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DISTRICT COURT

ORIGINAL CLARK COUNTY, NEVADA

STATE OF NEVADA,)
)
Plaintiff,)
)
vs.)
)
RICKIE SLAUGHTER,)
)
Defendant.)
_____)

CASE NO. C204957
DEPT. NO. III

REPORTER'S TRANSCRIPT
OF
GUILTY PLEA

BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE
Taken on Monday, April 4, 2005
At 1:30 o'clock p.m.

APPEARANCES:

For the State: SUSAN KRISKO, ESQ.
MARC DiGIACOMO, ESQ.
Deputies District Attorney

For the Defendant: PAUL E. WOMMER, ESQ.
Attorney at Law

REPORTED BY: YVONNE M. VALENTIN, CCR 342

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1 LAS VEGAS, NEVADA, MONDAY, APRIL 4, 2005, 1:30 P.M.

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3
4 THE DEFENDANT: Your Honor?

5 THE COURT: Yes, sir?

6 THE DEFENDANT: Can I make a record briefly?

7 THE COURT: Yes. Yes, Mr. Slaughter, you can go
8 ahead.

9 THE DEFENDANT: I object to proceeding with the
10 trial today. I needed a continuance. I had various issues in
11 regard to that continuance, if the Court will hear them.

12 THE COURT: Is this the motion that you filed
13 last Friday with Judge Bell?

14 THE DEFENDANT: Yes, but Judge Bell didn't fully
15 consider my issues, I don't believe. He kind of denied it on
16 faith, just a continuance period. He didn't really listen to
17 my issues, I don't think.

18 THE COURT: While we're waiting for Mr. Wommer,
19 you can go ahead, and I'll allow you to bring up those issues
20 with me right now.

21 THE DEFENDANT: Thank you.

22 My investigator has been on the case since
23 February 17th and, you know, we were looking for a witness.
24 He didn't start investigating the case until February 17th.
25 We had three alibi witnesses we were looking for.

1 You know, we didn't have an exact address or
2 location for those alibi witnesses but, you know, we tried to
3 get it done as fast as possible with some other things we were
4 doing, too. But he did end up locating them, but he didn't
5 locate them until March 30th, and I was informed March 31st.
6 That's when we had the contact visits in the jail.

7 Now, March 31st was just last week. He did
8 locate the alibi witnesses, you know, talking to various
9 people in that neighborhood and things like that. And
10 actually, if I could have him make a representation on the
11 record for me real quick, if the Court will allow?

12 THE COURT: Go ahead, sir.

13 MR. CONKLIN: Yes, sir. Jim Conklin, the private
14 investigator side of this case. I just had the name of a
15 Monique that was a possible alibi witness, a woman that he had
16 spent some time with during this period of time, and just an
17 apartment building.

18 And I just found her, I guess it was, last week,
19 in the last week, the day before the hearing. I just had a
20 brief interview of her. So she wasn't able to be put onto the
21 witness list.

22 And also, as far as the phone calls from this
23 jail, I didn't receive a copy of those until actually just
24 Saturday. I was told that I had everything, but later on we
25 found that there was a misunderstanding, and those calls out

1 of the jail were never given to my attention.

2 THE DEFENDANT: If I can kind of clarify what
3 he's speaking on? We were given by the State a CD ROM of
4 phone calls from the jail that they wanted to use in the
5 trial. The State informed me there are hundreds of phone
6 calls when I moved for the transcript of the CD, so I had to
7 listen to them at the jail.

8 I wasn't able to listen to them. There are three
9 CD's. One contains video surveillance; one contains an
10 interview; and one contains jail phone calls.

11 When we thought he had the copy of it, he kept
12 telling me he thought he had the wrong program to listen to
13 the jail phone calls. It dawned on me, and I asked him how
14 much CD's did he have, and he told me only one. The only
15 other CD was actually on my property, but I don't have them in
16 the jail. I have to go through a process. It takes it hours
17 to release the property to him, and he gets it through the
18 jail.

19 We found out this last week, and I released the
20 copies to him. I still asked him if he could wade through
21 there and try to figure out, because the prosecutor has it
22 nailed down which calls to use, and he's trying to wade
23 through hundreds of phone calls, ten-minute-long phone calls,
24 to figure out which one they're going to use. And I haven't
25 heard them personally myself.

1 Also, I had -- my last issue -- you know, I had a
2 few evidentiary hearings I want the Court to hear and rule
3 upon before trial. But I couldn't -- I didn't actually have
4 an opportunity to make those motions out of the materials I
5 needed, because I was being housed in disciplinary
6 segregation.

7 When I brought this to McGroarty, he granted me a
8 court order to remedy that problem, but then he granted the
9 court order on the 30th. He granted it on the 29th, but he
10 signed it on the 30th. I have the order here. And Mr. Wommer
11 didn't get it to me until actually the 1st in Judge Bell's
12 courtroom, after our little hearing there.

13 So I haven't had a chance to put those in. For
14 the record, that's pretty much -- I mean, I just wanted a
15 chance to, you know, prepare my case -- I mean, for an
16 opportunity to bring this case here.

17 I can't present an effective defense without my
18 alibi witness, and I think those are very important to just to
19 receiving a fair trial.

20 For the record, that's pretty much it.

21 THE COURT: Okay. State?

22 MS. KRISKO: I would note that on 12/13 of '04,
23 that's when he went pro per. He waited two months to even ask
24 for or do a motion for the investigator. That was granted on
25 February 7th. He also had a motion for discovery and a motion

1 to marry. He's had all of this time to get ready. He
2 actually already did file an alibi notice. That alibi witness
3 isn't helpful to him, so now I guess we've got another alibi.

4 THE DEFENDANT: Can I be heard briefly?

5 THE COURT: Hold on. Go ahead and let her talk,
6 would you please?

7 THE DEFENDANT: I'm sorry.

8 THE COURT: Thank you.

9 MS. KRISKO: I note for the record, we've been
10 ready every single time. He waited until the day of trial to
11 go pro per. That's what caused a continuance last time. And
12 I think that's all this is is another delay tactic.

13 THE DEFENDANT: Your Honor, this isn't a delay
14 tactic. When I went pro per, Mr. Wommer had my case a little
15 over a month. He filed -- that alibi witness notice that he
16 filed was the wrong alibi notice. Mr. Wommer decided to file
17 that on his own initiative, which I didn't explain that to him
18 to file that.

19 Now, that was the wrong alibi witness he filed.
20 And then at the same time, I doubt if Mr. Wommer, if he was
21 prepared to proceed at trial then without any alibi witness or
22 anything like that. Me and Mr. Wommer weren't communicating.
23 That was the basis of me proceeding pro per.

24 THE COURT: Well, here's what I'll say. I notice
25 from going back through your things that back in December,

1 when the first trial was set, Mr. Wommer announced ready.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And quite honestly, Mr. Slaughter,
4 some trials are complicated and require a lot of getting ready
5 for, and some trials aren't as complicated. They don't
6 require as much. But Mr. Wommer announced ready at that time.

7 You were able to, in a rather unusual fashion,
8 get a chance to talk to Judge Cory outside the presence of the
9 State and convince him to grant you a continuance. And at
10 that time, it seemed to be that it was in relation to some
11 medical records that you wanted to get ahold of.

12 Then you were also able to go through a Faretta
13 canvass and be allowed to represent yourself at that time. So
14 that's when you became responsible for your own defense at
15 that time.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Since that time, if I understand it
18 correctly, we've had a couple prior trial settings, at one of
19 which you, yourself, announced ready for.

20 THE DEFENDANT: I never announced ready.

21 THE COURT: If I read the court minutes right, on
22 the trial setting, that was -- you were in court on
23 February 8th of this year, and that was for the trial setting
24 that was supposed to start, I believe, February 14th. And
25 both sides announced ready for trial, and the Court reset

1 the trial.

2 THE DEFENDANT: Excuse me, your Honor. Can I
3 please? That's got to be an error. I announced I couldn't be
4 ready in the time that -- they -- I understand they exercised
5 their right to a speedy trial, but I couldn't be ready. I had
6 just been granted my private investigator, and I actually put
7 that motion on before February 8th, when it was granted, but I
8 couldn't be ready. I needed time for an investigator to
9 locate these witnesses.

10 THE COURT: Let me go ahead and finish.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: You've -- and I reviewed the motion
13 to continue that you filed in front of Judge Bell, as well.
14 And you kind of elicit a number of things there that -- I
15 guess about seven different things that you think justify your
16 need for a continuance at this time.

17 And I am not inclined to go against Judge Bell's
18 ruling, because number one, he already issued it, and we're
19 set to start trial now; and number two, reading through the
20 motion to continue, and considering how long you've been on
21 your case, and the things that you've been able to do, all the
22 motions you've been able to file for yourself, it's obvious to
23 me that you know how to file motions, and you know how to make
24 requests to the Court.

25 But a lot of these things are very last-minute

1 requests, and I'm not inclined to vacate the trial. So we're
2 going to go forward today.

3 THE DEFENDANT: These weren't last-minute
4 requests. I just found alibi witnesses. We tried to get them
5 as soon as possible. We didn't have an exact location. We
6 just had a neighborhood. And by luck, he actually came upon
7 these witnesses.

8 THE COURT: Have you given -- does the State have
9 that name?

10 THE DEFENDANT: No. I wasn't able to. He just
11 found him on the 31st. I was informed on the 1st. You know,
12 the statute says I have to give them 10 days ahead of time. I
13 haven't been able to put him on. I can't present no defense
14 without my alibi witnesses. They're going to testify to my
15 whereabouts at the time of this crime.

16 THE COURT: Well, here's what I will do. You
17 give them that name, and I may revisit the issue, but I'm
18 telling you right now, in all likelihood, it's going to stay
19 as it is. We're not continuing the trial. The trial will go
20 for a few days.

21 If you give the State the name, and the State's
22 investigator can try and contact this woman and see if they
23 can talk to him as well. And we'll readdress the issue of,
24 when it comes time to present your case in chief, whether this
25 person is going to be allowed to testify or not.

1 You're right about the statute, though. The
2 statute requires many things. And when you are the -- or the
3 statutes require many things. And when you choose to
4 represent yourself, you're held to the same standards as
5 everybody else.

6 It's not the Court's job to do your work for you
7 or make you comply with time lines. And that's one of the
8 dangers that comes with choosing to represent yourself,
9 especially when you're in custody. The ability to get
10 everything done isn't always great.

11 You, in your motion to continue, are saying that,
12 for instance, you couldn't file motions that you wanted to
13 file, because you've been in disciplinary segregation. Well,
14 you know, to the extent that you're given the jail problems,
15 you might be on there ad infinitum.

16 So when would you ever be able to file the
17 motions, if that's the basis?

18 THE DEFENDANT: No, Mr. McGroarty, I brought that
19 up to him. He granted me the access to do it. I'm pretty
20 sure he granted it with the thought that I would have the
21 opportunity.

22 THE COURT: The problem is, Mr. Slaughter, we
23 can't just keep delaying things because you filed lots of
24 motions. You never filed a motion to suppress before. So now
25 at the last minute, you want to file a motion to suppress.

1 THE DEFENDANT: No. I've been in disciplinary
2 for over a month. That's when I was going to file my motion
3 to suppress, so we can have all that squared out before trial,
4 sir.

5 THE COURT: No, but I'm saying, you started
6 representing yourself in December. You didn't file a motion
7 to suppress in December. You didn't file it in January. You
8 didn't file it in February. Now, at the end of March, early
9 April, you're telling me you had a motion to suppress that you
10 wanted to file.

11 THE DEFENDANT: In the beginning of March.

12 THE COURT: I also have to look at the record and
13 consider that Mr. Wommer, during the time that he represented
14 you, represented to the Court that he was ready to proceed to
15 trial, and he didn't think there were any writ issues or
16 anything else that needed to be legally addressed.

17 So I have to consider that as well, because I
18 think Mr. Wommer's a competent attorney. I don't know what
19 other things in your motion to continue that you wanted to
20 argue about. You brought up issues of the photo lineup. I
21 take it the original photo lineups --

22 THE DEFENDANT: I never seen the original photo
23 lineups. I tried to have my investigator review those last
24 weekend after McGroarty had granted my order for that, and I
25 still haven't -- she said that the police -- they weren't

1 on -- they weren't -- he wasn't on duty on Fridays, and he's
2 the only one with them.

3 THE COURT: Did the defense receive copies of the
4 photo lineups, and the photo lineups will be brought into
5 court by the detective? I don't think that's much of an
6 issue.

7 You had -- you bring up the issue of wanting to
8 hire an expert witness now. I think the time has long since
9 come and gone for that as well, in addition to the fact that
10 your motion doesn't even refer to anybody by name that you
11 have, that you are potentially going to have.

12 THE DEFENDANT: Dr. Robert Shomer (phonetic).

13 THE COURT: Robert Shomer's name gets bantered
14 around a lot.

15 THE DEFENDANT: No, I haven't been granted
16 expenses to hire him.

17 THE COURT: There is a time to do things and a
18 time to go to trial, and now is the time to go to trial.

19 There was one other issue that you brought up
20 about wanting a copy of your booking photo.

21 THE DEFENDANT: I got that.

22 THE COURT: Okay. All right then. Well, I'm not
23 going to grant a motion to continue at this time. As I said,
24 it's time to go to trial now. Is there anything else that
25 needs to be brought up outside the presence of jury selection?

1 MR. DiGIACOMO: Just one other issue I'd like to
2 put on the record as to the jail phone calls. He says they're
3 lengthy and everything like that. The substance of the phone
4 calls are in the original declaration and arrest report that
5 was made in this case back in June of 2004, Judge, so it's not
6 like there is significant new information that --

7 THE COURT: Hold on, Mr. Slaughter.

8 MR. DiGIACOMO: That was in the original arrest
9 report written by the detective as to the information that was
10 contained therein.

11 THE COURT: Are there parts of hundreds of phone
12 calls that the State is intending to use, or are they able to
13 be narrowed down to particular phone calls?

14 MR. DiGIACOMO: At the time, most of the phone
15 calls have to do with the alibi, which apparently he's not
16 proceeding upon. In fact, the rebuttal evidence to the alibi
17 is in the original declaration of arrest in this particular
18 case. Most of it has to do with where he was at 7:00 o'clock.

19 If he's going to put a witness on to say that she
20 was with him at the time period which he says on the phone
21 call, he's telling somebody else to say he was with them, then
22 we'll be using portions of that, but it has to do with what he
23 puts up, not what we're putting in our case in chief.

24 THE COURT: Part of the phone calls would be case
25 in chief; is that correct or not?

1 MR. DiGIACOMO: No, I don't believe we have any
2 case in chief information to put in front of the jury, Judge.

3 THE COURT: Okay. Well, the issue of the phone
4 calls, should it even be an issue, can be addressed later on
5 when we get to Mr. Slaughter's case in chief.

6 THE DEFENDANT: Can I bring something else up?

7 THE COURT: Yes.

8 THE DEFENDANT: We have a Kenny Marks that is on
9 their witness list as their case in chief, and I never
10 received anything from them. And the judge did order them to
11 turn over whatever they had on Kenny Marks, and I still
12 haven't received anything, and I brought it up numerous times.

13 THE COURT: Are there any statements from Kenny
14 Marks?

15 MR. DiGIACOMO: Judge, there is. Me and
16 Miss Krisko interviewed this witness. He had a title which
17 had Mr. Slaughter's name on it. We provided a copy of that
18 title to Mr. Slaughter. He lives across the street from where
19 the crime scene is. He doesn't have a written statement. He
20 has a photo lineup that he wrote off.

21 THE COURT: Is that photo lineup part of
22 discovery as well?

23 THE DEFENDANT: No.

24 MR. DiGIACOMO: Judge, I saw it in my file as
25 well. I don't remember there was this photo lineup. I saw it

1 in my discovery today, but if he doesn't have it, I can give
2 him a copy of it right now.

3 THE COURT: Okay. Well, we'll do that.

4 Mr. Slaughter, not everybody that the State or
5 even oftentimes the defense puts on a witness list necessarily
6 gave a taped statement or wrote out a statement.

7 THE DEFENDANT: I'd just like to know the
8 substance of what he was going to testify to, so I can be
9 prepared for that.

10 THE COURT: If he was on the State's witness
11 list, then your investigator can go out and talk to him, but
12 they're not required to turn over their work product, which
13 means the things that come out of an individual interview with
14 a witness, unless it's exculpatory in nature. Then they have
15 to tell you about it.

16 Otherwise, their interview of a witness in
17 preparation for trial is not something that's discoverable to
18 you.

19 THE DEFENDANT: If he's on the case in chief, I
20 believe I have a right to know what he's going to testify to.

21 MR. DiGIACOMO: This is my only copy, Judge, and
22 I'm going to have it marked as an exhibit.

23 THE COURT: Is that a photo lineup that pertains
24 to Mr. Marks having reviewed the photo lineup and having
25 signed off on it?

1 MR. DiGIACOMO: That's correct.

2 THE DEFENDANT: What is it referring to, that he
3 seen a crime?

4 MR. DiGIACOMO: That he identified you in a photo
5 lineup, and he was talking about Marquis Lerner, and that's
6 the first name he talked about.

7 THE DEFENDANT: I'd ask that we stipulate to his
8 testimony about buying a car. That's irrelevant. It has
9 nothing to do with the case.

10 THE COURT: It sounds like you might not have
11 very many cases for them. I can't tell the State how to run
12 their case. I can't tell them what is relevant and what is
13 not relevant.

14 If there is something that comes up at the time
15 of trial that you feel is relevant, I'll rule on it at that
16 time, but I can't tell them which witnesses to call or not to
17 call and make them tell you what their conversation with the
18 witness was.

19 MR. DiGIACOMO: Just one other matter we need to
20 bring up, Judge. The defendant, I guess you call those
21 shorts, asked to be here in shorts. We called up Victim
22 Witness and got pants that should fit him. I'd ask the Court
23 to allow him to change into pants. The shorts probably aren't
24 too appropriate in front of the jury.

25 THE COURT: Are those the clothes that you had at

1 the time you were booked, Mr. Slaughter?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: I think it would behoove you to put
4 on pants in front of the jury, if you don't mind.

5 THE DEFENDANT: Yes. I have no problem. There
6 was just no clothes down there for me. If I could change into
7 shoes, I could tell my mother, who is outside, to bring me
8 some shoes.

9 THE COURT: Well, we're going to start. Where
10 are the clothes that apparently -- oh, well, let's let him go
11 ahead, and you can take him down to the restroom and get into
12 the clothes.

13 THE DEFENDANT: Your Honor, can I move for a few
14 admissions right now?

15 THE COURT: Move for admissions?

16 THE DEFENDANT: Yeah.

17 THE COURT: Like items of evidence?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: That would come up during the time of
20 trial. When an appropriate witness is on the stand, if there
21 is some item of evidence that you think they are in possession
22 of, then you can move its admission. Or during your case in
23 chief, if you call witnesses, that would be a time to move the
24 admission of particular pieces of evidence.

25 THE DEFENDANT: And I also have a proposed

1 stipulation of fact, if the State is willing to agree to the
2 stipulation.

3 THE COURT: Go ahead and tell us what it is.

4 THE DEFENDANT: That the victim was shot through
5 the right cheek, and the bullet exited his left chin and shot
6 out two of his teeth and caused fragments in his eye. If we
7 can do that, I don't believe there is no need for the photo.

8 MR. DiGIACOMO: Well, Judge, the photo, as in any
9 case --

10 THE DEFENDANT: I have a copy of the photo right
11 here.

12 MR. DiGIACOMO: A photo, in any case, is
13 recommended. We have the photos marked. If he has an
14 objection to the prejudicial nature of any particular photo,
15 he can raise that with the Court, but we're not willing to
16 enter into a stipulation as to what the photos do and do not
17 show.

18 THE DEFENDANT: I do object to the photo right
19 now.

20 THE COURT: I'll look at the photos and see what
21 I think in terms of their nature as to whether any or all of
22 them should be admissible or not.

23 Obviously, when there is allegations of injury
24 and the proposition of medical experts testifying in terms of
25 the nature of the injury, whether it was potentially a lethal

1 injury, whether it causes substantial bodily harm, then
2 they're going to need probably to refer to some photos, but
3 that doesn't mean all of them get admitted.

4 THE DEFENDANT: Yeah, well, I don't believe they
5 need this photo, when actually the witness is going to
6 testify. They'll probably bring the medical expert and
7 examine them and everything like that.

8 THE COURT: I will look -- how many photos are
9 marked?

10 THE DEFENDANT: I only have one.

11 MR. DiGIACOMO: There are 92 exhibits that we've
12 marked.

13 THE CLERK: I only have 90.

14 MR. DiGIACOMO: There were 90 exhibits we marked
15 prior when Judge Cory was supposed to start trial. We've
16 given those back to your clerk, so she should have them
17 marked, and then you can look through them, Judge.

18 THE COURT: Are any of the photos going to be
19 used during any kind of opening statements?

20 MR. DiGIACOMO: I'll agree not to, if the Court
21 hasn't had a chance to look at them.

22 THE COURT: I'll look at it before then and make
23 a ruling as if the intent of either party were to use them
24 during openings.

25 MR. DiGIACOMO: I was hoping we'd get to openings

1 today. That's looking less and less likely, and so I hadn't
2 intended to use any of them during my openings. Should we get
3 to them tomorrow morning and I have a chance to put a power
4 point together --

5 THE COURT: Both sides can let me know if it's
6 something I have a chance to make a ruling on before the
7 point -- I'll make a ruling on them before we get to the point
8 of using them, regardless if it's a witness or opening
9 statement.

10 THE DEFENDANT: I never received a list of the
11 exhibits or anything like that.

12 THE COURT: Well, generally, you're not going to
13 get a list of exhibits until we get ready to start trial and
14 the court clerk is able to write out all the exhibits, because
15 it's only at that time our exhibits are proffered to the Court
16 to be marked by either side.

17 MS. KRISKO: Just to let you know, the ones she
18 has, those are the ones, like pictures, medical records,
19 things like that, the officer is going to be bringing in all
20 the other physical evidence.

21 THE COURT: Okay. All right. Mr. Slaughter, if
22 you can go with this gentleman, please, and go ahead and --

23 THE CORRECTIONS OFFICER: Your Honor, as far as
24 the clothes go, I won't be able to take those back with him to
25 the jail. Those have to be receipted.

1 THE COURT: He can change out at the end of the
2 day.

3 THE CLERK: The officers will dress him out, but
4 if you get another officer, he's going to say, "I'm not doing
5 it." So if his family or somebody on the outside, if they can
6 get him a better shirt, too.

7 AUDIENCE MEMBER: Do they bring him into the main
8 jail?

9 THE CORRECTIONS OFFICER: In the front lobby,
10 they'll give him a receipt, so they can account for
11 everything.

12 AUDIENCE MEMBER: I'll try to get that taken care
13 of today.

14 (Whereupon, a brief recess ensued.)

15 THE COURT: Mr. Slaughter, after you had stepped
16 outside, we were talking about the jury selection process;
17 okay?

18 THE DEFENDANT: Yeah.

19 THE COURT: We've got 12 members on the jury plus
20 two alternate members. That's 14. And then each side gets
21 eight peremptory challenges of the jury. So that's another
22 16. So that's 30 total people. And each side gets one
23 challenge as to the alternate.

24 So theoretically, what we need to have is 32
25 people passed for cause, meaning 32 acceptable people, and

1 then you all will start exercising your challenges against
2 those people; okay?

3 THE DEFENDANT: So you say we get eight and one
4 extra for the alternate?

5 THE COURT: Right. So after you've exercised
6 your eight and/or the State has exercised their eight and/or
7 you all have waived, you'll know who the first 14 people are.
8 And you can use that last challenge against the last two of
9 those 14, if you want to challenge either of those two people
10 that will be sitting as an alternate. And I'll let you know
11 when we get to that point.

12 But I'll let you know, what we're going to
13 endeavor to do is get 32 main people, and that's who you all
14 will begin questioning originally. We're not going to
15 individually question, however, the total number of people who
16 come in.

17 We just want to get 32 that seem to be
18 acceptable, and then we'll start questioning those. And if
19 any of those people need to leave, we'll replace them with one
20 person, so that we always maintain a number of 32, until we
21 pass them all for cause.

22 And what I do is, I ask them a bunch of questions
23 first, and then you can ask them questions as a group, meaning
24 if you have just a general kind of question, "Hey, have you
25 ever been arrested before?" and if one guy raises his hand,

1 then you individually ask him some questions.

2 But we're not going to individually ask each
3 person the same questions over and over. Do you know what I
4 mean?

5 THE DEFENDANT: Yeah.

6 THE COURT: Does that make sense? Okay.

7 MS. KRISKO: I think we might want to take a
8 minute or two. It sounds like we want to discuss negotiations
9 again.

10 THE COURT: Okay. Was there a habitual filing?

11 MR. DiGIACOMO: There is not, Judge, but the
12 first three kidnappings occurred with substantial bodily harm
13 and with a deadly weapon. So they're looking at 30 to life or
14 life without.

15 THE COURT: All right. Just let me know.

16 (Whereupon, a brief recess ensued.)

17 THE COURT: We can go back on the record in
18 C204957, State of Nevada versus Rickie Lamont Slaughter.

19 It's my understanding that the matter is resolved
20 now. Is that correct, folks?

21 MR. DiGIACOMO: Yes, your Honor.

22 THE COURT: Okay.

23 THE DEFENDANT: Yes.

24 THE COURT: And I have a guilty plea agreement
25 before me and a fourth amended information. Has a fourth

1 amended information been filed? Yes? No?

2 MR. DiGIACOMO: Yes, Judge. I believe we've
3 already given them to your clerk.

4 THE COURT: Okay. Is that your understanding,
5 Mr. Slaughter, the matter is resolved now?

6 THE DEFENDANT: Yeah. As I understand the
7 agreement, though, for the record, that the State will not be
8 allowed to argue --

9 THE COURT: We're going to go through the
10 agreement and make sure you understand everything. But as you
11 sit here now, your understanding is that you and the State
12 have resolved the matter; is that correct?

13 THE DEFENDANT: Yeah.

14 THE COURT: Why don't you go ahead and tell me,
15 if you would please, Mr. DiGiacomo, what the negotiations are.

16 MR. DiGIACOMO: Yes, Judge.

17 The defendant will enter a plea to -- let's make
18 sure I read these all off. Count I, attempt murder with use
19 of a deadly weapon; Count II, robbery with use of a deadly
20 weapon; Count III, first degree kidnapping; and Count IV,
21 first degree kidnapping with use of a deadly weapon.

22 The State agrees to retain the right to argue for
23 15 years to life at sentencing as to Count III, but stipulates
24 that life without the possibility of parole is not an
25 available sentence for the Court.

1 The State will not oppose concurrent time between
2 the counts, and the defendant has agreed to retain the right
3 to argue for 15 to 40 years as to sentencing on Count III.

4 Essentially, Judge, the negotiation is either a
5 15 to life or a 15 to 40, depending on the Court's decision at
6 sentencing, and the sentencing is to be before this Court is
7 my understanding, Judge.

8 THE COURT: Okay. And Count III is the
9 kidnapping charge that alleges substantial bodily harm?

10 MR. DiGIACOMO: That's correct, Judge.

11 THE COURT: Do you understand that, Mr.
12 Slaughter?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: That's what the status of the
15 negotiations are?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you agree with the negotiations as
18 Mr. DiGiacomo stated them?

19 THE DEFENDANT: Yeah, that the decision's between
20 15 to 40 and 15 to life?

21 THE COURT: Right. Okay. Why don't you go ahead
22 and tell me at this time, if you would please, what your true
23 name is.

24 THE DEFENDANT: Rickie Lamont Slaughter, Jr.

25 THE COURT: Do you understand that if that is not

1 your true name, you must declare it to me, or all proceedings
2 in this case will be under the name set forth in the
3 information on file, which is Rickie Lamont Slaughter?

4 Do you understand? Is that a yes?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Yes, sir. And what is your age?

7 THE DEFENDANT: Twenty.

8 THE COURT: And how far did you go in school?

9 THE DEFENDANT: Eleventh grade.

10 THE COURT: And do you read, write, and
11 understand the English language?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Okay. And you've received a copy, I
14 take it, of the fourth amended information that was filed
15 today in open court?

16 THE DEFENDANT: Yeah.

17 THE COURT: Okay. And will you waive the formal
18 reading of the charges and any list of witnesses that are
19 attached to that fourth amended information?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And I know you're representing
22 yourself, but you also have Mr. Wommer present as standby
23 counsel. Did you have an opportunity to discuss with
24 Mr. Wommer the fourth amended information and the charges that
25 were filed this afternoon?

1 THE DEFENDANT: Yeah.

2 THE COURT: Okay. And how do you plead to the
3 fourth amended information listing the four charges of
4 Count I, attempt murder with use of a deadly weapon; Count II,
5 robbery with use of a deadly weapon; Count III, first degree
6 kidnapping alleging substantial bodily harm; and Count IV,
7 first degree kidnapping with use of deadly weapon, guilty or
8 not guilty?

9 THE DEFENDANT: Your Honor, actually, I didn't --

10 MR. DiGIACOMO: Judge, it appears he's a little
11 confused.

12 MR. WOMMER: Would you repeat the question, your
13 Honor?

14 THE COURT: Okay. How do you plead to the four
15 counts in the fourth amended information, guilty or not
16 guilty?

17 THE DEFENDANT: Guilty.

18 THE COURT: And that would be guilty as to
19 Count I, attempted murder with use of a deadly weapon?

20 THE DEFENDANT: Yeah.

21 THE COURT: Guilty as to Count II, robbery with
22 use of a deadly weapon?

23 THE DEFENDANT: Yeah.

24 THE COURT: Guilty as to Count III, first degree
25 kidnapping; that's the count that alleges substantial bodily

1 harm.

2 THE DEFENDANT: Yeah.

3 THE COURT: And guilty as to Count IV, first
4 degree kidnapping with use of a deadly weapon?

5 THE DEFENDANT: Yeah.

6 THE COURT: Before I accept your plea of guilty,
7 I must be satisfied that your plea is freely and voluntarily
8 given. Are you making this plea freely and voluntarily?

9 THE DEFENDANT: Yeah.

10 THE COURT: Has anyone forced or coerced you to
11 enter this plea?

12 THE DEFENDANT: No.

13 THE COURT: Has anyone made you any promises
14 other than what's in the guilty plea agreement to get you to
15 plead guilty?

16 THE DEFENDANT: No.

17 THE COURT: I have before me a written guilty
18 plea agreement. Is that your signature that's contained on --

19 THE DEFENDANT: Yeah.

20 THE COURT: -- page five of the agreement?

21 THE DEFENDANT: Yeah.

22 THE COURT: Just for the record, on the original,
23 the date wasn't entered, so I'm going to write in there the
24 4th day of April, 2005.

25 Did you have an occasion, Mr. Slaughter, to read

1 through the guilty plea agreement before you signed it?

2 THE DEFENDANT: Yes, I did.

3 THE COURT: And did you have an opportunity to
4 discuss everything with Mr. Wommer before you signed it?

5 THE DEFENDANT: Yeah.

6 THE COURT: Did you understand the things that
7 you read in the guilty plea agreement prior to signing it?

8 THE DEFENDANT: Yes.

9 THE COURT: And any questions that you may have
10 had, were you able to discuss those with Mr. Wommer?

11 THE DEFENDANT: Yes.

12 THE COURT: Okay. Thank you.

13 Do you understand that the range of punishments,
14 and this is separate and apart from what the plea agreement
15 is, but the range of punishments for attempt murder with use
16 of a deadly weapon is 240 months maximum, with a minimum
17 parole eligibility of 24 months, plus an equal and consecutive
18 240 months maximum, with parole eligibility after 24 months
19 for that charge?

20 Do you understand that's the maximum?

21 THE DEFENDANT: Yes.

22 THE COURT: Count II, robbery with use of a
23 deadly weapon, do you understand that the range of punishment
24 is 180 months with a parole -- or excuse me -- with a minimum
25 parole eligibility of 24 months, plus an equal and consecutive

1 minimum term of not less than 24 months and not more than 180
2 months for that charge; that that's the range of punishment?

3 THE DEFENDANT: Yeah.

4 THE COURT: Do you understand that on first
5 degree kidnapping, Count III, that alleges substantial bodily
6 harm, you could potentially receive a sentence of life without
7 the possibility of parole or life with the possibility of
8 parole, with parole eligibility beginning at 15 years, or a
9 definite term of 40 years with parole eligibility beginning at
10 15 years?

11 THE DEFENDANT: Yeah.

12 THE COURT: And do you understand as to Count IV,
13 first degree kidnapping with use of a deadly weapon, that the
14 range of punishment is, you could receive a sentence of life
15 with the possibility of parole beginning after five years has
16 been served, or a definite term of 15 years, with parole
17 eligibility beginning after five years has been served, plus
18 an equal and consecutive term of life with the possibility of
19 parole after five years has been served, or a definite term of
20 15 years, with eligibility for parole beginning after five
21 years has been served?

22 THE DEFENDANT: Yes, I understand.

23 THE COURT: And those were just the potential
24 ranges of punishment you could receive. Do you understand all
25 that?

1 THE DEFENDANT: Yeah. Can I have a moment for a
2 second?

3 THE COURT: Yes.

4 (Whereupon, the defendant had an off-the-record
5 discussion with his attorney.)

6 MR. WOMMER: We're ready.

7 THE COURT: Ready? Okay.

8 Mr. Slaughter, do you understand that the
9 sentencing is going to be up to the Court?

10 THE DEFENDANT: Yes.

11 THE COURT: It's going to be my decision as to
12 how to sentence you, and no one else has any position or is in
13 any position to promise you leniency or anything else. Do you
14 understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: Okay. Do you have any questions that
17 you would like to ask me or your attorney before I accept your
18 plea?

19 THE DEFENDANT: No.

20 THE COURT: Okay. Thank you. Now, as I
21 understand it, as to Count I, attempt murder with use of a
22 deadly weapon, on or about June 26th, 2004, yourself and/or an
23 unknown co-conspirator did then and there, without authority
24 of law, and with malice aforethought, wilfully and feloniously
25 attempt to kill Ivan Young, a human being, by shooting at and

1 into the body of Ivan Young and/or by causing a bullet to
2 strike the face of Ivan Young, and that that was accomplished
3 through use of a deadly weapon, that being a firearm; is that
4 correct?

5 THE DEFENDANT: Yeah.

6 THE COURT: And as to Count II, robbery with use
7 of a deadly weapon, I understand that on that same date,
8 June 26th, 2004, yourself and/or an unknown conspirator or
9 co-conspirator did wilfully, unlawfully and feloniously take
10 personal property, that being an ATM card, from the person of
11 Ryan John, or in his presence, by means of force or violence
12 or fear of injury to Ryan John, and without the consent and
13 against the will of Ryan John, by pointing a firearm at Ryan
14 John and demanding such money;

15 That a deadly weapon was used in the commission
16 of that crime as well, that being a firearm. And that further
17 you would be responsible for that crime under three separate
18 theories of liability in that you and an unknown
19 co-conspirator conspired with each other to commit the
20 offenses of larceny and/or robbery and/or kidnapping, and
21 you're therefore all vicariously liable for the foreseeable
22 acts of the others;

23 Or 2: That you directly committed the acts
24 constituting the offense;

25 Or 3: That you and/or an unknown co-conspirator

1 aided or abetted each other in the commission of the crime by
2 securing and/or detaining and/or robbing Ryan John with the
3 use of a deadly weapon, while yourself or the others acted in
4 concert throughout by counseling and encouraging each other
5 throughout.

6 Is that correct?

7 THE DEFENDANT: Yeah.

8 THE COURT: With regard to Count III, first
9 degree kidnapping, I further understand that on June 26th,
10 2004, you wilfully, unlawfully, feloniously, and without
11 authority of law, either seized, confined, inveigled, enticed,
12 decoyed, abducted, concealed, kidnaped or carried away Ivan
13 Young, a human being, with the intent to hold or detain him
14 against his will, and without his consent, for the purpose of
15 committing robbery and/or to inflict substantial bodily harm
16 and/or to kill Ivan Young, and that said kidnapping resulted
17 in substantial bodily harm to Ivan Young.

18 Is that correct?

19 THE DEFENDANT: Yeah.

20 THE COURT: And finally as to Count IV, first
21 degree kidnapping with use of a deadly weapon, I understand
22 that on June 26th of 2004, you wilfully, unlawfully,
23 feloniously and without authority of law, either seized,
24 confined, inveigled, enticed, decoyed, abducted, concealed,
25 kidnaped or carried away Ryan John and/or Jose Posada,

1 P-O-S-A-D-A, and/or Aaron, that's two A's, Dennis and/or
2 Jermaun, J-E-R-M-A-U-N, Means, M-E-A-N-S, and/or Jennifer
3 Dennis, with the intent to hold those said individuals against
4 their will and without their consent for the purpose of
5 committing robbery and/or to inflict substantial bodily harm
6 and/or to kill those individuals, and that a firearm was used
7 during the commission of that crime;

8 And that you would be responsible under one of
9 three theories of liability for that crime; that you and an
10 unknown conspirator conspired with each other to commit
11 larceny and/or robbery and/or kidnapping and/or to inflict
12 substantial bodily harm and/or kill those named individuals,
13 and therefore you would be vicariously liable for the
14 foreseeable acts of the other conspirators;

15 Or second, that you directly committed the acts
16 against those named individuals;

17 Or three, that you and/or the unknown
18 co-conspirator aided and abetted each other in the commission
19 of this crime against those individuals by securing and/or
20 detaining and/or robbing those named individuals, you all
21 acting in concert throughout and counseling and encouraging
22 each other throughout.

23 Is that correct?

24 THE DEFENDANT: Yeah.

25 THE COURT: Okay. Court finds that the

1 defendant's -- well, does the State have anything to add to
2 the plea canvass?

3 MR. DIGIACOMO: No, Judge.

4 THE COURT: The Court finds that the defendant's
5 plea of guilty is freely and voluntarily made and that the
6 defendant understands the nature of the offenses and the
7 consequences of his plea and therefore accepts his plea of
8 guilty.

9 The matter will be referred to Parole & Probation
10 for a presentence investigation report.

11 I note that Mr. Slaughter is in custody. He'll
12 be remanded to the custody of the sheriff until such time as
13 sentencing can take place.

14 THE DEFENDANT: So will the time start running on
15 this case?

16 THE COURT: Pardon? Yes. You'll be accruing
17 credit for this case.

18 How is P & P doing these days?

19 MR. DIGIACOMO: Terrible. They're kicking
20 everything back.

21 MR. WOMMER: What's happened is, on defense side
22 we used to get a call from P & P saying the report is ready
23 three or four days in advance of sentencing. That's been done
24 away with. Now I get a fax the morning of the sentencing from
25 P & P.

1 THE COURT: We'll set it out for sentencing in 60
2 days.

3 THE CLERK: June 6th at 10:30 a.m.

4 THE COURT: To the extent that any exhibits were
5 lodged with the Court this morning, those will be released
6 back to the separate parties that lodged them.

7 We'll be in recess. Thank you.

8 ATTEST: Full, true, and accurate transcript of
9 proceedings.

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YVONNE M. VALENTIN, CCR 342

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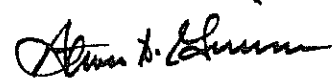
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CLERK OF THE COURT

1 **OPPS**
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 MARC DIGIACOMO
6 Chief Deputy District Attorney
7 Nevada Bar #006955
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8
9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,)

11 Plaintiff,)

12 -vs-)

13 RICKIE LAMONT SLAUGHTER,
14 #1896569)

15 Defendant.)

CASE NO: 04C204957

DEPT NO: III

16 **STATE'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS**

17 DATE OF HEARING: February 15, 2011

18 TIME OF HEARING: 9:00 A.M.

19 COMES NOW, the State of Nevada, by DAVID ROGER, District Attorney, through
20 MARC DIGIACOMO, Chief Deputy District Attorney, and hereby submits the attached
21 Points and Authorities in Opposition to Defendant's Motion To Dismiss.

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

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1 statutes have never been interpreted to be a basis for post-indictment delay. In order to
2 assert post-indictment delay, a Defendant must rely upon the due process clause. Id (*citing*
3 United States v. Marion, 404 U.S. 307, 92 S.Ct. 455, 30 L.Ed.2d 468 (1971)). However, in
4 order to prevail under the due process clause, Defendant must establish not only prejudice to
5 his right to a fair trial, but that the delay was caused by the government to gain a tactical
6 advantage. Id (*citing* United States v. Lovasco, 431 U.S. 783, 97 S.Ct. 2044, 52 L.Ed.2d 752
7 (1977)). As Defendant was the cause of the delay, Defendant certainly cannot satisfy a due
8 process claim for dismissal caused by delay. Other jurisdictions have held that reinstatement
9 of original charges were proper where it was defendant's plea which resulted in the state not
10 proceeding on the original charge. *See, e.g., State v. Deilke*, 274 Wis.2d 595, 682 N.W.2d
11 945 (2004).

12 Other Courts have said that the statute of limitations were created to give defendant
13 reasonable notice in a timely manner of what the state alleges was the basis for the charges.
14 As such, if the new charges, even outside the relevant statute of limitations, were derived
15 from the same facts which were the basis of the charges alleged, new charges may be added
16 outside of the statutory period so long as they stem from the same conduct. *See, e.g., People*
17 *v. Mann*, 341 Ill.App.3d 832, 794 N.E.2d 425
18 (Ill.App. 2d 2003); Ahmad v. State, 295 S.W.3d 731 (Tex.App.-Fort Worth,2009).

19 Moreover, Nevada's statutory scheme ends any consideration of a statute of
20 limitations defense upon filing of the Complaint, let alone the Information. NRS 171.085
21 provides:

22 Except as otherwise provided in NRS 171.080, 171.083, 171.084 and 171.095,
23 an indictment for:

24 1. Theft, robbery, burglary, forgery, arson, sexual assault, a violation of
25 NRS 90.570, a violation punishable pursuant to paragraph (c) of subsection
26 3 of NRS 598.0999 or a violation of NRS 205.377 must be found, **or an**
information or complaint filed, within 4 years after the commission of
the offense.

27 2. Any felony other than the felonies listed in subsection 1 must be found,
28 **or an information or complaint filed**, within 3 years after the
commission of the offense.

1 (Emphasis Added). Thus, under Nevada law, when the complaint was filed just days after
2 the crime in 2004, the statute of limitations ceased to exist as a defense to the crime. In
3 March of 2005, the Third Amended Information was filed, within a year of the crimes being
4 committed. Certainly, by that point, the statute of limitations stopped being an affirmative
5 defense to the charge. By defendant's actions of withdrawal of his guilty plea, the Fourth
6 Amended Information was stricken for failing to perform his end of the contract, the result is
7 he now faces the Third Amended Information.

8 Finally, Defendant's motion is for a complete striking of the Third Amended
9 Information, however, he fails to inform the court that for the Counts alleged in the fourth
10 amended information, the statute of limitations has never run. Moreover, for many of the
11 charges, including all of the kidnapping charges, the statute of limitations does not run for
12 several years. *See* NRS 171.084. Thus, there is simply no basis to assert the affirmative
13 defense of the statute of limitations.²

14 CONCLUSION

15 Based upon the foregoing, Defendant's Motion to Dismiss should be denied.

16 DATED this 14th day of February, 2011.

17 Respectfully submitted,

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

20 BY /s/MARC DIGIACOMO
21 MARC DIGIACOMO
22 Chief Deputy District Attorney
23 Nevada Bar #006955
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28 ² Of course, since it is an affirmative defense, should defendant seek to assert it at trial, the State will be able to admit his guilty plea before the jury to establish that it has never run.

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that service of the above and foregoing, was made this 14th day of February, 2011, by facsimile transmission to:

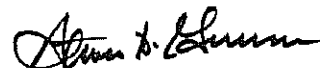
OSVALDO FUMO, ESQ.
FAX #474-4210

/s/Deana Daniels
Secretary for the District Attorney's Office

OSVALDO FUMO, CHTD
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Attorneys for Defendant

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CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

RICKIE L. SLAUGHTER,

Defendant.

CASE NO.: C204957
DEPT. NO.: 3

REPLY TO STATES OPPOSITION TO
MOTION TO DISMISS

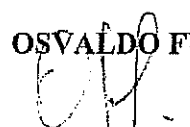
Date:
Time:

COMES NOW, Defendant RICKIE L. SLAUGHTER, by and through his counsel of record, OSVALDO E. FUMO, ESQ., of the law firm of OSVALDO FUMO, CHTD., hereby submits the attached Points and Authorities in support of Defendant's Reply to State's Opposition to Motion to Dismiss.

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

Dated this 23 day of Feb 2011.

OSVALDO FUMO, CHTD.



Osvaldo E. Fumo, Esq.
Nevada Bar No.: 5956
Dustin R. Marcello, Esq.
Nevada Bar No.: 10134

000082

NOTICE OF MOTION

TO: STATE OF NEVADA, Plaintiff;

TO: DAVID ROGER, ESQ., District Attorney:

PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion on for hearing before the above-entitled Court on the _____ day of _____, 20____, at the hour of _____ a.m. in Dept. III, or as soon thereafter as Counsel may be heard.

Dated this _____ day of _____ 20____.

 OSVALDO FUMO, CHTD.

Osvaldo E. Fumo, Esq.
Nevada Bar No.: 5956

POINTS AND AUTHORITIES

In responding to the States Opposition, Mr. Slaughter would like to initially point out that he does not claim that all counts are barred by the applicable statute of limitations, but that those counts which were dismissed in the Third Amended Information and not contained in the Fourth Amended information are outside the statute of limitations. Additionally, in order to preserve a record it is believed that the State's Opposition to the Defendant's Motion to Dismiss was not timely filed in that it was outside the period contemplated by Rule 3.20 (c) of the Local Rules of Practice of the Eighth District of Nevada.

The State's opposition seems to suggest that the State has met the statute of limitations the minute it files a criminal complaint or information regardless of whether that complaint or information is dismissed. However, this interpretation would result in the terms of NRS 171.085 becoming meaningless and fail to consider the plain language of the statute. NRS 171.085 makes no allowance for extra time based on any outside factors such as whether the delay is caused by the defendant or the State. While the State is free to argue that the statute of limitations should be tolled on some equitable basis it most certainly cannot argue that NRS 171.085 simply does not apply.

1 Surprisingly the State does in fact argue that the counts dismissed in the Third Amended
2 Information almost 6 years ago satisfy the statute of limitations since a Information or Complaint
3 was filed prior to the expiration of the statute of limitations regardless of what later happens to
4 that Information or Complaint. However, this interpretation would render NRS 171.085
5 meaningless since the State could simply file a complaint or information and even if it is
6 dismissed due to inactivity, prejudice or any other basis they simply could renew the prosecution
7 at any time in the future because they filed their initial information or complaint within the
8 statutory period. Indeed, under this interpretation there would be no reason why the State
9 couldn't revive both the Original and Second Amended Information. There is no basis in either
10 the plain language of the statute or case law to support such a broad interpretation.

11 The point of NRS 171.085, or any statute of limitations for that matter, is to protect a
12 defendant against the prejudice not caused by a person or the State, but simply by the passage of
13 time. Over time physical evidence is lost or, witnesses may become available or lose their
14 memory of an event, and the ability to present a defense is greatly inhibited. In fact, there has
15 been numerous issues in this case involving lost evidence such as Mr. Slaughter's sneakers, the
16 tainted memory of witnesses and the general inability to find other witnesses that would be
17 helpful to Mr. Slaughter's defense. It is easy for the State to say that this condition was "caused
18 by Mr. Slaughter", but it is just as easy to say that this situation was caused by the State in not
19 allowing withdrawal of a clearly defective guilty plea for many years. But for purposes of the
20 issue presented here it is mostly irrelevant, the point is Mr. Slaughter's defense is prejudiced by
21 the passage of time and is exactly the type of danger NRS 171.085 was designed to address.

22 Moreover, to the extent ^{the State} argues regarding reinstatement of charges, Mr. Slaughter does
23 not disagree. The State is free to reinstate the charges contained in the Fourth Amended
24 Information to which Mr. Slaughter's guilty plea was withdrawn. However, this basis for
25 reinstatement cannot be extended to the charges contained in the Third Amended Information,
26 since those charges were dismissed and were not refilled until nearly 6 years after they were
originally dismissed and nearly 8 years since the incident occurred. As pointed out in Mr.
Slaughter's original Motion, if the State wished to toll the statute of limitations as to the charges

1 in the Third Amended Complaint it could have done so with language to that effect in the Guilty
2 Plea Agreement, however, its' failure to do so does not in anyway affect the applicability of the
3 plain language of NRS 171.085.

4 Finally, it should be noted that the cases cited by the State in it's opposition¹ are wholly
5 inapplicable to the issue presented here as Nevada has not addressed the issue of whether charges
6 dismissed can be reinstated after the expiration of the statute of limitations. The cases cited by
7 the State addressing the issues of pre-indictment for post-indictment delay are irrelevant to the
8 issue of whether the actual indictment/information/complaint itself complies with the statute of
9 limitations. There simply is no basis either in the statute or applicable case law to revive charges
10 dismissed that are outside the applicable statute of limitations, to do so would require this Court
11 to articulate some other basis for allowing the State to reinstate the counts previously dismissed
12 in the Third Amended Information.

13 14 15 16 Conclusion and Request for Evidentiary Hearing

17 The charges contained in the Third Amended Information were dismissed almost 6 years
18 ago, and almost 8 years has passed since the date of the original alleged offense. The State did
19 not refile the charges from the Third Amended Information within the applicable statute of
20 limitations under NRS 171.085. There exist no statutory or case law basis for allowing refiling
21 of dismissed charges outside the applicable statute of limitations, although the original charges
22 from the Fourth Amended Information may be reinstated. Mr. Slaughter has been prejudiced in
23 that evidence has been destroyed, witnesses have become unavailable and available witnesses
24 have had their memories fade with the passage of time. Accordingly, the charges stemming from
25 the previously dismissed Third Amended Complaint should be dismissed.

26
¹ Jones v. State 96 Nev. 240 (1980) and United States v. Marion 404 U.S. 307 (1971).

OSVALDO FUMO, CHTD
1212 CASINO CENTER, LAS VEGAS, NEVADA 89104
PHONE: (702) 474-7554 FAX: (702) 4744210

Dated this ____ day of _____ 20__.

OSVALDO FUMO, CHTD.

Osvaldo E. Fumo, Esq.
Nevada Bar No.: 5956
Dustin R. Marcello, Esq.
Nevada Bar No.: 10134

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in the above-captioned matter is hereby received and acknowledged this ____ day of _____

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OFFICE OF THE DISTRICT ATTORNEY

By: _____

1 *91*

TRAN
CASE NO.C-204957
DEPT. NO. 3

FILED

MAR 23 9 53 AM '11

ORIGINAL

Sharon Howard
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA,)
)
Plaintiff,)
)
vs.)
)
RICKIE SLAUGHTER,)
)
Defendant.)

REPORTER'S TRANSCRIPT
OF
DEFT'S MTN TO DISMISS

04C204957
TRAN
Reporters Transcript
1307966



BEFORE THE HONORABLE DOUGLAS HERNDON
DISTRICT COURT JUDGE

DATED: THURSDAY, MARCH 3, 2011

REPORTED BY: SHARON HOWARD, C.C.R. NO. 745

RECEIVED
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CLERK OF THE COURT

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1 APPEARANCES:

2 For the State: MARC DIGIACOMO, ESQ.

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4 For the Defendant: OSVALDO FUMO, ESQ.

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1 LAS VEGAS, NEVADA; THURSDAY, MARCH 3, 2011

2 P R O C E E D I N G S

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5 THE COURT: Page 4, State of Nevada vs.
6 Rickie Slaughter, C-204957. He's present in custody with
7 Mr. Fumo. This is on for three motions, as well as a
8 status check on our trial.

9 My recollection is what I told you all about trial
10 was we'd come back today after my civil calendar calls and
11 figure put if we could set it on the civil stack, right.

12 MR. FUMO: You asked us to bring our
13 calendar so we could set that up.

14 THE COURT: I don't know what your
15 calendars are, but in terms of my civil stack it's
16 starting right now. All I have is a trial that's going to
17 go two weeks March 28 to April 4th. So I could set it
18 before or after that within the civil stack, if you
19 agree.

20 MR. DIGIACOMO: Can you do April 11th.

21 THE COURT: I can do April 11th. It has
22 to be done that week.

23 MR. DIGIACOMO: I don't see a problem with
24 this being a week case. I don't.

25 THE COURT: I'll be gone the week after,

1 that is why I say it has to be done that week.

2 MR. FUMO: Court's indulgence. I have two
3 trials set April 11th, your Honor.

4 MR. DIGIACOMO: Are you back the week of
5 the 25th.

6 THE COURT: That's a criminal stack. So I
7 don't know what we have. I have some priorities from the
8 age of the case, but unless I have something that's
9 already a firm setting -- I have a death penalty case.

10 MR. DIGIACOMO: Is it Land.

11 I think Mr. Oram represents him.

12 THE COURT: I don't remember who
13 represents Land.

14 MR. DIGIACOMO: Mr. Oram represented that
15 won't be going.

16 THE COURT: I think Jessica Walsh was in
17 court on that. I know they made reference that that case
18 is on for that day. She didn't say it wasn't going. It
19 was in terms of resetting one of her trials.

20 MR. DIGIACOMO: I was in trial with Mr.
21 Oram yesterday, but -- that's fine. We can do the 11th or
22 25th as far as I'm concerned. I can go into May as
23 well.

24 THE COURT: 25th would work better for the
25 court, if you believe Land isn't going. You have as good

1 a knowledge as anybody on that.

2 MR. FUMO: We have our expert that's
3 unavailable the 25th. How is May or June.

4 MR. DIGIACOMO: I can't do June. May is
5 open.

6 THE COURT: May 2nd.

7 MR. DIGIACOMO: May 2nd.

8 MR. FUMO: May 2nd.

9 THE COURT: How about I set it for trial
10 the week of May 2nd, 10:00, calendar call April 28th,
11 9:00.

12 MR. FUMO: Sorry, the 3rd through the 7th,
13 I'm out of the jurisdiction.

14 THE COURT: I have a murder trial set that
15 week that Mr. Stanton tells me it's not going.

16 MR. DIGIACOMO: No on March 14 and on
17 March 21st. I have a murder case with Judge Villani's
18 department. That would be cutting it a little tight.

19 MR. FUMO: I'm open the entire month of
20 July, up to the 26th.

21 THE COURT: Here's the thing. I don't
22 want to get around this, where I'm trying to run my -- we
23 talked about this before -- run my calendar on when
24 Mr. Expert is available. I set a trial, Mr. Expert needs
25 to come in and testify at trial. I set it far enough in

1 advance that Mr. Expert needs to make some accommodations
2 and change things.

3 MR. FUMO: That's why we're trying to get
4 June or July. That's wide open.

5 THE COURT: I think personally April 25th
6 is far enough in advance.

7 MR. FUMO: That's me. I'm in a jury
8 trial. Client did invoke his right to 60-day trial. It's
9 a sex assault case the 25th. That is my conflict, not the
10 expert.

11 THE COURT: Where are you going the 3rd
12 through the 7th.

13 MR. FUMO: Federal sentencing seminar.

14 THE COURT: On the Spann case.

15 MR. DIGIACOMO: I know nothing about that
16 case. I was looking at it the other day, and I was
17 wondering why I don't. That's Mr. Oram's as well.

18 May 16th, I have Mendoza, which is a child abuse -- I
19 don't think Vicki knows anything about that.

20 Vicki, do you know anything about the Mendoza case
21 set for May 16th -- murder by child abuse.

22 UNIDENTIFIED ATTORNEY: Far as I know,
23 it's good to go. I haven't -- they haven't filed any
24 expert. We may be looking at a doctor expert in that case
25 for the defense.

1 THE COURT: All right.

2 MR. DIGIACOMO: I would be willing to set
3 it on the 9th of May, Judge, and trail behind Spann, if it
4 goes. We are eligible for overflow.

5 THE COURT: I'll set it for May 9th.

6 MR. DIGIACOMO: With the number of motions
7 in this case, I don't know that I would be real interested
8 in overflow. I'd prefer to trail as opposed to
9 overflow.

10 THE COURT: Well, we're going to get the
11 motions dealt with before we go to overflow generally.
12 I'll do all the motions before I send it to overflow.

13 MR. DIGIACOMO: It's the number of rulings
14 in the case that need to be remembered by the court.

15 THE COURT: Depending on how long Spann
16 is -- I would consider sending it to overflow, but it's a
17 death case. We'll see. I'll set for May 9th at 10:00
18 a.m., calendar call May 5th, at 9:00.

19 Now we have 3 motions on today. What do you want to
20 take first.

21 MR. FUMO: You received our reply.

22 THE COURT: I did.

23 MR. FUMO: We can let it stand on that,
24 unless you want to argue anything further.

25 We definitely need an evidentiary hearing as we

1 requested in the motion. Two reasons for it. You saw the
2 color photos of the lineup. A detective, what he did, was
3 take the photo lineup pictures from the Metropolitan
4 Police Department, that we claim has a white background.
5 You can see it's clearly different from everybody else.

6 Everybody else was taken from the North Las Vegas
7 photo bank. That has a dark blue or bluish background to
8 it.

9 So what happens when you look at those photos
10 Mr. Slaughter seems to stand out. It gives that halo
11 effect. Which gives the person looking at it the opinion
12 that everybody else must have been taken in a pool and is
13 just filler. This person must clearly be the guilty
14 party.

15 The other reason we'd like to have the evidentiary
16 hearing on that is going through the preliminary hearing
17 transcripts I noted that Ivan, the victim in this case,
18 states that he knows Mr. Slaughter's name. He actually
19 calls him Rickie at the preliminary hearing. There's a
20 suggestion -- if you look at page 43 in the preliminary
21 hearing transcript -- where he suggests that he learned
22 Rickie's name at the photo lineup. Nothing is delved
23 further. So we'd like and evidentiary hearing on that
24 also.

25 Why is the detective giving him the person's name at

1 the lineup. And how he came to put this photo lineup
2 together.

3 MR. DIGIACOMO: Couple of things, Judge.

4 You have the lineup, so obviously you can look at it.
5 There's no case law to suggest that the one case that they
6 do cite involves police misconduct in creating the lineup
7 and having the ability to affect the lighting
8 conditions.

9 I looked at that lineup. Like I said in my motion,
10 how about the guy in the yellow shirt. He's the one that
11 jumps off the page. Mr. Slaughter's picture, as well as
12 that guy wearing the yellow shirt, both almost have a
13 white background.

14 There is a lot -- it would be a situation in which
15 the court is going to say, look, because the cop only had
16 access to one photo, they can't possibly do a photo
17 lineup. Because that would be the situation here. He had
18 a single juvenile photo. It's the only thing they could
19 get their hands on to use. There's no allegation he was
20 in custody at the time.

21 Those photos, if you look at them, there's nothing
22 about them that are -- that precludes their admissibility
23 in the constitution as being unduly suggestive. Certainly
24 they can cross-examine the witnesses about that particular
25 situation.

1 As to whether or not he knew Rickie's name, there is
2 no evidence to suggest that the photo lineup was
3 suggestive at the preliminary hearing, or that someone
4 pointed out the picture to him. It's not like Rickie
5 Slaughter is written underneath the name on the
6 photograph. I'm not sure where they're getting that from
7 the preliminary hearing transcript. I didn't see the
8 reply, to be truthful to you, where he suggested he
9 learned his name prior to the identification being made by
10 the witness.

11 Maybe he learned the name after the identification
12 being made, as to who it is he picked out, or whether
13 there is a discussion of names, do you know this person,
14 have you ever had any contact with the person, or anything
15 else like that. Which would have been completely
16 appropriate questioning by the detective at the time of
17 the interview, and/or photo lineup being done with the
18 victim who is lying in bed with one eye because he got
19 shot by the perpetrators of the crime.

20 And certainly an interview needed to take place of
21 him. We had a suspect that was identified by way of
22 anonymous information, confidential information.

23 MR. FUMO: Briefly, Judge.

24 That's the reason why I want the evidentiary hearing
25 to flush out where he learned this. Mr. DiGiacomo just

1 said we don't know if he learned it after or before.
2 That's why I think an evidentiary hearing would be
3 valuable, so we can inquire as to those questions prior to
4 getting on the stand during cross-examination.

5 Secondly, Mr. DiGiacomo said they wasn't a newer
6 picture and that's why Detective Preato had to go from
7 North Las Vegas to the Metropolitan Police Department's
8 bank. That's not true. There is a newer picture. Newer
9 then the one he used in the photo lineup in North Las
10 Vegas. I think it was just taken two months prior, that
11 was newer than the one he actually did use. That's
12 probably another reason I asked him about this. Probably
13 saw that picture in North Las Vegas.

14 THE COURT: The problem with that picture
15 is that your client has a 2- to 3-inch afro in that
16 picture as opposed to cornrows, which is what he's wearing
17 in the lineup and every other person in the lineup is
18 wearing.

19 Here's the thing. I did look at the color lineup. I
20 have to agree with the State. The thing that jumped out
21 to me first is there is a guy wearing a yellow shirt,
22 which isn't your client. Your client and everybody else
23 is wearing black or dark blue shirts. They all have the
24 same hair style, same kind of or similar facial hair,
25 features. They all appear to be about the same age.

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1 If you look close at the color photo lineup, I think
2 the background of Mr. Slaughter is blue as well. It's
3 just a lot lighter than the background in the others.
4 Lighter blue than the others are.

5 All things being considered, I don't think it's a
6 suggestive photo lineup, other than the guy in the yellow
7 shirt. If he got identified and he was sitting here I
8 think he'd have a much better argument to say, I'm the
9 only one in the yellow shirt in the photo lineup. And
10 that kind of stinks. But I don't think there needs to be
11 an evidentiary hearing on the photo lineup. I think the
12 photo lineup is proper. So the motion is going to be
13 denied.

14 As to Ms. Johnson's statement.

15 MR. FUMO: On that one, your Honor, at the
16 time of the arrest she was taken into custody she was 19
17 years old. She's in the shower. Metro, SWAT comes to her
18 apartment at 1:00 o'clock in the morning. Let's off these
19 percussion devices. Takes her out of the shower. Leaves
20 her on the side of the curb in just a towel. Handcuffs
21 her and takes her down to the station.

22 She tells them, at the apartment -- I think Mr.
23 Preato asked her what time Rickie picked her up. She says
24 Mr. Slaughter got me at 7:00 o'clock. It's not the answer
25 he wanted to hear, so he kept badgering her. Took her

1 downtown. Telling her she's going to get arrested. She
2 was going to lose her child. Everything about this is
3 very coercive.

4 What he does then is he keeps her downtown for about
5 two hours. Gets her statement. Because she doesn't give
6 him the answers he wants to hear, he continues to tell her
7 she's going to lose her kids, or she's going to get
8 arrested for it too. She has no idea what he's talking
9 about. He asked her, when did he pick you up. She says
10 7:00 o'clock. The barrage comes on.

11 What he does then is he takes her home two hours
12 later. So it's about 3:30, 4:00 o'clock in the morning.
13 She gets home and her house looks like a war zone. It's a
14 small apartment. Everything had been destroyed. She is
15 there trying to clean things up and he calls her again.
16 Picks her up. Takes her back downtown for more
17 questioning.

18 This is one long interrogation. Messing with her
19 head, if you will, until she gives him the answers he
20 wants. Badgers her again, badgers her again, badgers her
21 again until she starts to move the time line for him.
22 She realizes after the second interview, unless I tell
23 this guy what he wants to hear, I'm going to get taken
24 into custody and I'm not coming out of here. And I have a
25 child to support.

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1 Her statement is so unreliable that it violates his
2 due process rights. That's the whole basis for my
3 motion.

4 THE COURT: The competency of a witness to
5 give a statement, or a child and there's an allegation of
6 coaching or whatever, not understanding, or not having the
7 ability to perceive and rationally relate, that's
8 different then we just think the statement stinks. That's
9 when you cross-examine people.

10 What's really the authority to say, we think the
11 statement is so bad that we just think somehow it should
12 not be allowed to have this adult witness come in and
13 testify.

14 MR. FUMO: The case we cited to that was
15 Douglas v. Woodford, that basically says because of the
16 abuse of an officer, the statement becomes so unreliable
17 that it violates the Defendant's due process rights and it
18 must be suppressed. That's the authority we cited as to
19 that.

20 THE COURT: Mr. DiGiacomo.

21 MR. DIGIACOMO: Ms. Johnson couldn't get
22 that statement suppressed. Before she makes the statement
23 in question she's Mirandized. The cops actually had the
24 information that Mr. Slaughter didn't show up at 7:00
25 o'clock. They have a witness who says Ms. Johnson is

1 waiting outside. So she's clearly lying about the time
2 that Mr. Slaughter picked her up. They confront her with
3 the information, and she ultimately provides additional
4 information.

5 They're not saying suppress the statement. They're
6 saying I can't call Tiffany Johnson now and ask her
7 questions. They want to suppress the live testimony of
8 Tiffany Johnson. If she denies those statements, they now
9 want to preclude me from cross-examining her on the
10 statements that she made. There is absolutely no basis.
11 There's no affidavit to say the statements were false.
12 Let alone that they're coerced.

13 Second of all, there is no legal authority to
14 preclude a witness from testifying in a case where it's
15 not like they used water torture or water board, or they
16 beat her with hoses or something like that. They told her
17 something which was probably true, which is we have the
18 right to arrest you if you continue to lie.

19 MR. FUMO: She does have an affidavit that
20 was attached to the reply.

21 MR. DIGIACOMO: I didn't see the reply.

22 THE COURT: I got the reply.

23 MR. DIGIACOMO: As long as I have a copy of
24 this, they shouldn't have any problems.

25 MR. FUMO: Judge, she wasn't Mirandized

1 until the third statement. He's badgering her through the
2 first two. Gets what he wants. Then he starts to
3 Mirandize. That doesn't cure his ineffectiveness there.

4 THE COURT: We all know the state of the
5 law that an interrogation is an interrogation. The police
6 are entitled to try and elicit answers if they believe
7 there is certain evidence out there, if they think someone
8 is lying. That includes the police being able to lie to
9 witnesses when they're interviewing them or defendants
10 when they're interviewing them.

11 I don't see anything about what took place here that
12 rises to the level of some kind of constitutional due
13 process violation. It gives you ample fodder for
14 cross-examination as to -- I don't know what she's going
15 to say at trial. I don't think it rises to the level of
16 any kind of due process violations for the State being
17 able to call her as a witness and impeach her by denying
18 what's in her statement. So the motion to preclude her
19 statement is denied.

20 The last thing is the motion to dismiss. Which was a
21 very interesting argument, I have to say.

22 Mr. Fumo.

23 MR. FUMO: On that one, if I could for the
24 record, go through a history of the case.

25 October 5th, 2004, is his first arraignment in

1 district court.

2 May 21st, 2005, the State files their third amended
3 complaint with the 14 felony counts.

4 April 4th, '05, he does enter his plea agreement,
5 with the 2 to 4 felony counts.

6 August 5th, '05, it's set for sentencing and is
7 sentenced.

8 August 7th, he files a proper person writ.

9 January 29th '07, the State files their opposition.
10 You denied the writ on or about that time.

11 July 24th '07, the Supreme Court orders the
12 evidentiary hearing to be heard on the matter.

13 March 28th '08, Mr. Slaughter files to have his
14 guilty plea withdrawn. Then the State opposes April 18th
15 '08.

16 July 19th, '08, the evidentiary hearing is held.
17 Again, you deny that.

18 July '08, Mr. Slaughter appealed to the Supreme
19 Court. They issued the order allowing Mr. Slaughter to
20 withdraw his guilty plea agreement, because it was
21 unconstitutionally made.

22 Four years later, May 14th, four years after the
23 initial filing May 14th, '09, the Court -- this Court
24 strikes the fourth amended information to which Mr.
25 Slaughter had previously pled guilty, and without any

1 request from the State reinstates the third amended
2 information, which had previously been dismissed.

3 That's the whole basis for the argument and the time
4 line that leads up to it.

5 April 4th, '05, when that is sua sponte reinstated,
6 that violated NRS 171.085. Our contention is the case may
7 go forward on the four counts in the third amended -- or
8 the fourth amended information, but the one that was
9 dismissed cannot be revived.

10 THE COURT: Let me clarify a couple of
11 things. I don't disagree with the chronology of things.
12 But in terms of the constitutionality of things, what
13 occurred was that Mr. Slaughter had asked for and
14 negotiated and had been told, including by myself, his
15 sentence was of a certain structure. Thereafter, the
16 Department of Prisons refused to honor the structure that
17 everybody said was the structure.

18 He had appealed on that. I agreed with what he was
19 saying on appeal, and I ordered the prison to consider his
20 sentence in a certain manner. They refused to do that.

21 Ultimately, that's when the Supreme Court said he
22 needs to be able to withdraw his plea if the prison is
23 going to interpret these blocks of time, they're now
24 saying they're going to do it. So that's how we got
25 here.

1 The other thing I take umbrage with is the third
2 amended information was dismissed. I don't know -- I
3 never ordered anything dismissed.

4 MR. FUMO: At the sentencing, when he was
5 sentenced the third amended was --

6 THE COURT: If you read the transcript, I
7 never dismissed anything. They get superseded by charges,
8 but they don't get dismissed.

9 The only time a charge is ever ordered dismissed is
10 if somebody pleads to Count (1), in the information and
11 sometimes somebody will say, will the remaining counts be
12 dismissed. But never by the superseding information do
13 the original charges get dismissed, they just get
14 superceded. That's why -- for instance, if somebody comes
15 in to district court on 3 counts of burglary and gets the
16 matter resolved to one count and somebody files an amended
17 information -- or maybe an attempt burglary -- then the
18 deal falls apart, I order that the amended information be
19 withdrawn and we proceed on the original information.
20 Because those charges are still there. They've just been
21 superceded.

22 That's -- in addition to the fact I think the 3rd and
23 2nd Circuits are whacked if they think that's an
24 appropriate way to go about things. I'll say that as
25 well. But that's separate and apart from the issue of I

1 don't think anything was dismissed here.

2 Anything further.

3 MR. DIGIACOMO: I do, Judge.

4 A couple of things. The only reason for the filing of
5 the fourth amendment was an agreement by Mr. Slaughter
6 between the State and Mr. Slaughter.

7 I know the 2nd and 3rd Circuit are whacked. When I
8 read those, I'm like holy cow. And I gave Mr. Slaughter
9 some credit because I assumed he's the one that did the
10 research into some of this stuff.

11 But as opposed to those cases in which they now
12 wanted to supersede and file a new one, in Nevada, there
13 is a couple of things. One is that we have case law that
14 says our statute of limitation only applies to pre-filing
15 of the indictment to protect that sort of delay. And two,
16 the protection is there because the Defendant should have
17 to know what he is to defend against.

18 If you look at Mr. Slaughter's plea from a practical
19 point of view as opposed to a technical/legal point of
20 view, he basically pled to what was alleged against him.
21 It's just that we structured it in such a way that you,
22 me, Ms. Krisko and Mr. Slaughter all thought he was going
23 to get 15 to life in the Department of Prisons. The
24 Nevada Supreme Court ultimately disagreed with us.

25 When Mr. Slaughter decided he didn't want to fix his

1 plea agreement, or wanted to get out of his plea
2 agreement, that meant that the fourth amendment was
3 stricken and the third still exists.

4 On top of that, there has been no reference. He keeps
5 talking about all the counts be dismissed. The statute
6 doesn't even run on some of the counts that are in the
7 third and that are not in the fourth. It only applies to
8 some of the counts that are in the case, although they
9 don't make that distinction in their motion.

10 While I recognize the 2nd, 3rd Circuits we might have
11 a problem. I don't find any authority in state court or
12 anywhere else to support the contention that a defendant
13 should be able to get away from -- or get out from
14 underneath his charges by taking actions to withdraw from
15 a plea agreement, and now he gets a benefit that was never
16 intended to be provided by the statute of limitations.

17 I'll submit it to the Court.

18 MR. FUMO: If the purpose of the statute
19 of limitations was to avoid the preindictment, what you
20 could have here is the State dismissing a case, or not
21 filing charges on a case and 10 years later refileing the
22 charges and bringing them back up. That's not what the
23 purpose of the statute of limitations is for. It's to
24 avoid this too.

25 Had the State wanted to avoid what's happening here,

1 they could have put it in the plea agreement. That if you
2 back out of this plea agreement, all the other charges are
3 reinstituted.

4 THE COURT: I won't be surprised if that's
5 in the plea agreements from here on out, in light of this
6 issue being raised.

7 As I said it's a very novel and interesting issue.
8 But as I said, to the extent this was first impression in
9 Nevada -- I don't know if it is or not -- I fundamentally
10 disagree with 2nd and 3rd Circuits' opinion that somehow
11 you are entitled to enter a plea negotiation then sometime
12 later withdraw from the plea and receive the benefit of
13 the original charges not being pursued against you. So I
14 think that is fundamentally illogical and unreasonable.

15 More importantly, in the context of this case and
16 Hicky, which is a 9th Circuit case -- 580 F.3rd, 922 --
17 pretty clearly says the filing of a charging document
18 tolls the original statute of limitations. And
19 superseding charging documents do not stop the tolling of
20 the statute of limitations. So it's still tolled, even
21 though they are superseding charging documents.

22 With particularity to here, I went back and read all
23 the sentencing transcripts and orders and there was never
24 any dismissal of anything earlier than that. So while
25 they superceded they didn't dismiss anything. So the

1 motion to dismiss will be denied as well.

2 Thank you, very much.

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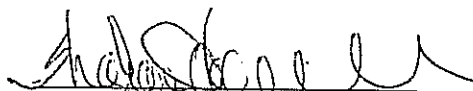
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CERTIFICATE
OF
CERTIFIED COURT REPORTER

* * * * *

I, the undersigned certified court reporter in and for the
State of Nevada, do hereby certify:

That the foregoing proceedings were taken before me at the
time and place therein set forth; that the testimony and
all objections made at the time of the proceedings were
recorded stenographically by me and were thereafter
transcribed under my direction; that the foregoing is a
true record of the testimony and of all objections made at
the time of the proceedings.



Sharon Howard
C.C.R. #745

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< Dates >	< 1 >.	14:24.
April 18th '08	10 21:21.	7th 5:12, 6:12.
17:14.	10:00 7:17.	.
April 25th 6:5.	11th 3:20, 3:21,	.
April 28th, 9:00	4:3, 4:21.	< 9 >.
5:10.	14 17:3.	922 22:16.
April 4th, '05	15 20:23.	9:00 7:18.
17:4, 18:5.	171.085. 18:6.	9th 7:3, 22:16.
April 4th. 3:17.	19 12:16.	.
August 5th, '05	1:00 12:18.	.
17:6.	.	< A >.
August 7th 17:8.	.	a.m. 7:18.
January 29th '07	< 2 >.	ability 9:7,
17:9.	2 17:5.	14:7.
July '08 17:18.	2- 11:15.	able 16:8, 16:17,
July 19th, '08	25th 4:5, 4:22,	18:22, 21:13.
17:16.	4:24, 5:3,	absolutely
July 24th' 07	6:9.	15:10.
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Adam L. Schuman
CLERK OF COURT

OSVALDO E. FUMO, ESQ
Nevada State Bar No.: 5956
DUSTIN R. MARCELLO, ESQ
Nevada State Bar No.: 10134
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Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

RICKIE L. SLAUGHTER,

Defendant.

CASE NO.: C204957
DEPT. NO.: 3

MOTION TO DISMISS

Date:
Time:

COMES NOW, Defendant RICKIE L. SLAUGHTER, by and through his counsel of record, OSVALDO E. FUMO, ESQ., of the law firm of OSVALDO FUMO, CHTD., hereby submits the attached Points and Authorities in support of Defendant's Motion To Dismiss Pursuant to NRS 171.085 (1) and (2).

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

Dated this 31 day of JANUARY 2011.

OSVALDO FUMO, CHTD.

Osvaldo E. Fumo
Osvaldo E. Fumo, Esq.
Nevada Bar No.: 5956
Dustin R. Marcello, Esq.
Nevada Bar No.: 10134

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MC

11. 11. 2011 10:10 AM
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NOTICE OF MOTION

TO: STATE OF NEVADA, Plaintiff;

TO: DAVID ROGER, ESQ., District Attorney:

PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion on for hearing before the above-entitled Court on the 10 day of Feb, 2011, at the hour of 9 a.m. in Dept. III, or as soon thereafter as Counsel may be heard.

Dated this 31 day of JANUARY 2011.


OSVALDO FUMO, CHTD.

Osvaldo E. Fumo, Esq.
Nevada Bar No.: 5956

POINTS AND AUTHORITIES

I.
STATEMENT OF THE CASE

On October 5, 2004, Defendant, Rickie Slaughter, was arraigned in the District Court by way of Information that was filed on September 28, 2004. On May 21, 2005, the State filed its Third Amended Complaint charging Mr. Slaughter with fourteen (14) felony counts. (See, Third Amended Criminal Complaint, 3/21/2005, attached hereto as Exhibit "A").

After plea negotiations with the State, Mr. Slaughter entered a guilty plea on April 4, 2005. Pursuant to the terms of the agreement, Mr. Slaughter entered a guilty plea to four (4) felony counts contained in a Fourth Amended Criminal Complaint filed by the State at the entry of plea with all remaining counts being dismissed. (See, Fourth Amended Criminal Complaint, 4/4/3005, attached hereto as Exhibit "B").

Mr. Slaughter was sentenced on August 5, 2005, as follows: Count 1 – Attempted Murder with use of a deadly weapon, to 90 to 240 months, plus an equal and consecutive 90 to 240 months; Count 2 – robbery with use of a deadly weapon, to 72 to 180 months, plus an equal and consecutive 72 to 180 months for the deadly weapon enhancement; Count 3 – First degree kidnapping with substantial bodily harm to 15 to life; Count 4 – first degree kidnapping with use

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1 of a deadly weapon to a minimum of 5 years to life plea an equal and consecutive 5 years as a
2 deadly weapon enhancement. (See, Judgment of Conviction, 8/31/2005, attached hereto as
3 Exhibit "C").

4 On August 7, 2006, Mr. Slaughter filed a proper person, post conviction petition for writ
5 of habeas corpus in this court, challenging the constitutionality and validity of his guilty pleas.
6 The state opposed the petition and on January 29, 2007, this court entered an order denying Mr.
7 Slaughters petition and request to withdraw his pleas. On July 24, 2007, pursuant to a proper
8 person appeal, the Nevada Supreme Court issued an Order vacating the denial of Mr. Slaughters
9 challenge to his guilty pleas and instructed this Court to conduct an evidentiary hearing on Mr.
10 Slaughter's petition.

11 On March 28, 2008, Mr. Slaughter filed a brief requesting the withdrawal of his guilty
12 pleas with the State's opposition being filed on April 18, 2008. On July 19, 2008, an evidentiary
13 hearing was held, wherein this Court denied Mr. Slaughter's petition and request to withdraw his
14 previously entered guilty plea. Mr. Slaughter appealed the July 19, 2008, denial of his petition
15 seeking to withdraw his guilty plea, and the Supreme Court issued an order of reversal
16 effectively allowing for Mr. Slaughter to withdraw his guilty plea finding that they were
17 unconstitutionally made.

18 On May 14, 2009, this Court struck the fourth amended information with Mr. Slaughter
19 had previously plead guilty. Then without request by the State this Court "reinstated" the Third
20 Amended Information which was superseded and dismissed on April 4, 2005. Mr. Slaughter's
21 trial date on the 14 felon counts originally outlined in the Third Amended Information is
22 currently set for February 14, 2011. This Motion followed.

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ARGUMENT

NRS 171.085 (1) and (2), provide that an indictment for:

1. [t]heft, robbery, burglary, forgery, arson, sexual assault, a violation of NRS 90.570, a violation punishable pursuant to paragraph (c) of subsection 3 of NRS 598.0999 or a violation of NRS 205.377 must be found, or an information or complaint filed, within 4 years after the commission of the offense.

2. Any felony other than the felonies listed in subsection 1 must be found, or an information or complaint filed, within 3 years after the commission of the offense.

In the instant Motion, Mr. Slaughter raises the affirmative defense of limitations and requests that all of the felony counts contained within the "third Amended Information," to which Mr. Slaughter previously plead guilty to in the "Fourth Amended Information," be dismissed as being outside of the applicable statute of limitations set forth in NRS 171.085 (1) and (2).

On April 4, 2005, the State filed a Fourth Amended Information to which Mr. Slaughter plead guilty pursuant to plea negotiations. On that same day, the previously filed Third Amended Information was superseded and dismissed. After Mr. Slaughter successfully challenged his plea, against the State's constant opposition of the request to withdraw his plea throughout the years, the Fourth Amended Information was finally struck. On May 14, 2009, over 13 months after the limitations period set forth in NRS 171.085 (1) and (2), had expired this Court reinstated the Third Amended Information. Under the express terms of NRS 171.085 (1) and (2), the Third Amended Information contains charges that are barred by Nevada's general statute of limitations on criminal offenses.

Although Nevada has not specifically addressed the issue regarding reinstatement of previously dismissed criminal charges outside of the applicable statute of limitations, Federal Appellate Courts addressing the issue and indicate that absent other legislation to the contrary, charges may not be reinstated that are outside of the applicable statute of limitations, even when the charges were previously dismissed as part of a plea agreement.

1 In a progeny of case law beginning with the decision in United States v. Podde, Infra, the
2 federal courts have begun to apply the statute of limitations, in situations in which the
3 government has attempted to reinstate charges of an indictment, which were previously
4 dismissed in relation to a plea agreement, when a defendant has successfully withdrew from the
5 agreement. United States v. Podde, 105 F.3d 813, 821 (2nd Cir. 1997); See also, United States v.
6 Midgley, 142 F.3d 174, 178 (3rd Cir. 1998) (holding that "the statute of limitations exists
7 primarily to protect the rights of the defendant, and the fact that a defendant's guilty plea
8 conviction was later vacated by a Supreme Court decision in no way affects that fact that his
9 defense to the original charges may have been jeopardized by the passage of time"); See also,
10 United States v. Gilchrist, 215 F.3d 333 (3rd Cir. 2001) (Providing the same reasoning as
11 Midgley).

12 In, United States v. Podde, nearly nine years after the date of the alleged crimes, the
13 defendant's conviction pursuant to a plea agreement therein was reversed. The government then
14 sought to reinstate charges against the defendant which had previously dismissed pursuant to he
15 invalidated plea agreement. The Federal District Court allowed reinstatement over the
16 defendant's objection. Following the defendant's conviction on the reinstated charges pursuant
17 to jury trial, the defendant took appeal. On appeal the United States Court of Appeals for the 2nd
18 Circuit reversed the defendant's convictions, reasoning that the expiration of the time limits set
19 forth in the applicable statute of limitations prevented reinstatement of the formerly dismissed
20 charges. Podde, at 813-9 (2nd Cir. 1997).

21 Similarly, in United States v. Midgley, the 3rd Circuit in line with the above reasoning
22 refused to allow reinstatement of charges that were dismissed pursuant to plea negotiations
23 which were later invalidated, after the defendant successfully withdrew his plea. Additionally,
24 the Court rejected the governments arguments that the statute of limitations did not apply to
25 counts dismissed pursuant to plea agreements; that the Court should apply equitable tolling to the
26 time limits in the limitations statute; and that not permitting reinstatement would encourage
potential abuse of the system by defendants deciding to sit on their rights until the statute has
expired.

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1 The Midgley Court stated in rejecting all of the above arguments made by the
2 government that, "[h]owever tempting it may be to create equitable exceptions to bright line
3 rules. . . the clear and unambiguous rule afforded by the criminal statute of limitations is
4 preferable to a shifting standard based on the perceived equity". Midgley, at 180. See also,
5 United States v. Gilchrist, 215 F.3d at 338 (3rd Cir. 2001).

6
7 CONCLUSION

8 In conclusion, Mr. Slaughter highlights the fact that had the State not committed its'
9 futile efforts to oppose the inevitable success of Mr. Slaughters constitutional challenge to his
10 agreement for 3 years, there would have existed plenty of time to reinstate the charges dismissed
11 in the Third Amended Information, without violating the express terms of the Nevada statute of
12 limitations.

13
14
15 Dated this 31 day of JANUARY 2011.

16
17 OSVALDO FUMO, CHTD.

18
19 Oswaldo E. Fumo, Esq.
20 Nevada Bar No.: 5956
21 Dustin R. Marcello, Esq.
22 Nevada Bar No.: 10134
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Shirley Blanton
CLERK

1 AINFO
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 SUSAN R. KRISKO
6 Deputy District Attorney
7 Nevada Bar #006024
8 200 South Third Street
9 Las Vegas, Nevada 89155-2212
10 (702) 455-4711
11 Attorney for Plaintiff

12 I.A. 10/5/04
13 9:00 A.M.
14 PD

DISTRICT COURT
CLARK COUNTY, NEVADA

15 THE STATE OF NEVADA,)

16 Plaintiff,)

17 -vs-)

18 RICKIE LAMONT SLAUGHTER,)
19 #1896569)

20 Defendant.)

Case No: C204957

Dept No: XVI

AMENDED
INFORMATION

21 STATE OF NEVADA)
22) ss.
23 COUNTY OF CLARK)

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

26 That RICKIE LAMONT SLAUGHTER, the Defendant(s) above named, having
27 committed the crimes of CONSPIRACY TO COMMIT KIDNAPPING (Felony - NRS
28 199.480, 200.320), CONSPIRACY TO COMMIT ROBBERY (Felony - NRS 200.380,
199.480), CONSPIRACY TO COMMIT MURDER (Felony - NRS 199.480), ATTEMPT
MURDER WITH USE OF A DEADLY WEAPON (Felony - NRS 200.010, 200.030,
193.330, 193.165); BATTERY WITH USE OF A DEADLY WEAPON (Felony - NRS
200.481), ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON (Felony - NRS
200.380, 193.330, 193.165); ROBBERY WITH USE OF A DEADLY WEAPON (Felony -
NRS 200.380, 193.165); BURGLARY WHILE IN POSSESSION OF A FIREARM (Felony

1 - NRS 205.060), BURGLARY (Felony - 205.060), FIRST DEGREE KIDNAPPING WITH
2 USE OF A DEADLY WEAPON (Felony - NRS 200.310, 200.320, 193.165), and
3 MAYHEM (Felony - NRS 200.280), on or about the 26th day of June, 2004, within the
4 County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such
5 cases made and provided, and against the peace and dignity of the State of Nevada,

6 COUNT 1 - CONSPIRACY TO COMMIT KIDNAPPING

7 RICKIE SLAUGHTER and an unknown co-conspirator did then and there meet with
8 each other and between themselves, and each of them with the other, wilfully, unlawfully,
9 and feloniously conspire and agree to commit a crime, to-wit: kidnapping, and in
10 furtherance of said conspiracy, Defendants did commit the acts as set forth in Counts 11-16
11 said acts being incorporated by this reference as though fully set forth herein.

12 COUNT 2 - CONSPIRACY TO COMMIT ROBBERY

13 RICKIE SLAUGHTER and an unknown co-conspirator did then and there meet with
14 each other and between themselves, and each of them with the other, wilfully, unlawfully,
15 and feloniously conspire and agree to commit a crime, to-wit: robbery, and in furtherance of
16 said conspiracy, Defendants did commit the acts as set forth in Counts 7-8, said acts being
17 incorporated by this reference as though fully set forth herein.

18 COUNT 3 - CONSPIRACY TO COMMIT MURDER

19 RICKIE SLAUGHTER and an unknown co-conspirator did meet and between
20 themselves, and each of them with the other, willfully, unlawfully, and feloniously conspire
21 and agree to commit a crime, to-wit: murder, and in furtherance of said conspiracy, RICKIE
22 SLAUGHTER and/or the unknown co-conspirator did commit the acts as set forth in Counts
23 4-5.

24 COUNT 4 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

25 RICKIE SLAUGHTER and/or an unknown co-conspirator did then and there, without
26 authority of law, and malice aforethought, willfully and feloniously attempt to kill IVAN
27 YOUNG, a human being, by shooting at and into the body of the said IVAN YOUNG, with
28 a deadly weapon, to-wit: a firearm.

1 COUNT 5 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

2 RICKIE SLAUGHTER and/or an unknown co-conspirator did then and there, without
3 authority of law, and malice aforethought, willfully and feloniously attempt to kill RYAN
4 JOHN, a human being, by stomping on the head of the said RYAN JOHN, with a deadly
5 weapon, to-wit: his shoes.

6 COUNT 6 - BATTERY WITH USE OF A DEADLY WEAPON

7 RICKIE SLAUGHTER and/or an unknown co-conspirator did then and there
8 wilfully, unlawfully, and feloniously use force or violence upon the person of another, to-
9 wit: RYAN JOHN, with use of a deadly weapon, to-wit: by stomping on the head of the said
10 RYAN JOHN with his shoes while the said RYAN JOHN was prevented from protecting
11 himself by RICKIE SLAUGHTER and/or the unknown co-conspirator.

12 COUNT 7 - ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

13 RICKIE SLAUGHTER and/or an unknown co-conspirator did then and there
14 wilfully, unlawfully and feloniously attempt to take personal property, to-wit: lawful money
15 of the United States, from the person of IVAN YOUNG, or in his presence, by means of
16 force or violence, or fear of injury to, and without the consent and against the will of the said
17 IVAN YOUNG, by demanding money while directing a firearm at the said IVAN YOUNG,
18 Defendant using a deadly weapon, to-wit: a firearm, during the commission of said crime.

19 COUNT 8 - ROBBERY WITH USE OF A DEADLY WEAPON

20 RICKIE SLAUGHTER and/or an unknown co-conspirator did then and there
21 wilfully, unlawfully and feloniously take person property, to-wit: an ATM card, from the
22 person of RYAN JOHN, or in his presence by means of force or violence, or fear of injury
23 to, and without the consent and against the will of the said RYAN JOHN, by pointing a
24 firearm at the said RYAN JOHN and demanding said money, Defendants using a deadly
25 weapon, to-wit: a firearm, during the commission of said crime, the Defendants being
26 responsible under one or more of the following principles of criminal liability, to-wit: (1) by
27 the Defendant and an unknown co-conspirator conspiring with each other to commit the
28 offense of larceny and/or robbery and/or kidnapping whereby all Defendants are vicariously

1 liable for the foreseeable acts of the other conspirators when the acts were in furtherance of
2 the conspiracy; and/or (2) RICKIE SLAUGHTER and/or the unknown co-conspirator
3 directly committing the acts constituting said offense while RICKIE SLAUGHTER and/or
4 the unknown co-conspirator aiding or abetting in the commission of said crime, to-wit: by
5 securing and/or detaining and/or attempting to rob IVAN YOUNG and/or JENNIFER
6 DENNIS and/or JERMAUN MEANS so that they could not notify police or come to the aid
7 of RYAN JOHN, the Defendants acting in concert throughout; the Defendants counseling
8 and encouraging each other throughout.

9 COUNT 9 - BURGLARY WHILE IN POSSESSION OF A FIREARM

10 RICKIE SLAUGHTER and an unknown co-conspirator did then and there wilfully,
11 unlawfully, and feloniously enter, while in possession of a firearm, with intent to commit a
12 felony, to-wit: robbery, that certain building occupied by IVAN YOUNG, located at 2612
13 Glory View, North Las Vegas, Clark County, Nevada.

14 COUNT 10 - BURGLARY

15 RICKIE SLAUGHTER and/or an unknown co-conspirator did then and there
16 wilfully, unlawfully, and feloniously enter, with intent to commit a larceny, that certain
17 building occupied by 7-11, located at 3051 E. Charleston, Las Vegas, Clark County, Nevada.

18 COUNT 11 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

19 did wilfully, unlawfully, feloniously, and without authority of law, seize, confine,
20 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away IVAN YOUNG, a human
21 being, with the intent to hold or detain the said IVAN YOUNG against his will, and without
22 his consent, for the purpose of committing robbery and/or to inflict substantial bodily harm
23 and/or to kill, said Defendant using a deadly weapon, to-wit: a firearm, during the
24 commission of said crime, the Defendants being responsible under one or more of the
25 following principles of criminal liability, to-wit: (1) by the Defendant and an unknown co-
26 conspirator conspiring with each other to commit the offense of larceny and/or robbery
27 and/or kidnapping and/or to inflict substantial bodily harm and/or kill whereby all
28 Defendants are vicariously liable for the foreseeable acts of the other conspirators when the

1 acts were in furtherance of the conspiracy; and/or (2) RICKIE SLAUGHTER and/or the
2 unknown co-conspirator directly committing the acts constituting said offense while RICKIE
3 SLAUGHTER and/or the unknown co-conspirator aiding or abetting in the commission of
4 said crime, to-wit: by securing and/or detaining and/or attempting to rob IVAN YOUNG
5 and/or JENNIFER DENNIS and/or RYAN JOHN so that they could not notify police or
6 come to the aid of IVAN YOUNG, the Defendants acting in concert throughout; the
7 Defendants counseling and encouraging each other throughout.

8 COUNT 12 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

9 did wilfully, unlawfully, feloniously, and without authority of law, seize, confine,
10 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away RYAN JOHN, a human
11 being, with the intent to hold or detain the said RYAN JOHN against his will, and without
12 his consent, for the purpose of committing robbery and/or to inflict substantial bodily harm
13 and/or to kill, said Defendant using a deadly weapon, to-wit: a firearm, during the
14 commission of said crime, the Defendants being responsible under one or more of the
15 following principles of criminal liability, to-wit: (1) by the Defendant and an unknown co-
16 conspirator conspiring with each other to commit the offense of larceny and/or robbery
17 and/or kidnapping and/or to inflict substantial bodily harm and/or kill whereby all
18 Defendants are vicariously liable for the foreseeable acts of the other conspirators when the
19 acts were in furtherance of the conspiracy; and/or (2) RICKIE SLAUGHTER and/or the
20 unknown co-conspirator directly committing the acts constituting said offense while RICKIE
21 SLAUGHTER and/or the unknown co-conspirator aiding or abetting in the commission of
22 said crime, to-wit: by securing and/or detaining and/or attempting to rob IVAN YOUNG
23 and/or JENNIFER DENNIS and/or JERMAUN MEANS so that they could not notify police
24 or come to the aid of RYAN JOHN, the Defendants acting in concert throughout; the
25 Defendants counseling and encouraging each other throughout.

26 COUNT 13 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

27 did wilfully, unlawfully, feloniously, and without authority of law, seize, confine,
28 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away JOSE POSADA, a human

1 being, with the intent to hold or detain the said JOSE POSADA against his will, and without
2 his consent, for the purpose of committing robbery and/or to inflict substantial bodily harm
3 and/or to kill, said Defendant using a deadly weapon, to-wit: a firearm, during the
4 commission of said crime, the Defendants being responsible under one or more of the
5 following principles of criminal liability, to-wit: (1) by the Defendant and an unknown co-
6 conspirator conspiring with each other to commit the offense of larceny and/or robbery
7 and/or kidnapping and/or to inflict substantial bodily harm and/or kill whereby all
8 Defendants are vicariously liable for the foreseeable acts of the other conspirators when the
9 acts were in furtherance of the conspiracy; and/or (2) RICKIE SLAUGHTER and/or the
10 unknown co-conspirator directly committing the acts constituting said offense while RICKIE
11 SLAUGHTER and/or the unknown co-conspirator aiding or abetting in the commission of
12 said crime, to-wit: by securing and/or detaining and/or attempting to rob IVAN YOUNG
13 and/or JENNIFER DENNIS and/or RYAN JOHN so that they could not notify police or
14 come to the aid of JOSE POSADA, the Defendants acting in concert throughout; the
15 Defendants counseling and encouraging each other throughout.

16 COUNT 14 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

17 did wilfully, unlawfully, feloniously, and without authority of law, seize, confine,
18 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away AARON DENNIS, a human
19 being, with the intent to hold or detain the said AARON DENNIS against his will, and
20 without his consent, for the purpose of committing robbery and/or to inflict substantial
21 bodily harm and/or to kill, said Defendant using a deadly weapon, to-wit: a firearm, during
22 the commission of said crime, the Defendants being responsible under one or more of the
23 following principles of criminal liability, to-wit: (1) by the Defendant and an unknown co-
24 conspirator conspiring with each other to commit the offense of larceny and/or robbery
25 and/or kidnapping and/or to inflict substantial bodily harm and/or kill whereby all
26 Defendants are vicariously liable for the foreseeable acts of the other conspirators when the
27 acts were in furtherance of the conspiracy; and/or (2) RICKIE SLAUGHTER and/or the
28 unknown co-conspirator directly committing the acts constituting said offense while RICKIE

1 SLAUGHTER and/or the unknown co-conspirator aiding or abetting in the commission of
2 said crime, to-wit: by securing and/or detaining and/or attempting to rob IVAN YOUNG
3 and/or JENNIFER DENNIS and/or RYAN JOHN so that they could not notify police or
4 come to the aid of AARON DENNIS, the Defendants acting in concert throughout; the
5 Defendants counseling and encouraging each other throughout.

6 COUNT 15 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

7 did wilfully, unlawfully, feloniously, and without authority of law, seize, confine,
8 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away JERMAUN MEANS, a
9 human being, with the intent to hold or detain the said JERMAUN MEANS against his will,
10 and without his consent, for the purpose of committing robbery and/or to inflict substantial
11 bodily harm and/or to kill, said Defendant using a deadly weapon, to-wit: a firearm, during
12 the commission of said crime, the Defendants being responsible under one or more of the
13 following principles of criminal liability, to-wit: (1) by the Defendant and an unknown co-
14 conspirator conspiring with each other to commit the offense of larceny and/or robbery
15 and/or kidnapping and/or to inflict substantial bodily harm and/or kill whereby all
16 Defendants are vicariously liable for the foreseeable acts of the other conspirators when the
17 acts were in furtherance of the conspiracy; and/or (2) RICKIE SLAUGHTER and/or the
18 unknown co-conspirator directly committing the acts constituting said offense while RICKIE
19 SLAUGHTER and/or the unknown co-conspirator aiding or abetting in the commission of
20 said crime, to-wit: by securing and/or detaining and/or attempting to rob IVAN YOUNG
21 and/or JENNIFER DENNIS and/or RYAN JOHN so that they could not notify police or
22 come to the aid of JERMAUN MEANS, the Defendants acting in concert throughout; the
23 Defendants counseling and encouraging each other throughout.

24 COUNT 16 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

25 did wilfully, unlawfully, feloniously, and without authority of law, seize, confine,
26 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away JENNIFER DENNIS, a
27 human being, with the intent to hold or detain the said JENNIFER DENNIS against her will,
28 and without her consent, for the purpose of committing robbery and/or to inflict substantial

1 bodily harm and/or to kill, said Defendant using a deadly weapon, to-wit: a firearm, during
2 the commission of said crime, the Defendants being responsible under one or more of the
3 following principles of criminal liability, to-wit: (1) by the Defendant and an unknown co-
4 conspirator conspiring with each other to commit the offense of larceny and/or robbery
5 and/or kidnapping and/or to inflict substantial bodily harm and/or kill whereby all
6 Defendants are vicariously liable for the foreseeable acts of the other conspirators when the
7 acts were in furtherance of the conspiracy; and/or (2) RICKIE SLAUGHTER and/or the
8 unknown co-conspirator directly committing the acts constituting said offense while RICKIE
9 SLAUGHTER and/or the unknown co-conspirator aiding or abetting in the commission of
10 said crime, to-wit: by securing and/or detaining and/or attempting to rob IVAN YOUNG
11 and/or JENNIFER DENNIS and/or RYAN JOHN so that they could not notify police or
12 come to the aid of JENNIFER DENNIS, the Defendants acting in concert throughout; the
13 Defendants counseling and encouraging each other throughout.

14 COUNT 17 - MAYHEM

15 RICKIE SLAUGHTER and/or an unknown co-conspirator did then and there
16 wilfully, unlawfully, feloniously, and without authority of law render the eye of IVAN
17 YOUNG useless, to wit: by shooting at and into the face of IVAN YOUNG with a firearm.

18
19 DAVID ROGER
DISTRICT ATTORNEY
20 Nevada Bar #002781

21
22 BY /s/ SUSAN R. KRISKO
23 SUSAN R. KRISKO
Deputy District Attorney
24 Nevada Bar #006024

25 //

26 //

27 //

28 //

1 Names of witnesses known to the District Attorney's Office at the time of filing this
2 Information are as follows:

3	<u>NAME</u>	<u>ADDRESS</u>
4	M. HOYT	NLVPD 1334
5	A. BAILEY	NLVPD 1366
6	J. HICKMAN	NLVPD 1476
7	R. LUEVANO	NLVPD 1618
8	S. TOMS	NLVPD 1621
9	J. PRIETO	NLVPD 674
10	E. MELGAREJO	NLVPD 837
11	M. BRADY	NLVPD 850
12	IVAN YOUNG	2612 GLORY VIEW, NLV, NV
13	JENNIFER DENNIS	2612 GLORY VIEW, NLV, NV
14	JERMAUN MEANS	2309 BAHAMA POINT, NLV, NV
15	RYAN JOHN	9030 BARR, LV, NV
16	JOSE POSADO	2612 GLORY VIEW, NLV, NV
17	AARON DENNIS	2612 GLORY VIEW, NLV, NV
18	DESTINEE WADDY	2309 BAHAMA POINT, NLV, NV
19	TAMMY POSADO	2612 GLORY VIEW, NLV, NV
20	COR, LVMPD DISPATCH	LVMPD
21	COR, NLVPD DISPATCH	NLVPD
22	LINDA ERICHETTO AND/OR DESIGNEE	LVMPD
23	COR, UMC	

24

25

26 DA#04FN0980X/lg
27 NLVPD EV#0415160
28 CONSP ROBB; CONSP MURD; ATT MURD WDW
BWDW; ATT ROBB WDW; RWDW; BURG W/FA; BURG;
IST DEG KIDNP WDW; MAYHEM - F
(TK2)

1 AINFO

2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 SUSAN R. KRISKO
6 Deputy District Attorney
7 Nevada Bar #006024
8 200 South Third Street
9 Las Vegas, Nevada 89155-2212
10 (702) 455-4711
11 Attorney for Plaintiff

FILED IN OPEN COURT

12-13-04

SHIRLEY B. PARRAGUIRRE, CLERK
BY *[Signature]*
CHERYL CASE DEPUTY

7 I.A. 10/5/04
8 9:00 A.M.
9 PD

DISTRICT COURT
CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,
11 Plaintiff,

12 -vs-

13 RICKIE LAMONT SLAUGHTER,
14 #1896569
15 Defendant.

Case No: C204957
Dept No: XVI

SECOND
AMENDED
INFORMATION

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

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

20 That RICKIE LAMONT SLAUGHTER, the Defendant(s) above named, having
21 committed the crimes of CONSPIRACY TO COMMIT KIDNAPPING (Felony - NRS
22 199.480, 200.320), CONSPIRACY TO COMMIT ROBBERY (Felony - NRS 200.380,
23 199.480), ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Felony - NRS
24 200.010, 200.030, 193.330, 193.165); BATTERY WITH USE OF A DEADLY
25 WEAPON (Felony - NRS 200.481), ATTEMPT ROBBERY WITH USE OF A
26 DEADLY WEAPON (Felony - NRS 200.380, 193.330, 193.165); ROBBERY WITH
27 USE OF A DEADLY WEAPON (Felony - NRS 200.380, 193.165); BURGLARY
28 WHILE IN POSSESSION OF A FIREARM (Felony - NRS 205.060), BURGLARY

1 (Felony - 205.060), and FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY
2 WEAPON (Felony - NRS 200.310, 200.320, 193.165), on or about the 26th day of June,
3 2004, within the County of Clark, State of Nevada, contrary to the form, force and effect of
4 statutes in such cases made and provided, and against the peace and dignity of the State of
5 Nevada,

6 COUNT 1 - CONSPIRACY TO COMMIT KIDNAPPING

7 RICKIE SLAUGHTER and an unknown co-conspirator did then and there meet with
8 each other and between themselves, and each of them with the other, wilfully, unlawfully,
9 and feloniously conspire and agree to commit a crime, to-wit: kidnapping, and in
10 furtherance of said conspiracy, Defendants did commit the acts as set forth in Counts 9-14
11 said acts being incorporated by this reference as though fully set forth herein.

12 COUNT 2 - CONSPIRACY TO COMMIT ROBBERY

13 RICKIE SLAUGHTER and an unknown co-conspirator did then and there meet with
14 each other and between themselves, and each of them with the other, wilfully, unlawfully,
15 and feloniously conspire and agree to commit a crime, to-wit: robbery, and in furtherance of
16 said conspiracy, Defendants did commit the acts as set forth in Counts 5-6, said acts being
17 incorporated by this reference as though fully set forth herein.

18 COUNT 3 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

19 RICKIE SLAUGHTER and/or an unknown co-conspirator did then and there, without
20 authority of law, and malice aforethought, willfully and feloniously attempt to kill IVAN
21 YOUNG, a human being, by shooting at and into the body of the said IVAN YOUNG, with
22 a deadly weapon, to-wit: a firearm.

23 COUNT 4 - BATTERY WITH USE OF A DEADLY WEAPON

24 RICKIE SLAUGHTER and/or an unknown co-conspirator did then and there
25 wilfully, unlawfully, and feloniously use force or violence upon the person of another, to-
26 wit: RYAN JOHN, with use of a deadly weapon, to-wit: by stomping on the head of the said
27 RYAN JOHN with his shoes while the said RYAN JOHN was prevented from protecting
28 himself by RICKIE SLAUGHTER and/or the unknown co-conspirator.

1 COUNT 5 - ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

2 RICKIE SLAUGHTER and/or an unknown co-conspirator did then and there
3 wilfully, unlawfully and feloniously attempt to take personal property, to-wit: lawful money
4 of the United States, from the person of IVAN YOUNG, or in his presence, by means of
5 force or violence, or fear of injury to, and without the consent and against the will of the said
6 IVAN YOUNG, by demanding money while directing a firearm at the said IVAN YOUNG,
7 Defendant using a deadly weapon, to-wit: a firearm, during the commission of said crime.

8 COUNT 6 - ROBBERY WITH USE OF A DEADLY WEAPON

9 RICKIE SLAUGHTER and/or an unknown co-conspirator did then and there
10 wilfully, unlawfully and feloniously take person property, to-wit: an ATM card, from the
11 person of RYAN JOHN, or in his presence by means of force or violence, or fear of injury
12 to, and without the consent and against the will of the said RYAN JOHN, by pointing a
13 firearm at the said RYAN JOHN and demanding said money, Defendants using a deadly
14 weapon, to-wit: a firearm, during the commission of said crime, the Defendants being
15 responsible under one or more of the following principles of criminal liability, to-wit: (1) by
16 the Defendant and an unknown co-conspirator conspiring with each other to commit the
17 offense of larceny and/or robbery and/or kidnapping whereby all Defendants are vicariously
18 liable for the foreseeable acts of the other conspirators when the acts were in furtherance of
19 the conspiracy; and/or (2) RICKIE SLAUGHTER and/or the unknown co-conspirator
20 directly committing the acts constituting said offense while RICKIE SLAUGHTER and/or
21 the unknown co-conspirator aiding or abetting in the commission of said crime, to-wit: by
22 securing and/or detaining and/or attempting to rob IVAN YOUNG and/or JENNIFER
23 DENNIS and/or JERMAUN MEANS so that they could not notify police or come to the aid
24 of RYAN JOHN, the Defendants acting in concert throughout; the Defendants counseling
25 and encouraging each other throughout.

26 COUNT 7 - BURGLARY WHILE IN POSSESSION OF A FIREARM

27 RICKIE SLAUGHTER and an unknown co-conspirator did then and there wilfully,
28 unlawfully, and feloniously enter, while in possession of a firearm, with intent to commit a

1 felony, to-wit: robbery, that certain building occupied by IVAN YOUNG, located at 2612
2 Glory View, North Las Vegas, Clark County, Nevada.

3 COUNT 8 - BURGLARY

4 RICKIE SLAUGHTER and/or an unknown co-conspirator did then and there
5 wilfully, unlawfully, and feloniously enter, with intent to commit a larceny, that certain
6 building occupied by 7-11, located at 3051 E. Charleston, Las Vegas, Clark County, Nevada.

7 COUNT 9 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

8 did wilfully, unlawfully, feloniously, and without authority of law, seize, confine,
9 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away IVAN YOUNG, a human
10 being, with the intent to hold or detain the said IVAN YOUNG against his will, and without
11 his consent, for the purpose of committing robbery and/or to inflict substantial bodily harm
12 and/or to kill, said Defendant using a deadly weapon, to-wit: a firearm, during the
13 commission of said crime, the Defendants being responsible under one or more of the
14 following principles of criminal liability, to-wit: (1) by the Defendant and an unknown co-
15 conspirator conspiring with each other to commit the offense of larceny and/or robbery
16 and/or kidnapping and/or to inflict substantial bodily harm and/or kill whereby all
17 Defendants are vicariously liable for the foreseeable acts of the other conspirators when the
18 acts were in furtherance of the conspiracy; and/or (2) RICKIE SLAUGHTER and/or the
19 unknown co-conspirator directly committing the acts constituting said offense while RICKIE
20 SLAUGHTER and/or the unknown co-conspirator aiding or abetting in the commission of
21 said crime, to-wit: by securing and/or detaining and/or attempting to rob IVAN YOUNG
22 and/or JENNIFER DENNIS and/or RYAN JOHN so that they could not notify police or
23 come to the aid of IVAN YOUNG, the Defendants acting in concert throughout; the
24 Defendants counseling and encouraging each other throughout.

25 COUNT 10 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

26 did wilfully, unlawfully, feloniously, and without authority of law, seize, confine,
27 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away RYAN JOHN, a human
28 being, with the intent to hold or detain the said RYAN JOHN against his will, and without

1 his consent, for the purpose of committing robbery and/or to inflict substantial bodily harm
2 and/or to kill, said Defendant using a deadly weapon, to-wit: a firearm, during the
3 commission of said crime, the Defendants being responsible under one or more of the
4 following principles of criminal liability, to-wit: (1) by the Defendant and an unknown co-
5 conspirator conspiring with each other to commit the offense of larceny and/or robbery
6 and/or kidnapping and/or to inflict substantial bodily harm and/or kill whereby all
7 Defendants are vicariously liable for the foreseeable acts of the other conspirators when the
8 acts were in furtherance of the conspiracy; and/or (2) RICKIE SLAUGHTER and/or the
9 unknown co-conspirator directly committing the acts constituting said offense while RICKIE
10 SLAUGHTER and/or the unknown co-conspirator aiding or abetting in the commission of
11 said crime, to-wit: by securing and/or detaining and/or attempting to rob IVAN YOUNG
12 and/or JENNIFER DENNIS and/or JERMAUN MEANS so that they could not notify police
13 or come to the aid of RYAN JOHN, the Defendants acting in concert throughout; the
14 Defendants counseling and encouraging each other throughout.

15 COUNT 11 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

16 did wilfully, unlawfully, feloniously, and without authority of law, seize, confine,
17 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away JOSE POSADA, a human
18 being, with the intent to hold or detain the said JOSE POSADA against his will, and without
19 his consent, for the purpose of committing robbery and/or to inflict substantial bodily harm
20 and/or to kill, said Defendant using a deadly weapon, to-wit: a firearm, during the
21 commission of said crime, the Defendants being responsible under one or more of the
22 following principles of criminal liability, to-wit: (1) by the Defendant and an unknown co-
23 conspirator conspiring with each other to commit the offense of larceny and/or robbery
24 and/or kidnapping and/or to inflict substantial bodily harm and/or kill whereby all
25 Defendants are vicariously liable for the foreseeable acts of the other conspirators when the
26 acts were in furtherance of the conspiracy; and/or (2) RICKIE SLAUGHTER and/or the
27 unknown co-conspirator directly committing the acts constituting said offense while RICKIE
28 SLAUGHTER and/or the unknown co-conspirator aiding or abetting in the commission of

1 said crime, to-wit: by securing and/or detaining and/or attempting to rob IVAN YOUNG
2 and/or JENNIFER DENNIS and/or RYAN JOHN so that they could not notify police or
3 come to the aid of JOSE POSADA, the Defendants acting in concert throughout; the
4 Defendants counseling and encouraging each other throughout.

5 COUNT 12 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

6 did wilfully, unlawfully, feloniously, and without authority of law, seize, confine,
7 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away AARON DENNIS, a human
8 being, with the intent to hold or detain the said AARON DENNIS against his will, and
9 without his consent, for the purpose of committing robbery and/or to inflict substantial
10 bodily harm and/or to kill, said Defendant using a deadly weapon, to-wit: a firearm, during
11 the commission of said crime, the Defendants being responsible under one or more of the
12 following principles of criminal liability, to-wit: (1) by the Defendant and an unknown co-
13 conspirator conspiring with each other to commit the offense of larceny and/or robbery
14 and/or kidnapping and/or to inflict substantial bodily harm and/or kill whereby all
15 Defendants are vicariously liable for the foreseeable acts of the other conspirators when the
16 acts were in furtherance of the conspiracy; and/or (2) RICKIE SLAUGHTER and/or the
17 unknown co-conspirator directly committing the acts constituting said offense while RICKIE
18 SLAUGHTER and/or the unknown co-conspirator aiding or abetting in the commission of
19 said crime, to-wit: by securing and/or detaining and/or attempting to rob IVAN YOUNG
20 and/or JENNIFER DENNIS and/or RYAN JOHN so that they could not notify police or
21 come to the aid of AARON DENNIS, the Defendants acting in concert throughout; the
22 Defendants counseling and encouraging each other throughout.

23 COUNT 13 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

24 did wilfully, unlawfully, feloniously, and without authority of law, seize, confine,
25 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away JERMAUN MEANS, a
26 human being, with the intent to hold or detain the said JERMAUN MEANS against his will,
27 and without his consent, for the purpose of committing robbery and/or to inflict substantial
28 bodily harm and/or to kill, said Defendant using a deadly weapon, to-wit: a firearm, during

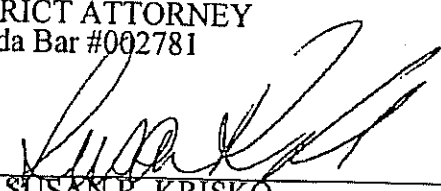
1 the commission of said crime, the Defendants being responsible under one or more of the
2 following principles of criminal liability, to-wit: (1) by the Defendant and an unknown co-
3 conspirator conspiring with each other to commit the offense of larceny and/or robbery
4 and/or kidnapping and/or to inflict substantial bodily harm and/or kill whereby all
5 Defendants are vicariously liable for the foreseeable acts of the other conspirators when the
6 acts were in furtherance of the conspiracy; and/or (2) RICKIE SLAUGHTER and/or the
7 unknown co-conspirator directly committing the acts constituting said offense while RICKIE
8 SLAUGHTER and/or the unknown co-conspirator aiding or abetting in the commission of
9 said crime, to-wit: by securing and/or detaining and/or attempting to rob IVAN YOUNG
10 and/or JENNIFER DENNIS and/or RYAN JOHN so that they could not notify police or
11 come to the aid of JERMAUN MEANS, the Defendants acting in concert throughout; the
12 Defendants counseling and encouraging each other throughout.

13 COUNT 14 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

14 did wilfully, unlawfully, feloniously, and without authority of law, seize, confine,
15 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away JENNIFER DENNIS, a
16 human being, with the intent to hold or detain the said JENNIFER DENNIS against her will,
17 and without her consent, for the purpose of committing robbery and/or to inflict substantial
18 bodily harm and/or to kill, said Defendant using a deadly weapon, to-wit: a firearm, during
19 the commission of said crime, the Defendants being responsible under one or more of the
20 following principles of criminal liability, to-wit: (1) by the Defendant and an unknown co-
21 conspirator conspiring with each other to commit the offense of larceny and/or robbery
22 and/or kidnapping and/or to inflict substantial bodily harm and/or kill whereby all
23 Defendants are vicariously liable for the foreseeable acts of the other conspirators when the
24 acts were in furtherance of the conspiracy; and/or (2) RICKIE SLAUGHTER and/or the
25 unknown co-conspirator directly committing the acts constituting said offense while RICKIE
26 SLAUGHTER and/or the unknown co-conspirator aiding or abetting in the commission of
27 said crime, to-wit: by securing and/or detaining and/or attempting to rob IVAN YOUNG
28 and/or JENNIFER DENNIS and/or RYAN JOHN so that they could not notify police or

1 come to the aid of JENNIFER DENNIS, the Defendants acting in concert throughout; the
2 Defendants counseling and encouraging each other throughout.

3
4 DAVID ROGER
DISTRICT ATTORNEY
5 Nevada Bar #002781

6
7 BY 
8 SUSAN R. KRISKO
Deputy District Attorney
9 Nevada Bar #006024

10 Names of witnesses known to the District Attorney's Office at the time of filing this
11 Information are as follows:

12	<u>NAME</u>	<u>ADDRESS</u>
13	M. HOYT	NLVPD 1334
14	A. BAILEY	NLVPD 1366
15	J. HICKMAN	NLVPD 1476
16	R. LUEVANO	NLVPD 1618
17	S. TOMS	NLVPD 1621
18	J. PRIETO	NLVPD 674
19	E. MELGAREJO	NLVPD 837
20	M. BRADY	NLVPD 850
21	IVAN YOUNG	2612 GLORY VIEW, NLV, NV
22	JENNIFER DENNIS	2612 GLORY VIEW, NLV, NV
23	JERMAUN MEANS	2309 BAHAMA POINT, NLV, NV
24	RYAN JOHN	9030 BARR, LV, NV
25	JOSE POSADO	2612 GLORY VIEW, NLV, NV
26	AARON DENNIS	2612 GLORY VIEW, NLV, NV
27	DESTINEE WADDY	2309 BAHAMA POINT, NLV, NV
28	TAMMY POSADO	2612 GLORY VIEW, NLV, NV

1	COR, LVMPD DISPATCH	LVMPD
2	COR, NLVPD DISPATCH	NLVPD
3	LINDA ERICHETTO AND/OR DESIGNEE	LVMPD
4	COR, UMC	
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24	DA#04FN0980X/lg	
	NLVPD EV#0415160	
25	CONSP ROBB; ATT MURD WDW'BWDW;	
	ATT ROBB WDW; RWDW; BURG W/FA; BURG;	
26	1ST DEG KIDNP WDW; - F	
	(TK2)	
27		
28		

1 AINFO
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 SUSAN R. KRISKO
6 Deputy District Attorney
7 Nevada Bar #006024
8 200 South Third Street
9 Las Vegas, Nevada 89155-2212
10 (702) 455-4711
11 Attorney for Plaintiff

12 I.A. 10/5/04
13 9:00 A.M.
14 PD

DISTRICT COURT
CLARK COUNTY, NEVADA

15 THE STATE OF NEVADA,

16 Plaintiff,

17 -vs-

18 RICKIE LAMONT SLAUGHTER,
19 #1896569

20 Defendant.

FILED IN OPEN COURT
MAR 21 2005

SHIRLEY B. PARRAGUIRRE, CLERK

BY April Watkins
APRIL WATKINS DEPUTY

Case No: C204957
Dept No: XVI

THIRD
AMENDED
INFORMATION

21 STATE OF NEVADA }
22 COUNTY OF CLARK } ss.

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

25 That RICKIE LAMONT SLAUGHTER, the Defendant(s) above named, having
26 committed the crimes of CONSPIRACY TO COMMIT KIDNAPPING (Felony - NRS
27 199.480, 200.320), CONSPIRACY TO COMMIT ROBBERY (Felony - NRS 200.380,
28 199.480), ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Felony - NRS
200.010, 200.030, 193.330, 193.165); BATTERY WITH USE OF A DEADLY
WEAPON (Felony - NRS 200.481), ATTEMPT ROBBERY WITH USE OF A
DEADLY WEAPON (Felony - NRS 200.380, 193.330, 193.165); ROBBERY WITH
USE OF A DEADLY WEAPON (Felony - NRS 200.380, 193.165); BURGLARY
WHILE IN POSSESSION OF A FIREARM (Felony - NRS 205.060), BURGLARY

RECEIVED

MAR 21 2005

COUNTY CLERK

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1 (Felony - 205.060), and FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY
2 WEAPON (Felony - NRS 200.310, 200.320, 193.165), on or about the 26th day of June,
3 2004, within the County of Clark, State of Nevada, contrary to the form, force and effect of
4 statutes in such cases made and provided, and against the peace and dignity of the State of
5 Nevada,

6 COUNT 1 - CONSPIRACY TO COMMIT KIDNAPPING

7 RICKIE SLAUGHTER and an unknown co-conspirator did then and there meet with
8 each other and between themselves, and each of them with the other, wilfully, unlawfully,
9 and feloniously conspire and agree to commit a crime, to-wit: kidnapping, and in
10 furtherance of said conspiracy, Defendants did commit the acts as set forth in Counts 9-14
11 said acts being incorporated by this reference as though fully set forth herein.

12 COUNT 2 - CONSPIRACY TO COMMIT ROBBERY

13 RICKIE SLAUGHTER and an unknown co-conspirator did then and there meet with
14 each other and between themselves, and each of them with the other, wilfully, unlawfully,
15 and feloniously conspire and agree to commit a crime, to-wit: robbery, and in furtherance of
16 said conspiracy, Defendants did commit the acts as set forth in Counts 5-6, said acts being
17 incorporated by this reference as though fully set forth herein.

18 COUNT 3 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

19 RICKIE SLAUGHTER and/or an unknown co-conspirator did then and there, without
20 authority of law, and malice aforethought, willfully and feloniously attempt to kill IVAN
21 YOUNG, a human being, by shooting at and into the body and/or causing a bullet to strike
22 the face of the said IVAN YOUNG, with a deadly weapon, to-wit: a firearm.

23 COUNT 4 - BATTERY WITH USE OF A DEADLY WEAPON

24 RICKIE SLAUGHTER and/or an unknown co-conspirator did then and there
25 wilfully, unlawfully, and feloniously use force or violence upon the person of another, to-
26 wit: RYAN JOHN, with use of a deadly weapon, to-wit: by stomping on the head of the said
27 RYAN JOHN with his shoes while the said RYAN JOHN was prevented from protecting
28 himself by RICKIE SLAUGHTER and/or the unknown co-conspirator.

1 COUNT 5 - ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

2 RICKIE SLAUGHTER and/or an unknown co-conspirator did then and there
3 wilfully, unlawfully and feloniously attempt to take personal property, to-wit: lawful money
4 of the United States, from the person of IVAN YOUNG, or in his presence, by means of
5 force or violence, or fear of injury to, and without the consent and against the will of the said
6 IVAN YOUNG, by demanding money while pointing a firearm at the said IVAN YOUNG,
7 Defendant using a deadly weapon, to-wit: a firearm, during the commission of said crime.

8 COUNT 6 - ROBBERY WITH USE OF A DEADLY WEAPON

9 RICKIE SLAUGHTER and/or an unknown co-conspirator did then and there
10 wilfully, unlawfully and feloniously take person property, to-wit: an ATM card, from the
11 person of RYAN JOHN, or in his presence by means of force or violence, or fear of injury
12 to, and without the consent and against the will of the said RYAN JOHN, by pointing a
13 firearm at the said RYAN JOHN and demanding said money, Defendants using a deadly
14 weapon, to-wit: a firearm, during the commission of said crime, the Defendants being
15 responsible under one or more of the following principles of criminal liability, to-wit: (1) by
16 the Defendant and an unknown co-conspirator conspiring with each other to commit the
17 offense of larceny and/or robbery and/or kidnapping whereby all Defendants are vicariously
18 liable for the foreseeable acts of the other conspirators when the acts were in furtherance of
19 the conspiracy; and/or (2) RICKIE SLAUGHTER directly committing the acts constituting
20 said offense and/or 3) RICKIE SLAUGHTER and/or the unknown co-conspirator aiding or
21 abetting in the commission of said crime, to-wit: by securing and/or detaining and/or robbing
22 the said RYAN JOHN, with the use of a deadly weapon, the Defendants acting in concert
23 throughout; the Defendants counseling and encouraging each other throughout.

24 COUNT 7 - BURGLARY WHILE IN POSSESSION OF A FIREARM

25 RICKIE SLAUGHTER and an unknown co-conspirator did then and there wilfully,
26 unlawfully, and feloniously enter, while in possession of a firearm, with intent to commit a
27 felony, to-wit: robbery, that certain building occupied by IVAN YOUNG, located at 2612
28 Glory View, North Las Vegas, Clark County, Nevada.

1 COUNT 8 - BURGLARY

2 RICKIE SLAUGHTER and/or an unknown co-conspirator did then and there
3 wilfully, unlawfully, and feloniously enter, with intent to commit a larceny, that certain
4 building occupied by 7-11, located at 3051 E. Charleston, Las Vegas, Clark County, Nevada.

5 COUNT 9 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

6 did wilfully, unlawfully, feloniously, and without authority of law, seize, confine,
7 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away IVAN YOUNG, a human
8 being, with the intent to hold or detain the said IVAN YOUNG against his will, and without
9 his consent, for the purpose of committing robbery and/or to inflict substantial bodily harm
10 and/or to kill, said Defendant using a deadly weapon, to-wit: a firearm, during the
11 commission of said crime, said kidnapping resulting in substantial bodily harm to the said
12 IVAN YOUNG, the Defendants being responsible under one or more of the following
13 principles of criminal liability, to-wit: (1) by the Defendant and an unknown co-conspirator
14 conspiring with each other to commit the offense of larceny and/or robbery and/or
15 kidnapping and/or to inflict substantial bodily harm and/or kill whereby all Defendants are
16 vicariously liable for the foreseeable acts of the other conspirators when the acts were in
17 furtherance of the conspiracy; and/or (2) RICKIE SLAUGHTER directly committing the
18 acts constituting said offense and/or 3) RICKIE SLAUGHTER and/or the unknown co-
19 conspirator aiding or abetting in the commission of said crime, to-wit: by securing and/or
20 detaining and/or attempting to rob and/or inflict substantial bodily harm to IVAN YOUNG,
21 the Defendants acting in concert throughout; the Defendants counseling and encouraging
22 each other throughout.

23 COUNT 10 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

24 did wilfully, unlawfully, feloniously, and without authority of law, seize, confine,
25 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away RYAN JOHN, a human
26 being, with the intent to hold or detain the said RYAN JOHN against his will, and without
27 his consent, for the purpose of committing robbery and/or to inflict substantial bodily harm
28 and/or to kill, said Defendant using a deadly weapon, to-wit: a firearm, during the

1 commission of said crime, the Defendants being responsible under one or more of the
2 following principles of criminal liability, to-wit: (1) by the Defendant and an unknown co-
3 conspirator conspiring with each other to commit the offense of larceny and/or robbery
4 and/or kidnapping and/or to inflict substantial bodily harm and/or kill whereby all
5 Defendants are vicariously liable for the foreseeable acts of the other conspirators when the
6 acts were in furtherance of the conspiracy; and/or (2) RICKIE SLAUGHTER directly
7 committing the acts constituting said offense and/or 3) RICKIE SLAUGHTER and/or the
8 unknown co-conspirator aiding or abetting in the commission of said crime, to-wit: by
9 securing and/or detaining and/or robbing RYAN JOHN, the Defendants acting in concert
10 throughout; the Defendants counseling and encouraging each other throughout.

11 COUNT 11 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

12 did wilfully, unlawfully, feloniously, and without authority of law, seize, confine,
13 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away JOSE POSADA, a human
14 being, with the intent to hold or detain the said JOSE POSADA against his will, and without
15 his consent, for the purpose of committing robbery and/or to inflict substantial bodily harm
16 and/or to kill, said Defendant using a deadly weapon, to-wit: a firearm, during the
17 commission of said crime, the Defendants being responsible under one or more of the
18 following principles of criminal liability, to-wit: (1) by the Defendant and an unknown co-
19 conspirator conspiring with each other to commit the offense of larceny and/or robbery
20 and/or kidnapping and/or to inflict substantial bodily harm and/or kill whereby all
21 Defendants are vicariously liable for the foreseeable acts of the other conspirators when the
22 acts were in furtherance of the conspiracy; and/or (2) RICKIE SLAUGHTER directly
23 committing the acts constituting said offense and/or 3) RICKIE SLAUGHTER and/or the
24 unknown co-conspirator aiding or abetting in the commission of said crime, to-wit: by
25 securing and/or detaining JOSE POSADA for the purpose of committing a robbery and/or
26 inflicting substantial bodily harm and/or kill, the Defendants acting in concert throughout;
27 the Defendants counseling and encouraging each other throughout.

28 COUNT 12 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

1 did wilfully, unlawfully, feloniously, and without authority of law, seize, confine,
2 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away AARON DENNIS, a human
3 being, with the intent to hold or detain the said AARON DENNIS against his will, and
4 without his consent, for the purpose of committing robbery and/or to inflict substantial
5 bodily harm and/or to kill, said Defendant using a deadly weapon, to-wit: a firearm, during
6 the commission of said crime, the Defendants being responsible under one or more of the
7 following principles of criminal liability, to-wit: (1) by the Defendant and an unknown co-
8 conspirator conspiring with each other to commit the offense of larceny and/or robbery
9 and/or kidnapping and/or to inflict substantial bodily harm and/or kill whereby all
10 Defendants are vicariously liable for the foreseeable acts of the other conspirators when the
11 acts were in furtherance of the conspiracy; and/or (2) RICKIE SLAUGHTER directly
12 committing the acts constituting said offense and/or 3) RICKIE SLAUGHTER and/or the
13 unknown co-conspirator aiding or abetting in the commission of said crime, to-wit: by
14 securing and/or detaining AARON DENNIS for the purpose of committing a robbery and/or
15 inflicting substantial bodily harm and/or kill, the Defendants acting in concert throughout;
16 the Defendants counseling and encouraging each other throughout.

17 COUNT 13 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

18 did wilfully, unlawfully, feloniously, and without authority of law, seize, confine,
19 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away JERMAUN MEANS, a
20 human being, with the intent to hold or detain the said JERMAUN MEANS against his will,
21 and without his consent, for the purpose of committing robbery and/or to inflict substantial
22 bodily harm and/or to kill, said Defendant using a deadly weapon, to-wit: a firearm, during
23 the commission of said crime, the Defendants being responsible under one or more of the
24 following principles of criminal liability, to-wit: (1) by the Defendant and an unknown co-
25 conspirator conspiring with each other to commit the offense of larceny and/or robbery
26 and/or kidnapping and/or to inflict substantial bodily harm and/or kill whereby all
27 Defendants are vicariously liable for the foreseeable acts of the other conspirators when the
28 acts were in furtherance of the conspiracy; and/or (2) RICKIE SLAUGHTER directly

1 committing the acts constituting said offense and/or 3) RICKIE SLAUGHTER and/or the
2 unknown co-conspirator aiding or abetting in the commission of said crime, to-wit: by
3 securing and/or detaining and/or robbing JERMAUN MEANS, the Defendants acting in
4 concert throughout; the Defendants counseling and encouraging each other throughout.

5 COUNT 14 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

6 did wilfully, unlawfully, feloniously, and without authority of law, seize, confine,
7 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away JENNIFER DENNIS, a
8 human being, with the intent to hold or detain the said JENNIFER DENNIS against her will,
9 and without her consent, for the purpose of committing robbery and/or to inflict substantial
10 bodily harm and/or to kill, said Defendant using a deadly weapon, to-wit: a firearm, during
11 the commission of said crime, the Defendants being responsible under one or more of the
12 following principles of criminal liability, to-wit: (1) by the Defendant and an unknown co-
13 conspirator conspiring with each other to commit the offense of larceny and/or robbery
14 and/or kidnapping and/or to inflict substantial bodily harm and/or kill whereby all
15 Defendants are vicariously liable for the foreseeable acts of the other conspirators when the
16 acts were in furtherance of the conspiracy; and/or (2) RICKIE SLAUGHTER directly
17 committing the acts constituting said offense and/or 3) RICKIE SLAUGHTER and/or the
18 unknown co-conspirator aiding or abetting in the commission of said crime, to-wit: by
19 securing and/or detaining and/or attempting to rob JENNIFER DENNIS, the Defendants
20 acting in concert throughout; the Defendants counseling and encouraging each other
21 throughout.

22
23 DAVID ROGER
DISTRICT ATTORNEY
24 Nevada Bar #002781

25
26 BY 

27 SUSAN R. KRISKO
Deputy District Attorney
28 Nevada Bar #006024

1
2 Names of witnesses known to the District Attorney's Office at the time of filing this
3 Information are as follows:

4	<u>NAME</u>	<u>ADDRESS</u>
5	M. HOYT	NLVPD 1334
6	A. BAILEY	NLVPD 1366
7	J. HICKMAN	NLVPD 1476
8	R. LUEVANO	NLVPD 1618
9	S. TOMS	NLVPD 1621
10	J. PRIETO	NLVPD 674
11	E. MELGAREJO	NLVPD 837
12	M. BRADY	NLVPD 850
13	IVAN YOUNG	2612 GLORY VIEW, NLV, NV
14	JENNIFER DENNIS	2612 GLORY VIEW, NLV, NV
15	JERMAUN MEANS	2309 BAHAMA POINT, NLV, NV
16	RYAN JOHN	9030 BARR, LV, NV
17	JOSE POSADO	2612 GLORY VIEW, NLV, NV
18	AARON DENNIS	2612 GLORY VIEW, NLV, NV
19	DESTINEE WADDY	2309 BAHAMA POINT, NLV, NV
20	TAMMY POSADO	2612 GLORY VIEW, NLV, NV
21	COR, LVMPD DISPATCH	LVMPD
22	COR, NLVPD DISPATCH	NLVPD
23	LINDA ERICHETTO AND/OR DESIGNEE	LVMPD
24	COR, UMC	

25
26 DA#04FN0980X/lg
27 NLVPD EV#0415160
28 CONSP ROBB; ATT MURD WDW'BWDW;
ATT ROBB WDW; RWDW; BURG W/FA; BURG;
1ST DEG KIDNP WDW; - F
(TK2)

AINFO

DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
SUSAN R. KRISKO
Deputy District Attorney
Nevada Bar #006024
200 South Third Street
Las Vegas, Nevada 89155-2212
(702) 455-4711
Attorney for Plaintiff

APRIL 4, 2005

Carol Green

DISTRICT COURT
CLARK COUNTY, NEVADA

STRICKEN

Carol Donahue
Date 5/14/09

THE STATE OF NEVADA,

Plaintiff,

-vs-

RICKIE LAMONT SLAUGHTER,
#1896569

Defendant.

Case No: C204957
Dept No: XVI

FOURTH AMENDED
INFORMATION

STATE OF NEVADA }
COUNTY OF CLARK } ss.

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

That RICKIE LAMONT SLAUGHTER, the Defendant(s) above named, having committed the crimes of **ATTEMPT MURDER WITH USE OF A DEADLY WEAPON** (Felony - NRS 200.010, 200.030, 193.330, 193.165); **ROBBERY WITH USE OF A DEADLY WEAPON** (Felony - NRS 200.380, 193.165); **FIRST DEGREE KIDNAPPING** (Felony - NRS 200.310, 200.320); and **FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON** (Felony - NRS 200.310, 200.320, 193.165), on or about the 26th day of June, 2004, 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 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

RICKIE SLAUGHTER and/or an unknown co-conspirator did then and there, without authority of law, and malice aforethought, willfully and feloniously attempt to kill IVAN YOUNG, a human being, by shooting at and into the body and/or causing a bullet to strike the face of the said IVAN YOUNG, with a deadly weapon, to-wit: a firearm.

COUNT 2 - ROBBERY WITH USE OF A DEADLY WEAPON

RICKIE SLAUGHTER and/or an unknown co-conspirator did then and there wilfully, unlawfully and feloniously take person property, to-wit: an ATM card, from the person of RYAN JOHN, 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 JOHN, by pointing a firearm at the said RYAN JOHN and demanding said money, Defendants using a deadly weapon, to-wit: a firearm, during the commission of said crime, the Defendants being responsible under one or more of the following principles of criminal liability, to-wit: (1) by the Defendant and an unknown co-conspirator conspiring with each other to commit the offense of larceny and/or robbery and/or kidnapping whereby all Defendants are vicariously liable for the foreseeable acts of the other conspirators when the acts were in furtherance of the conspiracy; and/or (2) RICKIE SLAUGHTER directly committing the acts constituting said offense and/or 3) RICKIE SLAUGHTER and/or the unknown co-conspirator aiding or abetting in the commission of said crime, to-wit: by securing and/or detaining and/or robbing the said RYAN JOHN, with the use of a deadly weapon, the Defendants acting in concert throughout; the Defendants counseling and encouraging each other throughout.

COUNT 3 - FIRST DEGREE KIDNAPPING

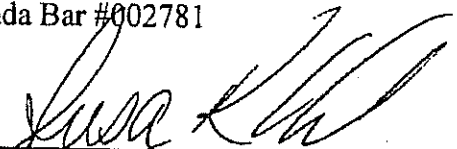
did wilfully, unlawfully, feloniously, and without authority of law, seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away IVAN YOUNG, a human being, with the intent to hold or detain the said IVAN YOUNG against his will, and without his consent, for the purpose of committing robbery and/or to inflict substantial bodily harm and/or to kill, said kidnapping resulting in substantial bodily harm to the said IVAN YOUNG.

1 COUNT 4 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

2 did wilfully, unlawfully, feloniously, and without authority of law, seize, confine,
3 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away RYAN JOHN, and/or JOSE
4 POSADA, and/or AARON DENNIS, and/or JERMAUN MEANS, and/or JENNIFER
5 DENNIS, a human being, with the intent to hold or detain the said RYAN JOHN, and/or
6 JOSE POSADA, and/or AARON DENNIS, and/or JERMAUN MEANS, and/or JENNIFER
7 DENNIS against their will, and without their consent, for the purpose of committing robbery
8 and/or to inflict substantial bodily harm and/or to kill, said Defendant using a deadly
9 weapon, to-wit: a firearm, during the commission of said crime, the Defendants being
10 responsible under one or more of the following principles of criminal liability, to-wit: (1) by
11 the Defendant and an unknown co-conspirator conspiring with each other to commit the
12 offense of larceny and/or robbery and/or kidnapping and/or to inflict substantial bodily harm
13 and/or kill whereby all Defendants are vicariously liable for the foreseeable acts of the other
14 conspirators when the acts were in furtherance of the conspiracy; and/or (2) RICKIE
15 SLAUGHTER directly committing the acts constituting said offense and/or 3) RICKIE
16 SLAUGHTER and/or the unknown co-conspirator aiding or abetting in the commission of
17 said crime, to-wit: by securing and/or detaining and/or robbing RYAN JOHN, and/or JOSE
18 POSADA, and/or AARON DENNIS, and/or JERMAUN MEANS, and/or JENNIFER
19 DENNIS, the Defendants acting in concert throughout; the Defendants counseling and
20 encouraging each other throughout.

21 DAVID ROGER
22 DISTRICT ATTORNEY
23 Nevada Bar #002781

24 BY


25 SUSAN R. KRISKO
26 Deputy District Attorney
27 Nevada Bar #006024

28 DA#04FN0980X/kjk
NLVPD EV#0415160
ATT MURDER W/WPN;
RWDW; 1° KIDNAP;
1° KIDNAP WDW - F

1 **GMEM**

2 **DAVID ROGER**

3 **DISTRICT ATTORNEY**

4 Nevada Bar #002781

5 **SUSAN R. KRISKO**

6 Deputy District Attorney

7 Nevada Bar #006024

8 200 South Third Street

9 Las Vegas, NV 89155-2212

10 (702) 455-4711

11 Attorney for Plaintiff

FILED IN OPEN COURT

April 4, 2005

SHIRLEY M. PARKS, CLERK

BY Carol Green
DEPUTY

7 DISTRICT COURT

8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 RICKIE LAMONT SLAUGHTER,
13 #1896569

14 Defendant.

CASE NO: C204957
DEPT NO: XVI

15 **GUILTY PLEA AGREEMENT**

16 I hereby agree to plead guilty to: **COUNT 1 - ATTEMPT MURDER WITH USE**
17 **OF A DEADLY WEAPON (Felony - NRS 200.010, 200.030, 193.330, 193.165); COUNT**
18 **2 - ROBBERY WITH USE OF A DEADLY WEAPON (Felony - NRS 200.380,**
19 **193.165); COUNT 3 - FIRST DEGREE KIDNAPPING (Felony - NRS 200.310,**
20 **200.320); and COUNT 4 - FIRST DEGREE KIDNAPPING WITH USE OF A**
21 **DEADLY WEAPON (Felony - NRS 200.310, 200.320, 193.165), as more fully alleged in**
22 **the charging document attached hereto as Exhibit "1".**

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

25 The State has agreed to retain the right to argue for fifteen (15) to life at sentencing as
26 to Count 3, but stipulates that life without parole is not available. The State will not oppose
27 concurrent time between the counts. The defendant has agreed to retain the right to argue for
28 fifteen (15) to forty (40) at sentencing as to Count 3.

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1 I understand that the law requires me to pay an Administrative Assessment Fee.

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

6 I understand that I am not eligible for probation for the offense to which I am
7 pleading guilty.

8 I understand that if more than one sentence of imprisonment is imposed and I am
9 eligible to serve the sentences concurrently, the sentencing judge has the discretion to order
10 the sentences served concurrently or consecutively.

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

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

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

18 I understand that if the State of Nevada has agreed to recommend or stipulate a
19 particular sentence or has agreed not to present argument regarding the sentence, or agreed
20 not to oppose a particular sentence, or has agreed to disposition as a gross misdemeanor
21 when the offense could have been treated as a felony, such agreement is contingent upon my
22 appearance in court on the initial sentencing date (and any subsequent dates if the sentencing
23 is continued). I understand that if I fail to appear for the scheduled sentencing date or I
24 commit a new criminal offense prior to sentencing the State of Nevada would regain the full
25 right to argue for any lawful sentence.

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

1 I understand that as a consequence of my plea of guilty, if I am not a citizen of the
2 United States, I may, in addition to other consequences provided for by federal law, be
3 removed, deported, excluded from entry into the United States or denied naturalization.

4 I understand that the Division of Parole and Probation will prepare a report for the
5 sentencing judge prior to sentencing. This report will include matters relevant to the issue of
6 sentencing, including my criminal history. This report may contain hearsay information
7 regarding my background and criminal history. My attorney and I will each have the
8 opportunity to comment on the information contained in the report at the time of sentencing.
9 Unless the District Attorney has specifically agreed otherwise, then the District Attorney
10 may also comment on this report.

11 WAIVER OF RIGHTS

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

14 1. The constitutional privilege against self-incrimination, including the right to refuse
15 to testify at trial, in which event the prosecution would not be allowed to comment to the
16 jury about my refusal to testify.

17 2. The constitutional right to a speedy and public trial by an impartial jury, free of
18 excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the
19 assistance of an attorney, either appointed or retained. At trial the State would bear the
20 burden of proving beyond a reasonable doubt each element of the offense charged.

21 3. The constitutional right to confront and cross-examine any witnesses who would
22 testify against me.

23 4. The constitutional right to subpoena witnesses to testify on my behalf.

24 5. The constitutional right to testify in my own defense.

25 6. The right to appeal the conviction, with the assistance of an attorney, either
26 appointed or retained, unless the appeal is based upon reasonable constitutional jurisdictional
27 or other grounds that challenge the legality of the proceedings and except as otherwise
28 provided in subsection 3 of NRS 174.035.

1 VOLUNTARINESS OF PLEA

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

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

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

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

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

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

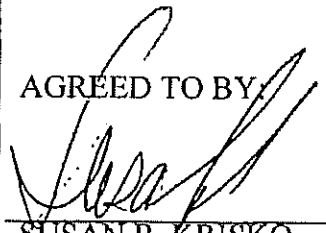
15 I am not now under the influence of any intoxicating liquor, a controlled substance or
16 other drug which would in any manner impair my ability to comprehend or understand this
17 agreement or the proceedings surrounding my entry of this plea.

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

21 DATED this 4 day of April, 2005.

22 
23 RICKIE LAMONT SLAUGHTER
24 Defendant

25 AGREED TO BY:

26 
27 SUSAN R. KRISKO
28 Deputy District Attorney
Nevada Bar #006024

1 CERTIFICATE OF COUNSEL:

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

4 1. I have fully explained to the Defendant the allegations contained in the charge(s)
to which guilty pleas are being entered.

5 2. I have advised the Defendant of the penalties for each charge and the restitution
6 that the Defendant may be ordered to pay.

7 3. All pleas of guilty offered by the Defendant pursuant to this agreement are
consistent with the facts known to me and are made with my advice to the Defendant.

8 4. To the best of my knowledge and belief, the Defendant:

9 a. Is competent and understands the charges and the consequences of pleading
10 guilty as provided in this agreement.

11 b. Executed this agreement and will enter all guilty pleas pursuant hereto
voluntarily.

12 c. Was not under the influence of intoxicating liquor, a controlled substance or
13 other drug at the time I consulted with the defendant as certified in paragraphs
1 and 2 above.

14 Dated: This 4th day of April, 2005.

15 
16 ATTORNEY FOR DEFENDANT
17 Stand-By Counsel
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23
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25
26
27
28

kjk

1 AINFO
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 SUSAN R. KRISKO
6 Deputy District Attorney
7 Nevada Bar #006024
8 200 South Third Street
9 Las Vegas, Nevada 89155-2212
10 (702) 455-4711
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 RICKIE LAMONT SLAUGHTER,
13 #1896569

14 Defendant.

Case No: C204957
Dept No: XVI

FOURTH AMENDED
INFORMATION

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

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

20 That RICKIE LAMONT SLAUGHTER, the Defendant(s) above named, having
21 committed the crimes of **ATTEMPT MURDER WITH USE OF A DEADLY WEAPON**
22 **(Felony - NRS 200.010, 200.030, 193.330, 193.165); ROBBERY WITH USE OF A**
23 **DEADLY WEAPON (Felony - NRS 200.380, 193.165); FIRST DEGREE**
24 **KIDNAPPING (Felony - NRS 200.310, 200.320); and FIRST DEGREE KIDNAPPING**
25 **WITH USE OF A DEADLY WEAPON (Felony - NRS 200.310, 200.320, 193.165),** on or
26 about the 26th day of June, 2004, within the County of Clark, State of Nevada, contrary to
27 the form, force and effect of statutes in such cases made and provided, and against the peace
28 and dignity of the State of Nevada,

EXHIBIT " 1 "

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1 COUNT 1 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

2 RICKIE SLAUGHTER and/or an unknown co-conspirator did then and there, without
3 authority of law, and malice aforethought, willfully and feloniously attempt to kill IVAN
4 YOUNG, a human being, by shooting at and into the body and/or causing a bullet to strike
5 the face of the said IVAN YOUNG, with a deadly weapon, to-wit: a firearm.

6 COUNT 2 - ROBBERY WITH USE OF A DEADLY WEAPON

7 RICKIE SLAUGHTER and/or an unknown co-conspirator did then and there
8 wilfully, unlawfully and feloniously take person property, to-wit: an ATM card, from the
9 person of RYAN JOHN, or in his presence by means of force or violence, or fear of injury
10 to, and without the consent and against the will of the said RYAN JOHN, by pointing a
11 firearm at the said RYAN JOHN and demanding said money, Defendants using a deadly
12 weapon, to-wit: a firearm, during the commission of said crime, the Defendants being
13 responsible under one or more of the following principles of criminal liability, to-wit: (1) by
14 the Defendant and an unknown co-conspirator conspiring with each other to commit the
15 offense of larceny and/or robbery and/or kidnapping whereby all Defendants are vicariously
16 liable for the foreseeable acts of the other conspirators when the acts were in furtherance of
17 the conspiracy; and/or (2) RICKIE SLAUGHTER directly committing the acts constituting
18 said offense and/or 3) RICKIE SLAUGHTER and/or the unknown co-conspirator aiding or
19 abetting in the commission of said crime, to-wit: by securing and/or detaining and/or robbing
20 the said RYAN JOHN, with the use of a deadly weapon, the Defendants acting in concert
21 throughout; the Defendants counseling and encouraging each other throughout.

22 COUNT 3 - FIRST DEGREE KIDNAPPING

23 did wilfully, unlawfully, feloniously, and without authority of law, seize, confine,
24 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away IVAN YOUNG, a human
25 being, with the intent to hold or detain the said IVAN YOUNG against his will, and without
26 his consent, for the purpose of committing robbery and/or to inflict substantial bodily harm
27 and/or to kill, said kidnapping resulting in substantial bodily harm to the said IVAN
28 YOUNG.

1 COUNT 4 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

2 did wilfully, unlawfully, feloniously, and without authority of law, seize, confine,
3 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away RYAN JOHN, and/or JOSE
4 POSADA, and/or AARON DENNIS, and/or JERMAUN MEANS, and/or JENNIFER
5 DENNIS, a human being, with the intent to hold or detain the said RYAN JOHN, and/or
6 JOSE POSADA, and/or AARON DENNIS, and/or JERMAUN MEANS, and/or JENNIFER
7 DENNIS against their will, and without their consent, for the purpose of committing robbery
8 and/or to inflict substantial bodily harm and/or to kill, said Defendant using a deadly
9 weapon, to-wit: a firearm, during the commission of said crime, the Defendants being
10 responsible under one or more of the following principles of criminal liability, to-wit: (1) by
11 the Defendant and an unknown co-conspirator conspiring with each other to commit the
12 offense of larceny and/or robbery and/or kidnapping and/or to inflict substantial bodily harm
13 and/or kill whereby all Defendants are vicariously liable for the foreseeable acts of the other
14 conspirators when the acts were in furtherance of the conspiracy; and/or (2) RICKIE
15 SLAUGHTER directly committing the acts constituting said offense and/or 3) RICKIE
16 SLAUGHTER and/or the unknown co-conspirator aiding or abetting in the commission of
17 said crime, to-wit: by securing and/or detaining and/or robbing RYAN JOHN, and/or JOSE
18 POSADA, and/or AARON DENNIS, and/or JERMAUN MEANS, and/or JENNIFER
19 DENNIS, the Defendants acting in concert throughout; the Defendants counseling and
20 encouraging each other throughout.

21 DAVID ROGER
22 DISTRICT ATTORNEY
23 Nevada Bar #002781

24 BY

25 SUSAN R. KRISKO
26 Deputy District Attorney
27 Nevada Bar #006024

27 DA#04FN0980X/kjk
28 NLVPD EV#0415160
ATT MURDER W/WPN;
RWDW; 1° KIDNAP;
1° KIDNAP WDW - F

● ORIGINAL ●

9.

1 JOC
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 200 South Third Street
6 Las Vegas, Nevada 89155-2212
7 (702) 455-4711
8 Attorney for Plaintiff

2005 AUG 31 A 11:39

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

RICKIE LAMONT SLAUGHTER,
#1896569

Defendant.

Case No: C204957

Dept No: III

JUDGMENT OF CONVICTION
(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime(s) of COUNT 1: ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (FELONY - CATEGORY B) COUNT 2: ROBBERY WITH USE OF A DEADLY WEAPON (FELONY - CATEGORY B); COUNT 3: FIRST DEGREE KIDNAPPING; (FELONY - CATEGORY A) COUNT 4: FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON (FELONY - CATEGORY A), in violation of NRS 200.010, 200.030, 193.330, 193.165, 200.380, 200.310, 200.320; thereafter, on the 8th day of August, 2005, the Defendant was present in court for sentencing with his counsel, PAUL WOMMER, 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 and \$150.00 DNA Analysis Fee as defendant shall submit to testing for genetic markers, the Defendant is sentenced as follows:

1 Defendant SLAUGHTER is SENTENCED to a MAXIMUM of TWO

\$12

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COUNTY CLERK

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COUNTY CLERK

1 HUNDRED FORTY (240) MONTHS and a MINIMUM of NINETY (90) MONTHS in the
2 Nevada Department of Corrections (NDC), plus an equal and CONSECUTIVE MAXIMUM
3 of TWO HUNDRED FORTY (240) MONTHS and a MINIMUM of NINETY (90)
4 MONTHS for Use of a Deadly Weapon; on COUNT 2, Defendant SLAUGHTER is
5 SENTENCED to a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS and a
6 MINIMUM of SEVENTY-TWO (72) MONTHS in the Nevada Department of Corrections
7 (NDC), plus and equal and CONSECUTIVE MAXIMUM of ONE HUNDRED EIGHTY
8 (180) MONTHS and a MINIMUM of SEVENTY-TWO (72) MONTHS for Use of a Deadly
9 Weapon, CONCURRENT with Count 1; on COUNT 3, Defendant SLAUGHTER is
10 SENTENCED to a MAXIMUM of LIFE in the Nevada Department of Corrections (NDC),
11 with a MINIMUM of 15 YEARS before Parole Eligibility, CONCURRENT with Counts 1
12 and 2; on COUNT 4, Defendant SLAUGHTER is SENTENCED to LIFE in the Nevada
13 Department of Corrections (NDC), with a MINIMUM of 5 YEARS before Parole Eligibility,
14 plus and equal and CONSECUTIVE LIFE in the Nevada Department of Prisons, with a
15 MINIMUM of 5 YEARS before Parole Eligibility for Use of a Deadly Weapon,
16 CONCURRENT with Counts 1, 2, and 3, with NO Credit for Time Served.

17 COURT ORDERED, since Defendant is given no credit for time served in this case,
18 this sentence is CONCURRENT with C196399.

19 DATED this 30 day of August, 2005.

20
21 
22 DISTRICT JUDGE
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04FN0980X/GCU:lg

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICKIE SLAUGHTER,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA, IN AND FOR THE
COUNTY OF CLARK, AND THE HONORABLE
DOUGLASS HERNDON, DISTRICT JUDGE

Respondents,

and,

THE STATE OF NEVADA

Real Party in Interest

Electronically Filed
Apr 25 2011 08:58 a.m.
Tracie K. Lindeman
Supreme Court Case No.
District Court Case No. 204957

**PETITION FOR WRIT OF MANDAMUS
OR IN THE ALTERNATIVE, PROHIBITION, AND REQUEST FOR STAY OF
PROCEEDINGS**

OSVALDO E. FUMO, ESQ
Nevada State Bar No.: 5956
DUSTIN R. MARCELLO, ESQ
Nevada State Bar No.: 10134
LAW OFFICES OF OSVALDO FUMO, CHTD.
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State of Nevada

CATHERINE CORTEZ MASTO
Nevada Attorney General
Nevada Bar No. 003926
100 North Carson Street
Carson City, Nevada 89701-4717
(775) 684-1265

Counsel for Petitioner

Counsel for Real Party in Interest

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III

This petition is brought pursuant to NRS 34.150 et. Seq. and NRS 34.320 et. seq.

IV

There is no plain, speedy or adequate remedy at law from an order of the district court denying Defendant's Motion to Dismiss.

ISSUE PRESENTED

1. Whether the plain language of NRS 171.085 (1) and (2) preclude reinstatement of charges contained in an Information previously dismissed pursuant to a guilty plea, when reinstatement of the defective charges is done outside of the applicable statute of limitations.

RELIEF SOUGHT

The Petitioner requests that this Court issue a writ of prohibition directed to respondent court ordering said court to dismiss the Third Amended Information in this case, described more fully below.

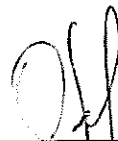
In the alternative, the Petitioner requests that this Court issue a writ of mandamus directed to respondent court ordering said court to vacate its order of March 3, 2011, denying Defendant's Motion to Dismiss Counts contained in the Third Amended Information as barred by the applicable statute of limitations, on the ground that such an order was a gross abuse of discretion.

The Petitioner requests that, regardless of how this Court resolves this petition, it should issue an order acknowledging that the plain language of NRS 171.085 (1) and (2) bar prosecution of charges outside the applicable statute of limitations.

Finally, the Petitioner requests that the proceedings be stayed pending consideration and decision.

Respectively Submitted:

BY



OSVALDO E. FUMO, ESQ
Nevada State Bar No.: 5956
DUSTIN R. MARCELLO, ESQ
Nevada State Bar No.: 10134

AFFIDAVIT

STATE OF NEVADA)
COUNTY OF CLARK) ss:

OSVALDO E. FUMO, being first duly sworn, deposes and says:

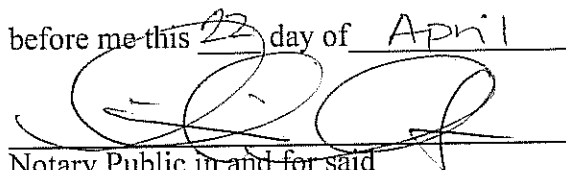
That he is attorney for petitioner in the above captioned Petition; that he has read the foregoing PETITION FOR WRIT OF PROHIBITION OR, IN THE ALTERNATIVE, MANDAMUS and knows the contents thereof and that the same is true and correct to his own knowledge except as to those matters therein set forth on information and belief and as to those matters he believes same to be true.

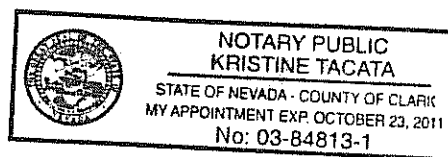


OSVALDO E. FUMO

SUBSCRIBED AND SWORN to

before me this 22 day of April, 2011.


Notary Public in and for said
State and County



**POINTS AND AUTHORITIES IN SUPPORT
OF PETITION FOR WRIT OF PROHIBITION
OR, IN THE ALTERNATIVE, MANDAMUS**

STATEMENT OF FACTS

On October 5, 2004, Defendant, Rickie Slaughter, was arraigned in the District Court by way of Information that was filed on September 28, 2004. See, Petitioner's Appendix, Vol. I, pages 1-9.¹ On September 28, 2004, the State filed an amended information charging Mr. Slaughter with seventeen (17) felony counts, including: one (1) count of mayhem; one (1) count of conspiracy to commit kidnapping; one (1) count of conspiracy to commit robbery; one (1) count of conspiracy to commit murder; (1) count of battery with use of a deadly weapon; one (1) count of attempted robbery with use of a deadly weapon; one (1) count of robbery with a deadly weapon; one (1) count of burglary while in possession of a firearm; one (1) count of burglary; two (2) counts of attempted murder with use of a deadly weapon; and, six (6) counts of first degree kidnapping with use of a deadly weapon. P.A., at pp. 10-8.

On December 13, 2004, the State filed its' Second Amended Information, dropping: one (1) count of conspiracy to commit murder count; one (1) count of mayhem; and one (1) count of attempted murder, leaving the remaining fourteen (14) counts. On March 21, 2005, the State filed its' Third Amended Complaint maintaining the fourteen (14) counts contained in the Second Amended Information, but providing supplemental language as the theories supporting the counts contained therein. P.A., at pp. 19-26. The State then proceeded to trial on the Third Amended Information.

On the day of trial, April 4, 2005, after Mr. Slaughter was denied a continuance by the Court to locate alibi witnesses believed to be essential to his case,² Mr. Slaughter entered a plea agreement, wherein Mr. Slaughter agreed to plead guilty to charges contained in a Fourth Amended Information. P.A., at pp. 27-9. At that time, the State placed the substance of the negotiations on the record to the Court and Mr. Slaughter executed a guilty plea agreement to the Count contained in the State's Fourth Amended Information filed in open court. P.A., at pp. 30-8. The Fourth

¹ Hereinafter, Petitioner's Appendix will be cited as P.A., at pp. ____.

² P.A., at pp. 50-2.

1 Amended Information charged: one (1) count of attempted murder with use of a deadly weapon;
2 one (1) count of robbery with use of a deadly weapon; one (1) count of First Degree Kidnapping;
3 and, one (1) count of first degree kidnapping with use of a deadly weapon listing five separate
4 named victims. P.A., at pp. 36-8.

5 Although plea negotiations placed on the record customarily contain a statement to the
6 effect that all counts not being pled to are dismissed pursuant to negotiations, such a statement was
7 not placed on the record at the time of entry of plea as the State entered the terms of the
8 negotiations on the record and Mr. Slaughter, who was representing himself at the time, was
9 unaware of this customary practice. P.A., at pp. 64-67. However, a review of the executed Guilty
10 Plea Agreement (“GPA”) indicates that the parties contemplated dismissal of all remaining counts
11 not contained in the Fourth Amended Information. P.A., at pp. 32, 33.

12 On August 5, 2005, Mr. Slaughter was sentenced as follows: Count 1 – Attempted Murder
13 with use of a deadly weapon, to 90 to 240 months, plus an equal and consecutive 90 to 240 months;
14 Count 2 – robbery with use of a deadly weapon, to 72 to 180 months, plus an equal and consecutive
15 72 to 180 months for the deadly weapon enhancement; Count 3 – First degree kidnapping with
16 substantial bodily harm to 15 to life; Count 4 – first degree kidnapping with use of a deadly weapon
17 to a minimum of 5 years to life plea an equal and consecutive 5 years as a deadly weapon
18 enhancement. P.A., at pp. 39-40.

19 On August 7, 2006, Mr. Slaughter filed a proper person, post conviction petition for writ of
20 habeas corpus in the District Court, challenging the constitutionality and validity of his guilty pleas.
21 The state opposed the petition and on January 29, 2007, the District Court entered an order denying
22 Mr. Slaughters petition and request to withdraw his pleas. On July 24, 2007, pursuant to a proper
23 person appeal, this Honorable Court issued an Order vacating the denial of Mr. Slaughters
24 challenge to his guilty pleas and instructed the lower District Court to conduct an evidentiary
25 hearing on Mr. Slaughter’s petition.

26 On March 28, 2008, Mr. Slaughter filed a brief requesting the withdrawal of his guilty pleas
27 with the State’s opposition being filed on April 18, 2008. On July 19, 2008, an evidentiary hearing
28 was held, wherein the lower District Court denied Mr. Slaughter’s petition and request to withdraw

1 his previously entered guilty plea. Mr. Slaughter appealed the July 19, 2008, denial of his petition
2 seeking to withdraw his guilty plea, and this Honorable Court issued an order of reversal effectively
3 allowing for Mr. Slaughter to withdraw his guilty plea finding that they were unconstitutionally
4 made.³

5 On May 14, 2009, the lower District Court struck the fourth amended information with Mr.
6 Slaughter had previously plead guilty. Then without request by the State the District Court
7 “reinstated” not the Fourth Amended Information but instead the Third Amended Information. On
8 January 31, 2011, counsel for Mr. Slaughter filed a Motion seeking to dismiss counts contained in
9 the Third Amended Information that were outside of the applicable statute of limitations as
10 provided in NRS 171.085 (1) and (2). P.A., at pp. 121-26.⁴ Specifically, Mr. Slaughter was seeking
11 dismissal of the Counts 1, 2, 4, 5, 7, and 8 as provided for in the Third Amended Complaint.
12 Additionally, counsel requested an evidentiary hearing to determine the prejudicial effect of the
13 Court’s reinstatement of the Third Amended Information.

14 On February 14, 2011, the State filed its Opposition to the Defendant’s Motion arguing that
15 since the original Information was filed in 2004, Mr. Slaughter was precluded from raising a statute
16 of limitations defense, and that if such a defense was to be raised it would require that the GPA be
17 provided to the jury in order for a determination to be made by the jury. P.A., at pp. 77-80.⁵ On
18 February 25, 2011, counsel for Mr. Slaughter filed a Reply to the State’s Opposition arguing that
19 the State’s Opposition was not timely filed and that allowing for the State’s interpretation of NRS
20 171.085 would render the Statute of Limitations moot since the filing of any information would
21 allow for prosecution for all time regardless of the dismissal of a subsequent superseding
22 information. P.A., at pp. 82-86.

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25
26 ³ The documentation related to the appeal, remand and subsequent withdrawal of guilty plea are omitted as they were
not part of the argument and decision made by the lower Court.

27 ⁴ A copy of the filed motion was provided by the Court well after completion of the appendix and so out of order in
28 relation to the other documents.

⁵ Raised as a footnote in State’s Opposition. At P.A., p. 80.

1 Oral argument regarding the Motion to Dismiss was heard by the Honorable Judge
2 Douglass Herndon on March 3, 2011. P.A., at pp. 103-9. At that hearing, Judge Herndon
3 determined that the Third Amended Information has not been dismissed by the superseding Fourth
4 Amended Information; and, although it is customary to dismiss charges not being pled to, such
5 formal dismissal did not happen in this case because the district attorney in stating the negotiations
6 on the record did not indicate that all remaining charges not contained in the Fourth Amended
7 Complaint were being dismissed, and Mr. Slaughter acting pro se at the time, did not formally state
8 that the remaining charges were to be dismissed. P.A., at pp. 103-9. Based on the foregoing, Judge
9 Herndon denied Mr. Slaughter's Motion to Dismiss. This Petition followed.

10 PROCEDURAL HISTORY

11
12 An Information was filed on September 28, 2004. P.A., at pp. 1-9. A Second Amended
13 Information was filed on December 13, 2004. P.A., at pp. 10-4. A Third Amended Information was
14 filed on March 21, 2005. P.A., at pp. 19-26. The original jury trial was scheduled for April 4, 2005,
15 at which time Mr. Slaughter entered a Guilty Plea Agreement, which included a Fourth Amended
16 information filed on that same day. P.A., at pp. 30-76. On August 8, 2005, Mr. Slaughter filed a
17 motion to withdraw the guilty plea, at the time of his sentencing. The Judgment of Conviction was
18 filed on August 31, 2005. On April 24, 2009, an Order of remand was entered by this Court
19 allowing withdrawal of the guilty plea.

20 On January 31, 2011, a Motion to Dismiss was filed on behalf of Mr. Slaughter. On
21 February 14, 2011, the State filed its' Opposition to Mr. Slaughter's Motion to Dismiss. P.A., at pp.
22 77- 81. On February 25, 2011, Mr. Slaughter filed his reply to the State's Opposition to the Motion
23 to Dismiss. P.A., at pp. 82-6. Argument was heard regarding the Motion to Dismiss on March 3,
24 2011, at which time the Motion was denied. P.A., at pp. 87-120. On March 11, 2011, Mr.
25 Slaughter filed a Motion to Stay Proceedings pending filing of this writ, which was denied on
26 March 24, 2011. Trial is currently scheduled for May 9, 2011.

1 ARGUMENT

2
3 **JUDGE HERNDON'S REINSTATEMENT OF THE THIRD**
4 **AMENDED COMPLAINT, AND SUBSEQUENT DENIAL OF**
5 **DEFENDANT'S MOTION TO DISMISS COUNTS CONTAINED**
6 **THEREIN OUTSIDE OF THE STATUTE OF LIMITATIONS**
7 **AMOUNTS TO A MANIFEST ABUSE OF DISCRETION.**

8 Legal Standard

9 This Court will issue a writ of mandamus "to compel the performance of an act which the
10 law requires as a duty resulting from an office or where discretion has been manifestly abused or
11 exercised arbitrarily or capriciously." Hidalgo v. Dist. Ct., 124 Nev. ___, ___, 184 P.3d 369, 372
12 (2008) (quoting Redeker v. Dist. Ct., 122 Nev. 164, 167, 127 P.3d 520, 522 (2006)). A writ of
13 prohibition "serves to stop a district court from carrying on its judicial functions when it is acting
14 outside its jurisdiction." Sonia F. v. Dist. Ct., 125 Nev. ___, ___, 215 P.3d 705, 707 (2009). An
15 extraordinary writ may be issued "where there is not a plain, speedy and adequate remedy" at law.
16 NRS 34.330. In addition, where an important issue of law needs clarification and public policy is
17 served by this Court's invocation of its original jurisdiction, consideration of a petition for
18 extraordinary relief may be justified. Mineral County v. State, Dept. of Conserv., 117 Nev. 235,
19 243, 20 P.3d 800, 805 (2001). Mr. Slaughter has no other plain, adequate or speedy remedy at law
20 to protect his rights. Judicial economy and sound judicial administration warrant issuance of the
21 writ.

22 Statute Of Limitations Based On Withdrawal Of A Guilty Plea

23 In a progeny of case law beginning with the decision in United States v. Podde, *Infra*, the
24 federal courts have begun to apply the statute of limitations, in situations in which the government
25 has attempted to reinstate charges of an indictment, which were previously dismissed in relation to
26 a plea agreement, when a defendant has successfully withdrew from the agreement. United States
27 v. Podde, 105 F.3d 813, 821 (2nd Cir. 1997); See also, United States v. Midgley, 142 F.3d 174, 178
28 (3rd Cir. 1998) (holding that "the statute of limitations exists primarily to protect the rights of the
defendant, and the fact that a defendant's guilty plea conviction was later vacated by a Supreme

1 Court decision in no way affects that fact that his defense to the original charges may have been
2 jeopardized by the passage of time"); See also, United States v. Gilchrist, 215 F.3d 333 (3rd Cir.
3 2001) (Providing the same reasoning as Midgley).

4 In, United States v. Podde, nearly nine years after the date of the alleged crimes, the
5 defendant's conviction pursuant to a plea agreement therein was reversed. The government then
6 sought to reinstate charges against the defendant which had previously dismissed pursuant to he
7 invalidated plea agreement. The Federal District Court allowed reinstatement over the defendant's
8 objection. Following the defendant's conviction on the reinstated charges pursuant to jury trial, the
9 defendant took appeal. On appeal the United States Court of Appeals for the 2nd Circuit reversed
10 the defendant's convictions, reasoning that the expiration of the time limits set forth in the
11 applicable statute of limitations prevented reinstatement of the formerly dismissed charges. Podde,
12 at 813-9 (2nd Cir. 1997).

13 Similarly, in United States v. Midgley, the 3rd Circuit in line with the above reasoning
14 refused to allow reinstatement of charges that were dismissed pursuant to plea negotiations which
15 were later invalidated, after the defendant successfully withdrew his plea. Additionally, the Court
16 rejected the governments arguments that the statute of limitations did not apply to counts dismissed
17 pursuant to plea agreements; that the Court should apply equitable tolling to the time limits in the
18 limitations statue; and that not permitting reinstatement would encourage potential abuse of the
19 system by defendants deciding to sit on their rights until the statute has expired.

20 The Midgley Court stated in rejecting all of the above arguments made by the government
21 that, "[h]owever tempting it may be to create equitable exceptions to bright line rules. . . the clear
22 and unambiguous rule afforded by the criminal statue of limitations is preferable to a shifting
23 standard based on the perceived equity". Midgley, at 180. See also, United States v. Gilchrist, 215
24 F.3d at 338 (3rd Cir. 2001).

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1 **Prior Dismissal Of The Third Amended Information**

2 Herein, Judge Herndon's decision both to reinstate the Third Amended Information and
3 deny Mr. Slaughter's Motion was based on the determination that the Third Amended Complaint
4 was never formally dismissed by the Court. In explaining the basis for his ruling, Judge Herndon
5 specifically noted the following:

6
7 "If you read the transcript, I never dismissed anything. They get superseded by
8 charges, but they don't get dismissed. The only time a charge is ever ordered
9 dismissed is if somebody pleads to Count (1), in the information sometimes
10 somebody will say, will [sic] the remaining counts to be dismissed. But never by
11 the superseding information do the original charges get dismissed, they just get
12 superseded. That's why – for instance, if somebody comes in to the district court
on 3 counts of burglary and gets the matter resolved to one count and somebody
files an amended information – or maybe an attempt burglary – then the deal falls
apart, I order that the amended information be withdrawn and we proceed on the
original information. . . ."

13 P.A., at pp. 105-6.

14 However, even in relation to the offending Counts, it is clear from the statement provided
15 by the Court, that it while the Court recognized that it is customary practice to state negotiations in
16 a case and indicate that the charges not being pled to are being dismissed pursuant to negotiations,
17 such formal dismissal did not occur in this case. Regardless, it was generally understood by the
18 Parties that the Third Amended Information was being dismissed. This general understanding is
19 also provided for in the terms of the Guilty Plea Agreement, wherein the Agreement provides:

20
21 ". . . I understand that, if appropriate, I will be ordered to make restitution to the
22 victim of the offense(s) to which I am pleading guilty and to the victim of any
related offense which is being dismissed. . . ."

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

25 P.A., at pp. 32-3.

26 Although in the context of voluntariness, this Court has held that talismanic phrases are not
27 required to determine an issue related to entry of a guilty plea. Heffley v. Warden, 89 Nev. 573, 516
28 P.2d 1403 (1973). It is clear that Parties contemplated dismissal of the remaining Counts in the

1 Third Amended Information and that a finding was made by the Court as to Mr. Slaughter's guilt
2 on the charges contained in the Fourth Amended Information. The fact that Mr. Slaughter was
3 representing himself pro-se and that the State placed the negotiations on the record should not now
4 be used to circumvent the fair trial rights of Mr. Slaughter and the plain language of NRS 171.085.
5 Accordingly, Judge Herndon's determination that the Third Amended Complaint was previously
6 dismissed, and using this determination as a basis for denial of Mr. Slaughter's Motion to Dismiss,
7 was a manifest abuse of discretion and made without proper jurisdiction.

8
9 **Statute of Limitations**

10 NRS 171.085 (1) and (2), provide that an indictment for:

11
12 1. [t]heft, robbery, burglary, forgery, arson, sexual assault, a violation of NRS
13 90.570, a violation punishable pursuant to paragraph (c) of subsection 3 of NRS
14 598.0999 or a violation of NRS 205.377 must be found, or an information or
15 complaint filed, within 4 years after the commission of the offense.

16 2. Any felony other than the felonies listed in subsection 1 must be found, or an
17 information or complaint filed, within 3 years after the commission of the
18 offense.

19 NRS 171.085 (1) and (2) (2010).

20 Mr. Slaughter would initially like to point out that, contrary to what was argued by the State
21 in the lower court, he does not claim that all counts are barred by the applicable statute of
22 limitations; instead, Mr. Slaughter takes umbrage with those counts contained in the Third
23 Amended Information and not provided for in the Fourth Amended information. The counts being
24 challenged specifically are Counts 1, 2, 4, 5, 7, and 8, as stated in the Third Amended Information.

25 The point of NRS 171.085, or any statute of limitations for that matter, is to protect a
26 defendant against the prejudice not caused by a person or the State, but simply by the passage of
27 time. Over time physical evidence is lost or, witnesses may become unavailable or lose their
28 memory of an event, and the ability to present a defense is greatly inhibited. In fact, there have
been numerous issues in this case involving lost evidence such as Mr. Slaughter's sneakers, the
tainted memory of witnesses and the general inability to find other witnesses that would be helpful

1 to Mr. Slaughter's defense. It is easy for the State to say that this condition was "caused by Mr.
2 Slaughter", but it is just as easy to say that this situation was caused by the State in not allowing
3 withdrawal of a clearly defective guilty plea for many years. But for purposes of the issue
4 presented here it is mostly irrelevant, the point is Mr. Slaughter's defense is prejudiced by the
5 passage of time and is exactly the type of danger NRS 171.085 was designed to address.

6 The State is free to reinstate the charges contained in the Fourth Amended Information to
7 which Mr. Slaughter's guilty plea was withdrawn. However, this basis for reinstatement cannot be
8 extended to the charges contained in the Third Amended Information, since those charges were
9 intended to be dismissed and were not refilled until nearly 6 years after they were originally
10 dismissed and nearly 8 years since the incident occurred. As pointed out in Mr. Slaughter's
11 original Motion, if the State wished to toll the statute of limitations as to the charges in the Third
12 Amended Complaint it could have done so with language to that effect in the Guilty Plea
13 Agreement, however, its' failure to do so does not in anyway affect the applicability of the plain
14 language of NRS 171.085.

15 Additionally, in order to preserve his objection to the defective Counts, Judge Herndon's
16 decision requires Mr. Slaughter to assert an affirmative defense argument against the offending
17 Counts, which would greatly impair his constitutional right to be presumed innocent. It is generally
18 understood that a defendant should not be required to choose between two constitutional
19 protections – the right to a fair trial free of unnecessary prejudice caused by untimely filed Counts,
20 and the right to be presumed innocent. See Simmons v. U.S., 88 S. Ct. 967, at 976 (1968)
21 (recognizing that it is "intolerable that one constitutional right should have to be surrendered in
22 order to assert another") With so much focus contained in guilty plea agreements with ensuring that
23 every possible right of the defendant is being waived, there it is not unreasonable to include a
24 waiver of the statute of limitations. For a Court to reinstate charges related to an offense occurring
25 well outside of the statute of limitations is a manifest abuse of discretion. Accordingly, Mr.
26 Slaughter's Petition should be granted.


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CONCLUSION

Based on the foregoing, Mr. Slaughter petitions this Court for a Petition For Writ Of Prohibition Or, In The Alternative, Mandamus.

Dated this 22, day of April, 2011.

BY 
OSVALDO E. FUMO, ESQ
Nevada State Bar No.: 5956
DUSTIN R. MARCELLO, ESQ
Nevada State Bar No.: 10134
Attorneys for Defendant/Petitioner

///

VERIFICATION

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)


I, Osvaldo E. Fumo, Esq, being first duly sworn, deposes and says:

1. That I am an attorney duly licensed to practice law in the State of Nevada and the attorney appointed to represent Mr. Slaughter herein.
2. That I have read the foregoing Petition for Writ of Mandamus, or in the Alternative, Writ of Prohibition, and know the contents therein and as to those matters they are true and correct and as to those matters based on information and belief I am informed and believe them to be true.
3. That Mr. Slaughter has no other remedy at law available to him and that the only means to address this problem is through the instant writ.
4. That I am signing this Verification on behalf of Mr. Slaughter, under his direction and authorization and that Mr. Slaughter is currently in custody of the authorities of the Clark County Detention Center.

Further your Affiant sayeth naught.

Dated this 22 day of April, 2011.

BY

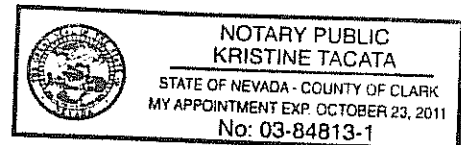

OSVALDO E. FUMO, ESQ
Nevada State Bar No.: 5956
DUSTIN R. MARCELLO, ESQ
Nevada State Bar No.: 10134
Attorneys for Defendant/Petitioner

~~SUBSCRIBED AND SWORN~~ to before me

This 22 day of April, 2011



Notary Public



1 CERTIFICATE OF COMPLIANCE

2 I hereby certify that I have read this Petition, and to the best of my knowledge, information
3 and belief, it is not frivolous or interposed for any improper purpose. I further certify that this
4 Petition complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP
5 28(e), which requires every assertion in the brief regarding matters in the record, to be supported by
6 appropriate references to the record on appeal. I understand that I may be subject to sanctions in
7 the event that the accompanying Petition is not in conformity with the requirements of the Nevada
8 Rules of Appellate Procedure.

9 DATED: THIS 22, DAY OF April, 2011.

10
11 /S/
12 BY 

13 OSVALDO E. FUMO, ESQ
14 Nevada State Bar No.: 5956
15 DUSTIN R. MARCELLO, ESQ
16 Nevada State Bar No.: 10134
17 Attorneys for Defendant/Petitioner
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1 **CERTIFICATE OF MAILING**

2 I hereby certify and affirm that I mailed a copy of the foregoing Petition For Writ Of
3 Prohibition Or, In The Alternative, Mandamus to the attorney of record listed below on this 12,
4 day of April, 2011.

5
6 DAVID ROGER
7 Clark County District Attorney
8 Nevada Bar #002781
9 Clark County Courthouse
10 200 South Third Street, Suite 701
11 Post Office Box 552212
12 Las Vegas, Nevada 89155-2212
13 (702) 455-4711
14 State of Nevada

11 CATHERINE CORTEZ MASTO
12 Nevada Attorney General
13 Nevada Bar No. 003926
14 100 North Carson Street
15 Carson City, Nevada 89701-4717
16 (775) 684-1265

15
16 BY 

17 OSVALDO E. FUMO, ESQ
18 Nevada State Bar No.: 5956
19 DUSTIN R. MARCELLO, ESQ
20 Nevada State Bar No.: 10134
21 *Attorneys for Defendant*
22
23
24
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28

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CERTIFICATE OF SERVICE

I Osvaldo E. Fumo, Esq., hereby certify and affirm that a copy of the foregoing Petition For Writ Of Prohibition Or, In The Alternative, Mandamus and Request for Stay of Proceedings was **hand delivered** to the chambers of the judge of record listed below on this 22, day of April, 2014, with same being accepted by his Law Clerk Steven Clough.

Judge Douglass Herndon
District Court Department III
Clark County Courthouse
200 South Third Street
Las Vegas, Nevada 89101

BY



OSVALDO E. FUMO, ESQ
Nevada State Bar No.: 5956

TABLE OF AUTHORITIES

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