I approach the Clerk?

22 THE COURT: Sure.

23 (Whereupon, four exhibits were marked for
24 identification by the Clerk as State's Exhibits 1, 2,
25 3 and 4, respectively.)

1 MS. LUZAICH: For the record, the Clerk is
2 marking four pieces of paper State's Proposed Exhibits
3 1, 2, 3, 4.

4 They have been shown and are reshowed to defense
5 counsel, and I don't know that they are in the correct
6 order, so 1, 2, 3, 4 are kind of just random number.

7 Q. Detective, I am showing you what has been
8 marked as State's Proposed Exhibits 1, 2, 3, 4, and can
9 you tell me, do you recognize these?

10 A. Yes, I do.

11 Q. What are they, understanding that 1, 2, 3,
12 4 may be out of order?

13 A. A subpoena I sent, and her reply, Ms.
14 Lamonte, I believe Ms. Lamonte sent them from Nevada Power.

15 MS. LUZAICH: Move into evidence.

16 MR. LANDIS: No objection.

17 THE COURT: Admitted.

18 THE CLERK: Which one?

19 MS. LUZAICH: All four.

20 THE CLERK: All four?

21 BY MS. LUZAICH:

22 Q. And for the record, on State's Proposed
23 Exhibit 2, is that where the asterisk with the note that
24 you just described is?

25 A. Yes.

1 Q. And can you read it into the record for
2 me?

3 A. "Please note. Individual's first name is
4 different from your request."

5 Q. And on it -- okay. So from the time
6 that you spoke with her on the phone, you immediately
7 left, went, did your surveillance, for want of a better
8 word, you looked to see what was there, and you were
9 just doing things until you served the search warrant?

10 A. Yes.

11 MS. LUZAICH: Okay, thank you. I will pass the
12 witness.

13 THE COURT: Cross.

14 MR. LANDIS: The Court's indulgence..

15 THE COURT: Sure.

16 CROSS-EXAMINATION

17 BY MR. LANDIS:

18 Q. Good morning.

19 A. Good morning.

20 Q. We can agree that throughout this process
21 from when you got involved until your investigation
22 concluded, that time was of the essence, yes?

23 A. Yes.

24 Q. And you proceeded in that fashion, with
25 pretty much everything you did, correct?

1 A. Yes.

2 Q. And that included the drafting and issuance
3 of the search warrant for Gay Lane?

4 A. Yes, I was gathering information from other
5 detectives as well.

6 Q. To put it another way, you didn't want
7 to wait three days to get that search warrant, is that
8 correct?

9 A. Right.

10 Q. And before we get into that search warrant,
11 I want to talk a little bit about the order of events
12 involving the interrogation of Mr. Wilson, and the trip
13 to UNLV, or at least you receiving the information from
14 UNLV, the football roster, okay?

15 A. Yes.

16 Q. I think you testified on direct, and correct
17 me if I am wrong, that the first of those two events was
18 the interrogation of Wilson?

19 A. Yes.

20 Q. And then thereafter, sometime thereafter,
21 a short matter later, you got the roster, correct?

22 A. Yes.

23 Q. Page 82 of the interrogation of Wilson,
24 lines five and six.

25 Do you recall Detective Hartshorn saying during

1 that interrogation:

2 "We already know who Narcus is, bro. He was
3 on your football team. He played...
4 (incomprehensible) right?"

5 A. We were going in and out of the room there
6 so he may have said it, I may have been there. I'm not
7 sure.

8 Q. All right. He did say it or he may have
9 said it?

10 A. No, if it's in there, he said it.

11 Q. Okay.

12 A. But you would have to ask him.

13 Q. Would you agree that it is indicative that
14 he knew Narcus was on the UNLV football roster during that
15 interrogation?

16 A. He could have been lying, you know, because
17 at that time Grant said that he played football, and so we
18 were guessing that he was a football player with him, I
19 mean, I don't know.

20 Q. Well, as to your search warrant, I only
21 want to talk about what's in the search warrant. I don't
22 want to talk about what you do that was not in the search
23 warrant, okay?

24 A. Yes.

25 Q. You said that somewhere during the interrogation

1 of Wilson he told you guys that Narcus lived somewhere on the
2 west side of town with his parents?

3 A. Yes.

4 Q. And that's during the interrogation that
5 occurred at Circus Circus, correct?

6 A. No, there was a time when I went and showed
7 him his picture at the jail, and that's when he told me.

8 Q. A little different than what you testified
9 on direct, correct?

10 A. As far as what?

11 Q. Receiving that information, and let me
12 clarify:

13 During the interrogation at Circus Circus, that
14 was recorded, correct?

15 A. Yes.

16 Q. At that time, he didn't tell you where
17 Narcus lived, did he?

18 A. I'm not sure if he told us on that or not.
19 I have to look at the transcript.

20 Q. Would that refresh your recollection?

21 A. If I read the whole transcript, yes.

22 Q. May I approach, Judge?

23 THE COURT: Yes.

24 BY MR. LANDIS:

25 Q. When is it where you talked about Narcus?

1 A. Yeah, right here he says:

2 "Somewhere on the west side but I really don't
3 know."

4 Q. But definitely not on the west side of
5 town with his parents, correct?

6 A. No, I believe that the parents were probably
7 at the jail.

8 Q. Very well. Well, we can agree nowhere in
9 that statement, that recorded statement that occurred at
10 Circus Circus did he say Narcus lives on the west side of
11 town with his parents, is that right?

12 A. Just right here, right now.

13 Q. Okay.

14 A. We have Vegas, somewhere on the west side.

15 MS. LUZAICH: What page?

16 THE WITNESS: Page 83, page 82 and page 83. I
17 believe that's it. Yes, sir.

18 BY MR. LANDIS:

19 Q. Reading that refreshes your recollection?

20 A. It refreshes that, you know, like I said,
21 we were both in there, you know, he said, west side of
22 Vegas on this.

23 Q. Okay. But nowhere in there does he say
24 west side of town with his parents?

25 A. Not that I saw, no, sir.

1 Q. And you would agree this is accurate?

2 A. Yes, yes.

3 Q. Now, you mentioned a possible second time
4 that you spoke to Mr. Wilson, correct?

5 A. Yes.

6 Q. You didn't talk about that on direct.
7 Could you give me a little background of what occurred,
8 why that occurred, and where it occurred?

9 A. It occurred at the Henderson jail, and I
10 took a picture of Narcus's DMV photo over there and
11 identified him.

12 Q. When did that occur in the order of events?

13 A. That occurred before the search warrant,
14 and just before he went to the station or went to the
15 jail.

16 Q. Was that before or after you conducted
17 your first surveillance of the Gay Lane address and saw
18 the white Chrysler?

19 A. That was after that.

20 Q. All right. And it's your testimony here
21 that during that second interrogation or second interview
22 with Wilson at the jail he told you that?

23 A. Yes.

24 Q. Was that interview transcribed? Was it
25 recorded?

1 A. No, it wasn't. He was still up in booking.

2 Q. Did that second interrogation of Wilson
3 occur before or after you drafted your search warrant?

4 A. That occurred before.

5 Q. Before?

6 A. Yes.

7 Q. In that search warrant, you go through a
8 lot of the events that you testified to today, correct?

9 A. Yes.

10 Q. Do you inform the reviewing magistrate that
11 Wilson said Wesley lived on the west side of town?

12 A. I would have to look at the search warrant.
13 Yes, it is in the search warrant.

14 Q. What page?

15 A. It doesn't have a number. Next to the end.

16 MR. LANDIS: May I approach?

17 THE COURT: Yes.

18 BY MR. LANDIS:

19 Q. Does reviewing that refresh your recollection?

20 A. It says that I showed a photograph of Narcus
21 Wesley to Wilson.

22 Q. I am going to keep that there. I understand
23 that's in there, but is the information about the location
24 of where he lives and that he may live with his parents, is
25 that in there?

1 A. No.

2 Q. So, obviously, the reviewing magistrate did
3 not have that information at the time that he obviously
4 reviewed the request?

5 A. No, sir.

6 Q. When you went to the Gay Lane address for
7 the first time and observed that Chrysler, did you thereafter
8 contact the DMV and check the registration?

9 A. Not DMV, our -- and I can't recall, this is
10 a while ago, we either called dispatch at that point or we
11 had laptops in our car, too.

12 Q. And that's where you gained the information?

13 A. Yes.

14 Q. And the information you gained was that that
15 car was registered to Narcus?

16 A. Yes.

17 Q. And one other person?

18 A. Yes.

19 Q. And that it was registered to a Valley View
20 address?

21 A. Yes, Valley, not Valley View.

22 Q. I'm sorry. Let me be more precise, Valley
23 Drive?

24 A. Valley Drive, yes.

25 Q. Okay. Did you learn at that time, communicating

1 with whoever it is that you did communicate the dates of
2 registration?

3 A. No.

4 Q. Did you learn that the car was currently
5 registered?

6 A. Yes, I believe it was currently registered?

7 Well, if you will look right there, and I have no
8 recollection of it being expired, that registration.

9 Q. Did you learn the date that that registration
10 began, that most current registration?

11 A. No.

12 Q. And you had that information at the time you
13 drafted your search warrant request?

14 Yes?

15 A. I didn't have it with me. We obtained it.
16 It was accessible to me, yes.

17 Q. You knew that though at the time you drafted
18 your search warrant?

19 A. Yes, I knew that that vehicle was registered
20 to him..

21 Q. And you knew it was to that Valley Drive
22 address?

23 A. Yes, I believe so.

24 Q. And your search warrant request, you informed
25 the magistrate --

1 A. Yes.

2 Q. Let me be more clear.

3 You informed the magistrate that the car is
4 registered to Narcus, correct?

5 A. Yes.

6 Q. You informed the magistrate that the car was
7 registered to Narcus at that Valley Drive address?

8 A. No, sir.

9 Q. There is police procedure on how you request
10 information from administrative agencies, correct?

11 A. Sometimes, yes.

12 Q. And you know I couldn't call Nevada Power
13 and get any information I wanted, correct?

14 A. I don't know. Some people can get it if
15 they have contacts, and so forth, and once again, others
16 can't get it.

17 Q. I understand. But we can agree that it
18 is under the subpoena power that you get that information?

19 A. Sometimes. If there is emergencies, there
20 are setup ways, where, hey, they get it to us within 72
21 hours.

22 Q. Okay. You know people at Nevada Power is
23 what you are saying?

24 A. This is the second time I ever talked with
25 Donna.

1 Q. Okay. At the time that you called Donna
2 at Nevada Power, had you drafted your Nevada Power subpoena
3 yet?

4 A. No.

5 Q. How long after you communicated with Donna
6 did you draft that subpoena?

7 A. Right after I phoned.

8 Q. As soon as you hung up the phone?

9 A. You just go on the computer, you have got
10 a shell, and you turn it on, and print it, and that's it.

11 Q. And in relation to that, when did you send
12 or fax a subpoena to Ms. Lamonte?

13 A. I believe I went and faxed it over to her
14 before we left.

15 Q. All right. On that subpoena, you did send
16 to Donna Lamonte, you list Narcus Wesley's name?

17 A. Yes.

18 Q. And you list a Social Security number?

19 A. I believe I had his Social Security and
20 birth date on there, I believe.

21 MR. LANDIS: If I might approach, Judge?

22 THE COURT: Yes.

23 BY MR. LANDIS:

24 Q. Would reviewing your subpoena refresh your
25 recollection?

1 A. Yes.

2 MR. LANDIS: May I approach?

3 THE COURT: Sure.

4 MR. LANDIS: Could we approach very briefly,
5 Judge?

6 Sorry.

7 (Discussion off the record at the bench between
8 the Court and counsel.)

9 THE COURT: All right. We are going to take a
10 break at noon for at least 20 or 30 minutes, but right
11 now, we are going to take a five minute break so we all
12 can run to the restroom real quick. So we are going to
13 be in recess for five minutes.

14 *****

15 (Whereupon, a brief recess was had.

16 After recess, all parties present, the following
17 proceedings were had in open court:)

18 *****

19 THE COURT: All right. We are back on the record
20 on the State of Nevada v. Narcus Wesley.

21 Go ahead.

22 MR. LANDIS: Thank you, Judge.

23 Whereupon,

24 DETECTIVE CURTIS WESKY,
25 resumed the witness stand, having been previously duly

1 sworn, was examined and testified further as follows:

2 CROSS-EXAMINATION

3 BY MR. LANDIS: (Continuing)

4 Q. You got that subpoena, that you sent to
5 Mr. Lamonte, correct?

6 A. No, the one I received I got. I don't
7 have the -- you gave me this one.

8 Q. Okay, the Court's indulgence. Well, can
9 we agree --

10 A. I'm sorry, yeah, you are right. This is
11 the one, yes.

12 Q. It might be her fax return, but it is
13 more or less the exact same thing as that, sir, right?

14 A. Right, yes, yes.

15 Q. And on that you have a name, you put
16 Narcus Wesley, correct?

17 A. Yes.

18 Q. You put a Social Security number, correct?

19 A. Yes.

20 Q. Could you to protect identity just give us
21 the last four digits of that Social Security number that
22 you left on that subpoena?

23 A. 3280.

24 Q. Do you list an address on that subpoena?

25 A. No, I don't.

1 Q. There is a number of vowels in Mr. Wesley's
2 name, which is his D R number?

3 A. Yes.

4 Q. What is that?

5 A. That's our report number.

6 MR. LANDIS: Okay. May I approach, Judge?

7 THE COURT: Yes.

8 BY MR. LANDIS:

9 Q. Where in the world did you get that Social
10 Security number from?

11 A. I believe it was given to me by Detective
12 Bakalas.

13 Q. Detective Batkins?

14 A. Bakalas.

15 Q. Okay.

16 A. I believe from the UNLV records, I'm not --
17 I'm not positive but --

18 Q. In your search warrant application, you
19 also list a Social Security number, correct?

20 A. Yes, I believe so.

21 MR. LANDIS: May I approach, Judge?

22 THE COURT: Yes, of course.

23 BY MR. LANDIS:

24 Q. I assume you don't remember that Social
25 Security number offhand?

1 A. No.

2 MR. LANDIS: May I approach the witness, Judge?

3 THE COURT: Yes.

4 (Whereupon, Defendant's Exhibit A marked for
5 identification by the Clerk.)

6 BY MR. LANDIS:

7 Q. Showing you what has been marked as Defendant's
8 Proposed A?

9 A. Yes, sir.

10 Q. Does reviewing that refresh your recollection
11 as to what Social Security number you listed in the search
12 warrant?

13 A. Yes, it's a different one.

14 Q. Could you tell us the last four digits that
15 you listed in your search warrant?

16 A. 8230.

17 MR. LANDIS: May I approach?

18 THE COURT: Yes.

19 BY MR. LANDIS:

20 Q. Where did you get that Social Security number
21 from?

22 A. I said I thought I got it from Detective
23 Bakalas, and there was a lot of papers and stuff, and I
24 may have picked up the wrong one.

25 Q. Okay.

1 Now, I want to talk a little bit about your
2 communications with Ms. Lamonte?

3 A. Okay.

4 Q. You testified on direct that the first thing
5 you asked her for was an address?

6 A. Yes.

7 Q. Did you give her an address and a name, an
8 address with a Social Security number or just an address?

9 A. I just gave her the address, and I said the
10 name I am looking for is Narcus Wesley.

11 Q. And you gave her those two tidbits of
12 information before she responded to any of your requests
13 at all?

14 A. Yes.

15 Q. And that address you gave her was the Gay
16 Lane address?

17 A. No, I gave her the Valley address.

18 Q. I'm sorry, the Valley Drive address?

19 A. Yes.

20 Q. What was her response to the best of your
21 recollection to that?

22 A. The best of my recollection was, okay,
23 there is no power at that address. Let me check something.

24 And then took a second, and the power was turned
25 on in the same at this Gay address, 4232 Gay Avenue.

1 Q. Between the time that she said the power
2 was turned off up until the time she gave you the Gay Lane
3 address, did you give her any further information?

4 A. I don't believe so.

5 Q. While on the phone, was there any further
6 communications by you or by Ms. Lamonte?

7 A. I believe about the subpoena, I said I am
8 sending her a subpoena.

9 Q. Okay. How long after you hung up the phone
10 with Ms. Lamonte did you start drafting your search warrant
11 on that occasion? Identification?

12 A. Hours probably, I think, you know, we went
13 out there. We had to -- we went out there, checked the
14 address, found the vehicle, made a call to SWAT, sat there
15 for a little bit, and then, as I said, I showed that
16 photograph to Wilson, and then I went and started my
17 affidavit based on, I think, you know, based on because
18 everybody had a section of what they did.

19 So I am going by some of what was going on the
20 other line so it was probably a few hours.

21 Q. Would it be fair to say that you sent SWAT
22 to begin recon in anticipation of the search warrant being
23 written?

24 A. Yes, I always call ahead of time and say I
25 am applying for a search warrant.

1 Q. Okay.

2 When -- as a detective in Henderson, who do you
3 tend to send your search warrants applications to, what
4 Judge?

5 A. We have Judge George (phonetically) and Judge
6 Berg (phonetically), and ideally, if they are not available,
7 there is a Judge in Boulder City.

8 Q. Is it fair to say that the majority of them
9 go to Burke or George, don't they?

10 A. Yes.

11 Q. This one went to George, correct?

12 A. I believe so.

13 Q. You were confident that the search warrant
14 was being granted, and you sent SWAT out because George
15 always grants your search warrant requests, doesn't he?

16 A. I have never had any declined. So, you
17 know, that's not to say he won't.

18 Q. We are not talking about won't. He never
19 has?

20 A. No.

21 MS. LUZAYCH: Well, objection to the form of the
22 question. I think Detective Weske hasn't had one declined,
23 but he certainly can't testify whether anyone else has.

24 THE COURT: I think that is probably correct.
25 At some time, you don't know whether he has declined anybody

1 else's applications, do you? You just never had one that's
2 been declined?

3 THE WITNESS: Listen, I will tell you something
4 about Judge George. He reads every piece of information on
5 that form. You are there for a while.

6 MR. LANDIS: And I would object to that on
7 foundation, Judge.

8 THE COURT: Overruled.

9 BY MR. LANDIS:

10 Q. When you arrived at the address to execute
11 the search warrant, how long was SWAT in the house before
12 you entered?

13 MS. LUZAICH: Well, that assumes facts not in
14 evidence. He didn't enter.

15 THE COURT: Rephrase that. You may have misled
16 what you are asking.

17 MR. LANDIS: Right.

18 Q. Is it your testimony that SWAT brought
19 Marcus out of the house?

20 A. Yes.

21 Q. And that's before you ever entered the
22 house?

23 A. Yes.

24 Q. But there came a time that you entered
25 the house?

1 A. Yes.

2 Q. When was that?

3 A. After our interview. I brought him back
4 in there. We sat him on a chair, and someone sat and
5 watched, and I gave dad the search warrant, and then I
6 went back in the back bedroom.

7 Q. Who cuffed Narcus?

8 A. Well, I believe SWAT because he had zip
9 cuffs on. We were trying to actually get those off but
10 I don't carry cutters.

11 Q. Did you have any communications with SWAT
12 about what occurred before you took custody of Narcus --?

13 A. Oh, they knew the case, yes.

14 Q. That's not what I am asking.

15 Did you have any conversations between -- with
16 SWAT about what occurred in the house before you took
17 possession of Narcus?

18 A. No.

19 Q. So you have no idea what may have been said
20 between SWAT and Narcus?

21 A. No.

22 Q. Or what may have been said between SWAT
23 and members of Narcus's family?

24 A. No.

25 Q. Where did this interview take place?

1 A. Outside in the car. I believe it was concluded
2 in the car.

3 Q. A police issue car?

4 A. Yes.

5 MR. LANDIS: The Court's indulgence.

6 THE COURT: Sure.

7 MR. LANDIS: With the Court's permission, I will
8 hand the torch to Mr. Banks for a few questions.

9 THE COURT: Go ahead.

10 MR. BANKS: Thank you.

11 CROSS-EXAMINATION

12 BY MR. BANKS:

13 Q. Thank you. Detective Weske?

14 A. Oh yes.

15 Q. How do you do, I'm Jeff Banks?

16 A. I'm fine, thank you.

17 Q. I believe, and I want to be fair, and I
18 think it's actually your words in the interview with Mr.
19 Wesley, did you explain to him that he was not free to
20 leave, is that -- is that fair?

21 A. Yes, I believe so.

22 Q. Okay. And I want to take you back to your
23 direct with Ms. Luzaich. I wrote it down. I don't want
24 to misquote you, but she had asked you about some rights
25 that were maybe relayed to Mr. Wesley?

1 A. Yes.

2 Q. And I think you said:

3 "I believe I was handed a card..."

4 When it came down to where when you were recalling
5 the Miranda rights, is that fair?

6 A. I do it both ways, I mean, I don't carry a
7 card with me.

8 Q. Okay.

9 A. I don't have a card with me. Sometimes it
10 is handed to me, a card.

11 Q. Okay. And when somebody is not free to leave,
12 it is very important at that point that those rights are
13 communicated to that person, is that fair?

14 A. Before you do an interrogation, yes, sir.

15 Q. Okay.

16 And when somebody is not free to leave, it is
17 of utmost importance that those rights are communicated
18 to that person, is that fair?

19 A. It depends on the situation.

20 Q. Okay. And I am talking about the situation
21 where someone is not free to leave, in a situation where
22 somebody is not free to leave, it is of utmost importance
23 that those rights are communicated to that person, is that
24 fair?

25 A. Like I said, if you are on a traffic stop,

1 you are not free to leave. I don't think you need to read
2 Miranda so it depends on the situation.

3 If I am going to interrogate about a crime, yes.
4 They are not free to leave, and they are in custody, yes,
5 I do read them.

6 Q. Okay. He was not free to leave?

7 A. Right.

8 Q. And he was in custody, that's fair?

9 A. Yes.

10 Q. It was like a zip tie?

11 A. Yeah, I believe they have those plastic
12 ties, yes, sir.

13 Q. Okay. So at that point, it was of utmost
14 importance that he be given those rights, is that fair?

15 A. Not at that point. At the point where
16 I start my interrogation is where he needs to be read
17 Miranda from my training and experience.

18 If you just come out of a house handcuffed, I
19 am not going to read him his Miranda rights right then
20 and there.

21 MS. LUZAICH: Well, Your Honor I am going to
22 object to that whole line right there because whether or
23 not Miranda is required is a legal issue. It's not an
24 opinion by the detective, I mean, what the detectives
25 believes doesn't matter.

1 The bottom line is:

2 Did he or did he not do the right thing legally,
3 and that's something the Court is going to decide, not
4 the detective.

5 BY MR. BANKS:

6 Q. You gave him his Miranda rights one time in
7 this whole interaction?

8 A. I believe so.

9 Q. Okay. And it was when he came out of the
10 house, and he was in ties, and he was told he was not free
11 to leave, is that fair?

12 A. Yes, I would have to look at the transcript
13 of exactly when I read them to him.,

14 MR. BANKS: Okay. May I approach?

15 THE COURT: Sure.

16 THE WITNESS: Okay.

17 BY MR. BANKS:

18 Q. Training and experience told you that that
19 was the right time to communicate those rights to Mr.
20 Wesley, is that a fair characterization?

21 A. After I made sure he was okay, yes.

22 Q. All right. And you said you believed
23 you were handed a card, and you don't carry a card with
24 you?

25 A. No.

1 Q. Okay. So it is not like you have one as
2 you sit here today on you?

3 A. That's correct.

4 Q. On your person?

5 A. Correct.

6 Q. The card exists, and it is very specific
7 with those rights -- let me back up.

8 That card is very specific with the rights that
9 are read to the accused, is that fair?

10 A. Yes.

11 Q. Okay. And it's very thorough?

12 A. Yes.

13 Q. Okay. And the card exists so when somebody
14 doesn't have it all memorized, the card exists so when
15 somebody doesn't have it all memorized, you say the right
16 things to the accused, right?

17 A. Yes, sir.

18 Q. And we can agree that's of paramount importance
19 when you read those rights to somebody, tell them what their
20 rights are before they start talking, you want to be satisfied
21 that they know what you are talking about, is that fair?

22 A. Yes, that they understand their rights, yes.

23 Q. And that they understand those rights, is
24 that fair?

25 A. Yes.

1 Q. Okay. And you want to be comfortable, at
2 least in your mind, that they are knowingly and intelligently
3 giving up those rights and talking to you, is that fair?

4 A. Yes.

5 Q. I have been told, you know, that I want --
6 I want to make sure that he understands his rights, yes.

7 Q. Okay.

8 A. He has a right to know them.

9 Q. Okay. And we can agree on that card, you
10 have seen the card?

11 A. Yes.

12 Q. You are familiar with the card?

13 A. Yes.

14 Q. We can agree on the card that there is
15 part of the card that there is a question, do you understand
16 these rights, and you waive them and give them up.

17 Is that -- is that fair based on what you have
18 seen on the card?

19 MS. LUZAICH: Objection, that is not the card.

20 THE COURT: Well, we haven't seen the card for
21 that matter, and I'm not quite sure exactly what your
22 point is, but we got to get there quicker.

23 BY MR. BANKS:

24 Q. If you know.

25 A. Well, there is various cards.

1 Q. No, I don't. I am talking about the Henderson
2 one.

3 A. The Henderson one.

4 Q. And if you don't know, you don't know?

5 A. I don't know what the bottom says.

6 Q. Okay. Where -- can you tell me where in
7 the transcript you clarified it with Mr. Wesley whether
8 he understood the rights that you read to him?

9 A. After each one I asked Mr. Wesley.

10 MS. JUZAICH: I ask him to just have him read
11 the rights as he read them that day into the record.

12 THE WITNESS: The first thing that I say is the
13 first thing is you have the right to remain silent. The
14 first thing, you have the right to remain silent, do you
15 understand that?

16 Yes, sir.

17 Anything you say can and will be used against
18 you in a court of law. Do you understand that?

19 Uh-huh.

20 You have the right to have an attorney present
21 when I am questioning you if you wish. If you cannot afford
22 an attorney, one will be appointed to represent you before
23 you answer any questions. Do you understand that?

24 Yeah.

25 MR. BANKS: Okay.

1 THE WITNESS: And any time you can stop answering
2 these questions.

3 BY MR. BANKS:

4 Q. Okay.

5 And can you show me where in that transcript that
6 you -- that Mr. Wesley made it clear that he was waiving
7 and giving up those rights?

8 A. No, it doesn't.

9 I won't ask him about waiving his rights. I asked
10 him if he understood those rights.

11 Q. Okay. And just so your testimony is clear,
12 you never did ask him if he waives them and gives them up,
13 is that fair?

14 A. I just asked him if he -- right, I just asked
15 him if he understood those rights.

16 Q. Okay. And one more quick question:

17 Did you ever explain to him -- I know you
18 explained to him he has a right to an attorney before
19 questioning.

20 Did you ever explain to him that he has the right
21 to an attorney during questioning?

22 A. No, I said one will be appointed to represent
23 you at no cost to you before any questions. Do you understand
24 that?

25 And he said: Yes.

1 MR. BANKS: Thank you. That's all I have, Judge.

2 MS. LUZAICH: I just have two.

3 THE COURT: All right.

4 REDIRECT EXAMINATION

5 BY MS. LUZAICH:

6 Q. Detective, did you ever intentionally leave
7 any information out of your search warrant affidavit?

8 A. No, ma'am.

9 Q. Did you ever intentionally misstate any
10 information in your search warrant affidavit?

11 A. No.

12 MS. LUZAICH: Thank you, nothing further.

13 MR. LANDIS: No further Recross-Examination.

14 THE COURT: Okay, thank you, Officer. I appreciate
15 your testimony.

16 THE WITNESS: Thank you, Your Honor.

17 (Witness excused.)

18 THE COURT: Let's take a break until 12:30.

19 And we will come back, and you are going to call
20 some people, and we are going to wrap this up.

21 We have got 80 people in the jury pool that's going
22 to get here at one o'clock.

23 And I want to stay on schedule. But I don't have
24 room for 80 people.

25 THE BAILIFF: We are not going to be able to use

1 that. So they are going to have to use it.

2 MS. LUZAICH: There are no other courtrooms.

3 THE COURT: Apparently they are doing something
4 next door. They've got enough seats.

5 MS. LUZAICH: Can we switch with them?

6 THE COURT: I don't know. What's going on with
7 them?

8 MS. LUZAICH: Is 20 in trial, Wall.

9 THE COURT: What?

10 MS. LUZAICH: Is 20 in trial, Judge Wall's court?

11 THE COURT: We haven't checked.

12 MS. LUZAICH: I mean, check with him, because
13 that's what Togliatti uses is his courtroom when she has
14 a big panel.

15 THE COURT: Okay. Anyway let's take a break for
16 30 minutes.

17 Can everybody eat in 30 minutes?

18 Okay. Let's take a quick break for 30 minutes.
19 We will be back. We will be in recess until 12:30, and
20 then do you feel we can get through your witnesses, Mr.
21 Landis, between 12:30 and one?

22 MR. LANDIS: Short. They should be short. My
23 directs have been short.

24 THE COURT: Fine, very good. All right. We
25 are in recess.

1 MR. BANKS: Thank you.

2 *****

3 (Whereupon, a recess was had until 12:35 p.m.
4 April 9, 2008. Thereafter, after recess, all parties
5 present, the following proceedings were had in open
6 court:)

7 *****

8 THE BAILIFF: Everybody remain seated. We are
9 back in session.

10 THE COURT: Back on the record in the matter of
11 the State of Nevada v. Narcus Wesley.

12 Mr. Landis, your first witness?

13 MR. LANDIS: We are calling Donna Lamonte.

14 THE COURT: Okay.

15 THE CLERK: Come forward, please take the witness
16 stand, remain standing, raise your right hand.
17 Whereupon,

18 DONNA LAMONTE,

19 called as a witness herein by the Defendant Wesley,
20 having been first duly sworn, was examined and testified
21 as follows:

22 THE CLERK: Thank you very much. You may be
23 seated.

24 Please state your name and spell your first and
25 last name for the record.

1 THE WITNESS: Donna J. Lamonte, D-o-n-n-a, last
2 name is L-a-m-o-n-t-e.

3 THE CLERK: Thank you.

4 THE COURT: Go ahead.

5 DIRECT EXAMINATION

6 BY MR. LANDIS:

7 Q. How are you currently employed, Ms. Lamonte?

8 A. I am employed with Nevada Power Company.

9 Q. What do you do there?

10 A. I am a team investigator.

11 Q. What does that job entail?

12 A. Conducting internal investigations,
13 conducting external investigations, subpoena process is
14 done in my office. Some prosecution for the company is
15 put together and submitted.

16 Q. Do you personally sometimes assist or directly
17 assist in complying with subpoenas?

18 A. Sometimes I do, but it's not my main function
19 though.

20 Q. Were you employed in that capacity in February
21 of last year?

22 A. Yes, I was.

23 Q. And I assume that quite a few subpoenas come
24 across your office desk in the course of a given week or
25 month, right?

1 A. There was 1,896 last month.

2 Q. You don't remember every one?

3 A. No.

4 Q. The case we are talking about occurred in
5 February, of 2007.

6 You don't remember the specific details of complying
7 with this subpoena in this case, do you?

8 A. No.

9 Q. But you, when you do file subpoenas, tend to
10 follow a procedure or a protocol, correct?

11 A. Yes.

12 Q. And can John Q. Public call you from off the
13 street and get information about about power records?

14 A. No.

15 Q. Now, does somebody need a subpoena before
16 you guys hand over information regarding power records?

17 A. You need a subpoena in order to obtain
18 information, yes.

19 Q. Okay. Are you able to run power records a
20 variety of different ways?

21 Let me be more clear. Can you draw power records
22 by name?

23 A. Yes.

24 Q. Can you run them by Social Security number?

25 A. Yes, I can.

1 Q. And can you run them by address?

2 A. Yes, I can.

3 Q. If a police officer calls you and asks you
4 for information, is it normal procedure for them to send
5 you a subpoena?

6 A. Yes.

7 Q. And that would occur before obviously you
8 give them that information?

9 A. Yes, a subpoena is required.

10 MR. LANDIS: Can I approach, Judge?

11 THE COURT: Yes.

12 MR. LANDIS: Can I approach the witness?

13 THE COURT: Yes.

14 BY MR. LANDIS:

15 Q. I am going to show you State's Exhibit

16 1. In your normal course of business, do you ever receive
17 that subpoena that has the name and the Social Security
18 number, which of those items would you use to run a record?

19 A. We would run the Social Security number
20 first.

21 MR. LANDIS: Okay, the Court's indulgence.

22 THE COURT: Certainly.

23 BY MR. LANDIS:

24 Q. About two weeks ago, did you personally
25 receive a subpoena from my office?

1 A. Yes, I did.

2 Q. And did you comply with that subpoena?

3 A. Yes, I did.

4 Let me clarify, it wasn't myself. It was the
5 other gentleman who worked in my office who actually bring
6 the subpoena.

7 MR. LANDIS: Okay.

8 MS. LUZAICH: Can we get a copy of that?

9 MR. LANDIS: Judge, the State wants me to go
10 copy this for them.

11 THE COURT: Two copies.

12 MR. LANDIS: Can I approach the witness?

13 THE COURT: Yes.

14 (Whereupon, documents were marked by the Clerk
15 as Defendant's Exhibits B and C, respectively.)

16 BY MR. LANDIS:

17 Q. I'm showing you what has been marked as
18 State's Proposed -- or Defense Proposed B and C.

19 Is B the subpoena that was sent to your office
20 a week or so ago?

21 A. Yes, it appears so.

22 Q. And is C the information that you provided
23 to comply with that subpoena?

24 A. Yes.

25 Q. What information did I provide you referencing

1 an individual on my subpoena?

2 Did I provide you with a name?

3 MS. LUZAICH: I object. She didn't get a copy of
4 your subpoena.

5 THE COURT: Do you want to submit a copy of that?

6 MS. LUZAICH: Yeah, make a copy of that.

7 THE CLERK: Just the subpoena.

8 MR. LANDIS: Two pages, Judge.

9 THE COURT: There you go. Thank you.

10 BY MR. LANDIS:

11 Q. I provided you with a name on that subpoena,
12 correct?

13 A. Yes.

14 Q. And what is that name?

15 A. Narcus Wesley.

16 Q. And without saying the full Social Security
17 number, did I provide with you a Social Security number on
18 that subpoena?

19 A. Yes, you did.

20 Q. Could you tell us the last four digits?

21 A. 8230.

22 Q. Okay. And running that subpoena, turning
23 to the State's -- or Defense Proposed C, was there any
24 power records referencing Narcus Wesley?

25 A. Yes, there was.

1 Q. Before I ask you the next question, what
2 dates did I ask you to run referencing Narcus Wesley?

3 A. You gave me the parameters of January 1,
4 2006 through December 31, 2007.

5 Q. And did Narcus Wesley have power at any
6 address in Clark County during that time?

7 A. Yes, he did.

8 Q. How many addresses?

9 A. One.

10 Q. What was that address?

11 A. The address was 1915 Simmons Street, building
12 25, unit 2175.

13 Q. Were you able to determine the dates that he
14 had power at that address?

15 A. Yes, and they were provided.

16 Q. And what were those dates?

17 A. He moved in on January 1 -- or excuse me,
18 January 3, 2007, and he moved out on September the 12th,
19 2007.

20 MR. LANDIS: Okay. I move for the admission of
21 Defense B and C.

22 THE COURT: Any objection?

23 MS. LUZAICH: No.

24 THE COURT: Defense Exhibits B and C are admitted.

25 MR. LANDIS: May I approach the witness?

1 THE COURT: Yes.

2 MR. LANDIS: I have nothing further.

3 CROSS-EXAMINATION

4 BY MS. LUZAICH:

5 Q. Is it possible for a police officer to call
6 you and say, I have an emergency, I need to know if this
7 person has power. I will get you a subpoena as soon as we
8 hang up?

9 A. In an emergency situation, an officer can
10 call, but they are instructed and do know ahead of time
11 that the subpoena needs to be obtained in order to achieve
12 the information they are requiring.

13 Q. Right.

14 So is it possible that Detective Weske called
15 you, and said I have an emergency situation, sexual assault
16 with a weapon, robbery with a weapon, I am looking for
17 power under the name of Narcus Wesley, and I will send
18 you a subpoena as soon as we hang up. Is it possible that
19 you would have sent him information?

20 A. It is possible.

21 Q. Okay. And is it possible that you would
22 have sent him, or told him over the phone Narcus Wesley
23 has at X address, and this is his Social Security number
24 so that he could include the correct Social Security number
25 on the subpoena that he sent to you?

1 A. Is it possible?

2 Q. Yes.

3 A. Normally, they would call up the office and
4 express what the emergency is.

5 Q. Right. I just told you it was possible --

6 A. (Interposing) Right, and he expresses what
7 the emergency is, and a subpoena was on its way, yes, we
8 would be able to communicate information.

9 Q. Right. So is it possible that you answered
10 his request saying, yes, Marcus Wesley has power at such
11 and such address, and this is his Social Security number,
12 so that the detective could include the Social Security
13 number in the subpoena that he sent to you?

14 A. I suppose it could be possible.

15 Q. Okay.

16 Now, have you seen any documents that indicate
17 that you did send Detective -- or that Detective Weske did
18 have a conversation with you?

19 A. Can you say that again?

20 Q. Can I have the other exhibit?

21 THE COURT: They are all up there. There is the
22 one that had the handwritten notations on that fax, right,
23 or whatever it was?

24 BY MS. LUZAICH:

25 Q. Okay.

1 I am showing you State's Exhibits 1, 2, 3, 4, and
2 it's random order, don't worry about the numbers. Does any
3 of that look familiar?

4 A. Well, this is what I saw a minute ago.

5 Q. No. You haven't seen that yet in this
6 courtroom.

7 MR. LANDIS: I did show her State's --

8 MS. LUZAICH: Oh, you showed her ours? Oh, I'm
9 sorry. Okay, I'm sorry, I'm sorry.

10 THE WITNESS: But I didn't see the attachments
11 here.

12 BY MS. LUZAICH:

13 Q. Right.

14 Could this be your -- I am pointing you to State's
15 Exhibit 2.

16 Could that be your handwriting?

17 A. That is my handwriting.

18 Q. Okay. So do you believe that you sent this
19 to Detective Weske?

20 A. Yes.

21 Q. Pursuant to that subpoena, Number 1?

22 A. Involving that subpoena, yes.

23 Q. Okay.

24 Q. And on the subpoena, it asks for Narcus Wesley,
25 correct?

1 A. Correct.

2 Q. And it gives the essential Social Security
3 number?

4 A. Correct.

5 Q. And so in response you did not send him
6 Narcus Wesley information but you just discussed on Direct
7 Examination.

8 Instead you sent him this (indicating)?

9 A. I sent him the information that involved
10 the Social Security number that was provided on that
11 subpoena.

12 Q. Okay.

13 Is there a reason that you would not have sent
14 him this information that corresponded to the name?

15 A. We first run the Social Security number,
16 and if there is a hit on it, that is the information that
17 we provide.

18 If we notice that there is some differentiating
19 information between what the subpoena is and what the
20 information we are running is, sometimes people use their
21 middle name as their first name.

22 We will note that on the subpoena so the officer
23 or the office, whoever is subpoenaing the information, is
24 aware that there is some discrepancies in the information.

25 Q. Okay.

1 But what you did was you sent him the information
2 pertaining to the Social Security number?

3 A. Correct.

4 Q. And said the name is different, as opposed
5 to sending the information pertaining to the name?

6 A. Right, because I ran the Social Security
7 number, and there was a hit and a match on that.

8 Q. Okay.

9 And this says, and I am talking again about
10 Exhibit 2, where your handwritten individual's name is
11 different, it says: "Move in 11/1/06."

12 A. Correct.

13 Q. But does that say that anywhere on here?

14 A. No, that is information that's printed
15 out. It is always handwritten in. There isn't a screen
16 that says and in-out date. That is always handwritten
17 on the subpoena.

18 And if there is an in date, and it's stamped,
19 "active", obviously there is not an out date because
20 it's still a current surveyu.

21 MS. LOZAICH: Okay. The Court's indulgence
22 one second.

23 Q. Is it possible that Detective Weske also
24 told you, I'm looking for or asked you to look under an
25 address, Valley Lane, Valley Avenue, Valley something,

1 or other?

2 A. It is possible, but I don't remember.

3 Q. And you said that the power was off on
4 Valley Lane under that name but turned on immediately
5 thereafter on Gay Lane, and that was the information
6 you sent to him?

7 A. Possible, but I don't remember.

8 Q. Because you have 1,900 subpoenas every
9 month over the last year?

10 A. Well, 1,900 just last month.

11 Q. Right, just for the last month over the
12 last year?

13 A. Yeah.

14 THE COURT: Can I -- can I ask her a question?

15 MS. LUZAICH: Can you? Of course. It is your
16 court.

17 BY THE COURT:

18 Q. So is this a likely or a possible scenario
19 that you are on the phone with the detective, who is
20 requesting some information and telling you that a subpoena
21 will follow. He gives you a name, a social, do you have
22 power in that name, and maybe you even have an address,
23 and you could immediately look up the name, the address
24 the social, however you are going to do it, but you could
25 do it all three ways couldn't you?

1 THE WITNESS: Yes I could.

2 THE COURT: So you have a name, you have the
3 social, you have an address. Whatever would be the
4 easiest way, your computer will tell you immediately
5 while you are on the telephone at that address and that
6 name, and that Social Security, there is no power at that
7 address in that name with that Social Security.

8 But you would also be able to tell immediately
9 that there is power in that name, maybe with a different
10 Social Security and a different address, that coincided
11 with the out date, and the in date at the new address.

12 Can you tell all that information immediately
13 while you are on the telephone?

14 THE WITNESS: I can see an out date when somebody
15 moves, yes, I can, instantly when I pull up the record.

16 THE COURT: Okay.

17 THE WITNESS: With some research.

18 THE COURT: Right. And you are obviously putting
19 in different information into the computer, but it gives
20 you immediate feedback, and it tells you all this?

21 THE WITNESS: Yes, it does.

22 THE COURT: So even in a short conversation with
23 the police officer on the telephone, would it be possible,
24 unlikely, likely, that if you look under here, you say, well,
25 detective, the address and the name that you've given me

1 are no longer active, but there is an active address and a
2 different address with that name, maybe with a different
3 Social Security number, or whatever?

4 THE WITNESS: That isn't something that I would
5 be able to instantly see with a different Social Security
6 number. When I'm pulling up a record, it's just a unique
7 record about that Social Security number. I would be able
8 to see if that Social Security moved to a different address.

9 I would not be able to see someone else's Social
10 Security number onto that person's record, like any of
11 these record lack a Social Security number.

12 THE COURT: Okay. So the base then to track this
13 information is primarily the Social Security number?

14 THE WITNESS: Yes, it is.

15 THE COURT: Okay. And so, but you could while
16 you are on the telephone say, well, that power that you
17 have given me was shut off on that particular date, but
18 I am seeing that the power on that same date was turned
19 on at a different address with the same name?

20 THE WITNESS: Like a customer moved?

21 THE COURT: Right.

22 THE WITNESS: Correct, that's correct.

23 THE COURT: And you would be able at that -- and
24 would that be -- if somebody said that that is what they
25 were told on the phone, is there any reason to believe to

1 say that that's true or not true, I mean, is that entirely
2 possible or is it highly unlikely?

3 THE WITNESS: If a customer moved?

4 THE COURT: Yes, if you are talking to a police
5 officer, and the police officer said that's what I said on
6 the phone, is that -- is that likely?

7 THE WITNESS: It could be likely, and the subpoena
8 was coming over, and it was an emergency situation, it could
9 have come, that's fine.

10 THE COURT: Actually, what we are more concerned
11 with here is the actual conversation that you had.

12 Is that information so readily available to you
13 that that if the police officer said, that's what I was
14 told that that it's probably accurate?

15 THE WITNESS: Probably accurate.

16 THE COURT: Okay.

17 BY MS. LUZAICH: (Continuing)

18 Q. Just in simple terms:

19 If a police officer calls you and says, I am
20 looking for John Smith's power. I believe it is at Adams
21 Drive, and you look up John Smith, and you say, yes,
22 Officer, John Smith has power, but it was turned off on
23 Adams Drive on January 1 and turned on on Washington
24 Drive on January 2, I mean, is that something that you
25 could determine quickly?

1 A. Yes.

2 Q. And, Officer, John Smith's Social Security
3 number is 123456789, or whatever, so that you can put that
4 on the subpoena when you send it to me as soon as you hang
5 up the telephone?

6 A. Normally under normal circumstances, the
7 officer gives me a Social Security number.

8 Q. But if they don't have it?

9 A. If they don't have it, a common name would
10 be too hard to --

11 Q. (Interposing) Well, no, I am just using
12 John Smith, but if you see it there, you are looking at
13 the screen, and it says John Smith has power on Washington
14 Drive, his Social Security number would be on the screen
15 also, correct?

16 A. If they gave me one, yes.

17 Q. If they gave you one?

18 A. Correct.

19 Q. So, during your conversation with the
20 detective, so that he would get you the correct information
21 on the subpoena, is it possible that you would have told
22 him, yes, John Smith has power at Washington and his Social
23 Security is 123456, so that he can give you the correct
24 information to make it easier to comply with the subpoena
25 because it is easier for you to comply with the subpoena

1 if you have the Social Security number, correct?

2 A. Correct.

3 MS. LUZAICH: Okay, thank you.

4 THE COURT: Anything else?

5 MR. LANDIS: Yeah, briefly, Judge.

6 THE COURT: Go ahead.

7 REDIRECT EXAMINATION

8 BY MR. LANDIS:

9 Q. As an investigator for Nevada Power, you
10 have been trained in the importance of details?

11 A. Yes.

12 Q. Is it important that you pay attention to
13 like numbers in the Social Security number?

14 A. Yes.

15 Q. Or names?

16 A. Yes.

17 Q. If an officer called you and said I want
18 to know if John Smith has power at 444 Red Street, and
19 you pull up that record, and it turns out that there was
20 power at 444 Red Street, however, it wasn't John Smith,
21 it was James Smith that had power.

22 Based on your training and experience, would
23 you notice that difference when you are talking to the
24 officer?

25 A. Yes, I would.

1 Q. And would you inform the officer of that?

2 A. Yes.

3 Q. Is it normal practice or we are talking
4 about possibilities, I want to talk about what you do.

5 Do you give Social Security numbers to police
6 officers when they ask for them without a subpoena actually
7 hitting your desk?

8 A. If it's an emergency situation, and the
9 subpoena is on the way, information can be communicated,
10 in an emergency, an extreme emergency situation.

11 Subpoenas need to be provided in order to obtain
12 the information.

13 MR. LANDIS: The Court's indulgence. Nothing
14 further, Judge.

15 THE COURT: Thank you very much for your testimony.
16 I appreciate it.

17 THE WITNESS: Thank you.

18 (Witness excused.)

19 THE COURT: Do you want to call somebody else?

20 MR. LANDIS: I call Narvies Wesley.

21 MS. LUZAICH: Who?

22 MR. LANDIS: Narvies Wesley.

23 THE CLERK: Come forward, please, sir, take the
24 witness stand, remain standing and raise your right hand.
25 Whereupon,

NARVIEZ WESLEY,

called as a witness herein by the Defendant, having been first duly sworn, was examined and testified as follows:

THE CLERK: Thank you very much. You may have a seat.

State your name, spell your first name and last name for the record.

THE WITNESS: My name is Narvyez Wesley. The first name is N-a-r-v-i-e-z, and the last name, Wesley, W-e-s-l-e-y.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MR. LANDIS:

Q. Mr. Wesley, where did you reside in February, of 2007?

A. 4232 Gay Lane, Las Vegas, Nevada.

Q. Do you know this guy?

A. Yes, I do.

Q. Who is this?

A. My son.

MR. LANDIS: Let the record reflect Mr. Wesley has I D'd the Defendant.

THE COURT: The record will so show.

BY MR. LANDIS:

Q. Were you home in February, of 2007 when

1 Henderson SWAT entered your home?

2 A. Yes, I was.

3 Q. Who was at at that time?

4 A. My wife, myself, and my son.

5 Q. Narcus?

6 A. Yes.

7 Q. During the course of their search of your
8 premises, did you have any conversations with members
9 of either SWAT or the Henderson Police Department?

10 A. Yes, I did.

11 Q. What were those conversations?

12 A. When they came into our home --

13 MS. LUZAICH: Objection, foundation, I mean, who
14 are we talking about?

15 THE COURT: We are talking about the witness
16 and the --

17 MS. LUZAICH: Any officer in his home?

18 THE COURT: Well, I don't know. Did you ever
19 get anybody's name of any of the SWAT as they came in?

20 THE WITNESS: No, sir.

21 THE COURT: Was there one particular person
22 that appeared to be in charge?

23 THE WITNESS: Not at the moment.

24 We were asleep, and when they came in, they had
25 guns in our face and lights shing, and they told me and

1 my wife to put our hands up, and sit there, and we just
2 sat there with our hands in the air, and then we asked
3 them what's going on, and nobody said anything.

4 THE COURT: You don't know who you were talking
5 to?

6 THE WITNESS: No, because they had on their
7 helmets and everything so we didn't even see any faces on
8 them.

9 THE COURT: Go ahead.

10 BY MR. LANDIS:

11 Q. Could you tell the difference between
12 the initial SWAT officers that entered your house and
13 other members of that Police Department?

14 A. Yes.

15 Q. How could you tell that difference?

16 A. The SWAT officers were all dressed with
17 helmets, guns and the lights on, with the lights shining,
18 and the other officers, the first officer that we really
19 saw after they made us go in the living room, he had on
20 just some regular clothes, like a pair of slacks and a
21 shirt. He wasn't dressed up, or anything.

22 And then it was dark in the room so then another
23 officer came in, and they talked.

24 Then a few minutes later, a lady officer come
25 in with another man, like four or five different officers,

1 but they didn't have on any uniforms. They had on regular
2 street clothes.

3 Q. Have you seen one of those officers who was
4 wearing civilian clothes that day in the hallway of this
5 Courthouse today?

6 A. Yes, I have.

7 Q. I want to first talk about the SWAT people
8 who came into your house.

9 Did you have any direct conversations with them?

10 A. The only thing, no, well, we asked them what
11 was going on, you know, what was happening because we didn't
12 know.

13 And they said, just to be still, and then they sit
14 there for a minute, and they went in Marcus's bedroom, got
15 him and brought him out.

16 Then they brought us back up in the living room
17 and set us down on the couch.

18 Then the SWAT team went outside with Marcus at
19 first, and the Officer Weske, I remember him because he
20 told us who he was, stood there in the living room with
21 us in front of us, and wouldn't let us move. So we were
22 just sitting there on the couch for like almost an hour,
23 15, 20 minutes.

24 Q. Did you have any conversations with any
25 of those officers regarding the existence of a search

1 warrant?

2 A. Yes, we did.

3 My wife asked them first, where was the search
4 warrant?

5 And this Officer Weske told my wife that the
6 search warrant was outside. He would go out and get it
7 and bring it back.

8 So 10, 15 minutes went by while the other officer
9 entered the bedroom, searching all the back part of my
10 house, and my wife asked him again for the search warrant.
11 He said, don't worry about it. We have got it. We are
12 going to go get it.

13 Then, I guess, about 30, 45 minutes later because
14 we sat there a long time. My wife asked him, where is the
15 search warrant? And he said something, and he then just
16 kind of turned it off.

17 So I think it was about that time, I asked him,
18 could I call my family attorney because we use one attorney
19 for the whole family for certain, you know, little stuff.

20 MS. LUZACH: Judge, can he answer the question?
21 I am going to object as non responsive. Can he answer the
22 question, did you review the search warrant?

23 THE WITNESS: Okay. I --

24 THE COURT: Go ahead and answer the question.

25 BY MR. LANDIS:

1 Q. About that attorney issue, who was present,
2 what members of your family were present at that point in
3 time?

4 MS. LUZAICH: Objection, relevance, as to --

5 THE COURT: Overruled. Let's get through this.
6 Let's get through this hearing. C'mon. Go ahead.

7 THE WITNESS: All three of us, my wife, my wife --
8 I was sitting here, my wife was in the middle, and Narcus
9 was alongside when I asked about the attorney. So all
10 three of us were there in the room.

11 BY MR. LANDIS:

12 Q. And what did you ask him?

13 A. I asked him could I call my family attorney
14 because we wanted an attorney present because they wouldn't
15 tell us nothing.

16 So I know that the law says you have the right
17 to an attorney to be there or at least advised by an
18 attorney. They told me that we didn't need an attorney
19 there because he wasn't under arrest.

20 Q. Who told you that?

21 A. Officer Weske.

22 MR. LANDIS: Nothing further.

23 THE COURT: Go ahead.

24 MS. LUZAICH: The Court's indulgence.

25 THE COURT: Okay.

CROSS-EXAMINATION

1
2 BY MS. KOLLINS:

3 Q. Mr. Wesley, you have been at least twice
4 convicted of felonies in this jurisdiction, is that correct?

5 A. Yes, but that doesn't have anything pertaining
6 to this case.

7 Q. Well, that's not for you to decide. That's
8 for the Court to decide.

9 A. Yes, I have been convicted of a felony, yes.
10 Yes, I have. Assault with a deadly weapon and attempted
11 murder, yes.

12 Q. Your son was escorted outside by Detective
13 Weske?

14 A. No.

15 Q. By SWAT?

16 A. Yes.

17 Q. And then talked to by Detective Weske
18 outside?

19 A. No. Detective Weske was in the house when
20 they brought our son back into the house because they
21 said it was cold outside so they brought him back into
22 the house and set him down.

23 Q. Okay. And eventually your whole family was
24 taken out of zip ties, correct?

25 A. No, we were never -- we were never tied

1 up, no. We were just held that date, I guess you know
2 they had guns right there so we couldn't move.

3 MS. KOLLINS: No more questions.

4 THE COURT: Is that it?

5 MR. LANDIS: Nothing further, Judge.

6 THE COURT: Okay. Thank you very much for your
7 testimony, Mr. Wesley, I appreciate it.

8 (Witness excused.)

9 THE COURT: Is that going to be it?

10 MR. LANDIS: The Court's indulgence.

11 I call Angela Wesley, and while we are getting
12 her, Judge, for the record, I do intend to call my client
13 as to issues pertaining to this search warrant.

14 I do think the case law is clear, but I want to
15 make sure we are all on the same page.

16 He can testify as to issues pertaining to his
17 rights of counsel, and the search warrant.

18 The State, of course, has the right to cross
19 him as to that, but subsequent issues dealing with the
20 case cannot be inquired into, and further, it does not
21 impact anything that would happen at the jury trial later
22 today.

23 THE COURT: That's my understanding, just to
24 make it quite clear.

25 MR. LANDIS: I just wanted to make sure before

1 we had him take the stand.

2 THE COURT: All right.

3 THE CLERK: Would you come step forward, please
4 ma'am, take the witness stand.

5 Remain standing, and raise your right hand,
6 please.

7 Whereupon,

8 ANGELA WESLEY,

9 called as a witness herein by the Defendant, having been
10 first duly sworn, was examined and testified as follows:

11 THE CLERK: Thank you very much, you may be
12 seated.

13 Please state your name and spell your first and
14 your last name for the record.

15 THE WITNESS: Angela, A-n-g-e-l-a, the last name,
16 Wesley, W-e-s-l-e-y.

17 THE CLERK: Thank you.

18 DIRECT EXAMINATION

19 BY MR. LANDIS:

20 Q. Ma'am, where did you live in February, of

21 2007?

22 A. At 4232 Gay Lane.

23 Q. Did you live there with your husband?

24 A. Yes.

25 Q. And what's his name?

1 A. Narvies Wesley.

2 Q. Were you home in February, of 2007, when
3 the Henderson Police Department SWAT served a search warrant
4 at that residence?

5 A. Yes.

6 Q. As part of that execution, did there come
7 a time when the three of you, and by the three of you,
8 I mean Narvies, yourself and Narcus were in the living
9 room?

10 A. Yes.

11 Q. Did you hear any communication between Narvies
12 and members of the Henderson Police Department concerning
13 a right to -- his intent to call his attorney?

14 A. To call our family attorney, yes.

15 Q. What was said?

16 A. They told us that we didn't need one at that
17 time because Narcus was not under arrest.

18 Q. Slow down. What did Narvies say?

19 A. Narvies said could he call his family lawyer?

20 Q. And did one of the Henderson Police Department
21 officials respond to that request?

22 A. Yes, he did.

23 Q. And what did they say?

24 A. That he didn't need a family attorney because
25 Narvies wasn't under arrest -- or Narcus wasn't under arrest.

1 MR. LANDIS: Nothing further, Judge.

2 THE COURT: Cross?

3 MS. LUZAICH: Nothing.

4 THE COURT: All right, thank you.

5 Thank you for your testimony. I appreciate it.

6 (Witness excused.)

7 MR. LANDIS: We will call lastly, Judge, Narcus
8 Wesley.

9 THE COURT: Okay.

10 THE CLERK: Come forward, please, take the witness
11 stand, remain standing, and raise your right hand.
12 Whereupon,

13 NARCUS WESLEY,
14 called as a witness herein by the Defendant, having been
15 first duly sworn, was examined and testified as follows:

16 THE CLERK: Thank you very much. You may be
17 seated.

18 State your name and spell your first and last
19 name for the record.

20 THE WITNESS: Narcus, N-a-r-c-u-s, Wesley,
21 W-e-s-l-e-y.

22 THE CLERK: Thank you.

23 DIRECT EXAMINATION

24 BY MR. LANDIS:

25 Q. Were you at that Gay Lane address we have

1 heard about a few times today in February, of 2007 when
2 a search warrant was executed?

3 A. Yes.

4 Q. Did there come a time when your father,
5 your stepmother, and yourself were in the living room
6 of that residence?

7 A. Yes.

8 Q. Could you hear everything that was being
9 said amongst your family members and members of the
10 Henderson Police Department?

11 A. Yes, because we were in the living room.

12 Q. Did you hear your father at any point
13 talk to the Henderson Police Department regarding an
14 attorney being present?

15 A. Yes.

16 Q. What did he say?

17 A. My dad asked him, he said, well, and he
18 said, what's going on, and he said, we are going to call
19 our family attorney, and the cop say, nobody is under
20 arrest, so you guys don't need that.

21 Q. And you heard that at that time?

22 A. Yes.

23 MR. LANDIS: The Court's indulgence.

24 THE COURT: Sure.

25 MR. LANDIS: Nothing further, Judge.

CROSS-EXAMINATION

1
2 BY MS. LUZAICH:

3 Q. Well, in fact, you were not under arrest
4 at that point, is that correct?

5 MR. LANDIS: Objection, legal conclusion.

6 BY MS. LUZAICH:

7 Q. Well, did anyone tell him --

8 THE COURT: Go ahead, overruled. Go ahead.

9 BY MS. LUZAICH:

10 Q. Okay. Is that correct? Did anybody tell
11 you you were under arrest yet?

12 A. Uh-uh.

13 Q. Would that be a "no"?

14 A. No.

15 Q. Okay. And, in fact, you were at that house
16 that day, correct?

17 A. Correct.

18 Q. Were you sleeping when SWAT got there?

19 A. I really can't recall because --

20 Q. Where were you when SWAT got there?

21 A. I was in my bedroom.

22 Q. So you have a bedroom there?

23 A. Uh-huh.

24 Q. And you were in that -- is that a yes?

25 A. Yes, yes.

1 Q. You always have to say yes or no, because
2 our really nice court reporter here has a yes button, a
3 no button but no uh-uh button?

4 A. Yes, ma'am.

5 Q. Is that fair? So you were at the house
6 at least for a significant period of time that day,
7 right?

8 A. Yes.

9 Q. And you drive that white Chrysler 300?

10 A. Yes, I bought it.

11 Q. And that was in the driveway that day?

12 A. Yes.

13 Q. And evening?

14 A. Yes.

15 Q. And you did, in fact, speak with police
16 officers, just you and Detective Weske and Detective
17 Hartshorn, correct?

18 A. No, not exactly.

19 Q. So you never talked to them?

20 A. Yes, I talked to them, but it wouldn't
21 just go to that.

22 Q. Okay. Were you tape recorded?

23 A. I would assume. I didn't know I was being
24 tape recorded.

25 Q. Did they remove -- did you have ties on

1 your wrists when you talked to them?

2 A. Yes.

3 Q. And did they try and get the ties off?

4 A. Well, yes, but it certainly took a while.

5 Q. And it was hard, right?

6 A. Uh-huh.

7 Q. Okay. Did they -- is that a "yes"?

8 A. Yes.

9 Q. But they did try --

10 A. Yes.

11 Q. They did try to help you out because it
12 was uncomfortable?

13 A. I guess.

14 Q. And they -- well, was it uncomfortable?

15 A. Yes, it was uncomfortable. I still have
16 the marks on my hands.

17 Q. And they tried to --

18 MR. LANDIS: (Interposing) Well, that is
19 speculation, Judge. He doesn't know what they were trying
20 to do.

21 MS. LUZAICH: Well, he knows that they were trying
22 to take them off.

23 THE COURT: Overruled, c'mon. Did they finally
24 get those slip-ons --

25 MS. LUZAICH: Zip ties.

1 THE COURT: -- those ties, zip ties, did they get
2 those finally off?

3 THE WITNESS: Yes, but they put cuffs on after.

4 THE COURT: All right.

5 BY MS. LUZAICH:

6 Q. Okay. And they read you your rights, correct?

7 A. I don't recall that.

8 Q. So if there is a tape recording of your
9 rights being read to you, and you say you understand them,
10 that was justly magically produced?

11 A. Well, if it's on the paper, I guess so, but
12 at the time when they came in, I was half asleep and telling
13 me a whole bunch of things, and I was just saying uh-huh,
14 uh-huh, okay.

15 Q. But you remember your dad asking for a
16 lawyer?

17 A. Yes, because we were standing there.

18 MS. LUZAICH: Okay, nothing further.

19 THE COURT: Anything else?

20 MR. LANDIS: No, Judge.

21 THE COURT: Okay. I appreciate very much your
22 testimony. Go ahead and sit by counsel.

23 THE DEFENDANT: Okay.

24 (Witness excused.)

25 THE COURT: Does that conclude our evidentiary

1 portion of our hearings.

2 MR. LANDIS: Yes, the Defense has no further
3 witnesses.

4 THE COURT: All right. Let's wrap up your
5 arguments here.

6 Any supplements to your written motion and
7 opposition, this should be the time to wrap it up.

8 MR. LANDIS: Judge, contrary to what the State
9 says two times in their opposition, the information provided
10 by Detective Weske in his search warrant affidavit concerning
11 the Nevada Power records which we heard about today, they
12 did not concern statements made by codefendant concerning
13 where this guy lived or that he lived with his parents.

14 They also concern the fact that he had a 300-M
15 Chrysler that was registered to him.

16 So, in effect, it was those two facts and those
17 two facts alone that the detective purported to tie Mr.
18 Wesley to that residence.

19 The detective couldn't give good answers as to
20 where he got that Social Security number from.

21 He couldn't give good answers as to why he didn't
22 point out that information in the search warrant.

23 I think Donna Lamonte made it pretty clear
24 that if he would have requested that name or even if
25 he requested that name and that address if there was a

1 discrepancy, she would have communicated that to him
2 over the phone.

3 Further, as to how he got that Social Security
4 number, which clearly was not Narcus's, he knew it wasn't
5 Narcus's because he put Narcus's correct Social Security
6 number throughout the same portion of the case he testified
7 in putting on the search warrant itself.

8 I think it's pretty clear that he knew at the
9 time he drafted that search warrant that Narcus Wesley could
10 not have power at that address, that it was in fact Narviez
11 Wesley, and he knew that sending that subpoena to that house
12 with that Social Security number would get him information
13 that he put in the search warrant.

14 That is, if not a knowingly false statement,
15 it shows a reckless disregard, Judge. Those facts are
16 important.

17 Further, as to the Chrysler as to where it was
18 registered to, he said he got information concerning the
19 fact that it was registered to Narcus, but if he would
20 have gotten that information, he would have also found
21 out that it was registered to Narcus at a different
22 address.

23 He did not include that information in the
24 search warrant.

25 Those two statements, which are the only basis

1 for probable cause in that search warrant have some issues
2 regarding their veracity.

3 As I say, Judge, we don't have to show that they
4 were knowingly false. A reckless disregard for the truth
5 is also as doubt.

6 What this Court needs to do is take out those
7 statements made by Detective Weske concerning probable
8 cause that you believe meet those standards, and they
9 know will, there is no deference due to the magistrate
10 in this situation, determine whether or not what is in
11 there, which was not false, which was not submitted without
12 reckless disregard for the truth, whether those statements
13 afford a probable cause, Judge, and they just don't. They
14 just don't.

15 Even if, even if you believe that he did not
16 have the information regarding the car that he chose not
17 to put in the search warrant, the fact that an individual
18 has a car parked in front of the house is not enough to
19 support probable cause to search that house.

20 If we are talking about an arrest warrant, that's
21 one thing.

22 But Lord knows any time the cops sees a car
23 parked in front of the house, that does not give him
24 probable cause to search that house for evidence of a
25 crime.

1 That alone is not basis for probable cause,
2 Judge. This was a bad search warrant.

3 You heard what they said. They were in a hurry.
4 He cut corners, and he did not do a complete job.

5 Second, as to his confession, there is issues
6 regarding right to counsel.

7 On behalf of his family with my client sitting
8 there, his father asserted, at least asked if they could
9 call their family attorney.

10 The answer was:

11 You don't need an attorney, he is not under
12 the arrest.

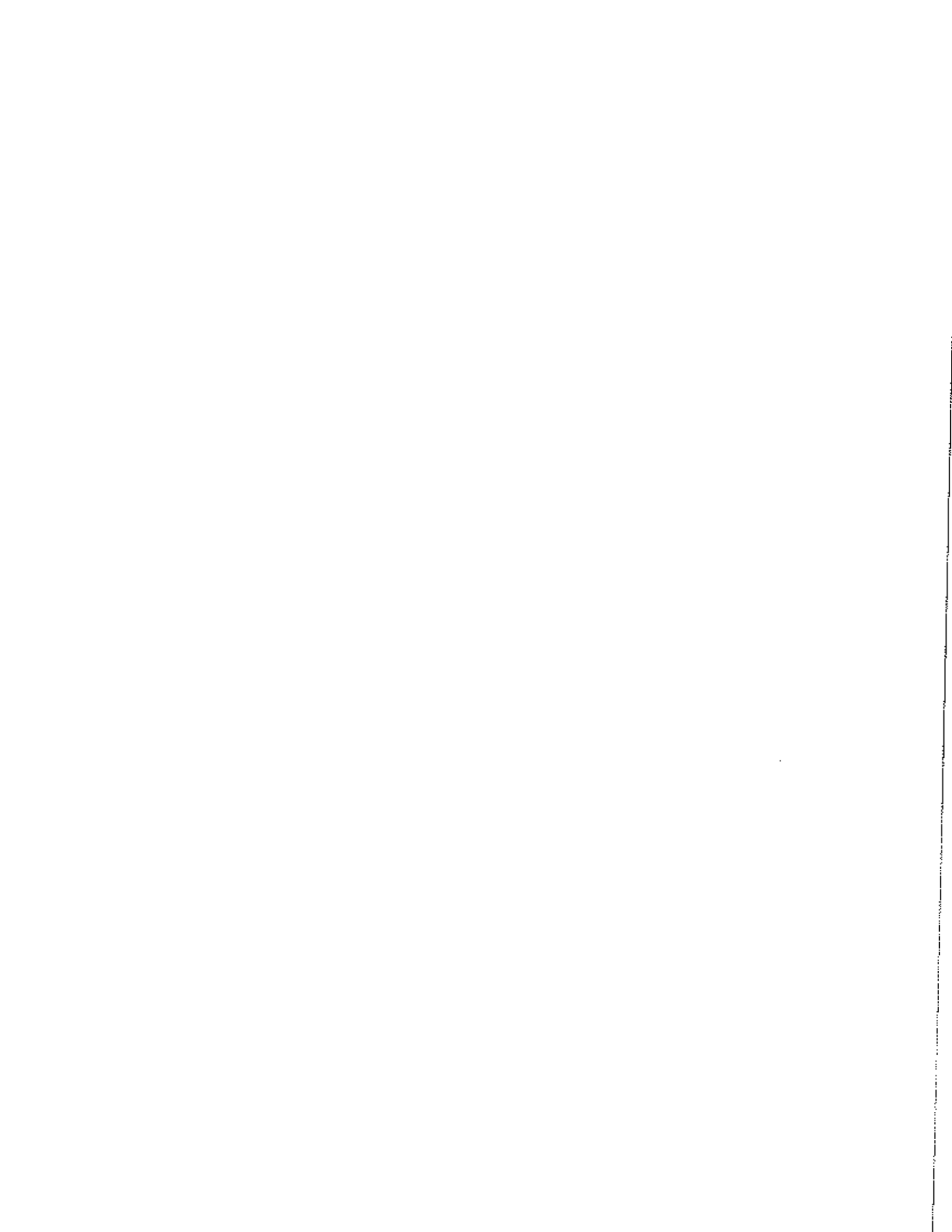
13 That's not the law, and that's not the standard.
14 If an individual wants to have an attorney present for
15 questioning, or for that matter during the execution of
16 a search warrant, they have that right.

17 With my client sitting there and hearing that,
18 the reasonable inferences, the inferences he drew was
19 that he could not have an attorney there at that time.
20 Then questioning begins.

21 As to the Miranda warning, they were in quick
22 succession if you look at the transcript, and the only
23 questions:

24 "Do you understand that?"

25 "Uh-huh, Uh-huh."



LEGAL ARGUMENT

I. THE HENDERSON POLICE DEPARTMENT DID NOT MISREPRESENT MATERIAL FACTS IN THE AFFIDAVIT IN SUPPORT OF A SEARCH WARRANT IN AN EFFORT TO MISLEAD THE ISSUING COURT REGARDING THE EXISTENCE OF PROBABLE CAUSE

A warrant must particularly describe the place to be searched, and the persons or things to be seized and supported by an affidavit showing probable cause. Article 4 of the Bill of Rights in the United States Constitution states:

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The question before a court reviewing an issuing magistrate's probable cause determination is whether that magistrate has a "substantial basis for ... concluding" that probable cause exists. Illinois v. Gates, 462 U.S. 213, 103 S.Ct. 2317, 2332 (1983). Furthermore, a magistrate's determination of probable cause must be paid great deference. *Id.* at 2331.

Probable cause requires "trustworthy facts and circumstances which would cause a person of reasonable caution to believe that it is more likely than not that the specific items to be searched for are: seizable and will be found in the place to be searched." Keesee v. State, 110 Nev. 997, 1002, 879 P.2d 63, 66 (1994). This court does not conduct a de novo review but merely decides "whether the evidence viewed as a whole provided a substantial basis for the magistrate's finding of probable cause." *Id.* 879 P.2d at 67. There is a preference for searches with warrants, and a reviewing court should not adopt a grudging, hypertechnical view of warrant applications, but review them in a common sense, realistic manner. United States v. Ventresca, 380 U.S. 102, 108-109, 85 S.Ct. 741, 745-46, 13 L.Ed. 2d. 684 (1965). Wright v. State, 916 P.2d 146, 149-50 (Nev 1996).

//

1 The United States Supreme Court has stated:

2 The warrant traditionally has represented an independent
3 assurance that a search and arrest will not proceed without
4 probable cause to believe that a crime has been committed and
5 that the person or place named in the warrant is involved in the
6 crime. Thus, an issuing magistrate must meet two tests. He must
7 be neutral and detached, and he must be capable of determining
8 whether probable cause exists for the requested arrest or search.
9 This Court long has insisted that inferences of probable cause be
10 drawn by 'a neutral and detached magistrate instead of being
11 judged by the officer engaged in the often competitive enterprise
12 of ferreting out crime.' Shadwick v. City of Tampa, 407 U.S.
13 345, 350, 92 S.Ct. 2119, 2122, 32 L.Ed.2d 783 (1972), *quoting*
14 Johnson v. United States, 333 U.S. 10, 14, 68 S.Ct. 367, 369, 92
15 L.Ed. 436 (1948). United States v. Ross, 456 U.S. 798, 827, 102
16 S.Ct. 2157, 2174 (1982).

17 When a neutral magistrate makes a probable cause determination, the magistrate
18 "may draw reasonable inferences from the material he receives, and his ultimate probable
19 cause decision should be paid great deference by reviewing courts." United States v. May,
20 819 F.2d 531, 535 (5th Cir.1987). Additionally, a magistrate is entitled to rely on the
21 experience of the officers presenting the search warrant. The Ninth Circuit Court of Appeals
22 states:

23 It is also clearly established that 'in weighing the evidence
24 supporting a request for a search warrant, a magistrate may rely
25 on the conclusions of experienced law enforcement officers
26 regarding where evidence of a crime is likely to be found.'
27 United States v. Ayers, 924 F.2d 1468, 1479 (9th Cir. 1991)
28 (citation omitted).

29 The Ninth Circuit has long recognized that knowledge that evidence is at a particular
30 location is not essential to establish the probable cause to search the location. In United
31 States v. Fannin, 817 F.2d 1379 (9th Cir. 1987) that court held:

32 A magistrate is entitled to draw reasonable inferences about
33 where evidence is likely to be kept, based on the nature of the
34 evidence and the type offense. The magistrate need not
35 determine that the evidence sought is in fact on the premises to
36 be searched ... or that the evidence is more likely than not to be

1 found where the search takes place ... the magistrate need only
2 conclude that it would be reasonable to seek the evidence in the
place indicated in the affidavit.

3 In U.S. v. Rettig, 589 F.2d 418 (9th Cir.1979), the Ninth Circuit Court held:

4 Where factual inaccuracy of the affidavit is alleged, a warrant is
5 invalidated only if it is established that the affiant was guilty of
6 deliberate falsehood or reckless disregard for the truth, and if
7 with the affidavit's false material set to one side, the information
8 remaining in the affidavit is inadequate to support probable
cause. *Id.* at 422. (Citing Franks v. Delaware, 438 U.S. 154, 98 S.
Ci 2674 (1978))

9 The Court in Rettig, *supra*, went on to state: "to determine whether or not a search is
10 confined to its lawful scope, it is proper to consider both the purpose disclosed in the
11 application for a warrant's issuance and the manner of its execution." *Id.* at 423.

12 In determining whether there is probable cause to issue a warrant, a magistrate looks
13 to the "totality of the circumstances" set forth in the affidavit. Illinois v. Gates, *supra*. The
14 "totality of the circumstances" in the instant case clearly support the magistrate's finding of
15 probable cause to search Defendant's residence.

16 In the case at bar, the probable cause portion of the Application and Affidavit in
17 Support for Search Warrant suggests that after speaking to Co-Defendant WILSON, police
18 learned that a suspect named "Narcus" was with WILSON when the crimes occurred.
19 WILSON did not have a last name for police but mentioned that "Narcus" was an ex-football
20 teammate, lived on the West side with his parents, and drove a white Chrysler sedan, which
21 they used to drive to the crime scene in this case.

22 Thereafter, a records check of the UNLV football roster showed a player named
23 Narcus Wesley. A further records check showed WISLEY'S date of birth as 10-03-82 and
24 his social security number ending in 8230.

25 Based upon that information HPD prepared an administrative subpoena for Nevada
26 Power records reference Narcus WESLEY. While on the telephone with Investigator
27 Lamont from Nevada Power, Detective Weske asked Ms. Lamont if the power at 2372
28

1 Valley Drive in Las Vegas was in Narcus WESLEY'S name due to the fact DMV listed that
2 location as his address as of October 3, 2006. WESLEY also listed 2372 Valley Drive as his
3 address for UNLV. Ms. Lamont stated that WESLEY no longer had power at 2372 Valley
4 drive and that it had been turned off on November 1, 2006, and turned on at 4232 Gaye
5 Lane, under his name. Ms. Lamont stated that she would send the information via fax.

6 In the subsequent fax that was sent to Detective Weske from Nevada Power, a
7 notation made at the bottom of the records indicates that the Individuals first name is
8 different from the Detective's request. Furthermore, the social security on the Administrative
9 request is that of Narvick Wesley, Narcus' father, which ends in 3280.

10 What is clear about the Nevada Power records is that WESLEY'S DMV and UNLV
11 records list [Narcus] WESLEY's address as 2372 Valley Drive, as of October 3, 2006; that
12 the power was shut off at that location and established at the 4232 Gaye Lane address on all
13 on the same day, on November 1, 2006. Donna Lamont from Nevada Power established
14 these facts with Detective Weske telephonically. It seems probable that at the time the
15 information was being requested Detective Wesley gave Ms. Lamont the name of Narcus
16 Wesley and the prior address, at which time Ms. Lamont came back with the verbal
17 information noting a different social security number on the account. The police report itself
18 seems to suggest the same.

19 While it is true that the records sent by Nevada Power show Narvick Wesley as the
20 customer, the Detective certainly was requesting information on Narcus Wesley. The
21 circumstances appear to indicate that there was simply a miscommunication between
22 Detective Weske and Donna Lamont with regard to first name on the account, which are
23 similar, while the last name, address and connection dates were correct both verbally and in
24 the faxed copy of the records.

25 Upon obtaining the information from Nevada Power, Detective Hartshorn and
26 Weske immediately went to 4232 Gaye Lane and observed the white 2005 Chrysler
27 300M registered to WESLEY parked in the driveway of 4232 Gaye Lane. Detective
28

1 Weske also showed a photograph of WESLEY to WILSON, and WILSON confirmed that
2 WESLEY was with him during the commission of the crimes in this case. WILSON was
3 asked if he knew where WESLEY lived and WESLEY stated that WILSON lived with his
4 parents somewhere on the west side of town.

5 In this case the manner in which the officers conducted the search was entirely
6 consistent with seeking evidence relating to the offenses being investigated. There is no
7 evidence of overreaching or falsity.

8 **II. EVEN IF THE SEARCH WARRANT WAS NOT VALID ON ITS FACE, THE**
9 **GOOD FAITH EXCEPTION TO THE EXCLUSIONARY RULE PROHIBITS**
10 **THE EXCLUSION OF THE EVIDENCE WHERE THE OFFICERS ACTED**
11 **IN OBJECTIVE GOOD FAITH RELIANCE ON THE SEARCH WARRANT.**

12 In 1984, 23 years after the United States Supreme Court announced its decision in
13 Mapp v. Ohio, 367 U.S. 643, 81 S.Ct. 1684 (1961), it handed down its decisions in United
14 States v. Leon, 468 U.S. 897, 104 S.Ct. 3405 (1984) and Massachusetts v. Sheppard, 468
15 U.S. 981, 104 S.Ct. 3434 (1984). These decisions stand for the proposition that even if a
16 search warrant is defective, so long as the affiant acted in good faith and the magistrate
17 reviewing and signing the warrant was neutral and detached, then despite an error of
18 constitutional dimensions, evidence will not be excluded. The most beneficial and lasting
19 effect of these decisions on the law enforcement community is that they have absolutely
20 encouraged the use of search warrants which furthers the ultimate aim of the Fourth
21 Amendment by placing a judge between the police and the citizen being searched. The basic
22 rule from Leon and Sheppard, *supra*, is that even if the search warrant is lacking in probable
23 cause, the good faith exception will save the evidence from suppression if the officers acted
24 in objective good faith reliance and within the scope of the warrant. A defect in the warrant
25 no longer mandates exclusion of evidence on Fourth Amendment grounds.

26 It is important to note that in both Leon and Sheppard, *supra*, there was insufficient
27 probable cause to support the search and seizure of the evidence sought to be suppressed.
28 Nevertheless, in both instances, the United States Supreme Court specifically held that the

1 exclusionary rule would not be applied.

2 The Nevada Supreme Court and the United States Supreme Court recognize that the
3 "issue of exclusion is separate from the question of whether the Fourth Amendment has been
4 violated, and that exclusion is only appropriate where the remedial objectives of the
5 exclusionary rule are served." Powell v. State, 113 Nev. 41, 930 P.2d 1123, 1125 (1997),
6 Arizona v. Evans, 514 U.S. 1, 115 S.Ct. 1185, 1192 93, 131 L.Ed.2d 34 (1995).

7 Our Nevada Supreme Court has concluded:

8 United States v. Leon held that evidence obtained by officers
9 acting in reasonable reliance on a search warrant issued by a
10 neutral judge or magistrate that is ultimately found to be invalid
11 for want of probable cause is admissible in the prosecution's case
12 in chief. The court concluded that where law enforcement
13 officers act in objective good faith reliance within the scope of a
14 warrant obtained from a judge or magistrate, exclusion of
evidence does not serve the purpose of deterring law
enforcement officers when the warrant is subsequently found
legally devoid of probable cause.

15 Point v. State, 102 Nev. 143, 149, 717 P.2d 38, 42 (1986).

16 The exclusionary rule cannot be invoked in this case without a Leon objective good
17 faith reliance analysis. Point v. State, 102 Nev. 143, 149, 717 P.2d 38, 42 (1986), Powell v.
18 State, 113 Nev. 41, 930 P.2d 1123, 1125 (1997), United States v. Leon, 468 U.S. 897, 104
19 S.Ct. 3405 (1984).

20 The court must uphold the search warrant if the officers acted in objective good faith
21 reliance. If for some reason, it is decided that the Search Warrant was not valid, it should be
22 saved anyway due to the fact that officers executed the warrant acting in a good faith
23 reliance that the warrant was in fact valid.

24 In U.S. v. Leon, 468 US 897 (1984), the United States Supreme Court held that, "[a]
25 police officer's reliance on the magistrate's probable-cause determination and on the
26 technical sufficiency of the warrant he issues must be objectively reasonable." Id. at 898.
27 Leon goes on to hold that suppression is appropriate only if (1) the magistrate was misled
28

1 by information the affiant knew to be false or would have known to be false except for his
2 reckless disregard for the truth, (2) the issuing magistrate wholly abandoned his detached
3 and neutral role, or (3) the executing officer could not have possibly manifested a good faith
4 reliance on a "warrant based on an affidavit so lacking in indicia of probable cause as to
5 render official belief in its existence entirely unreasonable." 468 U.S. at 899.

6 **III. THE DEFENDANT IS NOT ENTITLED TO AN EVIDENTIARY HEARING**
7 **TO ATTACK THE VERACITY OF THE SEARCH WARRANT APPLICANT.**

8 In Leon, the United States Supreme Court recognized that a search warrant can still
9 be attacked as in Franks v. Delaware, 438 U.S. 154, 98 S.Ct. 2674 (1978). In Franks, the
10 Court held that:

11 (a) To mandate an evidentiary hearing, the challenger's attack
12 must be more than conclusory and must be supported by more
13 than a mere desire to cross-examine. The allegation of deliberate
14 falsehood or of reckless disregard must point out specifically
15 with supporting reasons the portion of the warrant affidavit that
16 is claimed to be false. It also must be accompanied by an offer of
17 proof, including affidavits or sworn or otherwise reliable
18 statements of witnesses, or a satisfactory explanation of their
19 absence.

20 (b) If these requirements as to allegations and offer of proof are
21 met, and, if when material that is the subject of the alleged falsity
22 or reckless disregard is set to one side, there remains sufficient
23 content in the warrant affidavit to support a finding of probable
24 cause, no hearing is required, but if the remaining content is
25 insufficient, the defendant is entitled under the Fourth and
26 Fourteenth Amendments to a hearing.

27 (c) If, after a hearing, a defendant establishes by a preponderance
28 of the evidence that the false statement was included in the
affidavit by the affiant knowingly and intentionally, or with
reckless disregard for the truth, and the false statement was
necessary to defining of probable cause, then the search warrant
must be voided and the fruits of the search excluded from the
trial to the same extent as if probable cause was lacking on the
face of the affidavit.

1 Franks v. Delaware, 98 S.Ct. at 2676.

2 The prerequisites for the Defendant to successfully obtain the suppression of evidence
3 based upon a claim of a falsehood within the warrant application are very clear. The first of
4 those prerequisites is that the attack be more than conclusory and must be accompanied by
5 an offer of proof including affidavits. That requirement was recognized by the Nevada
6 Supreme Court in the case of Garrettson v. State, 114 Nev. 1064, 967 P.2d 428 (1998),
7 wherein the Court upheld the denial of a request for a Franks hearing due to an insufficient
8 showing having been made to justify conducting the hearing. Here, Defendant has not made
9 a sufficient offer of proof justifying an evidentiary hearing. No proffer has been made, nor
10 have any affidavits been presented. Rather, Defendant has presented mere conclusions that
11 the warrant application contains falsehoods. Therefore, this Court must deny Defendant's
12 request for a Franks hearing.

13 In this case, WESLEY asserts that Detective Weske falsely represented that
14 WESLEY had power in his name at 4232 Gaye Avenue. Furthermore, WESLEY's motion
15 suggests that because the subpoena return from Nevada Power clearly stated that "Narcus"
16 Wesley did not have power in his name but "Narviez" Wesley did, Detective Weske
17 intentionally omitted the information from the search warrant application.

18 It is the State's position that Detective Weske did not intentionally misrepresent any
19 facts concerning the investigation and was honest in stating his belief that "Narcus" Wesley
20 had utilities in his name at 4232 Gaye Lane. This fact is made abundantly clear by the police
21 report entry which states the following:

22 On 1-21-07, a recorded phone conversation between Narcus and
23 Narviez was listened to. Narcus admitted to his mother and
24 father what he and Wilson had done. (It should be noted that
25 there is a phone conversation between Wilson and his mother
26 where he also admits to everything he has done). Narviez told
27 Narcus not to worry because the Nevada Power records were
28 wrong and the records show Narviez as the customer. I then
looked for the return fax, which I found. I observed it to state at
the bottom "**Please Note: Individuals first name is different

1 from your request."

2 The faxed copy of the record shows Narviez Wesley as the
3 customer, however, the records show power was discontinued
4 from Narcus's old address of 2372 Valley Drive on 11/01/06 and
5 reconnected on the 11/01/06 at the 4232 Gaye Lane, both having
6 Narviez as the customer. Due to the fact the first name of
7 Narviez and Narcus were similar and the last names were the
8 same I believe the first names were miss communicated verbally,
9 however the address's and the connection dates were correct both
10 verbally and in the faxed copy of the records. It should also be
11 noted that on the probable cause of the search warrant there is a
12 typo on the date of the crime. The warrant reads on 2/18/07 at
13 0125 hours, Officers responded to the location of the victims. It
14 should read on 2/19/07 at 0125 hours, Officers responded.

15 Clearly, Detective Weske did not knowingly and intentionally engage in making a
16 false statement regarding Narcus WESLEY having utilities in his name at the Gaye address.
17 Furthermore, even if WESLEY could somehow prove the information regarding the utilities
18 included in the affidavit was a false statement given by the affiant knowingly and
19 intentionally, or with reckless disregard for the truth, WESLEY could not meet the second
20 prong of the Franks analysis which requires that the false statement was necessary to
21 defining of probable cause.

22 For the sake of argument this Court can apply the second part of the Franks analysis
23 and disregard all reference to utilities in Narcus Wesley's name at the 4232 Gaye Lane
24 address. If that information is disregarded, sufficient probable cause remains within the
25 application since the warrant application still sets-forth all of the information concerning the
26 officers observations of WESLEY'S vehicle being parked in front of the Gayle residence on
27 the day the warrant application was drafted, along with the information he received from
28 WILSON which indicated that an ex-football buddy named "Narcus" participated in the
commission of the crimes with him, drove him to the crimes in the vehicle that was parked in
front of the Gayle residence and specifically identified a photograph of Narcus WESLEY as
the individual who engaged in committing the crimes with him, which was all obtained on

1 the day the warrant application was drafted.

2 **IV. THE EVIDENCE WAS NOT DERIVED FROM UNLAWFUL SEIZURE**
3 **AND MUST NOT BE SUPPRESSED AS TAINTED FRUIT OF A FOURTH**
4 **AMENDMENT VIOLATION**

5 WESLEY argues that under the doctrine of Wong Sun v. United States, 371 U.S. 471,
6 83 S.Ct. 407 (1963), his confession should not be admitted against him because it is the
7 "fruits of the poisonous tree." This argument lacks merit because the original evidence was
8 lawfully obtained, therefore, the confession which stems from this evidence may lawfully be
9 admitted. Additionally, WESLEY was advised his rights pursuant to Miranda v. Arizona,
10 and the defendant indicated that he understood these rights before admitting his part in the
11 crimes charged. As such the evidence and statements must not be suppressed.

12 **CONCLUSION**

13 Based on the above, the State respectfully requests this Honorable Court deny
14 Defendants Motion to Suppress Fruits of Illegal Search.

15 DATED this 24th day of March, 2008.

16 Respectfully submitted,

17 DAVID ROGER
18 Clark County District Attorney
19 Nevada Bar #002781

20 BY /s//LISA LUZAICH
21 LISA LUZAICH
22 Chief Deputy District Attorney
23 Nevada Bar #005056
24
25
26
27
28

CERTIFICATE OF FACSIMILE

I further hereby certify service of the above and foregoing Opposition to Defendant
WESLEY'S Motion to Suppress Fruits of Illegal Search, was made this 24th day of March,
2008, via facsimile transmission to:

CASHY A. LANDIS, DPD
Fax # 366-9370
Counsel for Defendant WESLEY

and

JAMES A. ORONoz, ESQ.
Fax # 474-1320
Counsel for Defendant WILSON

BY Shellie Warner
Secretary for the District Attorney's Office

sms/SVU

ORIGINAL

FILED

Dec 9 11 26 AM '08

E. J. Bahr
CLERK OF DISTRICT COURT

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF CLARK

THE HON. JAMES M. BIXLER, DISTRICT COURT JUDGE, PRESIDING

THE STATE OF NEVADA,
Plaintiff,

v.

DELARIAN K. WILSON, aka
DELARIAN KAMERON WILSON,
NARCUS S. WESLEY, ESQ., aka
NARCUS SAMONE WESLEY,
Defendant. .

Case No. C-232494
Dept. 24

TRANSCRIPT OF PROCEEDINGS

Change of Plea as to Defendant Wilson

COURTHOUSE

March 28, 2008

Las Vegas, Nevada

Reported by: .

Lee M. Bahr, CP, CCR 173

RECEIVED

DEC 9 9 2008

CLERK OF THE COURT

Lee M. Bahr, CCR 173

702-804-6167

0080

1 APPEARANCES:

2
3 For the State:STACY KOLLINS, ESQ.
Deputy D. A.
200 Lewis Ave.
Las Vegas, NV. 89155

4 and

5 CHRISTOPHER LAURANT, ESQ.
6 Deputy D. A.
7 200 Lewis Ave.
8 Las Vegas, NV. 89155

9 Defendant Wilson present in court in custody.

10 For Defendant Wilson:

11 by DRASKOVICH LAW OFFICE
12 JAMES A. ORONOZ, ESQ.
13 Attorney at Law
14 Las Vegas, NV. 89101

15 Defendant Wesley not present in court out of custody.

16 For Defendant Wesley:

17 CASEY LANDIS ESQ.
18 Deputy Public Defender
19 Las Vegas, NV.20 No other appearances.
21
22
23
24
25

TRANSCRIPT OF PROCEEDINGS

THE BAILIFF: All rise.

Department 24 is now in session, the Hon. Judge
James M. Bixler presiding.

Please be seated.

THE COURT: Okay. This is the matter of the
State of Nevada v. Delarian Wilson.

And we are also on for Narcus Wesley, are we
not, Mr. Landis?

MR. LANDIS: Technically, Judge. I don't have
the Defendant present.

THE COURT: Okay.

MR. LAURANT: With regard to Mr. Wilson, the
other one, I am filling in right now for Ms. Lauzaich on
the Wilson matter, which she has familiarity with, but
I know nothing about any new trial dates or anything
like that.

THE COURT: Okay, no problem.

MR. LAURANT: Thank you.

THE COURT: We are primarily dealing with Mr.
Wilson. It is my understanding that Mr. Wilson is going
to take the offer that was made?

MR. ORONOZ: Yes, sir.

THE COURT: All right, do we have -- okay.

1 All right. Mr. Wilson, is it your understanding
2 that this morning you are going to withdraw your plea of
3 not guilty and enter a plea of guilty to one count of
4 robbery with the use of a deadly weapon and one count
5 of sexual assault, is that it?

6 Two counts.

7 MR. ORONOZ: Two counts of robbery.

8 THE COURT: Two counts of robbery with use of
9 a deadly weapon and one count of sexual assault, is that
10 correct, Mr. Wilson?

11 DEFENDANT WILSON: Yes, sir.

12 THE COURT: Okay.

13 And I have in my hand a guilty plea agreement.
14 Have you read through it?

15 DEFENDANT WILSON: Yes, sir.

16 THE COURT: Did you go through it with your
17 attorney?

18 DEFENDANT WILSON: Yes, sir.

19 THE COURT: Fine. Did you understand everything?

20 DEFENDANT WILSON: Yes, sir.

21 THE COURT: On page five of this guilty plea
22 agreement, is what I am showing you, there is a signature.
23 Is that your signature?

24 DEFENDANT WILSON: Yes, sir.

25 THE COURT: And did you read through it, discuss

1 it with your attorney, and understand everything that is
2 contained in this guilty plea agreement before you signed
3 it?

4 DEFENDANT WILSON: Yes, sir.

5 THE COURT: Okay.

6 A couple of things that are contained in the
7 guilty plea agreement that I need to touch upon to make
8 sure that you understand.

9 Did you discuss with your attorney the possible
10 sentences that the Court could impose as a result of your
11 entering a plea of guilty to these charges?

12 DEFENDANT WILSON: Yes, sir.

13 THE COURT: What is your understanding of the
14 possible sentence that the Court could impose in return
15 for your -- in exchange for your plea of guilty on these
16 charges?

17 DEFENDANT WILSON: The sentences could be run
18 consecutive, and that I could face anywhere from 10 to
19 25 from 10 to life.

20 THE COURT: Okay.

21 And that's your understanding, and you understand
22 that what happens to you when it comes time for sentencing,
23 if I understand correctly, the State retains the right to
24 argue at sentencing, is that correct?

25 MR. ORONOZ: Yes, Your Honor.

1 THE COURT: Is Mr. Order.

2 THE COURT: What happens to you at the time of
3 sentencing is entirely up to the Court.

4 Your attorney is going to be arguing for the --
5 on the lesser end of the sentence, and the State will
6 be arguing for the maximum sentence, and do you understand
7 that?

8 DEFENDANT WILSON: Yes, sir.

9 THE COURT: And what happens to you at the time
10 of sentencing, and nobody can promise or predict what is
11 going to happen.

12 Do you understand that?

13 DEFENDANT WILSON: Yes, sir.

14 DEFENDANT WILSON: Did you also read through
15 and understand that you have certain rights in regards
16 to having a trial.

17 Those trial rights are explained to you in the
18 guilty plea agreement.

19 DEFENDANT WILSON: Yes, sir.

20 THE COURT: Did you discuss those rights with
21 your attorney?

22 DEFENDANT WILSON: Yes, I did.

23 THE COURT: Do you understand those rights?

24 DEFENDANT WILSON: Yes, sir.

25 THE COURT: Okay.

1 Do you understand that by accepting this guilty
2 plea agreement, and entering these pleas of guilty today
3 that you will by necessity have to give up your right to
4 have a trial.

5 Do you understand that?

6 DEFENDANT WILSON: Yes, sir.

7 THE COURT: Is that what you want to do?

8 DEFENDANT WILSON: Yes, I do.

9 THE COURT: Other than that which is contained
10 in this guilty plea agreement, has anybody promised you
11 anything that's not contained in here in return for your
12 plea of guilty to these charges?

13 DEFENDANT WILSON: No, sir.

14 THE COURT: Has anybody threatened or coerced
15 you in any fashion, or in any manner, in order to get you
16 to plead guilty to these charges?

17 DEFENDANT WILSON: No.

18 THE COURT: In the amended information, it
19 indicates that these three charges that you are pleading
20 guilty to occurred on or about February 18, 2007 within
21 Clark County, State of Nevada.

22 Tell me in your own words what happened on
23 February 18, 2007, which causes you to plead guilty
24 today to these charges?

25 DEFENDANT WILSON: I came in Las Vegas.

1 THE COURT REPORTER: Speak up, please.

2 DEFENDANT WILSON: I'm sorry. I came into
3 Las Vegas, and I went in there, and I robbed two people,
4 I robbed these people at gunpoint, and aided and abided
5 in a sexual assault that was going on.

6 THE COURT: The -- your friend, Mr. Wesley,
7 who you were -- was who you had committed these acts
8 with?

9 DEFENDANT WILSON: Yes, sir.

10 THE COURT: And these were acts that were
11 committed with the use of a firearm.

12 Is that correct?

13 DEFENDANT WILSON: Yes, sir.

14 THE COURT: How many people were in the house
15 when you guys went in there?

16 DEFENDANT WILSON: Six, I believe.

17 THE COURT: And then somebody took one of these
18 people to the ATM machine and got -- had them get money
19 out of an ATM machine, is that right?.

20 DEFENDANT WILSON: Yes, sir.

21 THE COURT: Who did that?

22 DEFENDANT WILSON: I did, sir.

23 THE COURT: And then in regards to the sexual
24 assault, your partner actually committed the sexual
25 assault, but you assisted and encouraged in the overall

1 commission of the crime.

2 Is that right?

3 DEFENDANT WILSON: Yes, sir.

4 THE COURT: You understand that still makes
5 you viable of having committed a sexual assault?

6 DEFENDANT WILSON: Yes, sir.

7 THE COURT: And you went through that with your
8 attorney, and you understand why?

9 DEFENDANT WILSON: Yes, sir.

10 THE COURT: Okay.

11 And are you pleading guilty to the two counts
12 of robbery with the use of a deadly weapon and the one
13 count of sexual assault because in truth and in fact
14 you are actually guilty of committing those offenses?

15 DEFENDANT WILSON: Yes, sir.

16 THE COURT: And you are not pleading guilty
17 for any other reason.

18 DEFENDANT WILSON: No, sir.

19 MR. OROMOZ: And, Your Honor, I also -- could
20 the Court canvass him about the penalties on the sexual
21 assault?

22 And I also discussed with him the penalties
23 associated with the robberies with use, and explained
24 to him that they could be run either concurrently or
25 consecutively.

1 THE COURT: Did you understand that?

2 DEFENDANT WILSON: Yes.

3 THE COURT: That the sentences that the Court
4 could impose on each of the three counts could run
5 consecutive to each other, one after the other.

6 Do you understand that?

7 DEFENDANT WILSON: Yes, sir.

8 THE COURT: And do you understand that these
9 are mandatory prison sentences so that after you plead
10 guilty that there is no possibility that you are not
11 going to prison.

12 Do you understand that?

13 DEFENDANT WILSON: Yes, sir.

14 THE COURT: Anything else?

15 MS. KOLLINS: Your Honor, did you canvass him
16 on the fact that there will be lifetime supervision as
17 well as restitution in this matter?

18 THE COURT: No, I didn't.

19 On the sexual assault charge, there is a
20 requirement that at the back end, at some point in time,
21 you will be released from prison, but when you get out
22 of prison, in addition to whatever conditions may be
23 imposed if you were on parole, after a parole has expired,
24 there still is a requirement that you stay registered for
25 a lifetime.

1 It's called lifetime supervision.

2 And the terms of the lifetime supervision aren't
3 even known at this point because they won't be known until
4 you get out of prison, and then they formulate whatever
5 conditions would be appropriate at the time.

6 But I can't tell you what those conditions are
7 going to be for lifetime supervision because they are not
8 known at the time, but I am putting you on notice that when
9 you do get out of prison and when you do expire your parole,
10 there are going to be requirements that you have to comply
11 with for the rest of your life.

12 Have you ever had that explained to you?

13 DEFENDANT WILSON: Yes, sir.

14 THE COURT: Okay.

15 MS. KOLLINS: And, Your Honor, I guess the last
16 thing, before he is parole eligible, he will have to undergo
17 a psychosocial examination that determines that he is less
18 than a high risk to reoffend sexually, and that will be
19 reviewed by the Parole Board.

20 THE COURT: That is a statutory requirement
21 prior to being admitted to parole.

22 Do you understand that?

23 In other words, you are going to talk to a
24 psychiatrist, and you are going to go through a psychosocial
25 evaluation, and the result of that evaluation must indicate

1 that you are something less than a high risk for recidivism
2 in terms of a sexual crime.

3 DEFENDANT WILSON: Yes, sir.

4 THE COURT: Now, understanding all that, is it
5 your desire still to enter your plea of guilty to these
6 three charges, two counts of robbery with use of a deadly
7 weapon, and one count of sexual assault.

8 Is that correct?

9 DEFENDANT WILSON: Yes, sir.

10 THE COURT: Okay. Anything else?

11 MS. KOLLINS: No, Your Honor. Thank you.

12 THE COURT: All right.

13 The Court is going to accept your plea of guilty
14 to those three charges, Count I, Count II, robbery with the
15 use of a deadly weapon, and Count III, sexual assault, as
16 having been freely and voluntarily entered.

17 We need what, 45 days?

18 MS. KOLLINS: 45 days should do it. There is
19 no requirement for the psychosexual on the front end,
20 but just to be on the safe side.

21 THE COURT: Okay, all right.

22 MR. ORONOZ: Could we do it in 30?

23 THE COURT: We can try, but I will be honest
24 with you, you know, anything --

25 MR. ORONOZ: 45 days will be fine.

1 THE COURT: We are probably going to be wasting
2 time if we try to do it 30.

3 MR. ORONOZ: Okay.

4 THE COURT: Because we get letters from them,
5 for anything approaching 30 days, we are getting letters
6 from P and P asking for more time so we might as well just
7 go ahead and pass it for 45 days.

8 THE CLERK: May 13, at 8:30.

9 MR. LANDIS: And as to Mr. Wesley, his presence
10 is waived today?

11 THE COURT: Yes, I waived Mr. Wesley's presence,
12 Mr. Landis. Now that Mr. Wilson's matter is over with,
13 I guess you guys are up, right?

14 MS. KOLLINS: That's correct.

15 THE COURT: And we are set for a Franks hearing
16 Monday afternoon at 1:30, right?

17 MS. KOLLINS: Yes, and just to let the Court
18 know, Detective Westby (phonetically) left the jurisdiction,
19 and Ms. Iuzach and I were unaware of that.

20 What I have for you this morning is an affidavit
21 that is an offer of proof of what he would testify to.

22 I also have coordinated with him with Mr.
23 Landis's and the Court's permission to telephonically
24 conduct the Franks hearing.

25 He will be as far away as Texas and will be

1 traveling back here, believing that we were starting later
2 in the week. He didn't understand the necessity for the
3 Franks hearing when he left town.

4 THE COURT: Why don't we do this then?

5 I suspect that Mr. Landis is going to be wanting
6 to look the detective in the eye when he is testifying.

7 MS. KOLLINS: Well, and here's the thing. If
8 we could just preliminarily do it on Monday over the phone,
9 have it recorded, then he will get him in the jurisdiction,
10 and then Mr. Landis can conclude any of his cross-examination
11 that he feels is necessary if he likes.

12 Here is the issue.

13 Understandably, the incorrect name or the name was
14 not put in the affidavit, and I have an explanation and an
15 offer of proof and an affidavit for this Court explaining
16 why that is.

17 The detective got the information verbally that
18 the address had been changed.

19 Not till he had drafted the search warrant, got
20 it confirmed that the vehicle was at that address, you
21 know, was gone from the station, not till he returned was
22 that subpoena, that administrative subpoena complied with
23 such that the paper document came in.

24 He never received that information verbally.
25 He didn't get that until after the warrant was drafted,

1 approved, executed.

2 Do you see what I am saying?

3 I mean, the facts didn't come in until long
4 after he was gone from the station and had split to Nevada
5 Power.

6 So that's -- I mean, that is the issue.

7 So on that limited basis, if we could do it by
8 virtue of a phone conference then --

9 THE COURT: What you are suggesting actually
10 is that you want to bifurcate it.

11 You want to go ahead, and put him under oath
12 on the telephone, have you guys quiz him and say that
13 we get his testimony presumptively will coincide with
14 what he is giving you in terms of an affidavit, and
15 then set it over to Wednesday morning, and then Mr.
16 Landis can then cross-examine him as to whatever matters
17 he chose?

18 MS. KOLLINS: Right.

19 THE COURT: Okay.

20 MR. LANDIS: I do disagree with their factual
21 basis that they've stated.

22 I believe that he attached that Nevada Power
23 record to his search court affidavit at the time he
24 submitted it. But there is other issues --

25 MS. KOLLINS: (interposing) Perhaps after when

1 he filed it.

2 MR. LANDIS: Whatever it may be, I do have some
3 questions for this guy.

4 I do think I have the right to cross-examine
5 him under Franks.

6 THE COURT: I agree.

7 MR. LANDIS: I understand the issue.

8 I think it is best that Monday we address him
9 over the phone, maybe that will resolve it, maybe that
10 will give me at least a better idea of how the Court is
11 going to rule so I can start preparing for trial.

12 THE COURT: Are you going to give him a copy
13 of this?

14 MS. KOLLINS: I am, Your Honor. I only brought
15 one with me.

16 THE COURT: We will make one. Joe?

17 MS. KOLLINS: Can he make one?

18 THE COURT: Yeah. Do I need a copy?

19 MS. KOLLINS: Yes, Judge, I would make one copy
20 for the Court.

21 THE COURT: All right, get a copy of this.

22 Let's plan on 1:30 Monday. We will see what he
23 has to say, and then I will certainly not, you know, we
24 will get an idea of what he is going to say. We are going
25 to read it, and we are going to hear him, and put him under

1 oath.

2 MS. KOLLINS: And that's why I have that drafted
3 so that Mr. Landis would have -- everyone would have a
4 concrete understanding of the chronology of what transpired,
5 and the State is still taking the position that, you know,
6 sans the Nevada Power, there is still sufficient probable
7 cause --

8 THE COURT: I understand.

9 MS. KOLLINS: -- for the location of the vehicle.

10 THE COURT: I understand.

11 There is other information in the application,
12 but let's address this first.

13 MR. LANDIS: Obviously, if they want to concede
14 and take that out, we could just address the probable cause
15 basis itself.

16 THE COURT: Let's let him -- let's hear from him
17 first.

18 MS. KOLLINS: You want to not believe.

19 THE COURT: All right. Well then, just hang on,
20 everybody gets their copies of the affidavit, and we will
21 crank it up at 1:30 on Monday afternoon, and hear what
22 the detective has to say.

23 MS. KOLLINS: And on behalf of the State, if we
24 could just mark that as a Court's exhibit. There is no
25 previous Court's exhibits in this matter, if we could mark

1 that as Court's Exhibit 1, that would be nothing that would
2 ever go to the jury.

3 THE COURT: Okay, we will make sure. Mark this
4 as a Court's exhibit.

5 THE CLERK: Okay.

6 THE COURT: Okay. Then we are done this morning,
7 right?

8 MR. LANDIS: I apologize for my dress, Judge.

9 THE COURT: Oh, I think it's nice.

10 MR. LANDIS: Thank you, Judge.

11 THE CLERK: Could I have your bar number, please,
12 counsel?

13 MR. LANDIS: 9424.

14 THE CLERK: Thank you.

15 So the motion on Wilson is moot, and the trial
16 still will be vacated?

17 THE COURT: Right, and the motion -- the motion
18 on Wilson for today now is moot.

19 MS. KOLLINS: And as to the suppression motion
20 on Wesley stands, and the trial date on Wesley stands?

21 THE COURT: Yes.

22 To clarify, the hearing -- the Franks hearing for
23 Wesley is 1:30 Monday. The trial will commence 10 o'clock
24 Wednesday. We will probably move that back so that --

25 MR. LANDIS: We will see what happens Monday.

1 THE COURT: Right, right. All right.

2 THE CLERK: So his motion is to continue on
3 Monday?

4 THE COURT: As of now, it is going to be denied
5 because Wilson has pled.

6 Actually, it did get moved to Monday. It was
7 originally scheduled for Monday. Now, it's moot.

8 The motion to continue was granted, and the
9 trial is Wednesday.

10 THE CLERK: Oh, I got the record, and the trial
11 is on Wednesday.

12 THE COURT: Right.

13 THE CLERK: Okay.

14 THE COURT: Yes, all right.

15 MS. KOLLINS: Judge, the only other thing that
16 I forgot to ask you in court, what size of a panel are you
17 bringing up, do you know?

18 THE COURT: 80.

19 MS. KOLLINS: Okay, thank you.

20 THE COURT: Is that enough?

21 MS. KOLLINS: Yes.

22 THE COURT: Okay.

23 *****

24 (End of proceedings.)

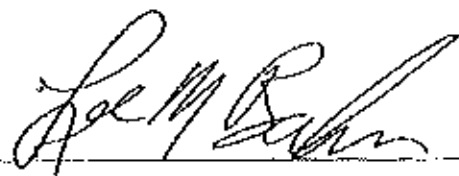
25 *****

CERTIFICATE

STATE OF NEVADA)
) ss.
CLARK COUNTY)

I, LEE M. BAHR, CP, CCR 173, do hereby certify
that I reported the foregoing proceedings; that the same
is true and correct as reflected by my original machine
shorthand notes taken at said time and place before the
Hon. James M. Bixler, District Judge, presiding.

Dated at Las Vegas, Nevada, this
28th day of March, 2008.



LEE M. BAHR, CP, CCR 173

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ORIGINAL

CERTIFICATE OF DELIVERY AND ADDENDUM

FILED

DEC 9 11 25 AM '08

CLERK OF DISTRICT COURT

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF CLARK

THE HON. JAMES M. BIXLER, DISTRICT COURT JUDGE, PRESIDING

DELARIAN K. WILSON, aka
DELARIAN KAMERON WILSON, and
NARCUS S. WESLEY, aka
NARCUS SAMONE WESLEY,
Appellant,

v.

THE STATE OF NEVADA,
Respondent

Sup. Ct. No. 52104
District Court No. C-232494

Certificate of Delivery to the Supreme Court

COURTHOUSE

December 5, 2008

Las Vegas, Nevada

Submitted by:

Lee M. Bahr, CP, CCR 173
Court Reporter

RECEIVED

DEC 9 2008

CLERK OF THE COURT

CERTIFICATE OF DELIVERY

Lee M. Bahr, CP, CCR 173, Court Reporter, do hereby certify as follows:

That on or about November 17, 2008, I received an Order Regarding Transcript from the Supreme Court, which included:

1. Change of plea hearing regarding Delarian K. Wilson, aka Delarian Kameron Wilson, said hearing held before Judge James M. Bixler on 3/28/08.

2. Jury trial of Delarian K. Wilson (Narcus Wesley?) commencing April 9, 2008.

This change of plea transcript was prepared within a day or two of March 28, 2008, and filed with the Clerk of Court's office, with copies to the D. A.'s office, James Oronoz, counsel for Mr. Wilson, and Casey Landis of the Public Defender's office, representing Narcus Wesley, codefendant of Mr. Wilson.

The codefendant, Narcus Wesley, C-232494, was tried in Judge Bixler's court commencing April 9, 2008, and I reported the first three days of the jury trial of Mr. Wesley (codefendant) commencing on April 9, 10 and 11, 2008.

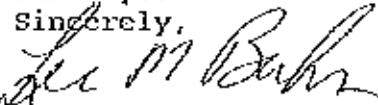
This Certificate of Delivery is to acknowledge that I personally received notice from the Supreme Court to transcribe the 3/28/08 hearing of the change of plea of Mr. Wilson (which had already been transcribed on or about 4/1/08, a 20 page transcript), and the first three days of the jury trial above-referred to, 4/9, 4/10 and 4/11/08.

I have now completed preparing the first three days of trial, April 9, 10 and 11, 2008 and I have filed said transcript with the Clerk of Court on December 5, 2008.

If the Supreme Court, or any counsel involved in these cases have any further questions, please contact.

I am supplying a duplicate cc of the 3/28/08 hearing to counsel involved, and copies of the April 10, 11 and 12, 2008, and the jury trial of Narcus Wesley will be supplied to Mr. Oronoz's office (representing Darnanian Kameron Wilson, and Mr. Winder's office (representing Narcus Wesley. Thank you.

Sincerely,



Lee M. Bahr, CP, CCR 173, Court Reporter

CC to:

Clark County D. A. Appellate Division

Hon. James M. Bixler, District Judge

Attorney General's office

Nevada Certified Court Reporter's Board

Ed Friedland, Executive Officer

Public Defender's office; Draskovic/Oronoz Law Office

Addendum to Supreme Court as to Certificate of Delivery
12/5/08

Dated December 9, 2008

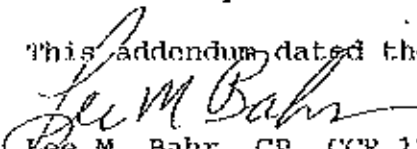
Upon filing the above-referred to transcripts dated April 9, 10, and 11, 2008, pertaining to Marcus Samone Wesley and Darnanian Wilson, I checked with the Clerk of Court as to whether the 3/28/08, 20 page change of plea transcript regarding Darnanian Wilson was on file. The Deputy Clerk indicated it was not. I had run a duplicate of the 3/28/08 20 page transcript, and had it with me, and I noticed for the first time that the date on page 1 of said transcript was March 28, 2007 not March 28, 2008. My certificate page on page 20 did indicate the correct date of preparation, which was March 28, 2008.

So as of this date, I have run a duplicate of the 3/28/08, 20 page transcript, and refiled it with the Clerk of Court so that there will not be any further confusion, and I have supplied copies to the D. A.'s office, Mr. Oronoz's office and Mr. Winder's office at no extra charge. I was paid for the 20 page transcript in early April, 2008 by Clark County. At this time, all parties have copies of the transcripts I have prepared in State v. Darnanian Wilson (20 page transcript dated 3/28/08), and the first three days of jury trial (April 9, 10, and 11, 2008,) (803 pages), before the Hon. James M. Bixler.

If anyone has any questions about any of the above, please contact my office immediately. I apologize to the Supreme Court, and counsel for all the parties for any confusion that may have been caused by having the wrong date March 28, 2007 typed on page 1 of the 20 page transcript of the change of plea of Darnanian Kameron Wilson, which I court reported on 3/28/08.

Thank you.

This addendum dated the 9th day of December, 2008.


Lee M. Bahr, CP, CCR 173
Court Reporter

CC: Mr. Oronoz
Mr. Winder
D. A.'s office (Appellate Division)
A. G.'s office,
Judge James Bixler, District Judge
Ed Friedland, Executive Officer
Mr. Landis, Deputy P. D.
Nev. CCR Board

ORIGINAL

1 INFO
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4 Nevada Bar #002781
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9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

FILED IN OPEN COURT
APR 10 2008 20

CHARLES J. SHORT
CLERK OF THE COURT

BY

Shirley A. Lee
DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,

11 Plaintiff,

12 -vs-

13 NARCUS S. WESLEY, aka
14 Narcus Samone Wesley #1757866,

15 Defendant.

Case No: C232494
Dept No: XXIV

SECOND AMENDED
INFORMATION

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

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

21 That NARCUS S. WESLEY, aka, Narcus Samone Wesley, the Defendant above
22 named, having committed the crimes of CONSPIRACY TO COMMIT BURGLARY
23 (Gross Misdemeanor - NRS 199.480, 205.060); CONSPIRACY TO COMMIT
24 ROBBERY (Felony - NRS 199.480, 200.380); BURGLARY WHILE IN POSSESSION
25 OF A DEADLY WEAPON (Felony - NRS 205.060); ROBBERY WITH USE OF A
26 DEADLY WEAPON (Felony - NRS 200.380, 193.165); ASSAULT WITH USE OF A
27 DEADLY WEAPON (Felony - NRS 200.471, 193.165); FIRST DEGREE
28 KIDNAPPING WITH USE OF A DEADLY WEAPON (Felony - NRS 200.310,

200.320, 193.165); SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON
(Felony - NRS 200.364, 200.366, 193.165); COERCION WITH USE OF A DEADLY
WEAPON (Felony - NRS 207.190, 193.165) and OPEN OR GROSS LEWDNESS
WITH USE OF A DEADLY WEAPON (Gross Misdemeanor - NRS 201.210, 193.165),
on or about the 18th day of February, 2007, 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 - CONSPIRACY TO COMMIT BURGLARY

Defendant and DELARIAN KAMERON WILSON did then and there meet with each
other and between themselves, and each of them with the other, wilfully and unlawfully
conspire and agree to commit a crime, to-wit: Burglary, and in furtherance of said
conspiracy, Defendant and DELARIAN KAMERON WILSON did commit the acts as set
forth in Counts 3 & 11, said acts being incorporated by this reference as though fully set
forth herein.

COUNT 2 - CONSPIRACY TO COMMIT ROBBERY

Defendant and DELARIAN KAMERON WILSON did then and there meet with each
other and between themselves, and each of them with the other, wilfully, unlawfully, and
feloniously conspire and agree to commit a crime, to-wit: Robbery, and in furtherance of
said conspiracy, Defendant and DELARIAN KAMERON WILSON did commit the acts as
set forth in Counts 4, 6, 7, & 9, said acts being incorporated by this reference as though fully
set forth herein.

COUNT 3 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

Defendant and DELARIAN KAMERON WILSON did then and there wilfully,
unlawfully, and feloniously enter, while in possession of a deadly weapon, to-wit: a hand
gun, with intent to commit larceny and/or a felony, to-wit: Robbery, the house at 690 Great
Dane Court, Henderson, Clark County, Nevada, the Defendant being criminally liable under
one or more of the following principles of criminal liability, to-wit: (1) by directly
committing this crime; and/or (2) by Defendant and DELARIAN KAMERON WILSON

aiding or abetting one another in the commission of this crime by assisting one another and by providing counsel and encouragement each carrying out specific acts with the intent that this crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

COUNT 4 - ROBBERY WITH USE OF A DEADLY WEAPON

Defendant and DELARIAN KAMERON WILSON did then and there wilfully, unlawfully, and feloniously take personal property, to-wit: condoms, from the person of JUSTIN RICHARDSON, or in his presence, by means of force or violence or fear of injury to, and without the consent and against the will of the said JUSTIN RICHARDSON, said Defendant and DELARIAN KAMERON WILSON using a deadly weapon, to-wit: a hand gun, during the commission of said crime, the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendant and DELARIAN KAMERON WILSON aiding or abetting one another in the commission of this crime by assisting one another and by providing counsel and encouragement each carrying out specific acts with the intent that this crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

COUNT 5 - ASSAULT WITH USE OF A DEADLY WEAPON

Defendant and DELARIAN KAMERON WILSON did wilfully, unlawfully, and feloniously place another person in reasonable apprehension of immediate bodily harm, to-wit: AITOR ESKANDON, by pointing a hand gun at and forcing the said AITOR ESKANDON to lay on the ground while personal property was taken from others in his presence, said Defendant and DELARIAN KAMERON WILSON using a deadly weapon, to-wit: a hand gun, during the commission of said crime, the Defendant being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendant and DELARIAN KAMERON WILSON aiding or abetting one another in the commission of this crime by assisting one another and by providing counsel and encouragement each carrying out specific acts with the intent that this crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

//

1 COUNT 6 - ROBBERY WITH USE OF A DEADLY WEAPON

2 Defendant and DELARIAN KAMERON WILSON did then and there wilfully,
3 unlawfully, and feloniously take personal property, to-wit: money, from the person of
4 JUSTIN FOUCAULT, or in his presence, by means of force or violence or fear of injury to,
5 and without the consent and against the will of the said JUSTIN FOUCAULT, said
6 Defendant and DELARIAN KAMERON WILSON using a deadly weapon, to-wit: a hand
7 gun, during the commission of said crime, the Defendant being criminally liable under one
8 or more of the following principles of criminal liability, to-wit: (1) by directly committing
9 this crime; and/or (2) by Defendant and DELARIAN KAMERON WILSON aiding or
10 abetting one another in the commission of this crime, by assisting one another and by
11 providing counsel and encouragement each carrying out specific acts with the intent that this
12 crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

13 COUNT 7 - ROBBERY WITH USE OF A DEADLY WEAPON

14 Defendant and DELARIAN KAMERON WILSON did then and there wilfully,
15 unlawfully, and feloniously take personal property, to-wit: money, from the person of
16 RYAN TOGNOTTI, or in his presence, by means of force or violence or fear of injury to,
17 and without the consent and against the will of the said RYAN TOGNOTTI, said Defendant
18 and DELARIAN KAMERON WILSON using a deadly weapon, to-wit: a hand gun, during
19 the commission of said crime, the Defendant being criminally liable under one or more of
20 the following principles of criminal liability, to-wit: (1) by directly committing this crime;
21 and/or (2) by Defendant and DELARIAN KAMERON WILSON aiding or abetting one
22 another in the commission of this crime by assisting one another and by providing counsel
23 and encouragement each carrying out specific acts with the intent that this crime be
24 committed; and/or (3) pursuant to a conspiracy to commit this crime.

25 COUNT 8 - ASSAULT WITH USE OF A DEADLY WEAPON

26 Defendant and DELARIAN KAMERON WILSON did wilfully, unlawfully, and
27 feloniously place another person in reasonable apprehension of immediate bodily harm, to-
28 wit: CLINTON TOGNOTTI, by pointing a hand gun at and forcing the said CLINTON

1 TOGNOTTI to lay on the ground while personal property was taken from others in his
2 presence, said Defendant and DELARIAN KAMERON WILSON using a deadly weapon,
3 to-wit: a hand gun, during the commission of said crime, the Defendant being criminally
4 liable under one or more of the following principles of criminal liability, to-wit: (1) by
5 directly committing this crime; and/or (2) by Defendant and DELARIAN KAMERON
6 WILSON aiding or abetting one another in the commission of this crime by assisting one
7 another and by providing counsel and encouragement each carrying out specific acts with the
8 intent that this crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

9 COUNT 9 - ROBBERY WITH USE OF A DEADLY WEAPON

10 Defendant and DELARIAN KAMERON WILSON did then, and there wilfully,
11 unlawfully, and feloniously take personal property, to-wit: cell phone, from the person of
12 DANIELLE BROWNING, or in her presence, by means of force or violence or fear of
13 injury to, and without the consent and against the will of the said DANIELLE BROWNING,
14 said Defendant and DELARIAN KAMERON WILSON using a deadly weapon, to-wit: a
15 hand gun, during the commission of said crime, the Defendant being criminally liable under
16 one or more of the following principles of criminal liability, to-wit: (1) by directly
17 committing this crime; and/or (2) by Defendant and DELARIAN KAMERON WILSON
18 aiding or abetting one another in the commission of this crime by assisting one another and
19 by providing counsel and encouragement each carrying out specific acts with the intent that
20 this crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

21 COUNT 10 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

22 Defendant and DELARIAN KAMERON WILSON did wilfully, unlawfully,
23 feloniously, and without authority of law, seize, confine, inveigle, entice, decoy, abduct,
24 conceal, kidnap, or carry away RYAN TOGNOTTI, a human being, with the intent to hold
25 or detain the said RYAN TOGNOTTI against his will, and without his consent, for the
26 purpose of committing Robbery, said Defendant and DELARIAN KAMERON WILSON
27 using a deadly weapon, to-wit: a hand gun, during the commission of said crime, the
28 Defendant being criminally liable under one or more of the following principles of criminal

1 liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendant and
2 DELARIAN KAMERON WILSON aiding or abetting one another in the commission of this
3 crime by assisting one another and by providing counsel and encouragement each carrying
4 out specific acts with the intent that this crime be committed; and/or (3) pursuant to a
5 conspiracy to commit this crime.

6 COUNT 11 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

7 Defendant and DELARIAN KAMERON WILSON did then and there wilfully,
8 unlawfully, and feloniously enter, while in possession of a deadly weapon, to-wit: hand gun,
9 with intent to commit larceny and/or a felony, to-wit: Robbery, the Honda Civic belonging
10 to RYAN TOGNOTTI, the Defendant being criminally liable under one or more of the
11 following principles of criminal liability, to-wit: (1) by directly committing this crime;
12 and/or (2) by Defendant and DELARIAN KAMERON WILSON aiding or abetting one
13 another in the commission of this crime by assisting one another and by providing counsel
14 and encouragement each carrying out specific acts with the intent that this crime be
15 committed; and/or (3) pursuant to a conspiracy to commit this crime.

16 COUNT 12 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

17 Defendant and DELARIAN KAMERON WILSON did then and there wilfully,
18 unlawfully, and feloniously sexually assault with use of a deadly weapon, to-wit: a hand gun,
19 and subject DANIELLE BROWNING, a female person, to sexual penetration, to-wit: by
20 forcing DANIELLE BROWNING to perform fellatio on JUSTIN RICHARDSON while
21 threatening to kill her or others if she didn't perform said sexual act, against her will, the
22 Defendant being criminally liable under one or more of the following principles of criminal
23 liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendant and
24 DELARIAN KAMERON WILSON aiding or abetting one another in the commission of this
25 crime by assisting one another and by providing counsel and encouragement each carrying
26 out specific acts with the intent that this crime be committed; and/or (3) pursuant to a
27 conspiracy to commit this crime.

28 //

1 COUNT 13 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

2 Defendant and DELARIAN KAMERON WILSON did then and there wilfully,
3 unlawfully, and feloniously sexually assault with use of a deadly weapon, to-wit: a hand gun,
4 and subject DANIELLE BROWNING, a female person, to sexual penetration, to-wit: by
5 forcing DANIELLE BROWNING to be subjected to cunnilingus performed by JUSTIN
6 RICHARDSON while threatening to kill her or others if she didn't engage in said acts said
7 sexual act, against her will, the Defendant being criminally liable under one or more of the
8 following principles of criminal liability, to-wit: (1) by directly committing this crime;
9 and/or (2) by Defendant and DELARIAN KAMERON WILSON aiding or abetting one
10 another in the commission of this crime by assisting one another and by providing counsel
11 and encouragement each carrying out specific acts with the intent that this crime be
12 committed; and/or (3) pursuant to a conspiracy to commit this crime.

13 COUNT 14 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

14 Defendant and DELARIAN KAMERON WILSON did then and there wilfully,
15 unlawfully, and feloniously sexually assault with use of a deadly weapon, to-wit: a hand gun,
16 and subject JUSTIN RICHARDSON, a male person, to sexual penetration, to-wit: by
17 forcing JUSTIN RICHARDSON to receive fellatio from DANIELLE BROWNING while
18 threatening to kill him and/or others if he did not engage in said sexual conduct, against his
19 will, the Defendant being criminally liable under one or more of the following principles of
20 criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendant and
21 DELARIAN KAMERON WILSON aiding or abetting one another in the commission of this
22 crime by assisting one another and by providing counsel and encouragement each carrying
23 out specific acts with the intent that this crime be committed; and/or (3) pursuant to a
24 conspiracy to commit this crime.

25 COUNT 15 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

26 Defendant and DELARIAN KAMERON WILSON did then and there wilfully,
27 unlawfully, and feloniously sexually assault with use of a deadly weapon, to-wit: a hand gun,
28 and subject JUSTIN RICHARDSON, a male person, to sexual penetration, to-wit: by

1 forcing JUSTIN RICHARDSON to perform cunnilingus on DANIELLE BROWNING while
2 threatening to kill him and/or others if he did not engage in said sexual conduct, against his
3 will, the Defendant being criminally liable under one or more of the following principles of
4 criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendant and
5 DELARIAN KAMERON WILSON aiding or abetting one another in the commission of this
6 crime by assisting one another and by providing counsel and encouragement each carrying
7 out specific acts with the intent that this crime be committed; and/or (3) pursuant to a
8 conspiracy to commit this crime.

9 COUNT 16 - COERCION WITH USE OF A DEADLY WEAPON

10 Defendant and DELARIAN KAMERON WILSON did then and there wilfully,
11 unlawfully, and feloniously use physical force, or the immediate threat of such force, against
12 RYAN TOGNOTTI, with intent to compel him to do, or abstain from doing, an act which he
13 had a right to do, or abstain from doing, by using a deadly weapon, to-wit: a hand gun, and
14 forcing RYAN TOGNOTTI to masturbate his penis, said acts being sexually motivated, the
15 Defendant being criminally liable under one or more of the following principles of criminal
16 liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendant and
17 DELARIAN KAMERON WILSON aiding or abetting one another in the commission of this
18 crime by assisting one another and by providing counsel and encouragement each carrying
19 out specific acts with the intent that this crime be committed; and/or (3) pursuant to a
20 conspiracy to commit this crime.

21 COUNT 17 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

22 Defendant and DELARIAN KAMERON WILSON did then and there wilfully,
23 unlawfully, and feloniously sexually assault with use of a deadly weapon, to-wit: a hand gun,
24 and subject DANIELLE BROWNING, a female person, to sexual penetration, to-wit:
25 digital penetration, Defendant NARCUS WESLEY penetrating DANIELLE BROWNING's
26 vagina, however slight with his hand and/or one or more fingers, against her will, the
27 Defendant being criminally liable under one or more of the following principles of criminal
28 liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendant and


1 DELARIAN KAMERON WILSON aiding or abetting one another in the commission of this
2 crime by assisting one another and by providing counsel and encouragement each carrying
3 out specific acts with the intent that this crime be committed; and/or (3) pursuant to a
4 conspiracy to commit this crime.

5 COUNT 18 – OPEN OR GROSS LEWDNESS WITH USE OF A DEADLY WEAPON

6 Defendant and DELARIAN KAMERON WILSON did then and there wilfully and
7 unlawfully commit an act of open or gross lewdness by touching and/or rubbing the chest
8 and/or buttocks of DANIELLE BROWNING, with use of a deadly weapon, to-wit: a hand
9 gun, the Defendant being criminally liable under one or more of the following principles of
10 criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendant and
11 DELARIAN KAMERON WILSON aiding or abetting one another in the commission of this
12 crime by assisting one another and by providing counsel and encouragement each carrying
13 out specific acts with the intent that this crime be committed; and/or (3) pursuant to a
14 conspiracy to commit this crime.

15 DAVID ROGER
16 DISTRICT ATTORNEY
Nevada Bar #002781

17
18 BY


19 LISA LUZAICH
20 Chief Deputy District Attorney
21 Nevada Bar #005056
22
23
24
25
26
27
28

Names of witnesses known to the District Attorney's Office at the time of filing this
Information are as follows:

NAME

ADDRESS

BROWNING, DANIELLE -- HC 60 BOX 53007, ROAD MTN., NV 89045

CASTRO, JUNE -- HPD P#825

DUNAWAY, BRIAN -- HPD P#659

ESKANDON, AITOR -- 2101 W. WARM SPRGS RD., #4322, HND, NV 89014

FOUCAULT, JUSTIN -- 690 GREAT DANE CT., HND, NV 89052

HARTSHORN, BRYAN -- HPD P#1146

HENN, ITZHAK -- HPD P#1202

JOHNSTON, MICHAEL -- HPD P#634

NISWONGER, ANTHONY -- HPD P#1003

PENA, RODRIGO -- HPD P#857

RICHARDSON, JUSTIN -- 690 GREAT DANE CT., HND, NV 89052

SLATTERY, KYLE -- HPD P#1306

TOGNOTTI, RYAN -- 690 GREAT DANE CT., HND, NV 89052

TOGNOTTI, CLINTON -- 2101 W. WARM SPRGS RD., #4322, HND, NV 89014

DA#07FH0317A/B/mmw/SVU
HPD EV#0703748
(TK1)

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

ORIGINAL

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FILED

2008 MAR 25 P 2:56

DISTRICT COURT
CLARK COUNTY, NEVADA

CLERK OF THE COURT

THE STATE OF NEVADA,

Plaintiff,

v.

NARCUS SAMONE WESLEY,

Defendant.

CASE NO. C232494B

DEPT. NO. XXIV

DATE: March 27, 2008

TIME: 8:30 a.m.

MOTION TO CONTINUE TRIAL.

COMES NOW, the Defendant, NARCUS SAMONE WESLEY, by and through CASEY A. LANDIS, Deputy Public Defender and hereby request a continuance of the trial currently scheduled to commence on March 31, 2008.

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

DATED this 25th day of March, 2008.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By CASEY A. LANDIS, #9424
Deputy Public Defender

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MAR 25 2008

CLERK OF THE COURT

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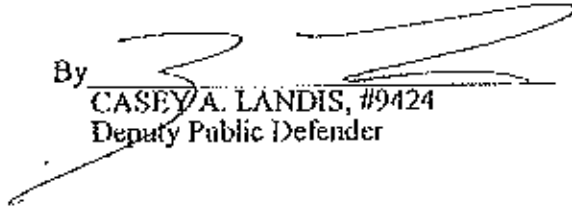
NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the above and foregoing Motion on for hearing before the Court on the 25th day of March, 2008, at 8:30 a.m..

DATED this 25th day of March, 2008.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By 
CASEY A. LANDIS, #9424
Deputy Public Defender

RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing Motion to Continue Trial is hereby acknowledged this 25 day of March, 2008.

CLARK COUNTY DISTRICT ATTORNEY

By 

1 VER

FILED IN OPEN COURT

APR 18 2008

2:53pm

DISTRICT COURT

CHARLES J. SKOBY

CLERK OF THE COURT

CLARK COUNTY, NEVADA

2 THE STATE OF NEVADA,

Plaintiff,

3 THERESA LEE

DEPUTY

4 -vs-

CASE NO: C232494

DEPT NO: XXIV

5 NARCUS S. WESLEY,

Defendant.

10 VERDICT

11 We, the jury in the above entitled case, find the Defendant NARCUS S. WESLEY, as
12 follows:

13 COUNT 1 -- CONSPIRACY TO COMMIT BURGLARY

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

15 ☒ Guilty of Conspiracy To Commit Burglary

16 ☐ Not Guilty

17 COUNT 2 -- CONSPIRACY TO COMMIT ROBBERY

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

19 ☒ Guilty of Conspiracy To Commit Robbery

20 ☐ Not Guilty

COUNT 3 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

(690 Great Dane Court)

(please check the appropriate box, select only one)

☒ Guilty of Burglary While In Possession Of A Deadly Weapon

☐ Guilty of Burglary

☐ Not Guilty

COUNT 4 - ROBBERY WITH USE OF A DEADLY WEAPON (Justin Richardson)

(please check the appropriate box, select only one)

☒ Guilty of Robbery With Use of a Deadly Weapon

☐ Guilty of Robbery

☐ Not Guilty

COUNT 5 - ASSAULT WITH USE OF A DEADLY WEAPON (Aitor Eskandon)

(please check the appropriate box, select only one)

☒ Guilty of Assault With Use of a Deadly Weapon

☐ Guilty of Assault

☐ Not Guilty

COUNT 6 - ROBBERY WITH USE OF A DEADLY WEAPON (Justin Foucault)

(please check the appropriate box, select only one)

☒ Guilty of Robbery With Use of a Deadly Weapon

☐ Guilty of Robbery

☐ Not Guilty

1 COUNT 11 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

2 (Honda Civic)

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

4 ☒ Guilty of Burglary While In Possession Of A Deadly Weapon

5 ☐ Guilty of Burglary

6 ☐ Not Guilty

7
8 COUNT 12 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

(Danielle Browning - fellatio)

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

10 ☒ Guilty of Sexual Assault With Use of a Deadly Weapon

11 ☐ Guilty of Sexual Assault

12 ☐ Not Guilty

13
14 COUNT 13 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

(Danielle Browning - cunnilingus)

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

16 ☒ Guilty of Sexual Assault With Use of a Deadly Weapon

17 ☐ Guilty of Sexual Assault

18 ☐ Not Guilty

19
20 COUNT 14 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

(Justin Richardson - fellatio)

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

22 ☒ Guilty of Sexual Assault With Use of a Deadly Weapon

23 ☐ Guilty of Sexual Assault

24 ☐ Not Guilty

1 COUNT 18 -- OPEN OR GROSS LEWDNESS WITH USE OF A DEADLY WEAPON
2 (Danielle Browning)

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

4 ☒ Guilty of Open Or Gross Lewdness With Use Of A Deadly Weapon

5 ☐ Guilty of Open Or Gross Lewdness

6 ☐ Not Guilty

7
8 DATED this 18th day of April, 2008

9
10 John T. Gerwinski
11 FOREPERSON
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TO: BECKY COMPANY:

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DISTRICT COURT

Clerk of the Court

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO. C232494

-vs-

DEPT. NO. XXIV

NARCUS S. WESLEY
aka Narcus Samone Wesley
#1757866

Defendant.

JUDGMENT OF CONVICTION

(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1
- CONSPIRACY TO COMMIT BURGLARY (Gross Misdemeanor) in violation of NRS
205.060, 199.480; COUNT 2 - CONSPIRACY TO COMMIT ROBBERY (Category B
Felony) in violation of NRS 205.380, 199.480; COUNTS 3 & 11 - BURGLARY WHILE
IN POSSESSION OF DEADLY WEAPON (Category B Felony) in violation of NRS
205.060; COUNTS 4, 6, 7 & 9 - ROBBERY WITH USE OF A DEADLY WEAPON
(Category B Felony) in violation of NRS 200.380, 193.165; COUNTS 5 & 8 - ASSAULT
WITH A DEADLY WEAPON (Category B Felony) in violation of NRS 200.471; COUNT
10 - FIRST DEGREE KIDNAPING (Category A Felony) in violation of NRS 200.310.

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TO: BECKY COMPANY:

200.320, 193.165; COUNTS 12, 13, 14, 15, & 17 – SEXUAL ASSAULT WITH USE OF
A DEADLY WEAPON (Category A Felony) in violation of NRS 200.366, 200.364,
193.165; COUNT 16 – COERCION WITH USE OF A DEADLY WEAPON (Category B
Felony) in violation of NRS 207.190, 193.165; COUNT 18 – OPEN OR GROSS
LEWDNESS WITH USE OF A DEADLY WEAPON (Category D Felony) in violation of
NRS 201.210, 193.165; and the matter having been tried before a jury and the
Defendant having been found guilty of the crimes of COUNT 1 – CONSPIRACY TO
COMMIT BURGLARY (Gross Misdemeanor) in violation of NRS 205.060, 199.480;
COUNT 2 – CONSPIRACY TO COMMIT ROBBERY (Category B Felony) in violation of
NRS 205.380, 199.480; COUNTS 3 & 11 – BURGLARY WHILE IN POSSESSION OF
DEADLY WEAPON (Category B Felony) in violation of NRS 205.060; COUNTS 4, 6, 7
& 9 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation
of NRS 200.380, 193.165; COUNTS 5 & 8 – ASSAULT WITH A DEADLY WEAPON
(Category B Felony) in violation of NRS 200.471, COUNT 10 – SECOND DEGREE
KIDNAPING (Category B Felony) in violation of NRS 200.320, 193.165; COUNTS 12,
13, 14, 15, & 17 – SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON (Category
A Felony) in violation of NRS 200.366, 200.364, 193.165; COUNT 16 – COERCION
WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 207.190,
193.165; COUNT 18 – OPEN OR GROSS LEWDNESS WITH USE OF A DEADLY
WEAPON (Category D Felony) in violation of NRS; thereafter, on the 3RD day of July,
2008, the Defendant was present in court for sentencing with his counsel, DAN
WINDER, ESQ., and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in
addition to the \$25.00 Administrative Assessment Fee, \$150.00 DNA Analysis Fee

TO: BECKY COMPANY:

including testing to determine genetic markers, and \$3,196.00 Restitution to be paid jointly and severally with co-defendant, the Defendant is SENTENCED as follows: AS TO COUNT 1 - TO TWELVE (12) MONTHS in the Clark County Detention Center (CCDC); AS TO COUNT 2 - TO A MAXIMUM of SEVENTY-TWO (72) MONTHS with a MINIMUM Parole Eligibility of TWENTY-EIGHT (28) MONTHS, in the Nevada Department of Corrections (NDC); AS TO COUNT 3 - TO A MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM Parole Eligibility of SEVENTY-TWO (72) MONTHS in the Nevada Department of Corrections (NDC); AS TO COUNT 4 - TO A MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM Parole Eligibility of SIXTY (60) MONTHS, plus an EQUAL and CONSECUTIVE term of ONE HUNDRED EIGHTY (180) MONTHS MAXIMUM with a MINIMUM Parole Eligibility of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC); AS TO COUNT 5 - TO A MAXIMUM of SEVENTY-TWO (72) MONTHS with a MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS in the Nevada Department of Corrections (NDC); AS TO COUNT 6 - TO A MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM Parole Eligibility of SIXTY (60) MONTHS, plus an EQUAL and CONSECUTIVE term of ONE HUNDRED EIGHTY (180) MONTHS MAXIMUM with a MINIMUM Parole Eligibility of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC); AS TO COUNT 7 - TO A MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM Parole Eligibility of SIXTY (60) MONTHS, plus an EQUAL and CONSECUTIVE term of ONE HUNDRED EIGHTY (180) MONTHS MAXIMUM with a MINIMUM Parole Eligibility of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC); AS TO COUNT 8 - TO A MAXIMUM of SEVENTY-TWO (72) MONTHS with a MINIMUM Parole Eligibility of TWENTY-FOUR

TO: BECKY COMPANY:

(24) MONTHS in the Nevada Department of Corrections (NDC); AS TO COUNT 9 - TO A MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM Parole Eligibility of SIXTY (60) MONTHS, plus an EQUAL and CONSECUTIVE term of ONE HUNDRED EIGHTY (180) MONTHS MAXIMUM with a MINIMUM Parole Eligibility of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC); AS TO COUNT 10 - TO A MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM Parole Eligibility of SEVENTY-TWO (72) MONTHS, plus an EQUAL and CONSECUTIVE term of ONE HUNDRED EIGHTY (180) MONTHS MAXIMUM and SEVENTY-TWO (72) MONTHS MINIMUM for the Use of a Deadly Weapon in the Nevada Department of Corrections (NDC); AS TO COUNT 11 - TO A MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM Parole Eligibility of SEVENTY-TWO (72) MONTHS in the Nevada Department of Corrections (NDC); AS TO COUNT 12 - TO LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS, plus a CONSECUTIVE term of TWENTY (20) YEARS MAXIMUM and EIGHT (8) YEARS MINIMUM for the Use of a Deadly Weapon in the Nevada Department of Corrections (NDC); AS TO COUNT 13 - TO LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS, plus a CONSECUTIVE term of TWENTY (20) YEARS MAXIMUM and EIGHT (8) YEARS MINIMUM for the Use of a Deadly Weapon in the Nevada Department of Corrections (NDC); AS TO COUNT 14 - TO LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS, plus a CONSECUTIVE term of TWENTY (20) YEARS MAXIMUM and EIGHT (8) YEARS MINIMUM for the Use of a Deadly Weapon in the Nevada Department of Corrections (NDC); AS TO COUNT 15 - TO LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS, plus a CONSECUTIVE term of TWENTY (20) YEARS MAXIMUM and EIGHT (8) YEARS MINIMUM for the Use of a Deadly Weapon

TO: BECKY COMPANY:

1 in the Nevada Department of Corrections (NDC); AS TO COUNT 16 - TO A MAXIMUM
2 of SEVENTY-TWO (72) MONTHS with a MINIMUM Parole Eligibility of TWENTY-FOUR
3 (24) MONTHS, plus an EQUAL and CONSECUTIVE term of SEVENTY-TWO (72)
4 MAXIMUM and TWENTY-FOUR (24) MONTHS MINIMUM for the Use of a Deadly
5 Weapon in the Nevada Department of Corrections (NDC); AS TO COUNT 17 - TO LIFE
6 with a MINIMUM Parole Eligibility of TEN (10) YEARS, plus a CONSECUTIVE term of
7 TWENTY (20) YEARS MAXIMUM and EIGHT (8) YEARS MINIMUM for the Use of a
8 Deadly Weapon in the Nevada Department of Corrections (NDC); AS TO COUNT 18 -
9 TO TWELVE (12) MONTHS in the Clark County Detention Center (CCDC), COUNTS 1
10 -- 18 to run CONCURRENT; with ONE HUNDRED EIGHTY FIVE (185) DAYS credit for
11 time served.
12

13
14 FURTHER ORDERED, a SPECIAL SENTENCE of LIFETIME SUPERVISION is
15 imposed to commence upon release from any term of imprisonment, probation or
16 parole.
17

18 ADDITIONALLY, the Defendant is ORDERED to REGISTER as a sex offender in
19 accordance with NRS 179D.460 within FORTY-EIGHT (48) HOURS after any release
20 from custody.
21

22
23 DATED this 12th day of July, 2008

24
25
26 JAMES BIXLER
27 DISTRICT JUDGE
28

JOC

ORIGINAL

2008 OCT -8 P 4:17

Ernest A. Smith

DISTRICT COURT

CLERK OF THE COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO. C232494

-vs-

DEPT. NO. XXIV

NARCUS S. WESLEY
aka Narcus Samone Wesley
#1757866

Defendant.

AMENDED JUDGMENT OF CONVICTION

(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1 – CONSPIRACY TO COMMIT BURGLARY (Gross Misdemeanor) in violation of NRS 205.060, 199.480; COUNT 2 – CONSPIRACY TO COMMIT ROBBERY (Category B Felony) in violation of NRS 205.380, 199.480; COUNTS 3 & 11 – BURGLARY WHILE IN POSSESSION OF DEADLY WEAPON (Category B Felony) in violation of NRS 205.060; COUNTS 4, 6, 7 & 9 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.380, 193.165; COUNTS 5 & 8 – ASSAULT WITH A DEADLY WEAPON (Category B Felony) in violation of NRS 200.471; COUNT 10 – FIRST DEGREE KIDNAPING (Category A Felony) in violation of NRS 200.310,

1 200.320, 193.165; COUNTS 12, 13, 14, 15, & 17 – SEXUAL ASSAULT WITH USE OF
2 A DEADLY WEAPON (Category A Felony) in violation of NRS 200.366, 200.364,
3 193.165; COUNT 16 – COERCION WITH USE OF A DEADLY WEAPON (Category B
4 Felony) in violation of NRS 207.190, 193.165; COUNT 18 – OPEN OR GROSS
5 LEWDNESS WITH USE OF A DEADLY WEAPON (Category D Felony) in violation of
6 NRS 201.210, 193.165; and the matter having been tried before a jury and the
7 Defendant having been found guilty of the crimes of COUNT 1 – CONSPIRACY TO
8 COMMIT BURGLARY (Gross Misdemeanor) in violation of NRS 205.060, 199.480;
9 COUNT 2 – CONSPIRACY TO COMMIT ROBBERY (Category B Felony) in violation of
10 NRS 205.380, 199.480; COUNTS 3 & 11 – BURGLARY WHILE IN POSSESSION OF
11 DEADLY WEAPON (Category B Felony) in violation of NRS 205.060; COUNTS 4, 6, 7
12 & 9 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation
13 of NRS 200.380, 193.165; COUNTS 5 & 8 – ASSAULT WITH A DEADLY WEAPON
14 (Category B Felony) in violation of NRS 200.471, COUNT 10 – SECOND DEGREE
15 KIDNAPING (Category B Felony) in violation of NRS 200.320, 193.165; COUNTS 12,
16 13, 14, 15, & 17 – SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON (Category
17 A Felony) in violation of NRS 200.366, 200.364, 193.165; COUNT 16 – COERCION
18 WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 207.190,
19 193.165; COUNT 18 – OPEN OR GROSS LEWDNESS WITH USE OF A DEADLY
20 WEAPON (Category D Felony) in violation of NRS; thereafter, on the 3RD day of July,
21 2008, the Defendant was present in court for sentencing with his counsel, DAN
22 WINDER, ESQ., and good cause appearing,
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THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in
addition to the \$25.00 Administrative Assessment Fee, \$150.00 DNA Analysis Fee

1 including testing to determine genetic markers, and \$3,196.00 Restitution to be paid
2 jointly and severally with co-defendant, the Defendant is SENTENCED as follows: AS
3 TO COUNT 1 - TO TWELVE (12) MONTHS in the Clark County Detention Center
4 (CCDC); AS TO COUNT 2 - TO A MAXIMUM of SEVENTY-TWO (72) MONTHS with a
5 MINIMUM Parole Eligibility of TWENTY-EIGHT (28) MONTHS, in the Nevada
6 Department of Corrections (NDC); AS TO COUNT 3 - TO A MAXIMUM of ONE
7 HUNDRED EIGHTY (180) MONTHS with a MINIMUM Parole Eligibility of SEVENTY-
8 TWO (72) MONTHS in the Nevada Department of Corrections (NDC); AS TO COUNT
9 4 - TO A MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM
10 Parole Eligibility of SIXTY (60) MONTHS, plus an EQUAL and CONSECUTIVE term of
11 ONE HUNDRED EIGHTY (180) MONTHS MAXIMUM with a MINIMUM Parole Eligibility
12 of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC); AS TO
13 COUNT 5 - TO A MAXIMUM of SEVENTY-TWO (72) MONTHS with a MINIMUM
14 Parole Eligibility of TWENTY-FOUR (24) MONTHS in the Nevada Department of
15 Corrections (NDC); AS TO COUNT 6 - TO A MAXIMUM of ONE HUNDRED EIGHTY
16 (180) MONTHS with a MINIMUM Parole Eligibility of SIXTY (60) MONTHS, plus an
17 EQUAL and CONSECUTIVE term of ONE HUNDRED EIGHTY (180) MONTHS
18 MAXIMUM with a MINIMUM Parole Eligibility of SIXTY (60) MONTHS in the Nevada
19 Department of Corrections (NDC); AS TO COUNT 7 - TO A MAXIMUM of ONE
20 HUNDRED EIGHTY (180) MONTHS with a MINIMUM Parole Eligibility of SIXTY (60)
21 MONTHS, plus an EQUAL and CONSECUTIVE term of ONE HUNDRED EIGHTY (180)
22 MONTHS MAXIMUM with a MINIMUM Parole Eligibility of SIXTY (60) MONTHS in the
23 Nevada Department of Corrections (NDC); AS TO COUNT 8 - TO A MAXIMUM of
24 SEVENTY-TWO (72) MONTHS with a MINIMUM Parole Eligibility of TWENTY-FOUR

1 (24) MONTHS in the Nevada Department of Corrections (NDC); AS TO COUNT 9 - TO
2 A MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM Parole
3 Eligibility of SIXTY (60) MONTHS, plus an EQUAL and CONSECUTIVE term of ONE
4 HUNDRED EIGHTY (180) MONTHS MAXIMUM with a MINIMUM Parole Eligibility of
5 SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC); AS TO COUNT
6 10 - TO A MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM
7 Parole Eligibility of SEVENTY-TWO (72) MONTHS, plus an EQUAL and
8 CONSECUTIVE term of ONE HUNDRED EIGHTY (180) MONTHS MAXIMUM and
9 SEVENTY-TWO (72) MONTHS MINIMUM for the Use of a Deadly Weapon in the
10 Nevada Department of Corrections (NDC); AS TO COUNT 11 - TO A MAXIMUM of
11 ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM Parole Eligibility of
12 SEVENTY-TWO (72) MONTHS in the Nevada Department of Corrections (NDC); AS
13 TO COUNT 12 - TO LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS, plus a
14 CONSECUTIVE term of TWENTY (20) YEARS MAXIMUM and EIGHT (8) YEARS
15 MINIMUM for the Use of a Deadly Weapon in the Nevada Department of Corrections
16 (NDC); AS TO COUNT 13 - TO LIFE with a MINIMUM Parole Eligibility of TEN (10)
17 YEARS, plus a CONSECUTIVE term of TWENTY (20) YEARS MAXIMUM and EIGHT
18 (8) YEARS MINIMUM for the Use of a Deadly Weapon in the Nevada Department of
19 Corrections (NDC); AS TO COUNT 14 - TO LIFE with a MINIMUM Parole Eligibility of
20 TEN (10) YEARS, plus a CONSECUTIVE term of TWENTY (20) YEARS MAXIMUM
21 and EIGHT (8) YEARS MINIMUM for the Use of a Deadly Weapon in the Nevada
22 Department of Corrections (NDC); AS TO COUNT 15 - TO LIFE with a MINIMUM
23 Parole Eligibility of TEN (10) YEARS, plus a CONSECUTIVE term of TWENTY (20)
24 YEARS MAXIMUM and EIGHT (8) YEARS MINIMUM for the Use of a Deadly Weapon

1 in the Nevada Department of Corrections (NDC); AS TO COUNT 16 - TO A MAXIMUM
2 of SEVENTY-TWO (72) MONTHS with a MINIMUM Parole Eligibility of TWENTY-FOUR
3 (24) MONTHS, plus an EQUAL and CONSECUTIVE term of SEVENTY-TWO (72)
4 MAXIMUM and TWENTY-FOUR (24) MONTHS MINIMUM for the Use of a Deadly
5 Weapon in the Nevada Department of Corrections (NDC); AS TO COUNT 17 - TO LIFE
6 with a MINIMUM Parole Eligibility of TEN (10) YEARS, plus a CONSECUTIVE term of
7 TWENTY (20) YEARS MAXIMUM and EIGHT (8) YEARS MINIMUM for the Use of a
8 Deadly Weapon in the Nevada Department of Corrections (NDC); AS TO COUNT 18 -
9 TO TWELVE (12) MONTHS in the Clark County Detention Center (CCDC), COUNTS 1
10 - 18 to run CONCURRENT; with ONE HUNDRED EIGHTY FIVE (185) DAYS credit for
11 time served.
12

13
14 FURTHER ORDERED, a SPECIAL SENTENCE of LIFETIME SUPERVISION is
15 imposed to commence upon release from any term of imprisonment, probation or
16 parole.
17

18 ADDITIONALLY, the Defendant is ORDERED to REGISTER as a sex offender in
19 accordance with NRS 179D.460 within FORTY-EIGHT (48) HOURS after any release
20 from custody.
21

22 SUBSEQUENTLY, on the 23rd day of September, 2008, the Defendant appeared
23 in court with his counsel, DAN WINDER, ESQ., and pursuant to a hearing regarding the
24 State's Motion to Correct an Illegal Sentence, and good cause appearing;

25 IT IS ORDERED that the Defendant's sentence be corrected as to Counts 12,
26 13, 14, 15 and 17 as follows: as to COUNT 12 - to LIFE with a MINIMUM Parole
27 Eligibility of TEN (10) YEARS, plus an EQUAL and CONSECUTIVE term of LIFE with a
28 MINIMUM Parole Eligibility of TEN (10) YEARS for the Use of a Deadly Weapon in the

1 Nevada Department of Corrections (NDC); as to COUNT 13 - to LIFE with a MINIMUM
2 Parole Eligibility of TEN (10) YEARS, plus an EQUAL and CONSECUTIVE term of LIFE
3 with a MINIMUM Parole Eligibility of TEN (10) YEARS for the Use of a Deadly Weapon
4 in the Nevada Department of Corrections (NDC); as to COUNT 14 - to LIFE with a
5 MINIMUM Parole Eligibility of TEN (10) YEARS, plus an EQUAL and CONSECUTIVE
6 term of LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS for the Use of a
7 Deadly Weapon in the Nevada Department of Corrections (NDC); as to COUNT 15 - to
8 LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS, plus an EQUAL and
9 CONSECUTIVE term of LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS for
10 the Use of a Deadly Weapon in the Nevada Department of Corrections (NDC); and as
11 to COUNT 17 - to LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS, plus an
12 EQUAL and CONSECUTIVE term of LIFE with a MINIMUM Parole Eligibility of TEN
13 (10) YEARS for the Use of a Deadly Weapon in the Nevada Department of Corrections
14 (NDC). The previously imposed enhancement of Eight to Twenty years for Counts 12,
15 13, 14, 15 and 17 is vacated.
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19
20 DATED this 8th day of October, 2008
21

22
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24 JAMES BIXLER
25 DISTRICT JUDGE
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1 ORIGINAL

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5 *Chris [Signature]*
6 CLERK OF THE COURT

7 IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

8 IN AND FOR THE COUNTY OF CLARK

9 THE HON. JAMES M. BIXLER, DISTRICT COURT JUDGE, PRESIDING

10 THE STATE OF NEVADA,
11 Plaintiff,

12 v.
13 NARCUS S. WESLEY,
14 Defendant.

Case No. 07-C-232494-C
Dept. 24

15 TRANSCRIPT OF PROCEEDINGS

16 Defendant Wesley's Motion to Suppress

17 COURTHOUSE

18 April 9, 2008

19 Las Vegas, Nevada

20
21
22
23
24 Reported by:

Lee M. Bahr, CP, CCR 173

1 APPEARANCES;

2
3 For the State:

LIZA LUZAICH, ESQ.
Chief Deputy D. A.
200 Lewis Ave.
Las Vegas, NV. 89155
and
STACY KOLLINS, ESQ.
Chief Deputy D. A.
200 Lewis Ave.
Las Vegas, NV. 89155

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10 Defendant present in court out of custody.

11 For the Defendant:

CASEY LANDIS ESQ.
Deputy P. D.
Las Vegas, NV.
and
JEFFREY BANKS, ESQ.
Deputy P. D.
Las Vegas, NV.

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20 No other appearances.

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TRANSCRIPT OF EXCERPT OF PROCEEDINGS
Hearing on Defendant's Motion to Suppress

THE COURT: This is the time set for the State
of Nevada v. -- this is Wilson, Delarion Wilson.

MS. LUZAICH: Wesley.

MR. LANDIS: Wesley.

THE COURT: Excuse me, Narcus Wesley. Sorry.

All right. This is your motion to suppress,
correct?

MR. LANDIS: Correct, Judge.

THE COURT: And I think that we have reached
the point where we are going to call a detective, isn't
that correct?

MR. LANDIS: Yes, Judge.

THE COURT: There is only one witness, right?

MR. LANDIS: No.

THE COURT: There is more than one witness.
You are going to call a couple?

MR. LANDIS: Yes.

THE COURT: Okay.

THE COURT: The first witness then is?

MS. LUZAICH: First, Judge, I -- this all
arises out of the service of the search warrant, and
there is at least one individual here that was present

1 during the service of the search warrant that I think
2 should not be in the courtroom during the testimony.
3 That would be the Defendant's mother, who is walking
4 out of the room right now.

5 I don't know who the individual in the orange
6 shirt is, but I am told that one of the Defendants and
7 his mother and father were present.

8 MR. LANDIS: Two things, Judge.

9 One, I don't intend to call her as a witness.

10 Two, his stepmother was there. His biological
11 mother, who that was, was not there during the search
12 warrant. I do think they have a right to be here this
13 morning.

14 THE COURT: Yes, if they aren't -- if they are
15 not potential witnesses, they can, absolutely.

16 If they are potential witnesses, step outside.

17 Anybody that is a potential witness in regards
18 to this case, and in specific, specifics, search the
19 issuance -- the search, the actual search warrant as
20 execution on the residence at -- what was the address?

21 MS. LUZAICH: Gay Lane, 1450 Gay Lane.

22 THE COURT: All right. Anybody who is a potential
23 witness in regards to that incident may step outside.

24 MR. LANDIS: And I can assure this Court that
25 the witnesses I do intend to call have been asked to stay

1 outside.

2 THE COURT: That's fine, all right. So --

3 MR. BANKS: And, Judge, I am going to tell mom
4 that it is okay for her to be in here.

5 THE COURT: Sure, yeah, absolutely.

6 MR. BANKS: Thank you.

7 THE COURT: Absolutely. All right. We are going
8 to call the detective, right?.

9 MS. LUZAICH: That's right. The State calls
10 Curtis Weske.

11 THE CLERK: Come forward, sir.

12 Take the witness stand. Remain standing and
13 raise your right hand.

14 Whereupon,

15 DETECTIVE CURTIS WESKE,
16 called as a witness herein by the State, having been
17 first duly sworn, was examined and testified as follows:

18 THE CLERK: Thank you very much.

19 Please state your name, spell your first and
20 last name for the record.

21 THE WITNESS: My name is Curtis Allen Weske,
22 first name is C-u-r-t-i-s. The last name is W-e-s-k-e.

23 THE CLERK: And your middle name is A-l-a-n
24 or A-l-l-e-n?

25 THE WITNESS: A-l-l-e-n.

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THE CLERK: Thank you.

THE COURT: Go ahead.

DIRECT EXAMINATION

BY MS. LUZAICH:

Q. Sir, are you a police officer with the
Henderson Police Department?

A. Yes, I am.

Q. How long have you been so employed?

A. Since August 30, of 1999.

Q. Of 1999?

A. Yes.

Q. And were you a peace officer before coming
to the Henderson Police Department?

A. Yes, I was.

Q. And where was that?

A. In Juneau, Alaska.

Q. For how long were you a police officer
there?

A. Almost five years.

Q. And while you were in Alaska, were you a
patrol officer or were you a patrol officer and something
else?

A. A patrol officer.

Q. Okay.

When you came to the Henderson Police Department,

1 did you get in as a patrol officer?

2 A. Yes, I did.

3 Q. And did you become something else as well?

4 A. Yes.

5 Q. What else did you do?

6 A. I worked on the ATF Fighting Crime Task Force
7 for a little while I was in the property section of the
8 bureau. I went to robbery and major crimes, and now I
9 am in what they call the Intel/Working to Target Repeat
10 Offenders and gathering intelligence.

11 Q. Okay. Specifically, in February, of 2007,
12 where were you assigned?

13 A. Major crimes.

14 Q. And the weekend of February like 17, 18,
15 19, around there, was that what you believed to be All
16 Star Weekend with NBA and their Allstar game?

17 A. Yes.

18 Q. And did you or were you asked to participate
19 in an investigation of several offenses that occurred late
20 at night, Sunday night, February 19, 18, whatever the Sunday
21 night was was on Great Game Night?

22 A. Yes, ma'am.

23 Q. How was it that you particularly got involved?

24 A. Sergeant Dunaway called and asked me to
25 respond to an apartment complex.

1 Q. Where was the the apartment complex that you --
2 oh, and did you respond? Sorry.

3 A. I believe it was 2101 Warm Springs, Warm Springs
4 is in the Green Valley area.

5 Q. Okay. That would be Henderson, Nevada, right?

6 A. Yes.

7 Q. And when you went to the Warm Springs
8 Apartments, was that late at night, early in the morning?

9 A. Early in the morning.

10 Q. When you got there, were there other police
11 officers already there?

12 A. Other police officers or other detectives,
13 yes, ma'am.

14 Q. A lot of them, correct?

15 A. Yes.

16 Q. And were there also some young kids that
17 you believed to be victims that were also there?

18 A. Yes, they were up in the apartment, I
19 believe.

20 Q. And I swear when I say, "young kids",
21 anybody younger than me is a young kid.

22 Did you personally contact with any of those
23 kids at that time?

24 A. No, I didn't.

25 Q. Was there a detective that was kind of in

1 THE COURT: Did you understand that?

2 DEFENDANT WILSON: Yes.

3 THE COURT: That the sentences that the Court
4 could impose on each of the three counts could run
5 consecutive to each other, one after the other.

6 Do you understand that?

7 DEFENDANT WILSON: Yes, sir.

8 THE COURT: And do you understand that these
9 are mandatory prison sentences so that after you plead
10 guilty that there is no possibility that you are not
11 going to prison.

12 Do you understand that?

13 DEFENDANT WILSON: Yes, sir.

14 THE COURT: Anything else?

15 MS. KOLLINS: Your Honor, did you canvass him
16 on the fact that there will be lifetime supervision as
17 well as restitution in this matter?

18 THE COURT: No, I didn't.

19 On the sexual assault charge, there is a
20 requirement that at the back end, at some point in time,
21 you will be released from prison, but when you get out
22 of prison, in addition to whatever conditions may be
23 imposed if you were on parole, after a parole has expired,
24 there still is a requirement that you stay registered for
25 a lifetime.

1 It's called lifetime supervision.

2 And the terms of the lifetime supervision aren't
3 even known at this point because they won't be known until
4 you get out of prison, and then they formulate whatever
5 conditions would be appropriate at the time.

6 But I can't tell you what those conditions are
7 going to be for lifetime supervision because they are not
8 known at the time, but I am putting you on notice that when
9 you do get out of prison and when you do expire your parole,
10 there are going to be requirements that you have to comply
11 with for the rest of your life.

12 Have you ever had that explained to you?

13 DEFENDANT WILSON: Yes, sir.

14 THE COURT: Okay.

15 MS. KOLLINS: And, Your Honor, I guess the last
16 thing, before he is parole eligible, he will have to undergo
17 a psychosexual examination that determines that he is less
18 than a high risk to reoffend sexually, and that will be
19 reviewed by the Parole Board.

20 THE COURT: That is a statutory requirement
21 prior to being admitted to parole.

22 Do you understand that?

23 In other words, you are going to talk to a
24 psychiatrist, and you are going to go through a psychosexual
25 evaluation, and the result of that evaluation must indicate

1 that you are something less than a high risk for recidivism
2 in terms of a sexual crime.

3 DEFENDANT WILSON: Yes, sir.

4 THE COURT: Now, understanding all that, is it
5 your desire still to enter your plea of guilty to these
6 three charges, two counts of robbery with use of a deadly
7 weapon, and one count of sexual assault.

8 Is that correct?

9 DEFENDANT WILSON: Yes, sir.

10 THE COURT: Okay. Anything else?

11 MS. KOLLINS: No, Your Honor. Thank you.

12 THE COURT: All right.

13 The Court is going to accept your plea of guilty
14 to those three charges, Count I, Count II, robbery with the
15 use of a deadly weapon, and Count III, sexual assault, as
16 having been freely and voluntarily entered.

17 We need what, 45 days?

18 MS. KOLLINS: 45 days should do it. There is
19 no requirement for the psychosexual on the front end,
20 but just to be on the safe side.

21 THE COURT: Okay, all right.

22 MR. ORONOZ: Could we do it in 30?

23 THE COURT: We can try, but I will be honest
24 with you, you know, anything --

25 MR. ORONOZ: 45 days will be fine.

1 THE COURT: We are probably going to be wasting
2 time if we try to do it 30.

3 MR. ORONOZ: Okay.

4 THE COURT: Because we get letters from them,
5 for anything approaching 30 days, we are getting letters
6 from P and P asking for more time so we might as well just
7 go ahead and pass it for 45 days.

8 THE CLERK: May 13, at 8:30.

9 MR. LANDIS: And as to Mr. Wesley, his presence
10 is waived today?

11 THE COURT: Yes, I waived Mr. Wesley's presence,
12 Mr. Landis. Now that Mr. Wilson's matter is over with,
13 I guess you guys are up, right?

14 MS. KOLLINS: That's correct.

15 THE COURT: And we are set for a Franks hearing
16 Monday afternoon at 1:30, right?

17 MS. KOLLINS: Yes, and just to let the Court
18 know, Detective Westby (phonetically) left the jurisdiction,
19 and Ms. Iuzach and I were unaware of that.

20 What I have for you this morning is an affidavit
21 that is an offer of proof of what he would testify to.

22 I also have coordinated with him with Mr.
23 Landis's and the Court's permission to telephonically
24 conduct the Franks hearing.

25 He will be as far away as Texas and will be

1 traveling back here, believing that we were starting later
2 in the week. He didn't understand the necessity for the
3 Franks hearing when he left town.

4 THE COURT: Why don't we do this then?

5 I suspect that Mr. Landis is going to be wanting
6 to look the detective in the eye when he is testifying.

7 MS. KOLLINS: Well, and here's the thing. If
8 we could just preliminarily do it on Monday over the phone,
9 have it recorded, then he will get him in the jurisdiction,
10 and then Mr. Landis can conclude any of his cross-examination
11 that he feels is necessary if he likes.

12 Here is the issue.

13 Understandably, the incorrect name or the name was
14 not put in the affidavit, and I have an explanation and an
15 offer of proof and an affidavit for this Court explaining
16 why that is.

17 The detective got the information verbally that
18 the address had been changed.

19 Not till he had drafted the search warrant, got
20 it confirmed that the vehicle was at that address, you
21 know, was gone from the station, not till he returned was
22 that subpoena, that administrative subpoena complied with
23 such that the paper document came in.

24 He never received that information verbally.
25 He didn't get that until after the warrant was drafted,

1 approved, executed.

2 Do you see what I am saying?

3 I mean, the facts didn't come in until long
4 after he was gone from the station and had split to Nevada
5 Power.

6 So that's -- I mean, that is the issue.

7 So on that limited basis, if we could do it by
8 virtue of a phone conference then --

9 THE COURT: What you are suggesting actually
10 is that you want to bifurcate it.

11 You want to go ahead, and put him under oath
12 on the telephone, have you guys quiz him and say that
13 we get his testimony presumptively will coincide with
14 what he is giving you in terms of an affidavit, and
15 then set it over to Wednesday morning, and then Mr.
16 Landis can then cross-examine him as to whatever matters
17 he chose?

18 MS. KOLLINS: Right.

19 THE COURT: Okay.

20 MR. LANDIS: I do disagree with their factual
21 basis that they've stated.

22 I believe that he attached that Nevada Power
23 record to his search court affidavit at the time he
24 submitted it. But there is other issues --

25 MS. KOLLINS: (Interposing) Perhaps after when

1 Victor whatever his name is, about what time of the day
2 is it by now?

3 A. This is in the morning. This is getting
4 closer, I think, to eight or nine.

5 Q. Okay.

6 And with the information about Brandon Preston,
7 what did you then do?

8 A. We called Country -- Countrywide, and they
9 told us they did have a Brandon Preston that worked there,
10 and they gave us a phone number to contact him with, and
11 so I called that phone number.

12 Q. Did you contact Brandon Preston personally?

13 A. Yes, I did.

14 Q. Did you have a conversation with him about
15 what you knew?

16 A. Yes.

17 Q. And did you get information about an
18 individual named Grant?

19 A. Yes.

20 Q. Did he give you actual like residence
21 information, I know grant, and he lives at such and such?

22 A. Yes, he did. He told me he was still
23 roommates with him, however, they had moved, and so he
24 gave me that address, and said that he should be at home
25 right now, and so we proceeded over there.

1 Q. You physically went over to that location?

2 A. Yes.

3 Q. And is that still in Henderson?

4 A. Yes.

5 Q. And when you went to that location, what
6 happened?

7 A. At the point we knocked on the door, I made
8 a phone call because he gave me Grant's phone number. We
9 knocked on the door, we called, and we saw his car in the
10 driveway, and there was no answer.

11 And so I can't recall I called him back, and I
12 said, well, this was actually targeted towards him so are
13 you concerned for him, too, and he said, yes, he was.

14 Q. And, I'm sorry, when you say, "called him
15 back", who is "him"?

16 A. Brandon.

17 Q. Okay.

18 A. And he said, yes, he should be there, and
19 there is no reason why he shouldn't be answering the door.

20 So at that time we got the manager's key to open
21 the door, stood at the bottom of the door and called out,
22 "Henderson police, Brandon, are you okay? Henderson police,
23 Brandon, are you okay?"

24 At that time he woke up and came out, and he
25 said, yeah, he was fine, and that is when we had our

1 conversation.

2 Q. Okay. And about what time of the day is
3 it by now?

4 A. Probably closer to noon, or so.

5 Q. Okay.

6 A. Or two o'clock.

7 Q. And did you talk to Grant about what you
8 knew?

9 A. Yes.

10 Q. Were you trying to -- well, what were you
11 trying to find out from Grant?

12 A. Trying to find out if he knew who would
13 be asking for him, you know, who would be coming in there
14 trying to use the bank. I go, you know, does he owe money?
15 Is anybody after you?

16 Q. Did you give any description of the individual
17 who could be after him?

18 A. Yes, I said there were two black males that
19 came looking for you, and, you know, they called you by
20 name, and they wanted some money. They said you owed some
21 money.

22 Q. Did he give you a name?

23 A. Yes, he did.

24 Q. What name did he give you?

25 A. He said Delarian Wilson.

1 Q. Okay. And is that the only name that he
2 gave you?

3 A. Yes.

4 Q. Okay. So he didn't know who potentially the
5 second person could be?

6 A. No, he didn't.

7 Q. And when he gave you the names, well, did
8 he give you the name of Delarian Wilson or was there also
9 another?

10 A. Cameron.

11 Q. Okay. And did he give you other information
12 about Delarian and Cameron Wilson?

13 A. He said that he -- he used to work at -- not
14 used to work, he used to play football at UNIV, he said that
15 he worked out with him at the gym, but he had heard that he
16 had transferred down to Colorado and out-of-state.

17 Q. And, I'm sorry, you keep saying "he" and
18 "him", he who heard that he had transferred --

19 A. (Interposing) Grant heard this stuff.

20 Q. Grant heard that Wilson played and transferred?

21 A. Yes.

22 Q. Okay.

23 A. Well, he was friends with --

24 Q. Wilson?

25 A. Wilson, and he said that he worked out with

1 him at the gym, you know, but a while ago he knew that he
2 had been transferred to Adam State.

3 Grant said that Wilson moved to Adam State, and
4 was playing football there and then he said that, you know,
5 it is kind of funny you say that, but one of my friends
6 called me -- Grant said one of his friends called him and
7 said that Wilson is back in town, and that he asked about
8 Grant.

9 Q. Recently?

10 A. Yes.

11 Q. Okay.

12 A. Maybe a day or two.

13 Q. Okay. And with that information, what did
14 you do?

15 A. I asked him if he could come down to the
16 station and talk to Detective Niswonger because his name
17 is in this case, and see if he had more questions since
18 they were interviewing the victims, if he would come down
19 and give a taped statement and, you know, identify photos
20 if we could find one.

21 Q. And did he agree to come down with you?

22 A. Yes, he did.

23 Q. And did you learn during the course of this
24 that there was stuff -- Grant told you that?

25 A. Yes.

1 Q. Was it marijuana?

2 A. Yes.

3 Q. And did you actually find some of that stuff
4 at Grant's house?

5 A. Yes, I did.

6 Q. And some money?

7 A. Yes.

8 Q. And did you seize all that?

9 A. Yes, I did.

10 Q. Okay. Now, at the station, did he actually
11 give a taped interview?

12 A. Yes, he did.

13 Q. And that was audio and videotape?

14 A. Yes, it was.

15 Q. Did you get any more information from him
16 regarding the individuals who might have committed the
17 crime that you were investigating?

18 A. Just I believe he identified a 2005 booking
19 photo for Delarian, and we didn't get any other suspect
20 information.

21 Q. Okay. While he was at the station, is it
22 your understanding that one of the detectives found a
23 booking photo of Delarian Wilson?

24 A. Yes.

25 Q. And were you present when grant -- and what's

1 Grant's name, just for the record, his last name?

2 A. Heib.

3 Q. Is that H-i-e-b?

4 A. I think it's H-e-i-b.

5 Q. Oh, that's either way.

6 Okay.

7 And were you present when Grant Heib was shown
8 the photo and said whether or not that was the person?

9 A. I believe I was. I'm pretty sure I was.

10 Q. Okay. Was it your understanding that he
11 did identify --

12 A. Yes.

13 Q. -- that person as Delarian Wilson?

14 A. Yes.

15 Q. Okay. And once you had that information,
16 then what did you do?

17 A. At that point, we had other detectives
18 working on different things so we were now trying to scour,
19 you know, basically Las Vegas, looking for Delarian Wilson,
20 and I understand that a narcotics team was working on that
21 end of it.

22 Q. Okay.

23 Were there -- earlier I had asked you if
24 Detective Niswonger was assigning people to do certain
25 things.

1 All of these people that were participating
2 in the investigation, were you communicating with each
3 other?

4 A. Communicating with each other and, basically,
5 the sergeant was basically our liaison, Sergeant Dunaway.
6 So if we didn't talk to these people directly we talked to
7 the sergeant once we completed a task and so it was Tony
8 Niswonger now, I'm sorry, Detective Niswonger to Sergeant
9 Dunaway, what have you heard, and so he was kind of the
10 liaison.

11 Q. Okay. And you were sharing information with
12 others that way?

13 A. Yes.

14 Q. Through maybe Detective Dunaway?

15 A. Yes.

16 Q. And did Detective Dunaway give you information
17 regarding the location of Delarian Wilson?

18 A. Yes.

19 Q. And do you know about what time of day? Are
20 we still in the same day, that Monday?

21 A. Yes, yes, we are, we are in the afternoon.
22 I think that we were at three or four o'clock in the
23 afternoon at this point.

24 Q. Okay.

25 And did you get information -- was there a time

1 that Delarian Wilson was actually located?

2 A. Yes.

3 Q. And where was he located?

4 A. Circus Circus.

5 Q. Now, did you participate in actually locating
6 Mr. Wilson?

7 A. No.

8 Q. Did you go to Circus Circus once you discovered
9 covered that Wilson was located?

10 A. Later in the evening, yes.

11 Q. Did you do anything inbetween the time that
12 you or that you recall inbetween the time that you had the
13 conversation with Grant Heib and the time that you went to
14 Circus Circus?

15 A. Yes.

16 Q. What did you do at that time?

17 A. They were trying to locate him, and once
18 they said they located him, and they found out that he
19 had a room there registered to him then I was assisting
20 Detective Pena, and I believe Detective Hartshorn was
21 there in gathering information to apply for a search
22 warrant for that room at Circus Circus.

23 Q. Okay.

24 But you are not the one who actually authored
25 the search warrant, correct?

1 A. Not that one.

2 Q. So was that Detective Pena?

3 A. I believe so.

4 Q. Okay.

5 Do you know about what time of day it was that
6 you got to Circus Circus?

7 A. I am going to have to say five or six. I
8 know it was getting dark.

9 Q. Okay.

10 And did you participate in serving the search
11 warrant, in and -- I'm sorry -- was the search warrant
12 for the room that Delarian Wilson was registered to?

13 A. Yes, it was.

14 Q. Okay.

15 And at this point you still have no idea who
16 the other suspect is, is that correct?

17 A. Correct.

18 Q. You don't have the name, nothing?

19 A. No.

20 Q. Okay.

21 And, I'm sorry, I asked the question, I wasn't
22 listening to the answer, did you participate in serving
23 the search warrant on Delarian Wilson's room?

24 A. No, I did not.

25 Q. Do you know while his room was being searched

1 where he was?

2 A. Yes. At that point he was being detained
3 at security downstairs, with security.

4 Q. Okay.

5 Was it it your understanding that one of the other
6 detectives physically found him and took him into custody
7 and brought him to security?

8 A. Yes, they took him into custody at a blackjack
9 table.

10 Q. Okay. And when you went to security, was he
11 there by himself or with others?

12 A. He was there with others.

13 Q. Police officers?

14 A. Police officers, and I think two others, a
15 female and a male.

16 Q. Like friend type people?

17 A. Yes.

18 Q. As opposed to service type people?

19 A. Yes.

20 Q. Okay. And what did you do when you got
21 there?

22 A. I talked to Detective Allison. He said he
23 was playing blackjack.

24 You know, we just kind of talked about, okay,
25 the other detectives that were across the room from him,

1 JUSTICE COURT, HENDERSON TOWNSHIP

2 CLARK COUNTY, NEVADA

3 THE STATE OF NEVADA,

4 Plaintiff,

5 -vs-

6 DELARIAN K. WILSON, aka,
7 Delarian Kameron Wilson #1966773,
8 NARCUS S. WESLEY, aka,
Narcus Samone Wesley #1757866,

9 Defendants.

CASE NO: 07FII0317A-B

DEPT NO: 1

CRIMINAL COMPLAINT

10 The Defendants above named having committed the crimes of CONSPIRACY TO
11 COMMIT BURGLARY (Gross Misdemeanor - NRS 199.480, 205.060); CONSPIRACY
12 TO COMMIT ROBBERY (Felony - NRS 199.480, 200.380); ROBBERY WITH USE OF A
13 DEADLY WEAPON (Felony - NRS 200.380, 193.165); FIRST DEGREE KIDNAPPING
14 WITH USE OF A DEADLY WEAPON (Felony - NRS 200.310, 200.320, 193.165);
15 BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Felony - NRS
16 205.060); SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON (Felony - NRS
17 200.364, 200.366, 193.165) and COERCION WITH USE OF A DEADLY WEAPON
18 (Felony - NRS 207.190, 193.165), in the manner following, to-wit: That the said
19 Defendants, on or about the 18th day of February, 2007, at and within the County of Clark,
20 State of Nevada,

21 COUNT 1 - CONSPIRACY TO COMMIT BURGLARY

22 Defendants did then and there meet with each other and between themselves, and
23 each of them with the other, wilfully and unlawfully conspire and agree to commit a crime,
24 to-wit: Burglary, and in furtherance of said conspiracy, Defendants did commit the acts as
25 set forth in Count 10, said acts being incorporated by this reference as though fully set forth
26 herein.

27 COUNT 2 - CONSPIRACY TO COMMIT ROBBERY

28 Defendants did then and there meet with each other and between themselves, and

1 each of them with the other, wilfully, unlawfully, and feloniously conspire and agree to
2 commit a crime, to-wit: Robbery, and in furtherance of said conspiracy, Defendants did
3 commit the acts as set forth in Counts 3 through 8, said acts being incorporated by this
4 reference as though fully set forth herein.

5 COUNT 3 - ROBBERY WITH USE OF A DEADLY WEAPON

6 Defendants did then and there wilfully, unlawfully, and feloniously take personal
7 property, to-wit: money, from the person of JUSTIN RICHARDSON, or in his presence, by
8 means of force or violence or fear of injury to, and without the consent and against the will
9 of the said JUSTIN RICHARDSON, said Defendants using a deadly weapon, to-wit: a hand
10 gun, during the commission of said crime, the Defendants being criminally liable under one
11 or more of the following principles of criminal liability, to-wit: (1) by directly committing
12 this crime; and/or (2) by Defendants aiding or abetting one another in the commission of this
13 crime by assisting one another and by providing counsel and encouragement each carrying
14 out specific acts with the intent that this crime be committed; and/or (3) pursuant to a
15 conspiracy to commit this crime.

16 COUNT 4 - ROBBERY WITH USE OF A DEADLY WEAPON

17 Defendants did then and there wilfully, unlawfully, and feloniously take personal
18 property, to-wit: money, from the person of ATTOR ESKANDON, or in his presence, by
19 means of force or violence or fear of injury to, and without the consent and against the will
20 of the said ATTOR ESKANDON, said Defendants using a deadly weapon, to-wit: a hand
21 gun, during the commission of said crime, the Defendants being criminally liable under one
22 or more of the following principles of criminal liability, to-wit: (1) by directly committing
23 this crime; and/or (2) by Defendants aiding or abetting one another in the commission of this
24 crime by assisting one another and by providing counsel and encouragement each carrying
25 out specific acts with the intent that this crime be committed; and/or (3) pursuant to a
26 conspiracy to commit this crime.

27 COUNT 5 - ROBBERY WITH USE OF A DEADLY WEAPON

28 Defendants did then and there wilfully, unlawfully, and feloniously take personal

property, to-wit: money, from the person of JUSTIN FOUCAULT, or in his presence, by means of force or violence or fear of injury to, and without the consent and against the will of the said JUSTIN FOUCAULT, said Defendants using a deadly weapon, to-wit: a hand gun, during the commission of said crime, the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendants aiding or abetting one another in the commission of this crime by assisting one another and by providing counsel and encouragement each carrying out specific acts with the intent that this crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

COUNT 6 - ROBBERY WITH USE OF A DEADLY WEAPON

Defendants did then and there willfully, unlawfully, and feloniously take personal property, to-wit: money, from the person of RYAN TOGNOTTI, or in his presence, by means of force or violence or fear of injury to, and without the consent and against the will of the said RYAN TOGNOTTI, said Defendants using a deadly weapon, to-wit: a hand gun, during the commission of said crime, the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendants aiding or abetting one another in the commission of this crime by assisting one another and by providing counsel and encouragement each carrying out specific acts with the intent that this crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

COUNT 7 - ROBBERY WITH USE OF A DEADLY WEAPON

Defendants did then and there wilfully, unlawfully, and feloniously take personal property, to-wit: money, from the person of CLINT TOGNOTTI, or in his presence, by means of force or violence or fear of injury to, and without the consent and against the will of the said CLINT TOGNOTTI, said Defendants using a deadly weapon, to-wit: a hand gun, during the commission of said crime, the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendants aiding or abetting one another in the commission of this

1 crime by assisting one another and by providing counsel and encouragement each carrying
2 out specific acts with the intent that this crime be committed; and/or (3) pursuant to a
3 conspiracy to commit this crime.

4 COUNT 8 - ROBBERY WITH USE OF A DEADLY WEAPON

5 Defendants did then and there wilfully, unlawfully, and feloniously take personal
6 property, to-wit: money, from the person of DANIELLE BROWN, or in her presence, by
7 means of force or violence or fear of injury to, and without the consent and against the will
8 of the said DANIELLE BROWN, said Defendants using a deadly weapon, to-wit: a hand
9 gun, during the commission of said crime, the Defendants being criminally liable under one
10 or more of the following principles of criminal liability, to-wit: (1) by directly committing
11 this crime; and/or (2) by Defendants aiding or abetting one another in the commission of this
12 crime by assisting one another and by providing counsel and encouragement each carrying
13 out specific acts with the intent that this crime be committed; and/or (3) pursuant to a
14 conspiracy to commit this crime.

15 COUNT 9 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

16 Defendants did wilfully, unlawfully, feloniously, and without authority of law, seize,
17 confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away JUSTIN
18 RICHARDSON, a human being, with the intent to hold or detain the said JUSTIN
19 RICHARDSON against his will, and without his consent, for the purpose of committing
20 Robbery, said Defendants using a deadly weapon, to-wit: a hand gun, during the
21 commission of said crime, the Defendants being criminally liable under one or more of the
22 following principles of criminal liability, to-wit: (1) by directly committing this crime;
23 and/or (2) by Defendants aiding or abetting one another in the commission of this crime by
24 assisting one another and by providing counsel and encouragement each carrying out
25 specific acts with the intent that this crime be committed; and/or (3) pursuant to a conspiracy
26 to commit this crime.

27 COUNT 10 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

28 Defendants did then and there wilfully, unlawfully, and feloniously enter, while in

1 possession of a deadly weapon, to-wit: hand gun, with intent to commit larceny and/or a
2 felony, to-wit: Robbery, the Honda Civic belonging to JUSTIN RICHARDSON, the
3 Defendants being criminally liable under one or more of the following principles of criminal
4 liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendants aiding or
5 abetting one another in the commission of this crime by assisting one another and by
6 providing counsel and encouragement each carrying out specific acts with the intent that this
7 crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

8 COUNT 11 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

9 Defendants did then and there wilfully, unlawfully, and feloniously sexually assault
10 with use of a deadly weapon to-wit: a hand gun, and subject DANIELLE BROWNING, a
11 female person, to sexual penetration, to-wit: by forcing DANIELLE BROWNING to
12 perform fellatio on JUSTIN RICHARDSON while threatening to kill her or others if she
13 didn't perform said sexual act, against her will, the Defendants being criminally liable under
14 one or more of the following principles of criminal liability, to-wit: (1) by directly
15 committing this crime; and/or (2) by Defendants aiding or abetting one another in the
16 commission of this crime by assisting one another and by providing counsel and
17 encouragement each carrying out specific acts with the intent that this crime be committed;
18 and/or (3) pursuant to a conspiracy to commit this crime.

19 COUNT 12 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

20 Defendants did then and there wilfully, unlawfully, and feloniously sexually assault
21 with use of a deadly weapon to-wit: a hand gun, and subject DANIELLE BROWNING, a
22 female person, to sexual penetration, to-wit: by forcing DANIELLE BROWNING to be
23 subjected to cunnilingus performed by JUSTIN RICHARDSON while threatening to kill her
24 or others if she didn't engage in said acts said sexual act, against her will, the Defendants
25 being criminally liable under one or more of the following principles of criminal liability, to-
26 wit: (1) by directly committing this crime; and/or (2) by Defendants aiding or abetting one
27 another in the commission of this crime by assisting one another and by providing counsel
28 and encouragement each carrying out specific acts with the intent that this crime be

committed; and/or (3) pursuant to a conspiracy to commit this crime.

COUNT 13 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

Defendants did then and there wilfully, unlawfully, and feloniously sexually assault with use of a deadly weapon to-wit: a hand gun, and subject JUSTIN RICHARDSON, a male person, to sexual penetration, to-wit: by forcing JUSTIN RICHARDSON to receive fellatio from DANIELLE BROWNING while threatening to kill him and/or other if he did not engage in said sexual conduct, against his will, the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendants aiding or abetting one another in the commission of this crime by assisting one another and by providing counsel and encouragement each carrying out specific acts with the intent that this crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

COUNT 14 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

Defendants did then and there wilfully, unlawfully, and feloniously sexually assault with use of a deadly weapon to-wit: a hand gun, and subject JUSTIN RICHARDSON, a male person, to sexual penetration, to-wit: by forcing JUSTIN RICHARDSON to perform cunnilingus on DANIELLE BROWNING while threatening to kill him and/or others if he did not engage in said sexual conduct, against his will, the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendants aiding or abetting one another in the commission of this crime by assisting one another and by providing counsel and encouragement each carrying out specific acts with the intent that this crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

COUNT 15 - COERCION WITH USE OF A DEADLY WEAPON

Defendants did then and there wilfully, unlawfully, and feloniously use physical force, or the immediate threat of such force, against RYAN TOGNOTTI, with intent to compel him to do, or abstain from doing, an act which he had a right to do, or abstain from doing, by using a deadly weapon, to-wit: a hand gun, and forcing RYAN TOGNOTTI to

1 masturbate his penis, said acts being sexually motivated, the Defendants being criminally
2 liable under one or more of the following principles of criminal liability, to-wit: (1) by
3 directly committing this crime; and/or (2) by Defendants aiding or abetting one another in
4 the commission of this crime by assisting one another and by providing counsel and
5 encouragement each carrying out specific acts with the intent that this crime be committed;
6 and/or (3) pursuant to a conspiracy to commit this crime.

7 COUNT 16 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

8 Defendants did then and there wilfully, unlawfully, and feloniously sexually assault
9 with use of a deadly weapon to-wit: a hand gun, and subject DANIELLE BROWNING, a
10 female person, to sexual penetration, to-wit: digital penetration, Defendant WESLEY
11 NARCUS penetrating DANIELLE BROWNING's vagina, however slight with his hand
12 and/or one or more fingers, against her will, the Defendants being criminally liable under
13 one or more of the following principles of criminal liability, to-wit: (1) by directly
14 committing this crime; and/or (2) by Defendants aiding or abetting one another in the
15 commission of this crime by assisting one another and by providing counsel and
16 encouragement each carrying out specific acts with the intent that this crime be committed;
17 and/or (3) pursuant to a conspiracy to commit this crime.

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

21
22
23 2/23/2007

24
25 07FH0317A-B/jj
26 IPD EV# 0703748
27 CONSP; RWDW;
28 1ST DEG KID WDW;
BURG WDW; S/A WDW;
COERCION WDW - F/GM
(TK1)

1 JUSTICE COURT, HENDERSON TOWNSHIP

2 CLARK COUNTY, NEVADA

3 THE STATE OF NEVADA,

4 Plaintiff,

5 -vs-

6 DELARIAN K. WILSON, aka,
7 Delarian Kameron Wilson #1966773,
8 NARCUS S. WESLEY, aka,
9 Narcus Samone Wesley #1757866,

Defendants.

CASE NO: 07FII0317A-B

DEPT NO: 1

AMENDED

CRIMINAL COMPLAINT

10 The Defendants above named having committed the crimes of CONSPIRACY TO
11 COMMIT BURGLARY (Gross Misdemeanor - NRS 199.480, 205.060); CONSPIRACY
12 TO COMMIT ROBBERY (Felony - NRS 199.480, 200.380); BURGLARY WHILE IN
13 POSSESSION OF A DEADLY WEAPON (Felony - NRS 205.060); ROBBERY WITH
14 USE OF A DEADLY WEAPON (Felony - NRS 200.380, 193.165); ASSAULT WITH USE
15 OF A DEADLY WEAPON (Felony - NRS 200.471, 193.165); FIRST DEGREE
16 KIDNAPPING WITH USE OF A DEADLY WEAPON (Felony - NRS 200.310, 200.320,
17 193.165); SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON (Felony - NRS
18 200.364, 200.366, 193.165); COERCION WITH USE OF A DEADLY WEAPON (Felony -
19 NRS 207.190, 193.165) and OPEN OR GROSS LEWDNESS WITH USE OF A DEADLY
20 WEAPON (Gross Misdemeanor - NRS 201.210, 193.165), in the manner following, to-wit:
21 That the said Defendants, on or about the 18th day of February, 2007, at and within the
22 County of Clark, State of Nevada,

23 COUNT 1 - CONSPIRACY TO COMMIT BURGLARY

24 Defendants did then and there meet with each other and between themselves, and
25 each of them with the other, wilfully and unlawfully conspire and agree to commit a crime,
26 to-wit: Burglary, and in furtherance of said conspiracy, Defendants did commit the acts as
27 set forth in Count 10, said acts being incorporated by this reference as though fully set forth
28 herein.

3

11

1 COUNT 2 - CONSPIRACY TO COMMIT ROBBERY

2 Defendants did then and there meet with each other and between themselves, and
3 each of them with the other, wilfully, unlawfully, and feloniously conspire and agree to
4 commit a crime, to-wit: Robbery, and in furtherance of said conspiracy, Defendants did
5 commit the acts as set forth in Counts 3 through 8, said acts being incorporated by this
6 reference as though fully set forth herein.

7 COUNT 3 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

8 Defendants did then and there wilfully, unlawfully, and feloniously enter, while in
9 possession of a deadly weapon, to-wit: hand gun, with intent to commit larceny and/or a
10 felony, to-wit: Robbery, the house at 690 Great Dane Court, Las Vegas, Clark County,
11 Nevada, the Defendants being criminally liable under one or more of the following
12 principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by
13 Defendants aiding or abetting one another in the commission of this crime by assisting one
14 another and by providing counsel and encouragement each carrying out specific acts with the
15 intent that this crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

16 COUNT 4 - ROBBERY WITH USE OF A DEADLY WEAPON

17 Defendants did then and there wilfully, unlawfully, and feloniously take personal
18 property, to-wit: condoms, from the person of JUSTIN RICHARDSON, or in his presence,
19 by means of force or violence or fear of injury to, and without the consent and against the
20 will of the said JUSTIN RICHARDSON, said Defendants using a deadly weapon, to-wit: a
21 hand gun, during the commission of said crime, the Defendants being criminally liable under
22 one or more of the following principles of criminal liability, to-wit: (1) by directly
23 committing this crime; and/or (2) by Defendants aiding or abetting one another in the
24 commission of this crime by assisting one another and by providing counsel and
25 encouragement each carrying out specific acts with the intent that this crime be committed;
26 and/or (3) pursuant to a conspiracy to commit this crime.

27 //

28 //

As set

COUNT 5 - ROBBERY WITH USE OF A DEADLY WEAPON

Defendants did then and there wilfully, unlawfully, and feloniously take personal property, to-wit: money, from the person of AITOR ESKANDON, or in his presence by means of force or violence or fear of injury to, and without the consent and against the will of the said AITOR ESKANDON, said Defendants using a deadly weapon, to-wit: a handgun, during the commission of said crime, the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendants aiding or abetting one another in the commission of this crime by assisting one another and by providing counsel and encouragement each carrying out specific acts with the intent that this crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

COUNT 6 - ROBBERY WITH USE OF A DEADLY WEAPON

Defendants did then and there wilfully, unlawfully, and feloniously take personal property, to-wit: money, from the person of JUSTIN FOUCAULT, or in his presence, by means of force or violence or fear of injury to, and without the consent and against the will of the said JUSTIN FOUCAULT, said Defendants using a deadly weapon, to-wit: a handgun, during the commission of said crime, the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendants aiding or abetting one another in the commission of this crime by assisting one another and by providing counsel and encouragement each carrying out specific acts with the intent that this crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

COUNT 7 - ROBBERY WITH USE OF A DEADLY WEAPON

Defendants did then and there wilfully, unlawfully, and feloniously take personal property, to-wit: money, from the person of RYAN TOGNOTTI, or in his presence, by means of force or violence or fear of injury to, and without the consent and against the will of the said RYAN TOGNOTTI, said Defendants using a deadly weapon, to-wit: a handgun, during the commission of said crime, the Defendants being

1 more of the following principles of criminal liability, to-wit: (1) by directly committing this
2 crime; and/or (2) by Defendants aiding or abetting one another in the commission of this
3 crime by assisting one another and by providing counsel and encouragement each carrying
4 out specific acts with the intent that this crime be committed; and/or (3) pursuant to a
5 conspiracy to commit this crime.

6 COUNT 8 - ASSAULT WITH USE OF A DEADLY WEAPON

7 Defendants did wilfully, unlawfully, and feloniously place another person in
8 reasonable apprehension of immediate bodily harm, to-wit: CLINTON TOGNOTTI, by
9 pointing a hand gun at and forcing the said CLINTON TOGNOTTI to lay on the ground
10 while personal property was taken from others in his presence, said Defendants using a
11 deadly weapon, to-wit: a hand gun, during the commission of said crime, the Defendants
12 being criminally liable under one or more of the following principles of criminal liability, to-
13 wit: (1) by directly committing this crime; and/or (2) by Defendants aiding or abetting one
14 another in the commission of this crime by assisting one another and by providing counsel
15 and encouragement each carrying out specific acts with the intent that this crime be
16 committed; and/or (3) pursuant to a conspiracy to commit this crime.

17 COUNT 9 - ROBBERY WITH USE OF A DEADLY WEAPON

18 Defendants did then and there wilfully, unlawfully, and feloniously take personal
19 property, to-wit: cell phone, from the person of DANIELLE BROWNING, or in her
20 presence, by means of force or violence or fear of injury to, and without the consent and
21 against the will of the said DANIELLE BROWNING, said Defendants using a deadly
22 weapon, to-wit: a hand gun, during the commission of said crime, the Defendants being
23 criminally liable under one or more of the following principles of criminal liability, to-wit:
24 (1) by directly committing this crime; and/or (2) by Defendants aiding or abetting one
25 another in the commission of this crime by assisting one another and by providing counsel
26 and encouragement each carrying out specific acts with the intent that this crime be
27 committed; and/or (3) pursuant to a conspiracy to commit this crime.

28 //

1 COUNT 10 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

2 Defendants did wilfully, unlawfully, feloniously, and without authority of law, seize,
3 confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away RYAN TOGNOTTI,
4 a human being, with the intent to hold or detain the said RYAN TOGNOTTI against his will,
5 and without his consent, for the purpose of committing Robbery, said Defendants using a
6 deadly weapon, to-wit: a hand gun, during the commission of said crime, the Defendants
7 being criminally liable under one or more of the following principles of criminal liability, to-
8 wit: (1) by directly committing this crime; and/or (2) by Defendants aiding or abetting one
9 another in the commission of this crime by assisting one another and by providing counsel
10 and encouragement each carrying out specific acts with the intent that this crime be
11 committed; and/or (3) pursuant to a conspiracy to commit this crime.

12 COUNT 11 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

13 Defendants did then and there wilfully, unlawfully, and feloniously enter, while in
14 possession of a deadly weapon, to-wit: hand gun, with intent to commit larceny and/or a
15 felony, to-wit: Robbery, the Honda Civic belonging to RYAN TOGNOTTI, the Defendants
16 being criminally liable under one or more of the following principles of criminal liability, to-
17 wit: (1) by directly committing this crime; and/or (2) by Defendants aiding or abetting one
18 another in the commission of this crime by assisting one another and by providing counsel
19 and encouragement each carrying out specific acts with the intent that this crime be
20 committed; and/or (3) pursuant to a conspiracy to commit this crime.

21 COUNT 12 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

22 Defendants did then and there wilfully, unlawfully, and feloniously sexually assault
23 with use of a deadly weapon to-wit: a hand gun, and subject DANIELLE BROWNING, a
24 female person, to sexual penetration, to-wit: by forcing DANIELLE BROWNING to
25 perform fellatio on JUSTIN RICHARDSON while threatening to kill her or others if she
26 didn't perform said sexual act, against her will, the Defendants being criminally liable under
27 one or more of the following principles of criminal liability, to-wit: (1) by directly
28 committing this crime; and/or (2) by Defendants aiding or abetting one another in the

1 commission of this crime by assisting one another and by providing counsel and
2 encouragement each carrying out specific acts with the intent that this crime be committed;
3 and/or (3) pursuant to a conspiracy to commit this crime.

4 COUNT 13 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

5 Defendants did then and there wilfully, unlawfully, and feloniously sexually assault
6 with use of a deadly weapon to-wit: a hand gun, and subject DANIELLE BROWNING, a
7 female person, to sexual penetration, to-wit: by forcing DANIELLE BROWNING to be
8 subjected to cunnilingus performed by JUSTIN RICHARDSON while threatening to kill her
9 or others if she didn't engage in said acts said sexual act, against her will, the Defendants
10 being criminally liable under one or more of the following principles of criminal liability, to-
11 wit: (1) by directly committing this crime; and/or (2) by Defendants aiding or abetting one
12 another in the commission of this crime by assisting one another and by providing counsel
13 and encouragement each carrying out specific acts with the intent that this crime be
14 committed; and/or (3) pursuant to a conspiracy to commit this crime.

15 COUNT 14 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

16 Defendants did then and there wilfully, unlawfully, and feloniously sexually assault
17 with use of a deadly weapon to-wit: a hand gun, and subject JUSTIN RICHARDSON, a
18 male person, to sexual penetration, to-wit: by forcing JUSTIN RICHARDSON to receive
19 fellatio from DANIELLE BROWNING while threatening to kill him and/or other if he did
20 not engage in said sexual conduct, against his will, the Defendants being criminally liable
21 under one or more of the following principles of criminal liability, to-wit: (1) by directly
22 committing this crime; and/or (2) by Defendants aiding or abetting one another in the
23 commission of this crime by assisting one another and by providing counsel and
24 encouragement each carrying out specific acts with the intent that this crime be committed;
25 and/or (3) pursuant to a conspiracy to commit this crime.

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1 COUNT 15 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

2 Defendants did then and there wilfully, unlawfully, and feloniously sexually assault
3 with use of a deadly weapon to-wit: a hand gun, and subject JUSTIN RICHARDSON, a
4 male person, to sexual penetration, to-wit: by forcing JUSTIN RICHARDSON to perform
5 cunnilingus on DANIELLE BROWNING while threatening to kill him and/or others if he
6 did not engage in said sexual conduct, against his will, the Defendants being criminally
7 liable under one or more of the following principles of criminal liability, to-wit: (1) by
8 directly committing this crime; and/or (2) by Defendants aiding or abetting one another in
9 the commission of this crime by assisting one another and by providing counsel and
10 encouragement each carrying out specific acts with the intent that this crime be committed;
11 and/or (3) pursuant to a conspiracy to commit this crime.

12 COUNT 16 - COERCION WITH USE OF A DEADLY WEAPON

13 Defendants did then and there wilfully, unlawfully, and feloniously use physical
14 force, or the immediate threat of such force, against RYAN TOGNOTTI, with intent to
15 compel him to do, or abstain from doing, an act which he had a right to do, or abstain from
16 doing, by using a deadly weapon, to-wit: a hand gun, and forcing RYAN TOGNOTTI to
17 masturbate his penis, said acts being sexually motivated, the Defendants being criminally
18 liable under one or more of the following principles of criminal liability, to-wit: (1) by
19 directly committing this crime; and/or (2) by Defendants aiding or abetting one another in
20 the commission of this crime by assisting one another and by providing counsel and
21 encouragement each carrying out specific acts with the intent that this crime be committed;
22 and/or (3) pursuant to a conspiracy to commit this crime.

23 COUNT 17 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

24 Defendants did then and there wilfully, unlawfully, and feloniously sexually assault
25 with use of a deadly weapon to-wit: a hand gun, and subject DANIELLE BROWNING, a
26 female person, to sexual penetration, to-wit: digital penetration, Defendant NARCUS
27 WESLEY penetrating DANIELLE BROWNING's vagina, however slight with his hand
28 and/or one or more fingers, against her will, the Defendants being criminally liable under

1 one or more of the following principles of criminal liability, to-wit: (1) by directly
2 committing this crime; and/or (2) by Defendants aiding or abetting one another in the
3 commission of this crime by assisting one another and by providing counsel and
4 encouragement each carrying out specific acts with the intent that this crime be committed;
5 and/or (3) pursuant to a conspiracy to commit this crime.

6 COUNT 18 -- OPEN OR GROSS LEWDNESS WITH USE OF A DEADLY WEAPON

7 Defendants did then and there wilfully and unlawfully commit an act of open or gross
8 lewdness by touching and/or rubbing the chest and/or buttocks of DANIELLE BROWNING
9 with use of a deadly weapon to-wit: a hand gun, the Defendant being criminally liable under
10 one or more of the following principles of criminal liability, to-wit: (1) by directly
11 committing this crime; and/or (2) by Defendants aiding or abetting one another in the
12 commission of this crime by assisting one another and by providing counsel and
13 encouragement each carrying out specific acts with the intent that this crime be committed;
14 and/or (3) pursuant to a conspiracy to commit this crime.

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

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19
20 4/17/2007
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23
24

25 07FH0317A-B/jj
26 IIPD EV# 0703748
27 CONSP; RWDW;
28 1ST DEG KID WDW;
BURG WDW; S/A WDW;
COERCION WDW; O/G LEW WUDW - F/GM
(TK1)


CLERK OF THE COURT

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

12 **I.A. 05/09/07**
13 **9:00 A.M.**
14 **ORONOZ/KOCKA**

DISTRICT COURT
CLARK COUNTY, NEVADA

15 **THE STATE OF NEVADA,**
16
17 **Plaintiff,**

Case No: C232494
Dept No: XXIV

18 **-vs-**

19 **DELARIAN K. WILSON, aka**
20 **Delarian Kamron Wilson #1966773,**
21 **NARCUS S. WESLEY, aka**
22 **Narcus Samone Wesley #1757866,**
23 **Defendant.**

INFORMATION

24 **STATE OF NEVADA** }
25 **COUNTY OF CLARK** } ss.

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

28 **That DELARIAN K. WILSON, aka Delarian Kamron Wilson and NARCUS S.**
WESLEY, aka, Narcus Samone Wesley, the Defendants above named, having committed the
crimes of CONSPIRACY TO COMMIT BURGLARY (Gross Misdemeanor - NRS
199.480, 205.060); CONSPIRACY TO COMMIT ROBBERY (Felony - NRS 199.480,
200.380); BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Felony -
NRS 205.060); ROBBERY WITH USE OF A DEADLY WEAPON (Felony - NRS
200.380, 193.165); ASSAULT WITH USE OF A DEADLY WEAPON (Felony - NRS
200.471, 193.165); FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY

1 WEAPON (Felony - NRS 200.310, 200.320, 193.165); SEXUAL ASSAULT WITH USE
2 OF A DEADLY WEAPON (Felony - NRS 200.364, 200.366, 193.165); COERCION
3 WITH USE OF A DEADLY WEAPON (Felony - NRS 207.190, 193.165) and OPEN
4 OR GROSS LEWDNESS WITH USE OF A DEADLY WEAPON (Gross Misdemeanor
5 - NRS 201.210, 193.165), on or about the 18th day of February, 2007, within the County of
6 Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made
7 and provided, and against the peace and dignity of the State of Nevada,

8 COUNT 1 - CONSPIRACY TO COMMIT BURGLARY

9 Defendants did then and there meet with each other and between themselves, and
10 each of them with the other, wilfully and unlawfully conspire and agree to commit a crime,
11 to-wit: Burglary, and in furtherance of said conspiracy, Defendants did commit the acts as
12 set forth in Counts 3 & 11, said acts being incorporated by this reference as though fully set
13 forth herein.

14 COUNT 2 - CONSPIRACY TO COMMIT ROBBERY

15 Defendants did then and there meet with each other and between themselves, and
16 each of them with the other, wilfully, unlawfully, and feloniously conspire and agree to
17 commit a crime, to-wit: Robbery, and in furtherance of said conspiracy, Defendants did
18 commit the acts as set forth in Counts 3, 4, 6, 7, 8 & 9, said acts being incorporated by this
19 reference as though fully set forth herein.

20 COUNT 3 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

21 Defendants did then and there wilfully, unlawfully, and feloniously enter, while in
22 possession of a deadly weapon, to-wit: hand gun, with intent to commit larceny and/or a
23 felony, to-wit: Robbery, the house at 690 Great Dane Court, Las Vegas, Clark County,
24 Nevada, the Defendants being criminally liable under one or more of the following
25 principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by
26 Defendants aiding or abetting one another in the commission of this crime by assisting one
27 another and by providing counsel and encouragement each carrying out specific acts with the
28 intent that this crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

1 COUNT 4 - ROBBERY WITH USE OF A DEADLY WEAPON

2 Defendants did then and there wilfully, unlawfully, and feloniously take personal
3 property, to-wit: condoms, from the person of JUSTIN RICHARDSON, or in his presence,
4 by means of force or violence or fear of injury to, and without the consent and against the
5 will of the said JUSTIN RICHARDSON, said Defendants using a deadly weapon, to-wit: a
6 hand gun, during the commission of said crime, the Defendants being criminally liable under
7 one or more of the following principles of criminal liability, to-wit: (1) by directly
8 committing this crime; and/or (2) by Defendants aiding or abetting one another in the
9 commission of this crime by assisting one another and by providing counsel and
10 encouragement each carrying out specific acts with the intent that this crime be committed;
11 and/or (3) pursuant to a conspiracy to commit this crime.

12 COUNT 5 - ASSAULT WITH USE OF A DEADLY WEAPON

13 Defendants did wilfully, unlawfully, and feloniously place another person in
14 reasonable apprehension of immediate bodily harm, to-wit: AITOR ESKANDON, by
15 pointing a hand gun at and forcing the said AITOR ESKANDON to lay on the ground while
16 personal property was taken from others in his presence, said Defendants using a deadly
17 weapon, to-wit: a hand gun, during the commission of said crime, the Defendants being
18 criminally liable under one or more of the following principles of criminal liability, to-wit:
19 (1) by directly committing this crime; and/or (2) by Defendants aiding or abetting one
20 another in the commission of this crime by assisting one another and by providing counsel
21 and encouragement each carrying out specific acts with the intent that this crime be
22 committed; and/or (3) pursuant to a conspiracy to commit this crime.

23 COUNT 6 - ROBBERY WITH USE OF A DEADLY WEAPON

24 Defendants did then and there wilfully, unlawfully, and feloniously take personal
25 property, to-wit: money, from the person of JUSTIN FOUCAULT, or in his presence, by
26 means of force or violence or fear of injury to, and without the consent and against the will
27 of the said JUSTIN FOUCAULT, said Defendants using a deadly weapon, to-wit: a hand
28 gun, during the commission of said crime, the Defendants being criminally liable under one

1 or more of the following principles of criminal liability, to-wit: (1) by directly committing
2 this crime; and/or (2) by Defendants aiding or abetting one another in the commission of this
3 crime by assisting one another and by providing counsel and encouragement each carrying
4 out specific acts with the intent that this crime be committed; and/or (3) pursuant to a
5 conspiracy to commit this crime.

6 COUNT 7 - ROBBERY WITH USE OF A DEADLY WEAPON

7 Defendants did then and there wilfully, unlawfully, and feloniously take personal
8 property, to-wit: money, from the person of RYAN TOGNOTTI, or in his presence, by
9 means of force or violence or fear of injury to, and without the consent and against the will
10 of the said RYAN TOGNOTTI, said Defendants using a deadly weapon, to-wit: a hand gun,
11 during the commission of said crime, the Defendants being criminally liable under one or
12 more of the following principles of criminal liability, to-wit: (1) by directly committing this
13 crime; and/or (2) by Defendants aiding or abetting one another in the commission of this
14 crime by assisting one another and by providing counsel and encouragement each carrying
15 out specific acts with the intent that this crime be committed; and/or (3) pursuant to a
16 conspiracy to commit this crime.

17 COUNT 8 - ASSAULT WITH USE OF A DEADLY WEAPON

18 Defendants did wilfully, unlawfully, and feloniously place another person in
19 reasonable apprehension of immediate bodily harm, to-wit: CLINTON TOGNOTTI, by
20 pointing a hand gun at and forcing the said CLINTON TOGNOTTI to lay on the ground
21 while personal property was taken from others in his presence, said Defendants using a
22 deadly weapon, to-wit: a hand gun, during the commission of said crime, the Defendants
23 being criminally liable under one or more of the following principles of criminal liability, to-
24 wit: (1) by directly committing this crime; and/or (2) by Defendants aiding or abetting one
25 another in the commission of this crime by assisting one another and by providing counsel
26 and encouragement each carrying out specific acts with the intent that this crime be
27 committed; and/or (3) pursuant to a conspiracy to commit this crime.

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1 COUNT 9 - ROBBERY WITH USE OF A DEADLY WEAPON

2 Defendants did then and there wilfully, unlawfully, and feloniously take personal
3 property, to-wit: cell phone, from the person of DANIELLE BROWNING, or in her
4 presence, by means of force or violence or fear of injury to, and without the consent and
5 against the will of the said DANIELLE BROWNING, said Defendants using a deadly
6 weapon, to-wit: a hand gun, during the commission of said crime, the Defendants being
7 criminally liable under one or more of the following principles of criminal liability, to-wit:
8 (1) by directly committing this crime; and/or (2) by Defendants aiding or abetting one
9 another in the commission of this crime by assisting one another and by providing counsel
10 and encouragement each carrying out specific acts with the intent that this crime be
11 committed; and/or (3) pursuant to a conspiracy to commit this crime.

12 COUNT 10 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

13 Defendants did wilfully, unlawfully, feloniously, and without authority of law, seize,
14 confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away RYAN TOGNOTTI,
15 a human being, with the intent to hold or detain the said RYAN TOGNOTTI against his will,
16 and without his consent, for the purpose of committing Robbery, said Defendants using a
17 deadly weapon, to-wit: a hand gun, during the commission of said crime, the Defendants
18 being criminally liable under one or more of the following principles of criminal liability, to-
19 wit: (1) by directly committing this crime; and/or (2) by Defendants aiding or abetting one
20 another in the commission of this crime by assisting one another and by providing counsel
21 and encouragement each carrying out specific acts with the intent that this crime be
22 committed; and/or (3) pursuant to a conspiracy to commit this crime.

23 COUNT 11 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

24 Defendants did then and there wilfully, unlawfully, and feloniously enter, while in
25 possession of a deadly weapon, to-wit: hand gun, with intent to commit larceny and/or a
26 felony, to-wit: Robbery, the Honda Civic belonging to RYAN TOGNOTTI, the Defendants
27 being criminally liable under one or more of the following principles of criminal liability, to-
28 wit: (1) by directly committing this crime; and/or (2) by Defendants aiding or abetting one

1 another in the commission of this crime by assisting one another and by providing counsel
2 and encouragement each carrying out specific acts with the intent that this crime be
3 committed; and/or (3) pursuant to a conspiracy to commit this crime.

4 COUNT 12 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

5 Defendants did then and there wilfully, unlawfully, and feloniously sexually assault
6 with use of a deadly weapon to-wit: a hand gun, and subject DANIELLE BROWNING, a
7 female person, to sexual penetration, to-wit: by forcing DANIELLE BROWNING to
8 perform fellatio on JUSTIN RICHARDSON while threatening to kill her or others if she
9 didn't perform said sexual act, against her will, the Defendants being criminally liable under
10 one or more of the following principles of criminal liability, to-wit: (1) by directly
11 committing this crime; and/or (2) by Defendants aiding or abetting one another in the
12 commission of this crime by assisting one another and by providing counsel and
13 encouragement each carrying out specific acts with the intent that this crime be committed;
14 and/or (3) pursuant to a conspiracy to commit this crime.

15 COUNT 13 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

16 Defendants did then and there wilfully, unlawfully, and feloniously sexually assault
17 with use of a deadly weapon to-wit: a hand gun, and subject DANIELLE BROWNING, a
18 female person, to sexual penetration, to-wit: by forcing DANIELLE BROWNING to be
19 subjected to cunnilingus performed by JUSTIN RICHARDSON while threatening to kill her
20 or others if she didn't engage in said acts said sexual act, against her will, the Defendants
21 being criminally liable under one or more of the following principles of criminal liability, to-
22 wit: (1) by directly committing this crime; and/or (2) by Defendants aiding or abetting one
23 another in the commission of this crime by assisting one another and by providing counsel
24 and encouragement each carrying out specific acts with the intent that this crime be
25 committed; and/or (3) pursuant to a conspiracy to commit this crime.

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1 COUNT 14 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

2 Defendants did then and there wilfully, unlawfully, and feloniously sexually assault
3 with use of a deadly weapon to-wit: a hand gun, and subject JUSTIN RICHARDSON, a
4 male person, to sexual penetration, to-wit: by forcing JUSTIN RICHARDSON to receive
5 fellatio from DANIELLE BROWNING while threatening to kill him and/or other if he did
6 not engage in said sexual conduct, against his will, the Defendants being criminally liable
7 under one or more of the following principles of criminal liability, to-wit: (1) by directly
8 committing this crime; and/or (2) by Defendants aiding or abetting one another in the
9 commission of this crime by assisting one another and by providing counsel and
10 encouragement each carrying out specific acts with the intent that this crime be committed;
11 and/or (3) pursuant to a conspiracy to commit this crime.

12 COUNT 15 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

13 Defendants did then and there wilfully, unlawfully, and feloniously sexually assault
14 with use of a deadly weapon to-wit: a hand gun, and subject JUSTIN RICHARDSON, a
15 male person, to sexual penetration, to-wit: by forcing JUSTIN RICHARDSON to perform
16 cunnilingus on DANIELLE BROWNING while threatening to kill him and/or others if he
17 did not engage in said sexual conduct, against his will, the Defendants being criminally
18 liable under one or more of the following principles of criminal liability, to-wit: (1) by
19 directly committing this crime; and/or (2) by Defendants aiding or abetting one another in
20 the commission of this crime by assisting one another and by providing counsel and
21 encouragement each carrying out specific acts with the intent that this crime be committed;
22 and/or (3) pursuant to a conspiracy to commit this crime.

23 COUNT 16 - COERCION WITH USE OF A DEADLY WEAPON

24 Defendants did then and there wilfully, unlawfully, and feloniously use physical
25 force, or the immediate threat of such force, against RYAN TOGNOTTI, with intent to
26 compel him to do, or abstain from doing, an act which he had a right to do, or abstain from
27 doing, by using a deadly weapon, to-wit: a hand gun, and forcing RYAN TOGNOTTI to
28 masturbate his penis, said acts being sexually motivated, the Defendants being criminally

1 liable under one or more of the following principles of criminal liability, to-wit: (1) by
2 directly committing this crime; and/or (2) by Defendants aiding or abetting one another in
3 the commission of this crime by assisting one another and by providing counsel and
4 encouragement each carrying out specific acts with the intent that this crime be committed;
5 and/or (3) pursuant to a conspiracy to commit this crime.

6 COUNT 17 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

7 Defendants did then and there wilfully, unlawfully, and feloniously sexually assault
8 with use of a deadly weapon to-wit: a hand gun, and subject DANIELLE BROWNING, a
9 female person, to sexual penetration, to-wit: digital penetration, Defendant NARCUS
10 WESLEY penetrating DANIELLE BROWNING's vagina, however slight with his hand
11 and/or one or more fingers, against her will, the Defendants being criminally liable under
12 one or more of the following principles of criminal liability, to-wit: (1) by directly
13 committing this crime; and/or (2) by Defendants aiding or abetting one another in the
14 commission of this crime by assisting one another and by providing counsel and
15 encouragement each carrying out specific acts with the intent that this crime be committed;
16 and/or (3) pursuant to a conspiracy to commit this crime.

17 COUNT 18 - OPEN OR GROSS LEWDNESS WITH USE OF A DEADLY WEAPON

18 Defendants did then and there wilfully and unlawfully commit an act of open or gross
19 lewdness by touching and/or rubbing the chest and/or buttocks of DANIELLE BROWNING
20 with use of a deadly weapon to-wit: a hand gun, the Defendant being criminally liable under
21 one or more of the following principles of criminal liability, to-wit: (1) by directly
22 committing this crime; and/or (2) by Defendants aiding or abetting one another in the
23 commission of this crime by assisting one another and by providing counsel and

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1 encouragement each carrying out specific acts with the intent that this crime be committed;
2 and/or (3) pursuant to a conspiracy to commit this crime.

3 DAVID ROGER
4 DISTRICT ATTORNEY
5 Nevada Bar #002781

6 BY /s/ LISA LUZAICH
7 LISA LUZAICH
8 Chief Deputy District Attorney
9 Nevada Bar #005056

10 Names of witnesses known to the District Attorney's Office at the time of filing this
11 Information are as follows:

<u>NAME</u>	<u>ADDRESS</u>
BROWNING, DANIELLE	HC 60 BOX 53007, ROAD MTN., NV 89045
CASTRO, JUNE	HPD P#825
DUNAWAY, BRIAN	HPD P#659
ESKANDON, AITOR	2101 W. WARM SPRGS RD., #4322, HND, NV 89014
FOUCAULT, JUSTIN	690 GREAT DANE CT., HND, NV 89052
HARTSHORN, BRYAN	HPD P#1146
HENN, ITZHAK	HPD P#1202
JOHNSTON, MICHAEL	HPD P#634
NISWONGER, ANTHONY	HPD P#1003
PENA, RODRIGO	HPD P#857
RICHARDSON, JUSTIN	690 GREAT DANE CT., HND, NV 89052
SLATTERY, KYLE	HPD P#1306
TOGNOTTI, RYAN	690 GREAT DANE CT., HND, NV 89052
TOGNOTTI, CLINTON	2101 W. WARM SPRGS RD., #4322, HND, NV 89014

26 DA#07FH0317A/B/mmaw/SVU
27 HPD EV#0703748
28 CONSP; RWDW; 1ST DEG KID WDW; BURG WDW; S/A WDW;
AWDW; COERCION WDW; O/G LEW WUDW - I/GM
(TK1)

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Case 07-C-232494-C

Just Ct. 07-FH-00317
Case#

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[Judgments](#)

Plaintiff State of Nevada
 Defendant Wilson, Delarian K
 Judge Bixler, James

Attorney Roger, David J.
 Attorney Oronoz, James A
 Dept. 24

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Total of 125 entries, presently displaying 81 through 90.
 Entries are displayed most recent first.

Filed Date	Description	Performed
04/01/2008	REPORTER'S TRANSCRIPT CHANGE OF PLEA AS TO DEFENDANT WILSON	03/28/2007
	For All Parties	20 pages
03/28/2008	NOTICE OF WITNESSES AND/OR EXPERT WITNESSES	
	For Wesley, Narcus S	
	Filed By State of Nevada	5 pages
03/31/2008	TRIAL BY JURY	04/18/2008
	For Wesley, Narcus S	
03/28/2008	AMENDED INFORMATION	03/28/2008
	For Wilson, Delarian K	
	Filed By State of Nevada	3 pages
03/31/2008	TRIAL BY JURY	04/01/2008
	Outcome VACATED	
	For Wesley, Narcus S	
03/28/2008	GUILTY PLEA MEMORANDUM/AGREEMENT	
	For Wilson, Delarian K	
	Filed By State of Nevada	9 pages
03/28/2008	ALL PENDING MOTIONS 3/28/08	03/28/2008
	For All Parties	
03/27/2008	ALL PENDING MOTIONS (3/27/08)	03/27/2008
	For All Parties	
03/27/2008	TRIAL BY JURY (VJ/3/31/08)	04/02/2008
	Outcome VACATED	
	For Wesley, Narcus S	
03/27/2008	TRIAL BY JURY (VJ/3/28/08)	04/01/2008
	Outcome VACATED	
	For Wilson, Delarian K	

Entries: (1 - 10) | (11 - 20) | (21 - 30) | (31 - 40) | (41 - 50) | (51 - 60) | (61 - 70) | (71 - 80) | (81 - 90) | (91 - 100) | (101 - 110) | (111 - 120) | (121 - 125)

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Just Ct. 07-FH-00317

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Charges

Sentencing

Rail Bond

Judgments

Plaintiff State of Nevada
 Defendant Wilson, Delarian K
 Judge Bixler, James

Attorney Roger, David J.
 Attorney Oronoz, James A
 Dept. 24

Total of 125 entries, presently displaying 91 through 100.
 Entries are displayed most recent first.

Filed Date	Description	Performed
03/27/2008	FRANKS HEARING (DO NOT POST)	04/09/2008
	Outcome DENIED	
	For Wesley, Narcus S	
03/27/2008	STATUS CHECK: CHANGE OF PLEA	03/28/2008
	For Wilson, Delarian K	
03/26/2008	ALL PENDING MOTIONS (3/25/08)	03/25/2008
	For All Parties	
03/25/2008	DEFT'S MTN TO CONTINUE /1	03/27/2008
	Outcome GRANTED	
	For Wesley, Narcus S	3 pages
03/24/2008	STATES OPPOSITION TO DEFENDANT WESLEYS MOTION TO SUPPRESS FRUITS OF ILLEGAL	
	For Wesley, Narcus S	
	Filed By State of Nevada	22 pages
03/24/2008	STATES OPPOSITION TO DEFENDANT WILSONS MOTION TO SUPPRESS STATEMENT	
	For Wilson, Delarian K	
	Filed By State of Nevada	22 pages
03/22/2008	ALL PENDING MOTIONS (3/18/08)	03/18/2008
	For All Parties	
03/17/2008	DEFT'S MTN TO SUPPRESS STATEMENT/17	03/28/2008
	Outcome MOOT	
	For Wilson, Delarian K	40 pages
03/11/2008	DEFT'S JOINDER TO MTN TO SEVER DEFTS /16	03/27/2008
	Outcome GRANTED	
	For Wilson, Delarian K	2 pages
03/11/2008	DEFT'S MTN TO SUPPRESS /15	03/31/2008
	For Wesley, Narcus S	28 pages

Entries: (1 - 10) | (11 - 20) | (21 - 30) | (31 - 40) | (41 - 50) | (51 - 60) | (61 - 70) | (71 - 80) | (81 - 90) | (91 - 100) | (101 - 110) | (111 - 120) | (121 - 125)

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Plaintiff State of Nevada
 Defendant Wilson, Delarian K
 Judge Bixler, James

Attorney Roger, David J.
 Attorney Oronoz, James A
 Dept. 24

Total of 125 entries, presently displaying 101 through 110.
 Entries are displayed most recent first.

Filed Date	Description	Performed
03/06/2008	DEFT'S MOT TO SEVER DEFTS/14	03/27/2008
	Outcome GRANTED	
	For Wesley, Narcus S	7 pages
01/24/2008	TRIAL BY JURY (VJ/3/27/08)	03/31/2008
	Outcome VACATED	
	For All Parties	
01/24/2008	CALENDAR CALL	03/27/2008
	For All Parties	
11/01/2007	TRIAL BY JURY VJ 1-24-08	01/28/2008
	Outcome VACATED	
	For All Parties	
11/01/2007	CALENDAR CALL	01/24/2008
	For All Parties	
08/29/2007	EX PARTE ORDER	08/29/2007
	For Wilson, Delarian K	
	Filed By Wilson, Delarian K	1 page
08/16/2007	EX PARTE MOTION TO APPOINT INVESTIGATOR AND FOR FEES IN EXCESS OF STATUTORY	
	For Wilson, Delarian K	
	Filed By Wilson, Delarian K	4 pages
06/13/2007	TRIAL BY JURY (VJ/11/1/07)	11/05/2007
	Outcome VACATED	
	For All Parties	
06/13/2007	CALENDAR CALL	11/01/2007
	Outcome MATTER HEARD	
	For All Parties	
06/08/2007	BOND - #AS250K-1338 - \$215,000.00	
	For Wesley, Narcus S	4 pages

Entries: (1 - 10) | (11 - 20) | (21 - 30) | (31 - 40) | (41 - 50) | (51 - 60) | (61 - 70) | (71 - 80) | (81 - 90) | (91 - 100) | (101 - 110) | (111 - 120) | (121 - 125)

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 Plaintiff State of Nevada
 Defendant Wilson, Delarian K
 Judge Dixler, James

 Attorney Roger, David J.
 Attorney Oronoz, James A
 Dept. 24

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Filed Date	Description	Performed
06/08/2007	BOND - #AS100K-2709 - \$100,000.00	
	For Wesley, Narcus S	4 pages
06/08/2007	BOND - #AS250K-1339 - \$93,000.00	
	For Wesley, Narcus S	4 pages
05/25/2007	STATUS CHECK: TRIAL DATE	05/31/2007
	Outcome MATTER HEARD	
	For All Parties	
05/23/2007	REPORTER'S TRANSCRIPT PRELIMINARY HEARING	04/17/2007
	For All Parties	132 pages
05/23/2007	REPORTER'S TRANSCRIPT PRELIMINARY HEARING	04/12/2007
	For All Parties	75 pages
05/22/2007	CONFIRMATION OF COUNSEL (KOHN)	05/24/2007
	Outcome MATTER HEARD	
	For Wesley, Narcus S	
05/17/2007	DEFT'S O.R. RELEASE/BAIL REDUCTION /5	05/22/2007
	Outcome DENIED	
	For Wesley, Narcus S	23 pages
05/09/2007	TRIAL BY JURY	07/02/2007
	Outcome VACATED	
	For All Parties	
05/09/2007	CALENDAR CALL	06/28/2007
	Outcome VACATED	
	For All Parties	
05/09/2007	ARRAIGNMENT CONTINUED	05/16/2007
	For Wilson, Delarian K	

Entries: (1 - 10) | (11 - 20) | (21 - 30) | (31 - 40) | (41 - 50) | (51 - 60) | (61 - 70) | (71 - 80) | (81 - 90) | (91 - 100) | (101 - 110) | (111 - 120) | (121 - 125)

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Legal Notice

Plaintiff State of Nevada
Defendant Wilson, Delarian K
Judge Bixler, JamesAttorney Roger, David J.
Attorney Oronoz, James A
Dept. 24Total of 125 entries, presently displaying 121 through 125.
Entries are displayed most recent first.

Filed Date	Description	Performed
04/25/2007	CRIMINAL BINDOVER RECEIPT	
	For All Parties	
	Filed By State of Nevada	1 page
04/25/2007	CRIMINAL BINDOVER	
	For All Parties	
	Filed By State of Nevada	94 pages
04/20/2007	INFORMATION	04/20/2007
	For All Parties	
	Filed By State of Nevada	9 pages
04/20/2007	INITIAL ARRAIGNMENT	05/09/2007
	For All Parties	
04/19/2007	INFORMATION Fee \$0.00	04/19/2007

Entries: (1 - 10) | (11 - 20) | (21 - 30) | (31 - 40) | (41 - 50) | (51 - 60) | (61 - 70) | (71 - 80) | (81 - 90) | (91 - 100) | (101 - 110) | (111 - 120) | (121 - 125)

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5/1/2009

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

ORIGINAL

7
FILED

2008 MAR 11 A 10:06

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

Casey A. Landis
CLERK OF THE COURT

10 THE STATE OF NEVADA,

11 Plaintiff,

12 v.

13 NARCUS SAMONE WESLEY,

14 Defendant.

CASE NO. C232494B

DEPT. NO. XXIV

DATE: March 25, 2008
TIME: 8:30 a.m.

15 MOTION TO SUPPRESS FRUITS OF ILLEGAL SEARCH

16 COMES NOW, the Defendant, NARCUS SAMONE WESLEY, by and through
17 CASEY A. LANDIS, Deputy Public Defender and hereby Moves this Court for an Order
18 suppressing the property seized from 4232 Gaye Avenue on February 20, 2007. This motion
19 further seeks to suppress all statements made by Wesley during that search.

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

23 DATED this 11th day of March, 2008.

24 PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

25 By *Casey A. Landis*
CASEY A. LANDIS, #9424
Deputy Public Defender



CLERK OF THE COURT

MAR 11 2008

RECEIVED

0030

DECLARATION

CASEY A. LANDIS 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 11th day of March, 2008.


CASEY A. LANDIS

Points and Authorities

I. FACTS

On February 18, 2007, two black males forcibly entered a residence and proceeded to commit a number of crimes upon the 6 individuals located therein. The victims reported that one of the two individuals, alleged to be Delarian Wilson, was clearly in charge of the events that transpired. According to the victims, Wilson issued all of the commands and made most, if not all, of the decisions. Conversely, the second perpetrator, alleged to be Narcus Wesley, was described as quit and visibly nervous throughout the ordeal.

After the perpetrators left the residence, the Henderson Police Department were called and began an investigation. Shortly thereafter, the Henderson Police Department identified Delarian Wilson as a possible suspect and located him at the Circus-Circus Hotel-Casino. Upon contacting Wilson, the Henderson Police Department interrogated him regarding his whereabouts on February 18, 2007. Wilson fully confessed to committing the various crimes on those 6 victims. Wilson also informed the police that the individual who was with him was a former football teammate he only knew as "Narcus." Thereafter, Wilson was arrested and charged.

With Wilson in custody, the Henderson Police Department set out to determine the identity of the individual Wilson identified as "Narcus." From a U.N.L.V football roster, the Henderson Police Department learned that an individual named Narcus Wesley was a member of that team. An administrative subpoena was then sent to Nevada Power. See Exhibit 1 (Administrative Subpoena to Nevada Power) The subpoena requests power records for "Narcus Wesley." Following Narcus' name on the subpoena, a social security number, alleged to be his, is listed. In reality, the social security number written on the subpoena does not belong to Narcus Wesley.

The administrative subpoena was returned by Nevada Power on February 20, 2007. Nevada Power was unable to locate a current customer by the name of Narcus Wesley. However, the incorrect social security number provided did result in a match. That social security number matched with a customer named "Narviz Wesley" with an address of 4232 Gaye Avenue. See Exhibit 2 (Nevada Power Subpoena Return)

1 When Nevada Power gave this power record to the Henderson Police Department, they
2 made it clear that the return did not match the request. On the power record returned to the police,
3 an employee of Nevada Power hand wrote the following:

4 **Please Note: Individuals first name is different from your request*

5 See Exhibit 2. With that address in hand, the Henderson Police Department drove by 4232 Gaye
6 Lane and observed a white Chrysler 300M in the drive way. When Wilson was interrogated, he
7 said that Narcus drove a car matching that description.

8 A search warrant request and affidavit was then submitted to the Honorable S. George. See
9 Exhibit 3 (Search Warrant Application and Affidavit). The search warrant application sought to
10 search the residence as well as all vehicles present. The search warrant application disclosed the
11 crimes that were reported, the statements made by the victims, and the interrogation and arrest of
12 Wilson. In an attempt to show probable cause to search 4232 Gaye Lane, the police wrote the
13 following:

14 A records check of the UNLV football roster showed a player
15 named Narcus Wesley. A further records check showed Narcus's
16 date of birth was 10/03/1982 and a SSN of XXX-XX-XXXX. A
17 subpoena of Nevada Power's records showed Narcus to have an
18 account at the residence of 4232 Gaye Avenue, Las Vegas, Nevada
19 89108. I observed the above vehicles including the white 2005
20 Chrysler registered to Narcus in the driveway of 4232 Gaye Avenue.

21 See id.

22 Nowhere in the search warrant application did the Henderson Police Department disclose
23 the name discrepancies made clear to them by Nevada Power. Further, the Henderson Police
24 Department found it unnecessary to inform the judge that the social security number sent to
25 Nevada Power did not belong to Narcus.

26 Based on these factual inaccuracies, the search warrant was approved in full. See Exhibit 4
27 (Search Warrant). The search warrant was executed on February 20, 2007. Narcus and his father,
28 Narvick Wesley, were present at the residence. During the search, Narcus was handcuffed and

1 interrogated. He admitted to his participation in the crime. The Henderson Police Department
2 seized the clothing Narcus claimed to be wearing during the crimes, \$95.00, a SRS rifle, and a
3 State Farm bill showing 4232 Gaye Lane to be Narcus's address.

4 Narcus was arrested and charged with numerous counts of Robbery with use of a Deadly
5 Weapon, Sexual Assault with Use of a Deadly Weapon and related charges. Currently, Wilson
6 and Wesley are charged as codefendants through a single indictment and trial is currently
7 scheduled to commence before this Court on March 31, 2007. This motion to suppress the fruits
8 of an illegal search follows.

9 **II. ARGUMENT**

10 **A. THE HENDERSON POLICE DEPARTMENT MISREPRESENTED**
11 **MATERIAL FACTS IN THE AFFIDAVIT IN SUPPORT OF A SEARCH**
12 **WARRANT IN AN EFFORT TO MISLEAD THE ISSUING COURT**
13 **REGARDING THE EXISTENCE OF PROBABLE CAUSE**

14 In Franks v. Delaware, 438 U.S. 154, 98 S. Ct. 2674 (1978), the United States Supreme
15 Court recognized the constitutional right to challenge the truthfulness of statements contained in a
16 search warrant affidavit. The Court must hold an evidentiary hearing under Franks upon a
17 substantial preliminary showing that (1) a false statement was included in the affidavit; (2) the
18 false statement was made knowingly and intentionally, or with reckless disregard for the truth; and
19 (3) the allegedly false statement was necessary to the finding of probable cause. Id. at 2676; see
20 also Garettson v. State, 114 Nev. 1064 (1998). At this stage, clear proof of deliberate or reckless
21 misstatements is not required, but rather is reserved for the evidentiary hearing. See United States
22 v. Stanert, 762 F.2d 775, 781 (9th Cir. 1985); United States v. Chesher, 678 F.2d 1353, 1362 (9th
23 Cir. 1982). Thus, Wesley may, upon the substantial showing outlined above, request an evidentiary
24 hearing to develop the factual basis for the suppression of the evidence. At the evidentiary hearing,
25 if the defendants ultimately establish the required elements by a preponderance of the evidence,
26 the Court must void the search and suppress the fruits thereof. See Franks, 438 U.S. at 156.

27 When the Henderson Police Department applied for the search warrant in this case, they
28 informed the Court that Narcus Wesley had power in this name at 4232 Gaye Avenue. That

1 statement was false. At the time that statement was made, the Henderson Police Department knew
2 it was false. The subpoena return from Nevada Power was clear that Narcus Wesley did not have
3 power in his name at 4232 Gaye Avenue. The Henderson Police Department intentionally omitted
4 that information from the search warrant application. That misrepresentation by the Henderson
5 Police Department forms the sole basis for probable cause for the issuance of the warrant.
6 Resultantly, this Court must grant Wesley's request for a Franks hearing.

7
8 **B. THE STANDARD FOR EVALUATING EVIDENCE FOLLOWING A
FRANKS HEARING IS *DE NOVO***

9 The reviewing court must review de novo the original decision to issue the warrant. See
10 United States v. Elliott, 893 F.2d 220, 222 (9th Cir. 1990). De novo review is appropriate because
11 the probable cause and necessity questions "turn[] on the consequences of a fraud on the issuing
12 magistrate. . . ." Id.¹

13 A reviewing court must set the affiant's false statements to one side and then determine
14 whether the affidavit's remaining content is sufficient to establish probable cause. See Franks, 438
15 U.S. at 156. If the affidavit is not sufficient, the warrant must be voided and the evidence
16 suppressed. See id. Once this Court has conducted the Franks hearing and removed the offending
17 misstatements, the affidavit will fail to establish the required probable cause and all evidence
18 found as an indirect and direct result of the unlawful search must be suppressed.

19 **C. THE GOOD FAITH EXCEPTION DOES NOT APPLY**

20 In United States v. Leon, 468 U.S. 897, 920 (1984), the Court held that evidence seized
21 pursuant to an invalid search warrant would nevertheless be admissible "when an officer acting
22 with objective good faith has obtained a search warrant from a judge or magistrate and acted
23 within its scope." However, the "good-faith exception" does not apply if its application would
24 allow the purpose of the exclusionary rule to be circumvented (i.e., deterrence of police
25 misconduct.) Hence, Leon says:

26
27 ¹ A misstatement or omission by a government official other than the affiant may also be a basis for suppression under
28 Franks. United States v. DeLeon, 979 F.2d 761, 764 (9th Cir. 1992); United States v. Roberts, 747 F.2d 537, 546 n.10
(9th Cir. 1984). Because the magistrate must independently evaluate the affidavit, "the police cannot insulate one
officer's deliberate misstatements merely by relaying it through an officer-affiant personally ignorant of its falsity."
DeLeon, 979 F.2d at 764 (citing 838 F.2d at 714) (citations omitted).

1 Suppression therefore remains an appropriate remedy if the
2 magistrate or judge in issuing a warrant was misled by information in
3 an affidavit that the affiant knew was false or would have known was
4 false except for his reckless disregard for the truth. *Id.* at 923.

5 Due to the fact that any probable cause that supports this warrant was based on statements
6 known to be false, the State can not use the good faith exception to circumvent the legal effects of
7 the Henderson Police Department's dishonesty.

8 **D. THE TANGIBLE AND TESTIMONIAL EVIDENCE THAT WAS DERIVED
9 FROM THE UNLAWFUL SEIZURE MUST BE SUPPRESSED AS TAINTED
10 FRUIT OF A FOURTH AMENDMENT VIOLATION.**

11 To enforce the protections of the Fourth Amendment, the Supreme Court has held that
12 evidence seized as a result of a Fourth Amendment violation may not constitute proof against the
13 victim. *See generally Wong Sun v. United States*, 371 U.S. 471, 484 (1963). The exclusionary
14 rule "prohibits the introduction of tangible materials seized during an unlawful search and of
15 testimony concerning knowledge acquired during an unlawful search." *Murray v. United States*,
16 487 U.S. 533, 536 (1988). "The exclusionary rule also prohibits the introduction of derivative
17 evidence both tangible and testimonial, that is the product of the primary evidence, or that is
18 otherwise acquired as an indirect result of the unlawful search." *Id.* By refusing to admit evidence
19 that is obtained through illegal police conduct, "the courts hope to instill in those particular
20 investigating officers, or in their future counterparts, a greater degree of care toward the rights of
21 an accused." *Michigan v. Tucker*, 417 U.S. 433, 447 (1974).

22 All of the tangible evidence that was found during the search of 4323 Clay Avenue must
23 be suppressed because it represents tainted fruit of illegal police conduct. *See generally Wong*
24 *Sun*, 371 U.S. at 484. Specifically, the items that were found as a result of the invalid search
25 warrant must be suppressed because it was obtained based on a material misrepresentation of fact.
26 Allowing this evidence to be used against Wesley would frustrate the purposes of the Fourth
27 Amendment and would encourage future unjustified seizures by these particular officers and their
28 future counterparts. *See, e.g., Michigan*, 417 U.S. at 447. The exclusionary rule prohibits the
 government from using any statements or confessions that are made by Wesley during the
 unconstitutional search. *New York v. Harris*, 495 U.S. 14, 19 (1990).

1
2 **III. CONCLUSION**

3 For the foregoing reasons, Wesley respectfully requests that this Court suppress all tangible
4 and intangible evidence seized as a direct result of the illegal search of 4323 Gaye Avenue, garage
5 and automobile and any fruits of that search. Wesley expects that the government will contest his
6 factual assertions and, if so, he requests an evidentiary hearing to resolve disputed factual matters.
7

8
9 DATED this 11th day of March, 2008.

10 PHILIP J. KOHN
11 CLARK COUNTY PUBLIC DEFENDER

12 By 
13 CASEY A. LANDIS, #9424
14 Deputy Public Defender
15
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NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff;

YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the above and foregoing Motion on for hearing before the Court on the 25th day of March, 2008, at 8:30 a.m..

DATED this 11th day of March, 2008.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By 
CASEY A. LANDIS, #9424
Deputy Public Defender

RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing Motion to Suppress Fruits of Illegal Search is hereby acknowledged this 11 day of March, 2008.

CLARK COUNTY DISTRICT ATTORNEY

By 

EXHIBIT 1

HENDERSON POLICE



DEPARTMENT

ADMINISTRATIVE REQUEST

Richard Perkins Chief

THE HENDERSON POLICE DEPARTMENT SENDS GREETINGS TO:

Nevada Power Attn: Donna Lamont

YOU ARE HEREBY REQUESTED that all and singular business excuses being set aside, you produce:

RE: DR# 07-03748

1. A true and accurate copy of your customer records, including the name(s), address(es), telephone number(s), listed as the customer(s) for the following:

Narcus Wesley/ 566-58-3280

The records are requested to be delivered, on or before the 20th day of February 2007, to the Henderson Police Department in person or via fax # (702) 267-4751 to the attention of Detective Curtis Weske.

XX CHECK HERE IF EMERGENCY REQUEST AND IS NEEDED AS SOON AS POSSIBLE.

This request is made to further a criminal/civil investigation being conducted by the Henderson Police Department. If you have any questions about this subpoena, contact Detective Curtis Weske at (702) 267-4783. You are requested not to disclose the existence of this Administrative Request. Any such disclosure could obstruct and impede the investigation being conducted and thereby interfere with the enforcement of the law.

Dated this 20th day of February, 2007.

Capt R. Wamsley

By:

Capt R. Wamsley
Bureau Commander
Henderson Police Department

EXHIBIT 2

Move in 11/1/06

* Please Note: Individuals first name is different from your request.

CELL	A	CELL			702	010-7194		A	N	N	
BIN	B	ROOM	MA	MAIL	702	077-0413		A	Y	N	
								A	N	N	

ACTIVE

[REDACTED]					
[REDACTED]					
[REDACTED]					
4232	[REDACTED]	GAYE	[REDACTED]	LN	[REDACTED]
09100	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
LAS VEGAS	[REDACTED]	NV	NEVADA		
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
USA	[REDACTED]	UNITED STATES OF AMERICA			
CLV	[REDACTED]	CITY OF LAS VEGAS			
06	[REDACTED]	MOTHER - CITY OF LAS VEGAS			
99999	[REDACTED]	DEFAULT CUSTOMER			
01 JAN 1980	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	16343	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	HOUSE	[REDACTED]	A021	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

EXHIBIT 3

ORIGINAL
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APPLICATION AND AFFIDAVIT
for
SEARCH WARRANT

STATE OF NEVADA)
) SS:
COUNTY OF CLARK)

Curtis Weske, being first duly sworn, deposes and states that he is the Affiant herein and that he is a Detective with the Henderson Police Department, presently assigned to the Criminal Investigations Major Crimes Unit. That he has been with the Henderson Police Department since August 30, 1999. There is probable cause to believe that certain property hereinafter described, will be found at the following described locations, to wit:

PREMISES TO BE SEARCHED

- The Person of Marcus Wesley, Date of Birth 10/03/1982, social security number 530-04-8230. Further described as a Black Male Adult weighing approximately 195 lbs., standing approximately 6 feet.
- The residence located at 4232 Gayo Lane Las Vegas, Nevada 89109. Further described as a tan single story residence with a brown shingled roof and dark brown shutters. The residence has an attached two vehicle garage with a white garage door. The numbers "4232" are located to the left of the front door and are black in color.

ORIGINAL

Copy



- A Chrysler 300M and is further described as white in color with Nevada plates of "232TZD" and Vehicle Identification Number of 2C3JA43R35H604054.
- A blue over Grey colored 1988 Chevrolet truck bearing Nevada License 707 PWC with a Vehicle Identification Number of 2GCFK29KXJ1178072. The vehicle is registered to a Narvies Wesley. Both vehicles are parked in the driveway of the residence.
- Any and all vehicles associated with said residence.

PROPERTY TO BE SEIZED

- Forensic examination of the person of Narcus Wesley, to include a sample of blood or bodily fluid for DNA purposes, including trace evidence items, such as but not limited to body fluids, hair samples, or other human properties indicative or consistent with a sexual encounter.
- A black cellular flip phone with camera, assigned phone number (775-346-0225), with service provided by ALLTEL.

ORIGINAL
COPY

- U.S. Currency including but not limited to denominations of increments common to ATM withdrawals.
- Condoms described as the brand name of Trojan in light blue packaging.
- Any and all firearms including but not limited to firearms commonly referred to handguns similar to that described by the victims, possibly being a Glock 9mm and associated ammunition for said firearm.
- ATM receipts dated for February 18th or 19th of 2007.
- Suspect clothing as described by the victims but not limited to a white baseball hat, white doo-rag, black shirt, dark jeans and gray/black athletic shoes.
- Limited items of personal property to show the identity of persons in control of the premises to be searched.

The property herein before described constitutes evidence, which tends to demonstrate that the criminal offense of KIDNAPPING, a Felony violation of N.R.S. 200.310-1 has been committed, SEXUAL ASSAULT, a Felony violation of N.R.S. 200.366 and ROBBERY, a Felony violation of N.R.S. 200.380 has been committed. In support of your Affiant's assertion to constitute the existence of probable cause, the following facts are offered:

PROBABLE CAUSE

That on 2-18-07 at approximately 0125 hours, officers responded to 2101 West Warm Springs apartment number 4322. Upon arrival officers contacted Justin Richardson, Aitor Eskandon, Justin Foucault, Ryan Tognotti, Clint Tognotti and Danielle Browning and were advised of the following:

That all of the above listed subjects were at the residence of 690 Great Dane where Aitor Eskandon, Justin Foucault, Ryan Tognotti and Clint Tognotti were watching a movie in the living room of the residence while Justin Richardson and Danielle Browning were sleeping in Richardson's bedroom. At approximately 2200 hours; on 02/18/2007 someone knocked on the front

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door of the residence.

Ryan answered the door and due to the large amount of people who frequent the residence, Ryan invited them in. The two suspects were described as a black male adult, approximately 20 to 25 years of age, approximately 5'8" to 5' 10" tall with a stout build. The first subject was wearing a black shirt with the letter "A" on it, a black baseball hat, dark jeans and dark colored athletic shoes. The second subject was a black male adult approximately 20-25 years of age, approximately 6 feet tall with a thin build. The second subject was wearing a white baseball hat, white doo-rag, black shirt, dark jeans and gray/black athletic shoes.

Both subjects entered the residence and the first subject asked Ryan where Grant was. Ryan advised the subject that he did not know a Grant. The subjects then became agitated and again asked Ryan where Grant was. Ryan again advised that he did not know a Grant at which point both subjects lifted up the front of their shirts exposing and subsequently pulling firearms from their waist bands. Both subject's firearms were described as black semi-automatic handguns possibly being Glock 9mm. They then pointed the handguns at the subjects in the front room and yelled at them to get on the ground in a circle, face down with their arms over their heads stacking their hands on top of each other in the middle of the circle. The suspects then asked if anyone else was in the residence and they responded that Danielle Browning and Justin Richardson were in the upstairs bedroom asleep. The first suspect then went upstairs and escorted them to the living room where they were also told to lay face down on the ground with their hands in the center of the circle.

That the first subject then asked the group for all their money. The group only had about \$20 in their possession which was taken by the suspects. The first suspect then asked who had money in their bank accounts and both Ryan Tognotti and Justin Foucault advised that they both had money in their accounts. Ryan was then told get the debit cards and told to drive him to the bank to withdraw money from the accounts. Ryan was then escorted to his vehicle (blue Honda Civic) by the first suspects and drove him to two Banks and withdrew a total of \$900. They then returned to the residence and the suspect told Ryan to get back on the ground face down.

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Suspect one told the victims that they were 90% done but that there remained 10% more to finish. The suspects asked Justin Richardson and Danielle Browning how long they had been going out and if they were in love. The suspects subsequently ordered Danielle to perform oral sex on Justin. The suspects told the victims that they expected Justin to have sexual relations (penis to vagina) while they watched. Justin Richardson was unable to sustain an erection out of the stress of the situation and the suspects became irritated. They told both subjects to undress completely and then told Justin Richardson that if he didn't perform, they would begin killing everyone. The suspects forced Justin Richardson and Danielle Browning to engage in mutual oral sex in an attempt arouse Justin Richardson. When Richardson was still unable to perform, they then turned to the other males and asked who would be able to perform. The suspects then demanded that Ryan Tognotti manually try and stimulate himself in order to sustain an erection. Ryan Tognotti was told to lower his clothing exposing his penis and attempt to stimulate himself to erection. Tognotti tried to do as told without success due to the stress.

Danielle Brown was then approached by suspect number two and was digitally penetrated in her vagina. At some point, suspect number one asked who had condoms and after subsequent questioning, Justin Richardson advised that he had condoms in his room. Richardson was escorted to his room and two Trojan lubricated condoms were obtained. The packaging for the condoms was light blue in color. The condoms were taken but never accounted for and remain missing.

The suspects then told the victims that they were going to leave and no one better call the police or they know people that will come back and kill them. The suspects fled taking all of the victim's cell phones, discarding all of them outside of the residence with the exception of one belonging to Danielle Browning. The phone belonging to Browning was described as a black camera flip phone with the carrier being Alltel and the phone number being (775-346-0225). The suspects fled in an unknown direction in an unknown manner.

While Detectives were interviewing the victims Detectives obtained the owner's information of the 690 Great Dane residence in attempt to learn if a Grant had lived at the residence prior to the current victims. The owner of the residence Victor Michalak said that he had rented the residence to a Brandon who worked at Country Insurance in Henderson. Victor stated Brandon had three roommates and he knew one of them to be a Grant.

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Employment records showed Brandon's last name as Preston and a phone number was provided. Brandon was contacted and he stated that a Grant Hieb lived with him at 690 Great Dane and he stated Grant currently lives with him at 225 S. Stephanie #1023. Detectives contacted Grant who agreed to come to the Henderson Police Department and assist Detectives with the investigation.

Grant stated approximately a year ago he was robbed at the house by a friend named Delarian Wilson. (05/31/83) Grant said he knew Wilson from the gym he worked at in addition he would sell Wilson small amounts of Marijuana occasionally. Grant said when he pulled into his garage Wilson snuck into the house wearing a mask however he was immediately recognized by Brandon as Wilson pulled out a gun and went upstairs to Grant's room. Grant said Wilson took approximately 1000.00 cash and a small amount of Marijuana. Grant said he asked Wilson why he was doing this as Wilson left his residence with the mask off. Grant said Wilson would not look at him. Grant said he did not want to create a scene because he knew he would be in trouble for selling Marijuana. Grant said he did not call the Police. Grant said Wilson moved to Colorado and joined the Adam's State College Football team. Grant said Wilson does not know Grant moved. Grant said that is the only person he knows that would do something like this. Grant said he has not talked to Wilson; however a friend called him and left him a message stating Wilson was back in town.

Detectives located a Las Vegas Metropolitan Police booking photo of Wilson, which Grant identified as being the Wilson that he knew.

A photo line-up was created with Wilson's 2005 booking photo and showed to the victims. The majority of the victims stated Wilson was similar the first suspect that was stout and wearing a black shirt with the letter "A" on it, a black baseball hat, dark jeans and dark colored athletic shoes. After viewing the photo line-up Eskandon stated he was approximately 60% sure that Wilson was one of the suspects that committed the above crimes on him and the other victims.

At approximately 1500 hours, a records check of a Las Vegas Hotel named Circus Circus located at 2890 S. Las Vegas Blvd showed Wilson was registered with four other subjects to room number 8744. While preparing a search warrant for Wilson's hotel room Sgt. Dunaway stated they had detained Wilson at a Blackjack table.

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Detective Hartshorn and I responded to the security office of Circus Circus and conducted a recorded interview of Wilson after he was read his Miranda Warning, which he said he understood.

Wilson admitted to going to 690 Great Dane with ex football teammate he knew only as Narcus in Narcus's white Chrysler sedan, with the intention of robbing Grant of his money and Marijuana. Wilson said they knocked on the door and after being let in, Narcus pointed a gun at the occupants and put them on the floor. Wilson said he collected two ATM cards and had Ryan drive to two banks as Wilson rode in the passenger seat of Ryan's vehicle. Wilson said Narcus stayed at the house with the remaining victims. Wilson said when he got back Narcus got crazy and tried to make Richardson and Browning have sex. When Richardson could not perform Narcus started to digitally penetrate Browning. Wilson said he told Narcus to stop and then they left. Wilson said he intended to rob Grant because Wilson has a gambling problem. Wilson said even after he realized Grant did not live at Great Dane all he could think about was the fact that he arrived in Las Vegas on Friday and had lost 1200.00 and he needed more money.

Due to the fact that the that Wilson admitted he and Narcus conspired to commit a Robbery, the fact they used a deadly weapon while taking the property of another, the fact Ryan was forced to drive to the ATM with Wilson, the fact Browning was forced to perform oral sex on Richardson, and the fact Richardson was forced to perform oral sex on Browning with the use of a deadly weapon, Wilson was charged with Kidnapping, Sexual Assault, and Robbery with a Deadly Weapon. He was transported to the Henderson Jail where he was booked accordingly.

A records check of the UNLV football roster showed a player named Narcus Wesley. A further records check showed Narcus's date of birth was 10/03/1982 and a SSN of 530-04-8230. A subpoena of Nevada Power's records showed Narcus to have an account at the residence of 4232 Gaye Avenue, Las Vegas, Nevada 89108. I observed the above vehicles including the white 2005 Chrysler registered to Narcus parked in the driveway of 4232 Gaye Avenue. I showed a photograph of Narcus Wesley to Wilson, which he confirmed to be the Narcus that was with him during the Robbery, Kidnapping, and Sexual Assault.

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Due to the fact that the that a Robbery, Kidnapping, and Sexual Assault occurred at 690 Great Dane, the fact that the majority of the victims identified Wilson as matching one of the suspects that committed the crimes against them, the fact that Wilson was located and confessed to committing these crimes and he admitted to committing them with a male he identified as Narcus Wesley, the fact Wilson identified Narcus's white Chrysler 300 M as the vehicle used in committing these crimes, the fact the 1998 Chevrolet two tone truck is parked within the curtilage of the residence, the fact that the suspects took money and a cellular phone from the victims, the fact the suspects used firearms, which based on my training and experience I know that suspects commonly keep their firearms, and clothing they wore during the crimes, and the fact Narcus has utilities in his name for 4232 Gaye Lane Las Vegas, Nevada 89108, and the fact Narcus's vehicle was observed park in the driveway of 4232 Gaye Lane, I believe there is probable cause to believe that items listed above will be located in said residence or vehicles.

I further request that the search of this premise be authorized at any hour of the day or night. The reason for this request is that the crimes were violent and involved the use of a firearm. That the location of the suspect is known at this time. Furthermore the fact that the suspect's co conspirator has been arrested and there is high probability for destruction of evidence if not served immediately.

That the aforementioned events occurred in the City of Henderson, County of Clark, State of Nevada.



Curtis Weske #974, AFFIANT

SUBSCRIBED AND SWORN TO BEFORE ME
THIS 20th DAY OF February, 2007.


JUDGE

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EXHIBIT 4

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SEARCH WARRANT

STATE OF NEVADA)
COUNTY OF CLARK)

The State of Nevada, to any Peace Officer in the County of Clark. Proof by Affidavit having been made before me by Det. Rodrigo Pena, said Affidavit attached hereto and incorporated herein by reference, that there is probable cause to believe that certain property, namely;

- Forensic examination of the person of Marcus Wesley, to include a sample of blood or bodily fluid for DNA purposes, including trace evidence items, such as but not limited to body fluids, hair samples, or other human properties indicative or consistent with a sexual encounter.
- A black cellular flip phone with camera, assigned phone number (775-346-0225), with service provided by ALLTEL.
- U.S. Currency including but not limited to denominations of increments common to ATM withdraws.
- Condoms described as the brand name of Trojan in light blue packaging.
- Any and all firearms including but not limited to firearms commonly referred to handguns similar to that described by the victims, possibly being a Glock 9mm and associated ammunition for said firearm.
- ATM receipts dated for February 18th or 19th of 2007.
- Suspect clothing as described by the victims but not limited to a white baseball hat, white doo-rag, black shirt, dark jeans and gray/black athletic shoes.

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- Limited items of personal property to show the identity of persons in control of the premises to be searched.
- Any and all vehicles associated with said residence.

is presently located at:

- The Person of Marcus Wesley, Date of Birth 10/03/1982, social security number 530-04-8230. Further described as a Black Male Adult weighing approximately 195 lbs., standing approximately 6 feet.
- The residence located at 4232 Gaye Lane Las Vegas, Nevada 89109. Further described as a tan single story residence with a brown shingled roof and dark brown shutters. The residence has an attached two vehicle garage with a white garage door. The numbers "4232" are located to the left of the front door and are black in color.



- A Chrysler 300M and is further described as white in color with Nevada plates of "232TZD" and Vehicle Identification Number of 2C3JA43R35H604054.

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- A blue over Grey colored 1988 Chevrolet truck bearing Nevada License 707 PWC with a Vehicle Identification Number of 2GCPK29KXJ1178072. The vehicle is registered to a Narvies Wesley. Both vehicles are parked in the driveway of the residence.
- Any and all vehicles associated with said residence.

SEARCH WARRANT

That as I am satisfied that there is probable cause to believe that the said property is located as set forth above and that based upon the Affidavit attached hereto there are sufficient grounds for the issuance of the Search Warrant.

You are hereby commanded to search forthwith said premises for said property, serving this warrant at any hour of the day or night, and if the property There to seize it, prepare a written inventory of the property seized and make a return for me within ten days.

DATED THIS 20th DAY OF February, 2007.

JUDGE

0057


CLERK OF THE COURT

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

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

9 **THE STATE OF NEVADA,**

10 **Plaintiff,**

11 **-vs-**

12 **DELARIAN K. WILSON, aka Delarian**
13 **Kameron Wilson, #1966773**

14 **NARCUS S. WESLEY, aka**
15 **Narcus Samone Wesley #1757866**

16 **Defendant.**

CASE NO: C232494

DEPT NO: XXIV

17 **STATE'S OPPOSITION TO DEFENDANT WESLEY'S MOTION TO SUPPRESS**
18 **FRUITS OF ILLEGAL SEARCH**

19 **DATE OF HEARING: 03/25/08**
20 **TIME OF HEARING: 8:30 A.M.**

21 **COMES NOW, the State of Nevada, by DAVID ROGER, District Attorney, through**
22 **LISA LUZAICH, Chief Deputy District Attorney, and hereby submits the attached Points**
23 **and Authorities in Opposition to Defendant WESLEY'S Motion to Suppress Fruits of Illegal**
24 **Search.**

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

28 **//**

//

1 different ATM's to get \$900.00.

2 Upon arriving at the apartment, Officer Slattery made contact with all of the victims.
3 All of the victims were visibly shaking and Danielle Browning had tears in her eyes. Ryan
4 Tognitti advised that he would be the person to relay what happened.

5 Ryan stated that he had been sitting in the living room of his house with Justin, Clint
6 and Aitor. They had just turned on a movie when they heard a knock at the door, followed
7 by the doorbell. Ryan stated that many friends come to his house at all hours of the day.
8 Ryan further advised that he normally leaves the door unlocked and will tell people to "come
9 in" when they knock. On this occasion Ryan said "come in" but nobody entered. Ryan went
10 to the door, opened it and was met by two black males who stated that they wanted to talk to
11 Grant. Ryan advised that there was no Grant at the house, and that there was no Grant that
12 lived at the residence. The two black males then reached in front of their waste hands and
13 pulled out hand guns and advised all of the subjects to get on the ground and keep their faces
14 to the ground or they would be shot. The black males kept telling the victims that they
15 needed to speak to Grant because he owed them money. All of the victims were advised to
16 empty their pockets, which consisted of cell phones and wallets.

17 When asked if anyone else was in the residence, they all advised that Justin
18 Richardson and his girlfriend were in their room which was located down the hall. The
19 shorter black male went down the hall and got Justin and Danielle, brought them to the front
20 room and made them get down on the living room floor with the others.

21 The black males demanded money. When it was learned that the victims only had
22 twenty (20) dollars, the suspects indicated that wasn't good enough and asked for ATM
23 cards. Only Ryan and Justin had ATM cards which were handed over. Ryan was told to get
24 up and get his keys. After Ryan got his keys, the shorter black male told all of the victims on
25 the ground that he was going to the ATM. The black male further stated, "If you guys fuck
26 up, I am going to have my boy shoot you and then I am going to shoot your friend."
27
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1 Ryan was escorted to his vehicle by the shorter black male and they drove to the
2 Nevada State bank located at Siena Heights/Eastern. The cards would not work so he drove
3 to the Wells Fargo at Eastern and St. Rose, where he withdrew five hundred (\$500.00)
4 dollars out of Justin Foucault's account and four hundred (\$400.00) dollars out of his own
5 account. Ryan drove back to the 690 Great Dane Court address. Ryan advised that the black
6 male kept the gun to Ryan's hip at all times. Ryan further advised that neither black male
7 was wearing gloves.

8 When they got back to the residence, Ryan was ordered back down onto the floor face
9 first, at which time the black males started messing with Justin Richardson and Danielle
10 Browning, in that that the black males made the two perform oral sex on each other. After
11 approximately thirty minutes the black males stated they were going to leave and that
12 everyone should wait two minutes to get up off the floor and retrieve their cell phones.
13 Afterwards, they all packed their bags and went to Clint Tognotti's residence.

14 Clint Tognotti, Justin Foucault and Aitor Eskandon gave statements consistent with
15 Ryan Tognotti's.

16 Justin Richardson also gave a statement and indicated that he and Danielle Browning
17 had been asleep in his bedroom when he heard a few knocks on the door. A black male
18 entered the room and pointed a gun at him and Danielle, and advised them to get up and put
19 their hands on their head. They were advised to move out into the living room where the rest
20 of his friends were face down on the floor. The black males kept asking where Grant was
21 and stating that Grant owed them \$10,000 dollars reference drugs. Justin advised that he
22 learned that there was a Grant who used to live at the residence because they sometimes
23 received mail that was addressed to a "Grant." Justin advised that Ryan went to the ATM to
24 get the two black males some money. While Ryan was away from the residence, the black
25 male that stayed behind kept telling all of the people on the floor that they were 90% done.

26 When Ryan arrived back at the residence, Justin was told to roll over and Danielle
27 was told to start sucking Justin's dick. The black males told Danielle that if she did not do it
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1 they were going to kill them all. Justin advised that he was so scared he could not get a hard
2 on. While Justin was on his back a pillow was put over his face. The black males told Justin
3 that if he did not get hard then they were going to kill him and make one of his friends have
4 sex with Danielle. The black further advised that if none of them could get aroused then they
5 would have sex with Danielle. The black male's forced Danielle into the 69 position with
6 Justin, and told Justin to give Danielle oral sex. Justin was then forced back onto his face
7 and one of the black males got close to Danielle.

8 Justin heard one of the black males ask, "Is that good as your boyfriends?" Justin
9 advised that they made Danielle walk over to the staircase and he does not know what
10 happened after that. The black male that seemed to be in charge went over to Justin and
11 asked him for condoms. Justin walked to his bedroom with the black male following with
12 his gun drawn. When Justin got to his bedroom the black male instructed him to stop, keep
13 his hands above his head and not say anything. The black male put the gun against Justin's
14 head and said "I'm going to fucking kill you." The black male then stated, "Nah, your ok,
15 now get those condoms." Justin got two condoms and was escorted back to the living room
16 floor, face first. Justin stated that the black male told him that he had just gotten out of jail
17 and hitched a ride from New Mexico to find Grant. The black males advised all of the
18 subjects again to wait two full minutes to look outside. All of the victims left the house and
19 went to Clint's to call the police because the suspects told them if they called the police the
20 suspects would come back and kill them all.

21 Danielle Browning stated that she had been sleeping with her boyfriend Justin
22 Richardson in the back room of the residence. She advised that a black male walked into the
23 room and pointed a gun at them and made them move to the living room floor, at which time
24 Ryan was forced to go to the ATM to retrieve \$900.00. Danielle stated that while Ryan was
25 gone the other black male stayed behind to make sure that they didn't move. Danielle
26 advised that somehow the black males got all of their cell phones.

1 When Ryan arrived back at the residence, the bigger black male forced Danielle to
2 give Justin oral sex. The black males put a pillow over Justin's head with a gun to it. The
3 black males ordered Danielle to get completely naked and while she complied the other
4 victims on the floor were instructed to keep their faces down or they would be killed. The
5 black males told Danielle and Justin to have sex in front of everyone, but they were unable to
6 because Ryan could not get hard. After Justin could not be aroused the black males told the
7 other males to start getting hard because they were going to have sex with Danielle.
8 Danielle was moved to the staircase where the thinner black male told her that he was hard
9 and that he wanted to have sex with her. Danielle stated that she told him numerous times
10 that she did not want to have sex with him and he stated, "I have a gun so I'm in charge."
11 Danielle stated that the bigger black male made Justin go to his room and retrieve condom.
12 The thinner male put a gun to her side and began touching her chest and kept asking her to
13 give him a blow job, or have sex with him. Danielle kept telling him that she did not want to
14 have sex with him. The black male told Danielle to spread her legs and put her legs directly
15 up in the air. Danielle was shaking so badly she could not keep her legs up in the air.

16 The black male told Danielle if she didn't stop shaking he was going to shoot her.
17 Danielle could not stop shaking so the black male grabbed her ankles and held her legs in the
18 air. The black male began touching her all over and put one finger inside her vagina.
19 Danielle was instructed to get her clothes on and lay down face first next to Justin
20 Richardson.

21 Danielle said the black males told them that if they called the police they would have
22 someone come back and kill all of them. The black males told all of the subjects not to
23 move for a full two minutes before going outside to get their cell phones. Danielle advised
24 that her cell phone was not there and was valued at approximately two hundred (\$200.00)
25 dollars.

26 During Justin Foucault's statement to police he described suspect #1 as a black male
27 adult, mid 20's, approximately 5'9", 180-200 lbs, stock build, wearing a black baseball cap,
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1 black shirt, black jeans and black tennis shoes. The suspect appeared to use a "Glock" 9mm
2 semi-automatic handgun during the incident.

3 Suspect #2 was a black male adult, approximately 6', 160-170 lbs, skinny, wearing a
4 black baseball cap, black T-shirt, and black pants. Suspect #2 used an unknown type of
5 handgun. During the incident Jason heard suspect #1 call suspect #2 Marcus.

6 Detectives located the owner information for the residence at 690 Great Dane and
7 contacted Victor Michalak in an attempt to learn if a Grant lived at the residence prior to the
8 current victims. Mr. Michalak stated that he had rented the residence to a Brandon who
9 worked at Country Insurance in Henderson. Brandon had three roommates and he knew one
10 of them to be a Grant. Employment records showed that Brandon's last name was Preston
11 and a telephone number was provided. Brandon was contacted by telephone and stated he
12 was located at Desert Buick on West Sahara. Brandon agreed to meet with Detective
13 Weske. Brandon told Detective Weske that Grant Hieb lived with him at 690 Great Dane
14 and currently lives with him at 225 S. Stephanie Street #1023. Brandon stated that he did
15 not know if Grant sold marijuana, or knew anyone that would want to rob Grant. Brandon
16 did state that Grant had a couple black friends from Colorado. Brandon stated that Grant
17 drove a green Toyota Camry.

18 IIPD Detectives Hartshorn and Weske went to Brandon and Grant's residence in an
19 attempt to contact Grant. Upon arrival they observed Grant's Toyota Camry. Detectives
20 knocked on the door for several minutes and threw small rocks at the windows but nobody
21 answered the door. Detectives contacted Brandon who said that Grant should have answered
22 the door. Brandon attempted to call Grant and then called back and told Detectives that
23 Grant did not answer. Detective Weske explained that due to the fact two armed black males
24 had gone to 690 Great Dane and were looking for Grant, he was concerned for Grant's
25 safety. Brandon stated that he was also concerned and could not get home for a couple
26 hours. Brandon gave the detectives permission to check inside the residence to make sure
27 Grant was okay. Detective Weske went to the manager's office who responded to Grant and
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1 Brandon's apartment with the key.

2 Upon opening Grant and Brandon's front door Detective Weske loudly announced
3 "Henderson Police" several times. In addition a strong odor of burnt marijuana emanated
4 from inside the apartment. Detective Weske called for Grant who answered "yes." Detective
5 Weske asked if he was okay and Grant stated "yeah." Grant came out of the room and
6 indicated that he had been sleeping and did not hear them banging on the door or yelling
7 "Henderson Police". It was explained what had happened at his old residence and Grant
8 agreed to go to the Henderson Police Department and assist in the investigation.

9 During the drive to the police department Grant told Detective Weske that
10 approximately a year prior, he was robbed at his house by a friend named Delarian Wilson.
11 Grant stated he knew Wilson from the gym he worked out at. In addition, Grant would sell
12 Wilson small amounts of marijuana occasionally. Grant described how he had pulled into
13 his garage and Wilson had snuck into his house wearing a ski mask. Grant was immediately
14 able to recognize Wilson when he pulled out a gun and went directly to Grant's room.
15 Wilson took approximately \$10,000 in cash and a small amount of marijuana. Grant asked
16 Wilson why he was doing this as Wilson left the residence with the mask off; however,
17 Wilson would not look at Grant. Grant did not contact the police because he did not want to
18 create a scene and knew he would be in trouble for selling marijuana. Grant stated that
19 Wilson moved to Colorado where he had joined the Adam's State College Football Team.
20 Wilson did not know that Grant had moved and Wilson is the only person that Grant knew
21 that would do something like the facts of the instant crime. Grant stated that he had not
22 personally spoke to Wilson, but a friend called him and left him a message that Wilson was
23 back in town.

24 Grant was shown a photograph of Wilson and identified it. A photo line-up was
25 created using Wilson's 2005 booking photo and was shown to the victims in this case. The
26 majority of the victims stated that Wilson was similar to the first suspect in that he was stout
27 and wearing a black shirt with the letter "A" on it, a black baseball hat, dark jeans and dark
28

1 colored athletic shoes.

2 A records check of the Circus Circus Hotel Casino revealed that Defendant WILSON
3 was registered with four other subjects to room number 8744. A search warrant was
4 prepared for the hotel room and Defendant WILSON was detained by two other detectives
5 while playing cards at a black jack table.

6 Detectives Hartsorn and Weske responded to the security office of the Circus Circus
7 where Defendant WILSON was advised of his Miranda Warnings, which he said he
8 understood. WILSON admitted going to 690 Great Dane with the intention of robbing Grant
9 of his money and marijuana. WILSON said he was with his friend whom he knows only as
10 Narcus. WILSON stated that that they drove to Grant's residence in Narcus's white 300M
11 Chrysler. WILSON said they knocked on the door and Narcus pointed a gun at the
12 occupants and put them on the floor. WILSON admitted that he rode in the passenger seat of
13 Ryan's vehicle while Ryan collected the money from the ATM. WILSON stated that Narcus
14 stayed at the residence with the remaining victims. WILSON stated that when he got back,
15 Narcus got crazy and tried to make Justin Richardson have sex with Danielle Browning and
16 when they could not, Narcus started touching Danielle Browning.

17 WILSON told Narcus to stop and they left. WILSON said he went to what he
18 thought was Grant's residence with the intention to rob Grant. WILSON stated that he has a
19 gambling problem. Wilson said even after he realized Grant did not live at the Great Dane
20 address, all he could think about was the fact that he arrived in Las Vegas on Friday and had
21 lost \$1,200.00 and needed more money.

22 On January 20, 2007, a records check of the UNLV football roster showed a player
23 named Narcus WESLEY. Police contacted Nevada Power and spoke to Investigator Donna
24 Lamont. Using WESLEY'S date of birth and Social Security Number, HPD prepared an
25 administrative subpoena for records reference Narcus WESLEY. While on the telephone
26 with Investigator Lamont, Detective Weske asked Ms. Lamont if the power at 2372 Valley
27 Drive in Las Vegas was in Narcus WESLEY'S name due to the fact DMV listed that
28

1 location as his address as of October 3, 2006. WESLEY also listed 2372 Valley Drive as his
2 address for UNLV. Ms. Lamont stated that WESLEY no longer had power at 2372 Valley
3 drive and that it had been turned off on November 1, 2006, and turned on at 4232 Gaye
4 Lane. Ms. Lamont stated that she would send the information via fax.

5 Detective Hartshorn and Weske immediately went to 4232 Gaye Lane and
6 observed the white 2005 Chrysler 300M registered to WESLEY parked in the driveway
7 of 4232 Gaye Lane. Detective Weske showed a photograph of WESLEY to WILSON, and
8 WILSON confirmed that WESLEY was with him during the commission of the crimes in
9 this case. WILSON was asked if he knew where WESLEY lived and WESLEY stated
10 that WILSON lived with his parents somewhere on the west side of town.

11 On February 20, 2007, a Search Warrant was obtained for 4232 Gaye Lane. Upon
12 S.W.A.T. serving the search warrant, Detective Weske interviewed Marcus WESLEY, after
13 he was advised of his Miranda Warning, which he said he understood. Detective Hartshorn
14 witnessed the interview.

15 WESLEY stated that WILSON had asked him to go with him to get some marijuana.
16 WILSON asked WESLEY if he knew where WILSON could get some money and when
17 WESLEY said he did not, WILSON asked WESLEY to meet him at a gas station in
18 Henderson. After meeting WILSON, they drove to an unknown neighborhood in
19 WILSON'S rental vehicle¹. Once they were at the residence WILSON told WESLEY to
20 knock on the door and then get out of the way, which he did. WESLEY said he did not have
21 a gun but simulated having one by having his hand under his shirt. WESLEY said when
22 WILSON realized it was not Grant's house he apologized but decided he needed money

23
24 ¹ The vehicle driven by WILSON was later identified as having been rented by a Tricia Vincenty who was in Las Vegas
25 for the NBA All Star game. Tricia met WILSON over the weekend through her cousin and did not know him
26 personally. Tricia let Wilson use the car while in Las Vegas but was not aware WILSON had the car for two days and
27 thought it had been parked at the hotel. Tricia stated that she had no personal items in the car except the rental
28 agreement and gave permission for the car to be searched. The vehicle was searched and the following items were
located: 1-Black wallet containing miscellaneous credit cards in the name of Delarian Wilson; 1-Colorado DL in the
name of Delarian Wilson; 3) 1-Kodak digital camera; 1-package of 1" x 1" zip lock baggies; 1-plastic baggie
containing 15 grams of marijuana, and 2-Global cash receipts in the name of Delarian Wilson. The items were
impounded into HPD Evidence and the vehicle was released to Tricia Vincenty via HPD 42.

1 anyways.

2 WILSON asked people for the money and then took one of the male victims to the
3 bank to withdraw money. WESLEY state that when WILSON came back he stated that they
4 were 90% done. WILSON told Danielle Browning to have sex with Justin Richardson and
5 instructed them to perform oral sex with each other. WESLEY stated that Danielle's butt
6 looked good so he asked her if he could touch it while she was kissing on Justin and she said
7 "yes" so WESLEY touched her bare butt. WESLEY stated that when Justin could not
8 perform WILSON asked if anyone could get hard and WESLEY did not want to seem like a
9 punk and said he could. WESLEY stated that he did rub the top of Danielle's vagina after
10 asking her if it was okay. WESLEY stated that Danielle did not seem like she enjoyed it.
11 WESLEY stated that Danielle's vagina was shaved.

12 WESLEY stated that the only person who could identify him was the person who
13 answered the door because the other victims had their faces in the carpet. WESLEY stated
14 that Danielle had her eyes closed when he touched her vagina. WESLEY stated that he
15 received \$260.00 from WILSON and spent the money because he was short on money right
16 now.

17 During the search of WESLEY'S room he pointed out the shoes and the pants he was
18 wearing. He told police the hat and doo-rag he was wearing was in the car, which was later
19 located. Police also located a SKS rifle in the garage of the residence and \$95.00 cash.
20 WESLEY stated that he took a condom from the victims' house but later threw it out. The
21 jeans, shoes, \$95.00 cash, white head rag, jock shop receipt, SKS rifle, and a State Farm bill
22 showing NARCUS WESLEY'S residence at 4232 Gaye Lane was seized.

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IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

NARCUS WESLEY,

S.C. CASE NO. 57473

Appellant,

Electronically Filed
Sep 22 2011 03:01 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

vs.

THE STATE OF NEVADA,

Respondent.

APPEAL FROM DENIAL OF PETITION FOR WRIT OF HABEAS CORPUS
(POST-CONVICTION)
EIGHTH JUDICIAL DISTRICT COURT
THE HONORABLE JUDGE JAMES BIXLER, PRESIDING

~~~~~  
APPELLANT'S APPENDIX TO THE OPENING BRIEF  
VOLUME I  
~~~~~

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IN THE SUPREME COURT OF NEVADA

NARCUS WESLEY

CASE NO. 57473

Appellant,

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THE STATE OF NEVADA

Respondent.

APPELLANT'S APPENDIX

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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on September ___, 2011. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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