

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

2
3 FRANKIE ALAN WATTERS,

) No. 59703

4 Appellant,

)
) Electronically Filed
) Feb 17 2012 04:12 p.m.
) Tracie K. Lindeman
) Clerk of Supreme Court

5 v.

6
7 THE STATE OF NEVADA,

8 Respondent.

9
10 **APPELLANT'S APPENDIX-VOLUME I -PAGES 001-102**

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

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

15 Attorney for Appellant

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

Counsel for Respondent

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FRANKIE ALAN WATTERS
Case No. 59703

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1 JUSTICE COURT, LAS VEGAS TOWNSHIP

2 CLARK COUNTY, NEVADA

3 THE STATE OF NEVADA,

2011 MAR 22 P 12:12

4 Plaintiff,

5 -vs-

6 FRANKIE ALAN WATTERS #1962765,

7 Defendant.

NEVADA CASE NO: 11F05090X

DEPT NO: 3

8 CRIMINAL COMPLAINT

9 The Defendant above named having committed the crimes of POSSESSION OF
10 STOLEN VEHICLE (Felony - NRS 205.273); GRAND LARCENY AUTO (Felony - NRS
11 205.228) and STOP REQUIRED ON SIGNAL OF POLICE OFFICER (Felony - NRS
12 484B.550), in the manner following, to-wit: That the said Defendant, on or about the 18th
13 day of March, 2011, at and within the County of Clark, State of Nevada,

14 COUNT 1 - POSSESSION OF STOLEN VEHICLE

15 did then and there wilfully, unlawfully, and feloniously possess a stolen motor
16 vehicle wrongfully taken from HEATHER REED, to-wit: a 2006 Chrysler Sebring, bearing
17 Nevada License No. 326TGF, which Defendant knew, or had reason to believe, had been
18 stolen; the value of said vehicle being \$2,500.00, or more.

19 COUNT 2 - GRAND LARCENY AUTO

20 did then and there intentionally, unlawfully, and feloniously, with intent to deprive
21 the owner permanently thereof, steal, take, carry away, drive away or otherwise remove a
22 motor vehicle owned by another person, having a value of \$2,500.00, or more, in the
23 possession of YOSVANY OTANO, to-wit: a 2000 Honda Civic, bearing Nevada License
24 No. 871WKY.

25 COUNT 3 - STOP REQUIRED ON SIGNAL OF POLICE OFFICER

26 did, while driving a motor vehicle, to-wit: a 2000 Honda Civic, bearing Nevada
27 License No. 871WKY, Boulder Highway and Nellis, Flamingo Road and U.S. Highway 95,
28 Tropicana and Harmon, Las Vegas, Clark County, Nevada, willfully, unlawfully, and

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RC

1 feloniously fail or refuse to bring said vehicle to a stop, or otherwise flee or attempt to elude
2 a peace officer in a readily identifiable vehicle of any police department or regulatory
3 agency, to-wit: J. HARPER, Las Vegas Metropolitan Police Department, after being given a
4 signal to bring the vehicle to a stop, operate said motor vehicle in a manner which
5 endangered, or was likely to endanger any person other than himself or the property of any
6 person other than himself.

7 All of which is contrary to the form, force and effect of Statutes in such cases made
8 and provided and against the peace and dignity of the State of Nevada. Said Complainant
9 makes this declaration subject to the penalty of perjury.

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12 3/22/2011
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26 11F05090X/td
27 LVMPD EV# 1103182378; 1103182689;
28 1103180080; 1103182395; 1103182449;
1103182699; 1103182543
(TK3)

JUSTICE COURT, LAS VEGAS TOWNSHIP

STATE VS. WATTERS, FRANKIE ALAN

CASE NO. 11F05090X

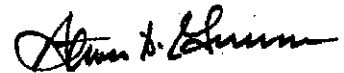
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DATE, JUDGE
OFFICERS OF COURT
PRESENT

APPEARANCES - HEARING

CONTINUED TO:

MARCH 22, 2011	CRIMINAL COMPLAINT FILED: COUNT 1-POSSESSION OF STOLEN VEHICLE COUNT 2-GRAND LARCENY-AUTO COUNT 3-STOP REQUIRED ON SIGNAL OF POLICE OFFICER	BMP
03/23/2011 J. MARSHALL S. BENEDICT, DA D. LOPEZ-NEGRETTE, PD - APPOINTED C. JASPER, CR V. KENDRICK, CLK	INITIAL ARRAIGNMENT DEFENDANT PRESENT IN COURT **IN CUSTODY** ADVISED OF CHARGES/WAIVES READING OF COMPLAINT PRELIMINARY HEARING SET DEFT REMANDED TO THE CUSTODY OF THE SHERIFF	04/06/11 9AM #3 VK
04/06/2011 J. MARSHALL H. WONG, DA J. RAYE, PD R. MORICHETTI, CR V. KENDRICK, CLK	TIME SET FOR PRELIMINARY HEARING DEFENDANT PRESENT IN COURT **IN CUSTODY** PER NEGOTIATIONS: DEFENDANT UNCONDITIONALLY WAIVES THE RIGHT TO A PRELIMINARY HEARING DEFENDANT BOUND OVER TO DISTRICT COURT AS CHARGED DEFENDANT TO APPEAR IN THE LOWER LEVEL ARRAIGNMENT COURTROOM A PUBLIC DEFENDER REQUESTED AN ARRIAGNMENT IN 30 DAYS IN DISTRICT COURT STATE'S OFFER WILL REMAIN OPEN ON THIS CASE DATE SET DEFT REMANDED TO THE CUSTODY OF THE SHERIFF	05/04/11 10:30AM DISTRICT COURT VK
	CASE FORWARDED TO APR 08 2011 DISTRICT COURT CLERK'S OFFICE	



CLERK OF THE COURT

INFO

DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
HETTY O. WONG
Deputy District Attorney
Nevada Bar #0011324
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

I.A. 5/4/11
10:30 A.M.
PD RAYE

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

FRANKIE ALAN WATTERS,
#1962765

Defendant.

Case No: C-11-272483-1
Dept No: VIII

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 FRANKIE ALAN WATTERS, the Defendant(s) above named, having committed the crimes of **POSSESSION OF STOLEN VEHICLE (Felony - NRS 205.273); GRAND LARCENY AUTO (Felony - NRS 205.228) and STOP REQUIRED ON SIGNAL OF POLICE OFFICER (Felony - NRS 484B.550)**, on or about the 18th day of March, 2011, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

//

//

1 COUNT 1 - POSSESSION OF STOLEN VEHICLE

2 did then and there wilfully, unlawfully, and feloniously possess a stolen motor
3 vehicle wrongfully taken from HEATHER REED, to-wit: a 2006 Chrysler Sebring, bearing
4 Nevada License No. 326TGF, which Defendant knew, or had reason to believe, had been
5 stolen; the value of said vehicle being \$2,500.00, or more.

6 COUNT 2 - GRAND LARCENY AUTO

7 did then and there intentionally, unlawfully, and feloniously, with intent to deprive
8 the owner permanently thereof, steal, take, carry away, drive away or otherwise remove a
9 motor vehicle owned by another person, having a value of \$2,500.00, or more, in the
10 possession of YOSVANY OTANO, to-wit: a 2000 Honda Civic, bearing Nevada License
11 No. 871WKY.

12 COUNT 3 - STOP REQUIRED ON SIGNAL OF POLICE OFFICER

13 did, while driving a motor vehicle, to-wit: a 2000 Honda Civic, bearing Nevada
14 License No. 871WKY, Boulder Highway and Nellis, Flamingo Road and U.S. Highway 95,
15 Tropicana and Harmon, Las Vegas, Clark County, Nevada, willfully, unlawfully, and
16 feloniously fail or refuse to bring said vehicle to a stop, or otherwise flee or attempt to elude
17 a peace officer in a readily identifiable vehicle of any police department or regulatory
18 agency, to-wit: J. HARPER, Las Vegas Metropolitan Police Department, after being given a
19 signal to bring the vehicle to a stop, operate said motor vehicle in a manner which
20 endangered, or was likely to endanger any person other than himself or the property of any
21 person other than himself.

22
23
24 DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781

25
26 BY /s/ Hetty O. Wong
27 HETTY O. WONG
Deputy District Attorney
28 Nevada Bar #0011324

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

NAME

ADDRESS

BAKER, Tabitha

LVMPD #6623

BLEAK, Curtis

LVMPD #12998

DELMAR, Benjamin

ADDRESS UNKNOWN

CUSTODIAN OF RECORDS
OR DESIGNEE

C.C. DETENTION CENTER
RECORDS

CUSTODIAN OF RECORDS
OR DESIGNEE

L.V. METROPOLITAN POLICE DEPT
DISPATCH

CUSTODIAN OF RECORDS
OR DESIGNEE

L.V. METROPOLITAN POLICE DEPT
RECORDS

DELMAR, Benjamin

ADDRESS UNKNOWN

GRANGER, David

ADDRESS UNKNOWN

HARPER, Jeff

LVMPD #6471

MAAS, Steven

LVMPD #13015

OTANO, Yosvany

4550 KAREN AVE #230
LAS VEGAS, NEVADA 89121

POYNOR, Jamie

ADDRESS UNKNOWN

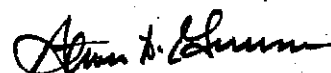
PRO, Rolando

LVMPD #6095

REED, Heather

8124 SATIN CARNATION LN
LAS VEGAS, NEVADA 89166

DA#11F05090X/jr
LVMPD EV#1103182378; 1103182689;
1103180080; 1103182395; 1103182449;
1103182699; 1103182543
(TK3)



CLERK OF THE COURT

1 NOTC
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 HETTY O. WONG
6 Deputy District Attorney
7 Nevada Bar #0011324
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 FRANKIE ALAN WATTERS,
13 #1962765

14 Defendant.

CASE NO: C-11-272483-1

DEPT NO: VIII

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

17 TO: FRANKIE ALAN WATTERS, Defendant; and

18 TO: JULIE RAYE, Deputy Public Defender, Counsel of Record:

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

21 NAME

ADDRESS

22 AMELY, Ramin

LVMPD #9984

23 BAKER, Tabitha

LVMPD #6623

24 BANGLE, Jeff

LVMPD #4677

25 BENGEL, Jeffery

LVMPD #6710

26 BICSANSZKY, Peter

LVMPD #6012

27 BLACK, Russell

LVMPD #4635

28 BLEAK, Curtis

LVMPD #12998


1	BROWNLEE, Tracy	LVMPD #9975
2	COLEMAN, Solomon	LVMPD #13127
3	COLLINGWOOD, Elizabeth	LVMPD #9494
4	COLLING, Derek	LVMPD #8882
5	DELMAR, Benjamin	4639 GRASSHOPPER DR. AS VEGAS, NV 89122
6	CUSTODIAN OF RECORDS OR DESIGNEE	C.C. DETENTION CENTER RECORDS
8	CUSTODIAN OF RECORDS OR DESIGNEE	EASTSIDE CANNERY SURVEILLANCE 5255 BOULDER HWY LAS VEGAS, NV 89122
10	CUSTODIAN OF RECORDS OR DESIGNEE	L.V. METROPOLITAN POLICE DEPT DISPATCH
12	CUSTODIAN OF RECORDS OR DESIGNEE	L.V. METROPOLITAN POLICE DEPT RECORDS
14	CUSTODIAN OF RECORDS OR DESIGNEE	WAL-MART / SURVEILLANCE 5198 BOULDER HWY LAS VEGAS, NV 89122
16	DELMAR, Benjamin	4639 GRASSHOPPER DR. AS VEGAS, NV 89122
17	EMRY, Stewart	LVMPD #3758
18	FULTON, David	LVMPD #7528
19	GIL, Rodolfo	LVMPD #6237
20	GOLGART, Rich Sr.	LVMPD #4647
21	GRANGER, David	3745 RAWHIDE ST. AS VEGAS, NV 89120
22	GUZMAN, Juan	LVMPD #13456
23	HAMMACK, Stephen	LVMPD #4776
24	HANSHEW, Jason	LVMPD #9664
25	HARPER, Jeff	LVMPD #6471
26	HOFFMAN, Henry	LVMPD #7536
27	JORDAN, John	ADDRESS UNKNOWN
28		

1	KABIRI, Alireza	LVMPD #9642
2	KUNZ, Paul	LVMPD #10047
3	LETHBRIDGE, Sean	LVMPD #3964
4	MAAS, Steven	LVMPD #13015
5	MAHON, Kara	LVMPD #8922
6	MAVIGLIA, Joseph	LVMPD #4422
7	NEWBERRY, Daniel	LVMPD #4956
8	OTANO, Yosvany	4550 KAREN AVE #230 LAS VEGAS, NEVADA 89121
9	PEACOCK, Jame	LVMPD #8276
10	PERKINS, Michael	LVMPD #4242
11	PILETTTE, Kenneth	LVMPD #6066
12	POYNOR, Jamie	1511 PLAIN SIGHT AVE. ENDERSON, NV 89014
13		
14	PRO, Rolando	LVMPD #6095
15	RAPP, Corie	LVMPD #13455
16	REDFAIRN, William	LVMPD #4135
17	REED, Heather	6637A 105 th ST. WA BEACH, HI. 96706
18		
19	ROMAN, Frankie	LVMPD #14097
20	ROMANE, Kenneth	LVMPD #4693
21	ROONEY, Patrick	LVMPD #3954
22	ROSAS, David	LVMPD #12896
23	ROWE, Matthew	LVMPD #13114
24	RUNDELL, Richard	LVMPD #8719
25	SANTAROSSA, Brian	LVMPD #6930
26	SCAVONE, Richard	LVMPD #9845
27	SMITH, Gibron	LVMPD #6202
28	SNODGRASS, Theod	LVMPD #1634

1	SPEAS, William	LVMPD #5228
2	STEINBACH, Robert	LVMPD #13989
3	VANDERING, Brenda	LVMPD #13575
4	VILLANUEVA, Or	LVMPD #5107
5	VISKOC, Mark	LVMPD #9855
6	WEISKOPF, James	LVMPD #5130

7 These witnesses are in addition to those witnesses endorsed on the Information and
8 any other witness for which a separate Notice has been filed.

11
12 BY


13 DAVID ROGER
14 DISTRICT ATTORNEY
15 Nevada Bar #002781

16 **CERTIFICATE OF FACSIMILE TRANSMISSION**

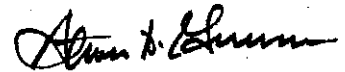
17 I hereby certify that service of Notice of Witnesses, was made this 12th day of July,
18 2011, by facsimile transmission to:

19
20 JULIE RAYE, Deputy Public Defender
21 FAX #366-0692

22
23 BY /s/ J. Robertson

24 Employee of the District Attorney's Office

25
26
27
28 HOW/jr



CLERK OF THE COURT

1 NOTC
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 HETTY O. WONG
6 Deputy District Attorney
7 Nevada Bar #0011324
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 FRANKIE ALAN WATTERS,
13 #1962765

14 Defendant.

CASE NO: C-11-272483-1

DEPT NO: VIII

15 SUPPLEMENTAL NOTICE OF WITNESSES
16 [NRS 174.234(1)(a)]

17 TO: FRANKIE ALAN WATTERS, Defendant; and

18 TO: JULIE RAYE, Deputy Public Defender, Counsel of Record:

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

21 NAME

ADDRESS

22 AMELY, Ramin

LVMPD #9984

23 BAKER, Tabitha

LVMPD #6623

24 BANGLE, Jeff

LVMPD #4677

25 BENGEL, Jeffery

LVMPD #6710

26 BICSANSZKY, Peter

LVMPD #6012

27 BLACK, Russell

LVMPD #4635

28 BLEAK, Curtis

LVMPD #12998

1	BROWNLEE, Tracy	LVMPD #9975
2	CASTRO, Doug	ADDRESS UNKNOWN
3	COLEMAN, Solomon	LVMPD #13127
4	COLLINGWOOD, Elizabeth	LVMPD #9494
5	COLLING, Derek	LVMPD #8882
6	DELMAR, Benjamin	4639 GRASSHOPPER DR. AS VEGAS, NV 89122
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14	EMRY, Stewart	LVMPD #7528
15	FULTON, David	LVMPD #6237
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18	GRANGER, David	LVMPD #13456
19	GUZMAN, Juan	LVMPD #4776
20	HAMMACK, Stephen	LVMPD #9664
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1	JORDAN, John	ADDRESS UNKNOWN
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3	KUNZ, Paul	LVMPD #10047
4	LETHBRIDGE, Sean	LVMPD #3964
5	MAAS, Steven	LVMPD #13015
6	MAHON, Kara	LVMPD #8922
7	MAVIGLIA, Joseph	LVMPD #4422
8	NEWBERRY, Daniel	LVMPD #4956
9	OTANO, Yosvany	4550 KAREN AVE #230 LAS VEGAS, NEVADA 89121
10	PEACOCK, Jame	LVMPD #8276
11	PERKINS, Michael	LVMPD #4242
12	PILETTTE, Kenneth	LVMPD #6066
13	POYNOR, Jamie	1511 PLAIN SIGHT AVE. ENDERSON, NV 89014
14	PRO, Rolando	LVMPD #6095
15	RAPP, Corie	LVMPD #13455
16	REDFAIRN, William	LVMPD #4135
17	REED, Heather	6637A 105 th ST. WA BEACH, HI. 96706
18	ROMAN, Frankie	LVMPD #14097
19	ROMANE, Kenneth	LVMPD #4693
20	ROONEY, Patrick	LVMPD #3954
21	ROSAS, David	LVMPD #12896
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23	RUNDELL, Richard	LVMPD #8719
24	SANTAROSSA, Brian	LVMPD #6930
25	SCAVONE, Richard	LVMPD #9845
26	SMITH, Gibron	LVMPD #6202
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28		

1	SNODGRASS, Theod	LVMPD #1634
2	SPEAS, William	LVMPD #5228
3	STEINBACH, Robert	LVMPD #13989
4	VANDERING, Brenda	LVMPD #13575
5	VILLANUEVA, Or	LVMPD #5107
6	VISKOC, Mark	LVMPD #9855
7	WEISKOPF, James	LVMPD #5130

8 These witnesses are in addition to those witnesses endorsed on the Information and
9 any other witness for which a separate Notice has been filed.

12
13 BY


14 DAVID ROGER
15 DISTRICT ATTORNEY
16 Nevada Bar #002781

17 **CERTIFICATE OF FACSIMILE TRANSMISSION**

18 I hereby certify that service of Supplemental Notice of Witnesses, was made this 25th
19 day of July, 2011, by facsimile transmission to:

20
21 JULIE RAYE, Deputy Public Defender
22 FAX #366-0692

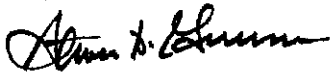
23
24 BY /s/ J. Robertson

25 Employee of the District Attorney's Office
26
27

28 HOW/jr

1 NOTC

2 DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
3 HETTY O. WONG
Deputy District Attorney
Nevada Bar #0011324
200 Lewis Avenue
4 Las Vegas, Nevada 89155-2212
5 (702) 671-2500
6 Attorney for Plaintiff


CLERK OF THE COURT

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,)

10 Plaintiff,)

11 -vs-)

12 FRANKIE ALAN WATTERS,
13 #1962765)

14 Defendant.)

CASE NO: C-11-272483-1

DEPT NO: VIII

15 NOTICE OF EXPERT WITNESSES
16 [NRS 174.234(2)]

17 TO: FRANKIE ALAN WATTERS, Defendant; and

18 TO: JULIE RAYE, Deputy Public Defender, Counsel of Record:

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

21 TRACY BROWNLEE, P#9975, Las Vegas Metropolitan Police Department, or
22 Designee, will testify as an expert in the area of identification, documentation, collection and
23 preservation of evidence and will give opinions related thereto. He is expected to testify
24 regarding the identification documentation, collection and preservation of evidence in this
25 case.

26 WILLIAM SPEAS, P#5228, Las Vegas Metropolitan Police Department, or
27 Designee, will testify as an expert in the area of identification, documentation, collection and
28 preservation of evidence and will give opinions related thereto. He is expected to testify

1 regarding the identification documentation, collection and preservation of evidence in this
2 case.

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

5 A copy of each expert witness' curriculum vitae, if available, is attached hereto.
6

7
8 BY


9 DAVID ROGER
10 DISTRICT ATTORNEY
11 Nevada Bar #002781

12 **CERTIFICATE OF FACSIMILE TRANSMISSION**

13 I hereby certify that service of Notice of Expert Witnesses, was made this 25th day of
14 July, 2011, by facsimile transmission to:

15
16 JULIE RAYE, Deputy Public Defender
17 FAX #366-0692
18

19
20
21 BY /s/ J. Robertson

22 Employee of the District Attorney's Office
23
24
25
26
27

28 HOW/jr

**Las Vegas Criminalistics Bureau
Statement of Qualifications**

Name: BROWNLEE, Tracy

P# 9975

Date: 09-16-10

CURRENT CLASSIFICATION			
	<i>Classification</i>	<i>Minimum Qualifications</i>	
X	Crime Scene Analyst I	AA Degree with major course work in Criminal Justice, Forensic Science, Physical Science or related field, including specialized training in Crime Scene Investigation.	
X	Crime Scene Analyst II	18 months - 2 years continuous service with LVMPD as a Crime Scene Analyst I.	
	Senior Crime Scene Analyst	Two (2) years as a Crime Scene Analyst II to qualify for the promotional test for Senior Crime Scene Analyst.	
	Crime Scene Analyst Supervisor	Four (4) years continuous service with LVMPD and completion of probation as a Senior Crime Scene Analyst. Must have the equivalent of a Bachelor's Degree from an accredited college or university with major course work in Criminal Justice, Forensic Science, Physical Science or related field.	
FORMAL EDUCATION			
	<i>Institution</i>	<i>Major</i>	<i>Degree/Date</i>
	Lower Columbia College	General Transfer	AA 06/03
	Eastern Washington Univ.	Criminal Justice	BA 08/05
TESTIMONY			
	<i>Yes</i>	<i>No</i>	
EMPLOYMENT HISTORY			
	<i>Employer</i>	<i>Title</i>	<i>Date</i>
	LVMPD	CSA II	05-14-09 to Present
	LVMPD	CSA I	05-17-07 to 05-17-09

Curriculum Vitae
Las Vegas Criminalistics Bureau
Statement of Qualifications

Name: William Speas

P# 5228

Date: 10-1-03

CURRENT CLASSIFICATION		
	<i>Classification</i>	<i>Minimum Qualifications</i>
	Crime Scene Analyst I	AA Degree with major course work in Criminal Justice, Forensic Science, Physical Science or related field, including specialized training in Crime Scene Investigation.
X	Crime Scene Analyst II	18 months - 2 years continuous service with LVMPD as a Crime Scene Analyst I.
	Senior Crime Scene Analyst	Two (2) years as a Crime Scene Analyst II to qualify for the promotional test for Senior Crime Scene Analyst.
	Crime Scene Analyst Supervisor	Four (4) years continuous service with LVMPD and completion of probation as a Senior Crime Scene Analyst. Must have the equivalent of a Bachelor's Degree from an accredited college or university with major course work in Criminal Justice, Forensic Science, Physical Science or related field.

FORMAL EDUCATION		
<i>Institution</i>	<i>Major</i>	<i>Degree/Date</i>
CCSN	Criminal Justice	Associates Degree-2000

TESTIMONY		
<i>Yes</i>	<i>No</i>	

EMPLOYMENT HISTORY		
<i>Employer</i>	<i>Title</i>	<i>Date</i>
LVMPD	Crime Scene Analyst II	7-29-96

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SPEAS, WILLIAM
CSA II

P# 5228
SS#: 570-82-5191

CRIMINALISTICS BUREAU FIELD
DOH: 07-29-96

DATE	CLASS TITLE	AGENCY	CREDIT HOURS
08-06-90	Electronic Systems Technology	Community College of the Air Force	Associate Degree
02-25-91	Audiovisual Production Services	Community College of the Air Force	Associate Degree
08-11-95	COMMUNITY COLLEGE OF THE AIR FORCE - SEE ATTACHED FOR PARTICULARS - Medical Laboratory Technician	Applied Science - Medical Laboratory Technician	Associate Degree of Applied Science
05-21-97	To Your Good Health - 90s	LVMPD	7
05-15-00	COMMUNITY COLLEGE OF SOUTHERN NEVADA - SEE ATTACHED FOR PARTICULARS - Criminal Justice - Law Enforcement Emphasis	Applied Science - Criminal Justice - Law Enforcement Emphasis	Associate Degree of Applied Science
02-23 to 02-25-99	Latent Print Identification - (in cooperation with FBI)	Law Enforcement Officers Training School	24
04-28 to 04-30-99	First Annual Educational Conference Opening Ceremonies (2)	NSDIAI	2
"	DNA Evidence	NSDIAI	2
"	Body ID Techniques	NSDIAI	2
"	Superglue	NSDIAI	2
"	Blood Enhancement	NSDIAI	4
"	Child Abuse	NSDIAI	2
"	Traffic Photography	NSDIAI	2
"	Clandestine Labs	NSDIAI	2
"	Laboratory Photography	NSDIAI	2
"	Death Investigations	NSDIAI	2
"	Footwear/Tire Tracks	NSDIAI	2
09-02-99	Active Charter Member - # 00023	NSDIAI	
10-21-99	New Civilian Employee Orientation Course	LVMPD	56
10-25 to 11-18-99	Crime Scene Analyst Academy - followed by	LVMPD	175

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11-22-99	Civilian Use of Force/Firearms	LVMPD	21
11-22-99	Optional Weapon	LVMPD	1
	Field Training	LVMPD	400
11-10-00	Certificate - completed Basic Program in Forensic Science	American Institute of Applied Science, Inc.	230
11-29-00	Principles of Crime Scene Diagramming	North LV Police Dept.	8
12-09-99	Driver Training - Class II	LVMPD	8
01-17-01	Commission on Peace Officers' Standards and Training - "Courtroom Testimony for Police Officers"	State of Nevada	4
02-12 to 02-14-01	Clandestine Laboratory Safety Certification Course - Occasional Site Worker	LVMPD	24
04-12-02	Documentation of Footwear & Tire Impressions	LVMPD - Criminalistics Bureau	1
04-19-02	Clandestine Laboratory Safety - Fingerprint Processing	LVMPD - Criminalistics Bureau	1
04-22-02	Forensic Anthropology	LVMPD - Criminalistics Bureau	1.5
05-06-02	Major Case Prints	LVMPD - Criminalistics Bureau	3

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

FILED

JUL 13 9 24 AM '11

7 DISTRICT COURT
 8 CLARK COUNTY, NEVADA

Ann L. Blum
 CLERK OF THE COURT

7 THE STATE OF NEVADA,
 8
 9 Plaintiff,
 10 v.
 11 FRANKIE ALAN WATTERS,
 12 Defendant.

CASE NO. C-11-272483-1

DEPT. NO. VIII

DATE: July 27, 2011
 TIME: 8:00 a.m.

MOTION FOR DISCOVERY

14 COMES NOW, the Defendant, FRANKIE ALAN WATTERS, by and through R.
 15 MICHAEL GARDNER, Deputy Public Defender and hereby moves the Court to order the State to
 16 provide discovery as required by the law. The Defense has received a great deal of photos and
 17 reports, and may have received everything related to the case.

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

20 DATED this 12th day of July, 2011.

21 PHILIP J. KOHN
 22 CLARK COUNTY PUBLIC DEFENDER

23 By: *R. Michael Gardner*
 24 R. MICHAEL GARDNER, #0867
 25 Deputy Public Defender

CLERK OF THE COURT

RECEIVED
 JUL 13 2011

C-11-272483-1
 MDIS
 Motion for Discovery
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ARGUMENT

The statutes of Nevada call for disclosure by the State of evidence that they have or may by due diligence obtain. The related statute reads as follows:

NRS 174.235 Disclosure by prosecuting attorney of evidence relating to prosecution; limitations.

1. Except as otherwise provided in NRS 174.233 to 174.295, inclusive, at the request of a defendant, the prosecuting attorney shall permit the defendant to inspect and to copy or photograph any:

(a) Written or recorded statements or confessions made by the defendant, or any written or recorded statements made by a witness the prosecuting attorney intends to call during the case in chief of the State, or copies thereof, within the possession, custody or control of the State, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney;

(b) Results or reports of physical or mental examinations, scientific tests or scientific experiments made in connection with the particular case, or copies thereof, within the possession, custody or control of the State, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney; and

(c) Books, papers, documents, tangible objects, or copies thereof, which the prosecuting attorney intends to introduce during the case in chief of the State and which are within the possession, custody or control of the State, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney.

Additionally, NRS 174.295 calls for a continuing duty to disclose evidence after the initial provision of evidence.

The courts have also made it clear that there are constitutional requirements under due process rules for the State to disclose evidence to the Defense. See Brady v. Maryland, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963).

Defendant requests an order from the Court for discovery of all evidence relevant to the Defendant in this case, which the District Attorney has or may by due diligence obtain, including, but not limited to the following:

1. Defendant and witness statements, recordings, and/or transcripts of recorded statements.
2. Photographs related to the charges.
3. Any medical or scientific other tests and related evidence.
4. Telephone and cell phone records related to the charges

1 5. Any potentially exculpatory evidence.

2
3 DATED this 12 day of July, 2010.

4 PHILIP J. KOHN
5 CLARK COUNTY PUBLIC DEFENDER

6 By: R. Michael Gardner
7 R. MICHAEL GARDNER, #0867
8 Deputy Public Defender

9
10 **NOTICE OF MOTION**

11 TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

12 YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the
13 above and foregoing Motion on for hearing before the Court on the 27th day of July, 2011, at 8:00
14 a.m.

15 DATED this 12th day of July, 2011.

16 PHILIP J. KOHN
17 CLARK COUNTY PUBLIC DEFENDER

18 By: R. Michael Gardner
19 R. MICHAEL GARDNER, #0867
20 Deputy Public Defender

21
22 **RECEIPT OF COPY**

23 RECEIPT OF COPY of the above and foregoing MOTION FOR DISCOVERY is
24 hereby acknowledged this 13 day of July, 2011.

25 CLARK COUNTY DISTRICT ATTORNEY

26 By: Erin McCarthy
27
28

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

AUG 08 2011

BY: *Roshonda Mayfield*
ROSHONDA MAYFIELD, DEPUTY

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

FRANKIE ALAN WATTERS,

Defendant.

CASE NO. C-11-272483-1

DEPT. NO. XVIII

DATE: August 8, 2011
TIME: 10:00 a.m.

MOTION IN LIMINE

COMES NOW, the Defendant, FRANKIE ALAN WATTERS, by and through R. MICHAEL GARDNER, Deputy Public Defender and hereby moves the Court to order the Sate's witnesses to not refer to Defendant's possible use of drugs or alcohol. Also, that no mention of gangs be allowed.

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

DATED this 8th day of August, 2011.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: *R. Michael Gardner*
R. MICHAEL GARDNER, #0867
Deputy Public Defender

C-11-272483-1
MLIM
Motion in Limine
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DECLARATION

R. MICHAEL GARDNER makes the following declaration:

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

2. In various police reports and other statements, there are references to use of alcohol and/or drugs by the Defendant. This could include statements allegedly made by Defendant. Defendant is not charged with Driving Under the Influence, and mention of this may add an element of confusion, and certainly prejudice to the trial.

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

EXECUTED this 8th day of August, 2011.



R. MICHAEL GARDNER

ARGUMENT

Defendant submits that evidence of the use of alcohol or drugs, or of gang association, has little relevancy in the case, and may cause great prejudice in the minds of some jurors. Nevada Revised Statutes set for the law regarding admission of prejudicial statements.

NRS 48.045 Evidence of character inadmissible to prove conduct; exceptions; other crimes.

1. Evidence of a person's character or a trait of his or her character is not admissible for the purpose of proving that the person acted in conformity therewith on a particular occasion, except:

(a) Evidence of a person's character or a trait of his or her character offered by an accused, and similar evidence offered by the prosecution to rebut such evidence;

(b) Evidence of the character or a trait of character of the victim of the crime offered by an accused, subject to the procedural requirements of NRS 48.069 where applicable, and similar evidence offered by the prosecution to rebut such evidence; and

(c) Unless excluded by NRS 50.090, evidence of the character of a witness, offered to attack or support his or her credibility, within the limits provided by NRS 50.085.

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

Additionally, NRS 48.035 provides that:

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

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

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

The Nevada Supreme Court stated the following about admissibility, "The admissibility of any such evidence is further conditioned upon a specific finding by the district court that it is probative value outweighs its prejudicial impact." See *Cirillo v. State*, 96 Nev. 489, at 492, 611 P.2d 1093, 1095 (1980).

In the case of *Taveres v. State*, 117 Nev. 725, 30 P.3d 1128 (2001), the Nevada Supreme Court set forth its misgivings concerning evidence of other bad acts:

We have often held that the use of uncharged bad act evidence to convict a defendant is heavily disfavored in our criminal justice system because bad acts are often irrelevant and prejudicial and force the accused to defend against vague and unsubstantiated charges. The principal concern with admitting such acts is that the jury will be unduly influenced by the evidence, and thus convict the accused because it believes the accused is a bad person. 30 P.3d at 1130.

In *Tavares* the Court emphasized that the general rule is that uncharged bad acts are NOT admissible. The Court also mentioned burden of proof:

In order to overcome the presumption of inadmissibility, the prosecutor has the burden of requesting admission of the evidence and establishing at a hearing outside the jury's presence that: "(1) the incident is relevant to the crime charged; (2) the act is proven by clear and convincing

evidence; and (3) the probative value of the evidence is not substantially outweighed by the danger of unfair prejudice."

A prosecutor seeking admission of this volatile evidence must do so in the pursuit of justice and as a servant of the law, "the twofold aim of which is that guilt shall not escape or innocence suffer."

Thus, "[i]t is as much [a prosecutor's] duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one."

30 P.3d at 1131-1132 (citations omitted).

DATED this 8th day of August, 2011.

PHILIP J. KOHN

CLARK COUNTY PUBLIC DEFENDER

By: 

R. MICHAEL GARDNER, #0867

Deputy Public Defender

NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the above and foregoing Motion on for hearing before the Court on the 8th day of August, 2011, at 10:00 a.m.

DATED this 8th day of August, 2011.

PHILIP J. KOHN

CLARK COUNTY PUBLIC DEFENDER

By: 

R. MICHAEL GARDNER, #0867

Deputy Public Defender

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RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing MOTION IN LIMINE is hereby
acknowledged this ____ day of August, 2011.

CLARK COUNTY DISTRICT ATTORNEY

By: _____

ORIGINAL

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

AUG 09 2011

BY, *Roshonda Mayfield*
ROSHONDA MAYFIELD, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-VS-

FRANKIE ALAN WATTERS,

Defendant.

CASE NO: C-11-272483-1

DEPT NO: XVIII

INSTRUCTIONS TO THE JURY (INSTRUCTION NO. 1)

MEMBERS OF THE JURY:

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

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

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Instructions to the Jury
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If, in these instructions, any rule, direction or idea is repeated or stated in different ways, no emphasis thereon is intended by me and none may be inferred by you. For that reason, you are not to single out any certain sentence or any individual point or instruction and ignore the others, but you are to consider all the instructions as a whole and regard each in the light of all the others.

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

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

In this case, it is charged in an Information that on or about the 18th day of March, 2011, the Defendant committed the offense(s) of POSSESSION OF STOLEN VEHICLE (Felony - NRS 205.273); GRAND LARCENY AUTO (Felony - NRS 205.228) and STOP REQUIRED ON SIGNAL OF POLICE OFFICER (Felony - NRS 484B.550), in the following manner, to-wit:

COUNT 1 - POSSESSION OF STOLEN VEHICLE

did then and there wilfully, unlawfully, and feloniously possess a stolen motor vehicle wrongfully taken from HEATHER REED, to-wit: a 2006 Chrysler Sebring, bearing Nevada License No. 326TGF, which Defendant knew, or had reason to believe, had been stolen; the value of said vehicle being \$2,500.00, or more.

COUNT 2 - GRAND LARCENY AUTO

did then and there intentionally, unlawfully, and feloniously, with intent to deprive the owner permanently thereof, steal, take, carry away, drive away or otherwise remove a motor vehicle owned by another person, having a value of \$2,500.00, or more, in the possession of YOSVANY OTANO, to-wit: a 2000 Honda Civic, bearing Nevada License No. 871WKY.

COUNT 3 - STOP REQUIRED ON SIGNAL OF POLICE OFFICER

did, while driving a motor vehicle, to-wit: a 2000 Honda Civic, bearing Nevada License No. 871WKY, Boulder Highway and Nellis, Flamingo Road and U.S. Highway 95, Tropicana and Harmon, Las Vegas, Clark County, Nevada, willfully, unlawfully, and feloniously fail or refuse to bring said vehicle to a stop, or otherwise flee or attempt to elude a peace officer in a readily identifiable vehicle of any police department or regulatory agency, to-wit: J. HARPER, Las Vegas Metropolitan Police Department, after being given a

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//

1 signal to bring the vehicle to a stop, operate said motor vehicle in a manner which
2 endangered, or was likely to endanger any person other than himself or the property of any
3 person other than himself.

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

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

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Any person who has in his possession any motor vehicle which he knows or has reason to believe has been stolen is guilty of Possession of Stolen Vehicle.

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A person who knowingly has direct physical control over a thing, at a given time, is in actual possession of it.

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INSTRUCTION NO. 6

You are further instructed that knowledge by the defendant of the stolen nature of the vehicle may be inferred from all of the evidence and the reasonable inferences which may be drawn therefrom.

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INSTRUCTION NO. 7

The flight of a person immediately after the commission of a crime, or after he is accused of a crime, is not sufficient in itself to establish his guilt, but is a fact which, if proved, may be considered by you in light of all other proved facts in deciding the question of his guilt or innocence. Whether or not evidence of flight shows a consciousness of guilt and the significance to be attached to such a circumstance are matters for your deliberation.

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The value of a motor vehicle shall be deemed to be the highest value attributable to the vehicle by any reasonable standard.

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Value may be shown by evidence as to purchase price, price tag, or by replacement cost.

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A person who steals, takes or drives away the motor vehicle of another with the specific intent to deprive him permanently of his property is guilty of the crime of Grand Larceny Auto.

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2 When it is impossible to commit a particular crime without committing, at the same
3 time and by the same conduct, another offense of lesser grade or degree, the latter is, with
4 respect to the former, a "lesser included offense."
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6 If you are not satisfied beyond a reasonable doubt that the defendant is guilty of the
7 offense charged, he may, however, be found guilty of any lesser included offense, if the
8 evidence is sufficient to establish his guilt of such lesser offense beyond a reasonable doubt.

9 The offense of Grand Larceny Auto necessarily includes the lesser offense of Taking
10 Vehicle without the Consent of the Owner.
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Every person who takes and carries away or drives away the vehicle of another without the intent to permanently deprive the owner thereof but without the consent of the owner of such vehicle is guilty of the crime of Taking a Vehicle Without Consent of the Owner.

Every person who is in possession of a vehicle without the consent of the owner of such vehicle may reasonably be inferred to have taken and carried away or driven away the vehicle.

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2 The driver of a motor vehicle who wilfully fails or refuses to bring their vehicle to a
3 stop, or who otherwise flees or attempts to elude a police officer in a readily identifiable
4 vehicle of any police department or regulatory agency, when given a signal by flashing red
5 lamp and siren to bring their vehicle to a stop, and while so doing operates the motor vehicle
6 to a manner which endangers or is likely to endanger any person other than themselves or the
7 property of any person other than themselves, is guilty of Stop Required on Signal Of Police
8 Officer.
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To constitute the crime charged, there must exist a union or joint operation of an act forbidden by law and an intent to do the act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

GIVEN:


DISTRICT JUDGE

AUG 09 2011

BY *Roshonda Mayfield*
ROSHONDA MAYFIELD, DEPUTYDISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

FRANKIE ALAN WATTERS,

Defendant.

CASE NO: C-11-272483-1

DEPT NO: XVIII

VERDICT

We, the jury in the above entitled case, find the Defendant FRANKIE ALAN WATTERS, as follows:

COUNT 1 – POSSESSION OF STOLEN VEHICLE*(please check the appropriate box, select only one)*☒ Guilty of Possession of Stolen Vehicle – Value \$2,500.00 or more☐ Guilty of Possession of Stolen Vehicle – Value under \$2,500.00☐ Not GuiltyCOUNT 2 – GRAND LARCENY AUTO*(please check the appropriate box, select only one)*☒ Guilty of Grand Larceny Auto – Value \$2,500.00 or more☐ Guilty of Grand Larceny Auto – Value under \$2,500.00☐ Guilty of Taking A Vehicle Without Consent of the Owner☐ Not GuiltyC-11-272483-1
VER
Verdict
1663312

2

1 COUNT 3 - STOP REQUIRED ON SIGNAL OF POLICE OFFICER

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

3 ☒ Guilty of Stop Required on Signal of Police Officer

4 ☐ Not Guilty

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7 DATED this 9TH day of August, 2011

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FOREPERSON

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FILED

OCT 21 2011

Ann L. Johnson
CLERK OF COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

C-11-272483-1
JOC
Judgment of Conviction
1668378



THE STATE OF NEVADA,

Plaintiff,

-vs-

FRANKIE ALAN WATTERS
#1962765

Defendant.

CASE NO. C272483-1

DEPT. NO. XVIII

JUDGMENT OF CONVICTION

(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1 - POSSESSION OF STOLEN VEHICLE (Felony), in violation of NRS 205.273, COUNT 2 - GRAND LARCENY AUTO (Felony), in violation of NRS 205.228, and COUNT 3 - STOP REQUIRED ON SIGNAL OF POLICE OFFICER (Felony), in violation of NRS 484B.550; and the matter having been tried before a jury and the Defendant having been found guilty of the crimes of COUNT 1 - POSSESSION OF STOLEN VEHICLE - VALUE \$2,500.00 OR MORE (Felony), in violation of NRS 205.273, COUNT 2 - GRAND LARCENY AUTO - VALUE \$2,500.00 OR MORE (Felony), in violation of NRS 205.228, and COUNT 3 - STOP REQUIRED ON SIGNAL OF POLICE OFFICER (Felony), in violation of NRS 484B.550; thereafter, on the 10TH day of October, 2011,

2

1 the Defendant was present in court for sentencing with his counsel, ROBERT O'BRIEN,
2 Deputy Public Defender, and good cause appearing,
3

4 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in
5 addition to the \$25.00 Administrative Assessment Fee, Indigent Defense Civil
6 Assessment Fee of \$250.00, and to PAY \$4,870.00 RESTITUTION, the Defendant is
7 SENTENCED to the Nevada Department of Corrections (NDC) as follows: AS TO
8 COUNT 1 - TO A MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a
9 MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS; AS TO COUNT 2 - TO A
10 MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM parole
11 eligibility of TWENTY-FOUR (24) MONTHS, COUNT 2 to run CONSECUTIVE to
12 COUNT 1; and AS TO COUNT 3 - TO A MAXIMUM of SIXTY (60) MONTHS with a
13 MINIMUM parole eligibility of THIRTEEN (13) MONTHS, COUNT 3 to run
14 CONSECUTIVE to COUNT 2 and this Sentence to run CONSECUTIVE to Case
15 C273350; with ZERO (0) DAYS Credit for Time Served. As the Fee and Genetic Testing
16 have been previously imposed, the Fee and Testing in the current case are WAIVED.
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DATED this 20th day of October, 2011



DAVID BARKER
DISTRICT JUDGE

AW

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Nov 15 9 46 AM '11

Ann L. Lamm
CLERK OF THE COURT

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

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

FRANKIE ALAN WATTERS,

Defendant.

CASE NO. C-11-272483-1

DEPT. NO. XVIII

C-11-272483-1
NDASC
Notice of Appeal (criminal)
1693828



NOTICE OF APPEAL

TO: THE STATE OF NEVADA

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

NOTICE is hereby given that Defendant, Frankie Alan
Watters, presently incarcerated in the Nevada State Prison,
appeals to the Supreme Court of the State of Nevada from the
judgment entered against said Defendant on the 21st day of
October, 2011, whereby he was convicted of Ct. 1 - Possession of a
Stolen Vehicle value \$2,500 or more; Ct. 2 - Grand Larceny Auto
value \$2,500 or more; Ct. 3 - Stop Required on Signal of Police
Officer and sentenced to \$25 Admin. fee; \$250 Indigent Defense
Civil Assessment Fee; restitution in the amount of \$4,870; Ct. 1 -
24-120 months in prison; Ct. 2 - 24-120 months in prison; Ct. 2 to
run consecutive to Ct. 1- Ct. 3 - 13-60 months in prison; Ct. 3 -

NOV 15 2011

RECEIVED

1 to run consecutive to Ct. 2; this sentence to run consecutive to
2 Case C273350; 0 days CTS; genetic fee and testing waived.

3 DATED this 14th day of November, 2011.

4 PHILIP J. KOHN
5 CLARK COUNTY PUBLIC DEFENDER

6
7 By: 

AUDREY M. CONWAY, #5611
Deputy Public Defender
309 S. Third Street, Ste. 226
Las Vegas, Nevada 89155
(702) 455-4685

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 04, 2011

C-11-272483-1 State of Nevada
 vs
 Frankie Watters

May 04, 2011 10:30 AM Initial Arraignment

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Lower Level
Arraignment

COURT CLERK: Melissa Benson

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

PRESENT: Lopez-Negrete, David Attorney
 E., ESQ
 Pace, Barter G Attorney
 State of Nevada Plaintiff
 Watters, Frankie Alan Defendant

JOURNAL ENTRIES

- At the request of counsel, COURT ORDERED, matter CONTINUED.

CUSTODY (COC)

CONTINUED TO: 5/11/11 10:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****May 11, 2011**

C-11-272483-1 State of Nevada
 vs
 Frankie Watters

May 11, 2011 10:30 AM Arraignment Continued

HEARD BY: De La Garza, Melisa

COURTROOM: RJC Lower Level
Arraignment

COURT CLERK: Phyllis Irby

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

PRESENT: Jorgenson, Craig F. Attorney
 Rutledge, Brian S Attorney
 State of Nevada Plaintiff
 Watters, Frankie Alan Defendant

JOURNAL ENTRIES

- Mr. Jorgenson requested a continuance; advised this is Ms. Raye's case and she is trying to get the transcripts for possible global negotiations. COURT ORDERED, MATTER CONTINUED.

CUSTODY (COC)

5-25-11 10:30 AM ARRAIGNMENT CONTINUED (LLA)

PRINT DATE: 11/21/2011

Page 2 of 16

Minutes Date: May 04, 2011

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 16, 2011**

C-11-272483-1 State of Nevada
 vs
 Frankie Watters

May 16, 2011 9:00 AM Request

HEARD BY: De La Garza, Melisa**COURTROOM:** RJC Lower Level
Arraignment**COURT CLERK:** Melissa Benson; Anntoinette Naumec-Miller**RECORDER:** Kiara Schmidt**REPORTER:****PARTIES**

PRESENT: Mitchell, Scott Attorney
 Steven
 Raye, Julie Attorney
 State of Nevada Plaintiff
 Watters, Frankie Alan Defendant

JOURNAL ENTRIES

- Counsel requested a continuance to obtain the preliminary transcripts as to verify the type of waiver. State advised they have a note saying there was never any conditional/non-conditional waiver. COURT ORDERED, matter CONTINUED to pending 5/25/11 date.

CUSTODY (COC)**CONTINUED TO: 5/25/11 9:00 AM****PRINT DATE:** 11/21/2011**Page 3 of 16****Minutes Date:** May 04, 2011

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 25, 2011

C-11-272483-1 State of Nevada
 vs
 Frankie Watters

May 25, 2011 10:30 AM Arraignment Continued

HEARD BY: De La Garza, Melisa

COURTROOM: RJC Lower Level
Arraignment

COURT CLERK: Phyllis Irby

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

PRESENT: Raye, Julie Attorney
 Robinson, Lynn M. Attorney
 State of Nevada Plaintiff
 Watters, Frankie Alan Defendant

JOURNAL ENTRIES

- Ms. Raye advised Deft is considering State's offer. State is INVOKING its right to speedy trial. DEFT. WATTERS ARRAIGNED, PLED NOT GUILTY and INVOKING THE 60-DAY RULE. COURT ORDERED, matter set for trial.

CUSTODY (COC)

6-15-11 8:00 AM CALENDAR CALL (DEPT. VIII)

6-20-11 10:30 AM JURY TRIAL (DEPT. VIII)

PRINT DATE: 11/21/2011

Page 4 of 16

Minutes Date: May 04, 2011

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

June 13, 2011

C-11-272483-1 State of Nevada
 vs
 Frankie Watters

June 13, 2011 8:00 AM Motion to Continue Trial Deft's Motion to
 Continue Trial Date

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 16D

COURT CLERK: Katherine Streuber

RECORDER: Jill Jacoby

REPORTER:

PARTIES

PRESENT: Hopper, Cesely Attorney
 State of Nevada Plaintiff
 Watters, Frankie Alan Defendant
 Wong, Hetty O. Attorney

JOURNAL ENTRIES

- Based upon representations of counsel, COURT ORDERED, motion GRANTED. Trial date
VACATED and RESET.

CUSTODY

07-27-11 8:00 AM CALENDAR CALL

08-01-11 10:30 AM TRIAL BY JURY

PRINT DATE: 11/21/2011

Page 5 of 16

Minutes Date: May 04, 2011

DISTRICT COURT
CLARK COUNTY, NEVADA

~~Felony~~/Gross Misdemeanor

COURT MINUTES

July 27, 2011

C-11-272483-1

State of Nevada

vs

Frankie Watters

July 27, 2011

8:00 AM

Calendar Call

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 16D

COURT CLERK: Katherine Streuber

RECORDER: Jill Jacoby

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

PRINT DATE: 11/21/2011

Page 6 of 16

Minutes Date: May 04, 2011

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 27, 2011

C-11-272483-1

State of Nevada

vs

Frankie Watters

July 27, 2011

8:00 AM

Motion

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 16D

COURT CLERK: Katherine Streuber

RECORDER: Jill Jacoby

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

PRINT DATE: 11/21/2011

Page 7 of 16

Minutes Date: May 04, 2011

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

July 27, 2011

C-11-272483-1 State of Nevada
 vs
 Frankie Watters

July 27, 2011

8:00 AM

All Pending Motions

CALENDAR CALL;
DEFT'S MOTION
FOR DISCOVERY

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 16D

COURT CLERK: Katherine Streuber

RECORDER: Jill Jacoby

REPORTER:

PARTIES

PRESENT: Gardner, Robert Attorney
 Michael
 Rinetti, Dena I. Attorney
 State of Nevada Plaintiff
 Watters, Frankie Alan Defendant

JOURNAL ENTRIES

- Parties advised ready for trial. Due to the absence of this Court, COURT ORDERED, matter REFERRED to Overflow.

After Court Proceedings: Clerk telephoned Mr. Gardner regarding Deft's Motion for Discovery as it was not addressed by this Court. Counsel advised he had received discovery from the State, however, would mention said motion to the Overflow Judge.

CUSTODY (COC)

07-29-11 8:45 AM OVERFLOW (8) - D. RINETTI/M. GARDNER/3-4 DAYS/10-12 WITNESSES/2
OUT OF STATE WITNESSES/REQUEST FOR WEDNESDAY START

PRINT DATE: 11/21/2011

Page 8 of 16

Minutes Date: May 04, 2011

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 29, 2011**

C-11-272483-1

State of Nevada

vs

Frankie Watters

July 29, 2011**8:45 AM****Overflow**

HEARD BY: Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Hetty Wong, Dep DA, and Jennifer Herbert, Dep DA, present on behalf of the State; Robert Gardner, Dep PD, and Robert O'Brien, Dep PD, present on behalf of Deft. Watters, who is also present.

Ms. Wong advised Deft. has another trial which is to begin on Tuesday, August 2, 2011, in Department XII (C273350). Colloquy regarding scheduling issues. Court noted that Judge Smith's Court is dark all next week. Mr. Gardner advised Deft. INVOKED his speedy trial right and the trial is expected to last three (3) to four (4) days. COURT ORDERED, matter CONTINUED on the OVERFLOW calendar.

Mr. Gardner advised there is an issue as to whether or not Deft. conditionally or unconditionally WAIVED the Preliminary Hearing; colloquy. This matter will need to be discussed with the assigned Overflow Judge.

CUSTODY (COC)**CONTINUED TO: 08/05/11 8:45 AM****PRINT DATE:** 11/21/2011**Page 9 of 16****Minutes Date:****May 04, 2011**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 05, 2011**

C-11-272483-1 State of Nevada
 vs
 Frankie Watters

August 05, 2011**8:45 AM****Overflow****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Hetty Wong, Dep DA, and Jennifer Herbert, Dep DA, present on behalf of the State; Robert Gardner, Dep PD, and Robert O'Brien, Dep PD, present on behalf of Deft. Watters, who is also present.

State and Defense announced ready. COURT ORDERED, matter REFERRED to Department XVIII for Jury Trial. Court instructed both counsel to provide their Jury Instructions to Chambers on the first day of trial.

CUSTODY**08/08/11 10:00 AM JURY TRIAL****PRINT DATE:** 11/21/2011**Page 10 of 16****Minutes Date:** May 04, 2011

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****August 08, 2011**

C-11-272483-1 State of Nevada
 vs
 Frankie Watters

August 08, 2011 10:00 AM Jury Trial

HEARD BY: Barker, David**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Roshonda Mayfield**RECORDER:** Richard Kangas**REPORTER:****PARTIES**

PRESENT: Gardner, Robert Attorney
 Michael
 State of Nevada Plaintiff
 Watters, Frankie Alan Defendant
 Wong, Hetty O. Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY - Defendants Motion in Limine FILED IN OPEN COURT. Court advised, the written motion for discovery filed by defense was never ruled upon. Therefore, COURT ORDERED, the Defendant's previous Motion for Discovery GRANTED; the Defendant's Motion in Limine filed today in court is GRANTED with there being no opposition. Colloquy between parties regarding defense objecting to the State using a booking photo during their power point presentation, defense Oral Motion to Remand for Preliminary Hearing. Following representations by counsel, COURT ORDERED, the State's PowerPoint will be allowed in it's entirety. In review of the transcript of waiver provided by defense, COURT FURTHER ORDERED, the motion regarding the document is DENIED based upon the state of the record.

INSIDE THE PRESENCE OF THE JURY - The court clerk conducted a role call of the prospective panel members prior to placing them under oath. The Court welcomed the jurors and introduced them to counsel and court staff prior to proceeding with the voir dire process of jury selection. At the hour of 12:05 P.M., the Court read the admonition to the prospective panel members prior to releasing them for lunch; jury selection will commence at 1:15 P.M. All prospective panel members

PRINT DATE: 11/21/2011

Page 11 of 16

Minutes Date:

May 04, 2011

returned from lunch and the court proceeded with the canvassing of the prospective members. Counsel moved into the challenge for cause/peremptory challenge phase of trial. The jury panel has been selected and sworn under oath. The court clerk read the information to the jury panel prior to counsel proceeding with their opening statements. Testimony and exhibits presented (See Worksheets). At the hour of 11:42 A.M. the State rests it's case. COURT ORDERED, the jury panel is released for lunch with a return of 1:00 P.M. Testimony and exhibits presented (See Worksheets). COURT ORDERED, jury panel is released for the day trial will proceed with it's natural progression tomorrow at 9:00 A.M.

8/9/11 9:00 A.M. JURY TRIAL NATURAL PROGRESSION

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****August 09, 2011**

C-11-272483-1

State of Nevada

vs

Frankie Watters

August 09, 2011**9:00 AM****Jury Trial**

HEARD BY: Barker, David**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Roshonda Mayfield**RECORDER:** Richard Kangas**REPORTER:****PARTIES****PRESENT:**

Gardner, Robert

Attorney

Michael

Herbert, Jennifer M.

Attorney

State of Nevada

Plaintiff

Watters, Frankie Alan

Defendant

Wong, Hetty O.

Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY - Court advised the Defendant that his counsel voiced an objection to his booking photo being shown to the jury panel as part of the States power point. However, the State has a right to use the photo within their presentation. Further, the Defendant has been canvassed as to his Carter Instruction rights.

INSIDE THE PRESENCE OF THE JURY - Parties stipulate to the presence of the entire panel.

OUTSIDE THE PRESENCE OF THE JURY - Court notes the lack of the Defendant at the present time. Parties stipulate to jury instructions 1-23. Further, neither party has any objection to the instructions and/or the verdict form that has been presented to the Court. Colloquy between parties regarding state law, theory and the settled jury instructions. COURT ORDERED, Hernandez does not apply as to the theory of defense.

INSIDE THE PRESENCE OF THE JURY - At the hour of 1:18 P.M. defense rests it's case. Therefore,

PRINT DATE: 11/21/2011

Page 13 of 16

Minutes Date:

May 04, 2011

Court proceeded with the instructions phase of trial being presented to the jury panel. The court clerk placed the Marshal and JEA under oath prior to the jury proceeding with the deliberation process. At the hour of 3:35 P.M. the jury returned with a verdict of the following:

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

COUNT - 1 GUILTY

COUNT - 2 GUILTY

COUNT - 3 GUILTY

Dated this 9th day of August, 2011.

The jury panel was polled at the request of defense counsel. Therefore, Court excused and released the jury panel from their duties, COURT ORDERED, matter set for sentencing.

CUSTODY

10/10/11 8:15 A.M. SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 10, 2011**

C-11-272483-1

State of Nevada

vs

Frankie Watters

October 10, 2011**8:15 AM****Sentencing****HEARD BY:** Barker, David**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** April Watkins**RECORDER:** Richard Kangas**REPORTER:****PARTIES****PRESENT:**

O'Brien, Robert

Attorney

State of Nevada

Plaintiff

Watters, Frankie Alan

Defendant

Wong, Hetty O.

Attorney

JOURNAL ENTRIES

- DEFT. WATTERS ADJUDGED GUILTY as to COUNT 1 POSSESSION OF STOLEN VEHICLE - VALUE \$2,500.00 OR MORE (F), as to COUNT 2 GRAND LARCENY AUTO - VALUE \$2,500.00 OR MORE (F) and as to COUNT 3 STOP REQUIRED ON SIGNAL OF POLICE OFFICER (F). Arguments by counsel. Statement by Deft. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, \$250.00 Indigent Defense Civil Assessment fee and \$4,870.00 RESTITUTION, Deft. SENTENCED as to COUNT 1 to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS in the Nevada Department of Corrections (NDC), as to COUNT 2 to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS in the Nevada Department of Corrections (NDC), CONSECUTIVE to COUNT 1 and as to COUNT 3 to a MINIMUM of THIRTEEN (13) MONTHS and a MAXIMUM of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC), CONSECUTIVE to COUNT 2 and CONSECUTIVE to C273350 with ZERO (0) DAYS credit for time served. FURTHER ORDERED, DNA fee and testing WAIVED, having been previously submitted.

BOND, if any, EXONERATED.

PRINT DATE: 11/21/2011

Page 15 of 16

Minutes Date:

May 04, 2011

PRINT DATE: 11/21/2011

Page 16 of 16

Minutes Date: May 04, 2011

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CASE NO.: C-11-272483

DEPT. NO.: 3

FILED

MAY 23 1 55 PM '11

John H. Schum
CLERK OF THE COURT

IN THE JUSTICE'S COURT OF LAS VEGAS TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

-ooo-

 ORIGINAL

STATE OF NEVADA,)
)
Plaintiff,)
)
vs.)
)
FRANKIE ALAN WATTERS,)
)
Defendant.)

Case No. 11F05090X

REPORTER'S TRANSCRIPT OF
WAIVER OF PRELIMINARY HEARING
BEFORE THE HONORABLE JANIECE MARSHALL
JUSTICE OF THE PEACE

WEDNESDAY, APRIL 6, 2011

C-11-272483-1
TRAN
Reporters Transcript
1427744



APPEARANCES:

For the State: HETTY WONG, ESQ.
Deputy District Attorney

For the Defendant: JULIE RAYE, ESQ.
Deputy Public Defender

Reported by: Rose R. Morichetti, CCR No. 817

CLERK OF THE COURT
MAY 23 2011
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-00-

THE COURT: Frankie Watters, 11F05090X.

MS. RAYE: Your Honor, can we trail this matter until the end please?

THE COURT: Sure.

MS. RAYE: We can call Frankie Watters.

THE DEFENDANT: Yes, ma'am.

THE COURT: 11F05090X. How are we proceeding?

MS. RAYE: Your Honor, today Mr. Watters is going to unconditionally waive his right to a

preliminary hearing. The State has currently made an offer, which they've agreed to leave open. However, what happened late last night when we were negotiating the case we realized that there was another case that came into the system. So that's going to factor into our global negotiations.

The offer that will remain open is as follows: Mr. Watters will plead guilty to a grand larceny auto, a B felony, one to ten years; and evading officers, a B felony, one to six years. Right to argue

including for consecutive time between the counts.

Case 10F23342X will be dismissed with restitution.

What we'd like to do is just go ahead and waive the prelim today, set it in lower level for arraignment 30 days from today to give us an opportunity to work out the global negotiations. But that is the resolution as of right now.

THE COURT: All right.

So, Mr. Watters, you've had an opportunity to speak with Counsel regarding the consequences of unconditionally waiving your right to a preliminary hearing?

THE DEFENDANT: Yes, ma'am.

THE COURT: So you understand that means that you cannot return to Justice Court for a preliminary hearing?

THE DEFENDANT: Yes, ma'am.

THE COURT: And once you waive that right, you can't come back and that you're waiving your right to require the State to come forward with some evidence at the preliminary hearing that a crime was committed and you were likely the one that committed it?

THE DEFENDANT: Yes, ma'am.

THE COURT: And you're waiving your right to testify if you wanted to at the preliminary hearing, to

testify in your defense. You're waiving your right to cross-examine witnesses, to call witnesses, to introduce evidence on your own behalf.

You understand you're waiving all those rights by waiving your right to a preliminary hearing?

THE DEFENDANT: Yes, ma'am.

THE COURT: All right.

Date.

THE CLERK: May 4th at 10:30 --

MS. RAYE: Your Honor, if I can put one thing on the record. We are unconditionally waiving our right to a preliminary hearing with the State's word that they're going to leave this offer open.

Now, I'm sure Miss Wong will. But in the event that something happens here or she retires or moves into private in the next 30 days and another D.A. comes and says no deal, then we will request to come back to the preliminary hearing.

So we're unconditionally waiving on the State's representation that they will leave the offer open.

THE COURT: So we're conditionally unconditionally waiving the right to a preliminary hearing?

MS. RAYE: We're unconditionally waiving.

But, you know, in the event --

THE COURT: They withdraw the offer you're withdrawing the unconditional waiver?

MS. RAYE: We just want to reserve the right if something happens. We still may want to waive anyway for strategy reasons but...

MS. WONG: I just want to put one thing on the record. It will be left open until a time that will be determined later. I will speak to Ms. Raye -- I'm not going to hold the offer open indefinitely. The offer is only open as to this case. So nothing said about the robbery case coming up through the system.

THE COURT: All right. Well, you'll let me know if anything changes.

MS. RAYE: Thank you, Your Honor.

(The proceedings concluded.)

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

Rose Morichetti
ROSE MORICHETTI, CLK No. 917

REPORTER'S DECLARATION

STATE OF NEVADA)

COUNTY OF CLARK)

I, Rose R. Morichetti, a certified court reporter in and for the State of Nevada, hereby declare that pursuant to NRS 239B.030 I have not included the Social Security number of any person within this document.

I further declare that I am not a relative or employee of any party involved in said action, nor a person financially interested in the action.

Dated in Las Vegas, Nevada this 5th day of May, 2011.


ROSE MORICHETTI, CCR No. 817

TRAN

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FILED

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John A. Schuman
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

C-11-272483-1
RTRAN
Recorder's Transcript of Hearing
1721553



THE STATE OF NEVADA,

Plaintiff,

vs.

FRANKIE ALAN WATTERS,

Defendant.

CASE NO. C-11-272483-1

DEPT. XVIII

(ARRAIGNMENT HELD IN DEPT. LLA)

BEFORE THE HONORABLE MELISA DE LA GARZA, HEARING MASTER
MONDAY, MAY 16, 2011

**RECORDER'S TRANSCRIPT OF HEARING RE:
STATE'S REQUEST: STATUS CHECK SET TRIAL DATE**

APPEARANCES:

For the State:

SCOTT S. MITCHELL, ESQ.,
Chief Deputy District Attorney

For the Defendant:

JULIE RAYE, ESQ.,
Deputy Public Defender

RECORDED BY: KIARA SCHMIDT, COURT RECORDER

-1-

ROUGH DRAFT TRANSCRIPT

RECEIVED
DEC 14 2011
CLERK OF THE COURT

1 MONDAY, MAY 16, 2011

2 *****

3 PROCEEDINGS

4
5 THE COURT: This is nine o'clock calendar, top of five, State of Nevada
6 versus Frankie Watters, C272483-1. He is present in custody. Counsel, if you'd
7 state your appearance.

8 MS. RAYE: Thank you. Julie Raye on behalf of Mr. Watters with the Public
9 Defender's office. Your Honor, on May 11th Mr. Jorgenson was here and we had
10 asked to pass the case until May 25th so that we could order the preliminary hearing
11 transcript in order to confirm whether the waiver was conditional or unconditional.
12 The waiver has been ordered by our office but we still are not in receipt of it.

13 I know -- it's my understanding the State put this on calendar because
14 they want to get a trial date. We're than happy to set it for trial but before we do we
15 just want to make sure that the waiver whether it was conditional or unconditional.
16 That -- it was kind of in part conditional and part not conditional.

17 THE COURT: So I set it for the twenty --

18 MS. RAYE: -- fifth.

19 THE COURT: Fifth.

20 MS. RAYE: And the State put it on calendar --

21 THE COURT: And, State, you put it on calendar?

22 MR. MITCHELL: Yes, Judge.

23 THE COURT: And what was the reason for putting it on calendar before we
24 received that transcript?

25 MR. MITCHELL: The prosecutor wrote a note here that says there was never

1 a conditional waiver. Please ask the Court to set the trial for the week of June 27th
2 or July 5th if possible.

3 THE COURT: Okay, one week.

4 MS. RAYE: Thank you. So we'll leave it on the 25th, I think, is a week.

5 THE COURT: Oh, we'll leave it for the 25th. The 25th stands.

6 MS. RAYE: Thank you.

7 THE DEFENDANT: Thank you.

8 (Whereupon, the proceedings concluded)

9 * * * * *

10 ATTEST: Pursuant to Rule 3C(d) of the Nevada Rules of Appellate Procedure, I
11 certify that this is a rough draft transcript, expeditiously prepared, not proofread,
12 corrected, or certified to be an accurate transcript.

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14 Kiara Schmidt, Court Recorder/Transcriber
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Ann L. Schmitt
CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

C-11-272483-1
RTRAN
Recorder's Transcript of Hearing
1721556



THE STATE OF NEVADA,

Plaintiff,

vs.

FRANKIE ALAN WATTERS,

Defendant.

CASE NO. C-11-272483-1

DEPT. XVIII

(ARRAIGNMENT HELD IN DEPT. LLA)

BEFORE THE HONORABLE MELISA DE LA GARZA, HEARING MASTER
WEDNESDAY, MAY 25, 2011

**RECORDER'S TRANSCRIPT OF HEARING RE:
ARRAIGNMENT CONTINUED**

APPEARANCES:

For the State:

LYNN M. ROBINSON, ESQ.,
Chief Deputy District Attorney

For the Defendant:

JULIE RAYE, ESQ.,
Deputy Public Defender

RECORDED BY: KIARA SCHMIDT, COURT RECORDER

-1-

ROUGH DRAFT TRANSCRIPT

RECEIVED
CLERK OF THE COURT
DEC 14 2011

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1 WEDNESDAY, MAY 25, 2011

2 * * * * *

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

4
5 THE COURT: Top of one, State of Nevada versus Frankie Alan Watters,
6 C272483. He is present in custody.

7 MS. RAYE: Thank you, your Honor, for passing this matter. I do have a copy
8 of the preliminary hearing. I am satisfied with the information.

9 Mr. Watters would like to enter a not-guilty plea today, but just for the
10 record, and I know it won't make a difference at this juncture, but he is considering
11 the offer from the State. He'd like a little more time to review all of the discovery in
12 his case, but we'll go ahead and set it for trial at this time please.

13 MS. ROBINSON: Your Honor, and the State's invoking its 60-day.

14 THE COURT: All right, sir -- it's an Information?

15 MS. RAYE: Yes.

16 THE COURT: You received a copy of the Information stating the charges
17 against you?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: You read through it and understood it?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: You want to waive a formal reading of the charges?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: How do you plead?

24 THE DEFENDANT: Not guilty.

25 THE COURT: You do have a right to a trial within 60 days. Do you want to

-2-

ROUGH DRAFT TRANSCRIPT

1 waive or invoke that right? You want a speedy trial?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Speedy trial.

4 THE CLERK: Yes, your Honor. That'll be -- I have -- I have August dates
5 outside and then I have June --

6 THE COURT: June --

7 THE CLERK: --dates. The -- okay, the latest June date. Okay, that'll be
8 June 15th at eight a.m., calendar call. June 20th at 10:30 a.m., jury trial,
9 Department 8.

10 MS. RAYE: And, your Honor, so that's really -- this is about 30 days.

11 THE COURT: It's all we have for invoke dates. The other dates are August
12 and that's clearly outside the 60 days. That's the last invoke date that we have
13 that's within 60 days.

14 MS. RAYE: Okay. Thank you very much, your Honor. That's all I have.

15 THE COURT: That's it? Okay.

16 (Whereupon, the proceedings concluded)

17 * * * * *

18 ATTEST: Pursuant to Rule 3C(d) of the Nevada Rules of Appellate Procedure, I
19 certify that this is a rough draft transcript, expeditiously prepared, not proofread,
20 corrected, or certified to be an accurate transcript.

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22 Kiara Schmidt, Court Recorder/Transcriber
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Nov 28 3 34 PM '11

Alvin D. Johnson

4 DISTRICT COURT

CLERK OF THE COURT

5 CLARK COUNTY, NEVADA

7 STATE OF NEVADA,

CASE NO. C272483

8 Plaintiff,

DEPT. VIII

9 vs.

10 FRANKIE ALAN WATTERS,

11 Defendant.

12
13
14 BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE
15 MONDAY, JUNE 13, 2011

16 **TRANSCRIPT OF PROCEEDINGS**
17 **DEFENDANT'S MOTION TO CONTINUE TRIAL DATE**

18 APPEARANCES:

19 For the State:

HETTY O. WONG, ESQ.
DENA I. RINETTI, ESQ.
Deputy District Attorneys

20
21 For the Defendant:

JULIE RAYE, ESQ.
CESELY M. HOPPER, ESQ.
Deputy Public Defenders

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25 RECORDED BY: JILL JACOBY, COURT RECORDER

C-11-272483-1
TRANS
Transcript of Proceedings
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CLERK OF THE COURT

1 MONDAY, JUNE 13, 2011 AT 8:06 A.M.

2
3 THE COURT: C272483, Frankie Watters.

4 MS. RAYE: Your Honor, this is my case. This is a case that's set for trial. It
5 was set at a lower level for 30 days. So we need to continue the trial date. I believe
6 Ms. Wong wants to come over and ask for specific dates.

7 Because I'm leaving, Bitu Khamsi would like to request some certain
8 dates as well. So she's in JC 3. I'll relieve her if we can pass it for Ms. Wong.

9 Do you have permission to reset it?

10 MS. RINETTI: No, I don't.

11 MS. RAYE: Okay.

12 THE COURT: Is he in custody or out of custody?

13 MS. RAYE: He is in custody, Your Honor.

14 THE COURT: Oh, I'm sorry, I didn't see him behind the screen.

15 All right. So you're going to go down and get Ms. -- who?

16 MS. RAYE: Ms. Khamsi.

17 THE COURT: Ms. Khamsi. You are? All right.

18 MS. RAYE: I have a calendar down there so I'm hoping to resolve
19 everything --

20 THE COURT: All right.

21 MS. RAYE: -- and then we'll do a switch. And we've got to wait for
22 Ms. Wong.

23 THE COURT: All right. So we'll wait there.

24 [Matter trailed at 8:07 a.m.]

25 [Matter recalled at 8:49 a.m.]

1 THE COURT: This is 7a, C272483, Frankie Watters.

2 It's time set to continue the trial. It's the Defense's motion to continue.

3 MS. HOPPER: Your Honor, I don't have any information on this case.

4 THE COURT: Your team chief asked for it. So we're going to just have to
5 continue. Ms. Raye was the assigned attorney and she is leaving the PD's office, so
6 we're going to have to continue it.

7 We'll just continue it in the ordinary course -- oh, we're not in the
8 ordinary course.

9 MS. HOPPER: He's in custody, Your Honor.

10 THE COURT: Within, I guess -- give me a speedy trial.

11 THE CLERK: August 1st.

12 THE COURT: August 1st.

13 THE CLERK: Excuse me. Calendar call, July 27th at 8 a.m. Jury trial,
14 August 1st at 10:30.

15 THE DEFENDANT: Miss --

16 THE COURT: Ms. Khamsi, the team chief, will be over to see you, sir.

17 THE DEFENDANT: Excuse me. I already had all those dates already made.

18 THE COURT: What did you do? She just came in and left.

19 MS. RAYE: Are we on Frankie Watters?

20 THE COURT: Yeah.

21 MS. HOPPER: He just reset it.

22 MS. RAYE: Oh.

23 THE COURT: So we just reset it for August.

24 MS. RAYE: Okay. I know Mr. Watters wanted to go sooner but I told him that
25 I cannot prepare and be effective in the short amount of time.

1 THE COURT: You're going to be off of the track -- I mean, you're going out in
2 private practice. So.

3 MS. RAYE: Right.

4 THE COURT: We have to get you a lawyer and your lawyer can't be ready
5 that soon. So. And the team chief decided it wasn't important to stay here.

6 MS. RAYE: So calendar call is 7-27, and 8-1.

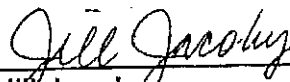
7 And if Mr. Watters would like to address custody status, I'll put a motion
8 on --

9 THE COURT: Okay.

10 MS. RAYE: -- so that the Court can consider that. Thank you.

11 [Proceeding concluded at 8:51 a.m.]

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21 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual
22 recording in the above-entitled case.

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24 Jill Jacoby
25 Court Recorder

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Anna J. Quinn

DISTRICT COURT CLERK OF THE COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

FRANKIE ALAN WATTERS,

Defendant.

CASE NO. C272483

DEPT. VIII

C-11-272483-1
TRANS
Transcript of Proceedings
1705188



BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE
WEDNESDAY, JULY 27, 2011

**TRANSCRIPT OF PROCEEDINGS
DEFENDANT'S MOTION FOR DISCOVERY**

APPEARANCES:

For the State:

DENA I. RINETTI, ESQ.
Deputy District Attorney

For the Defendant:

R. MICHAEL GARDNER, ESQ.
Deputy Public Defender

RECORDED BY: JILL JACOBY, COURT RECORDER

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CLERK OF THE COURT

1 WEDNESDAY, JULY 27, 2011 AT 8:03 A.M.

2
3 THE COURT: C272483, Frankie Watters.

4 MS. KHAMSI: It's Mr. Gardner's

5 THE COURT: He's walking in right now.

6 MS. KHAMSI: They just called Watters.

7 MS. RINETTI: Your Honor, on this case, the State is ready. There's 10 to 12
8 witnesses, two out of state. It is overflow eligible. It's between two or three days. It
9 looks like the Defendant was set in his other case to start on Monday, so the State's
10 asking for a Wednesday start in this case.

11 THE COURT: All right. Are you ready?

12 MR. GARDNER: We're ready, Your Honor.

13 THE COURT: All right. Overflow.

14 THE CLERK: July 29th at 8:45.

15 MS. RINETTI: And, Judge, if they could just -- court minutes reflect that we
16 need a Wednesday start on this one.

17 THE COURT: That's fine.

18 MS. RINETTI: Thank you.

19 MR. GARDNER: Your Honor, where are they doing overflow this week? Is it
20 always in --

21 THE COURT: I think it's Villani's

22 THE CLERK: Department 17.

23 ...

24 ...

25 ...

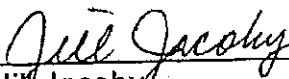
1 MS. RINETTI: Villani.

2 MR. GARDNER: 17?

3 THE CLERK: Yes.

4 [Proceeding concluded at 8:04 a.m.]

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21 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual
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24 Jill Jacoby
25 Court Recorder

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Ann L. Johnson
CLERK OF THE COURT

ORIGINAL

DISTRICT COURT
CLARK COUNTY, NEVADA

C-11-272483-1
RTRAN
Recorders Transcript of Hearing
1702803



THE STATE OF NEVADA,

Plaintiff,

vs.

FRANKIE ALAN WATTERS,

Defendant.

CASE NO. C272483-1

DEPT. XVII

BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT JUDGE

FRIDAY, AUGUST 5, 2011

RECORDER'S ROUGH DRAFT TRANSCRIPT OF HEARING RE:

OVERFLOW

APPEARANCES:

For the State:

HETTY WONG, ESQ.,
JENNIFER HERBERT, ESQ.,
Deputy District Attorneys

For the Defendant:

R. MICHAEL GARDNER, ESQ.,
ROBERT O'BRIEN, ESQ.,
Deputy Public Defenders

RECORDED BY: MICHELLE L. RAMSEY, COURT RECORDER

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ROUGH DRAFT TRANSCRIPT
State of Nevada v. Frankie Alan Watters
C272483-1

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NOV 23 2011
CLERK OF THE COURT

1 LAS VEGAS, NEVADA; FRIDAY, AUGUST 5, 2011

2 [Proceeding commenced at 8:59 a.m.]

3
4 THE COURT: Is yours resolved?

5 MR. GARDNER: No, Your Honor.

6 THE COURT: Is yours going?

7 MR. GARDNER: We believe so, Your Honor.

8 THE COURT: Okay. Who do you have from the DA's Office? Let
9 me handle theirs first.

10 MS. SEDLOCK: Okay.

11 THE COURT: Mike Gardner and Robert O'Brien for the defense.

12 MS. HERBERT: Jennifer Herbert for the State.

13 MR. WONG: Hetty Wong for the State.

14 THE COURT: Okay. Mr. Watters is present in custody.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: So it's not resolved. And we can place you next
17 week. We can send you to Judge Barker at 10 a.m., Monday.

18 MR. WONG: Thank you, Judge.

19 THE COURT: And, counsel, please provide Judge Barker
20 commencement of the trial with proposed jury instructions to him.
21 Also any special instructions please provide citations with those
22 instructions.

23 MS. HERBERT: Will do. Thank you.

24 THE COURT: All right.

25 MR. WONG: Thank you, Judge.

1 THE COURT: You got a trial.

2 MR. O'BRIEN: You said Monday start?

3 THE COURT: Yes, sir. I know you were trying to find out last
4 week.

5 MR. O'BRIEN: Thank you, Judge.

6 THE COURT: All right, great.

7 MR. GARDNER: Okay.

8 MR. O'BRIEN: Thank you, Judge.

9 [Proceeding concluded at 9:01 a.m.]

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

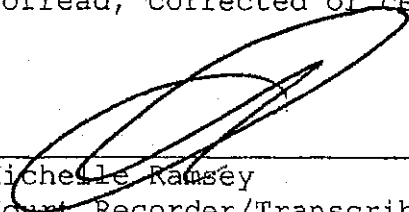
20 ATTEST: Pursuant to Rule 3C(d) of the Nevada Rules of Appellate
21 Procedure, I acknowledge that this is a rough draft transcript,
22 expeditiously prepared, not proofread, corrected or certified to be
an accurate transcript.

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Michelle Ramsey
Court Recorder/Transcriber

TRAN

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CLERK OF DISTRICT COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

C-11-272483-1
RTRAN
Recorders Transcript of Hearing
1702608



THE STATE OF NEVADA,

Plaintiff,

vs.

FRANKIE ALAN WATTERS,

Defendant.

CASE NO. C272483-1

DEPT. XVII

BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT JUDGE

FRIDAY, JULY 29, 2011

RECORDER'S ROUGH DRAFT TRANSCRIPT OF HEARING RE:

OVERFLOW

APPEARANCES:

For the State:

HETTY WONG, ESQ.,
JENNIFER HERBERT, ESQ.,
Deputy District Attorneys

For the Defendant:

R. MICHAEL GARDNER, ESQ.,
ROBERT O'BRIEN, ESQ.,
Deputy Public Defenders

RECORDED BY: MICHELLE L. RAMSEY, COURT RECORDER

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ROUGH DRAFT TRANSCRIPT
State of Nevada v. Frankie Alan Watters
C272483-1

NOV 23 2011

RECEIVED

1 LAS VEGAS, NEVADA; FRIDAY, JULY 29, 2011

2 [Proceeding commenced at 8:59 a.m.]

3
4 THE COURT: Wasn't there a case that someone -- they were
5 asking for a Wednesday start or Thursday start?

6 MS. WONG: That's our case.

7 THE COURT: Which case is that?

8 MS. HERBERT: It's Frankie Watters.

9 THE COURT: And you're working out to resolve -- why don't you
10 come up and tell me what's going on.

11 [Off road discussions]

12 THE COURT: So what's going on with this one? Is there some
13 issue with start times and --

14 MS. WONG: There is, Your Honor. The Defendant, Frankie
15 Watters, has another case that's also set for trial August 1st. Its
16 set in front of Judge Leavitt's courtroom for a Monday, Tuesday and
17 it may possibly go into Wednesday. So we would actually have to
18 ask for a Thursday start, but in speaking with Mr. Gardner, I think
19 both parties agree that maybe we should kick this case over to next
20 week's overflow if the Court is willing to do that. We --

21 THE COURT: I don't have a problem with that, but I think it
22 has to go back to --

23 MR. WONG: Well, Judge Smith is --

24 THE COURT: -- the originating Judge and then he'll --

25 MS. WONG: Yeah. Judge Smith is not going to be here next

1 week and so --

2 THE COURT: Is anyone hearing his calendars?

3 MS. HERBERT: No.

4 THE COURT: Under those circumstances, normally I could not do
5 that. I'm not supposed to, but under those circumstances, I'll
6 bump it 'til next Friday's overflow.

7 MR. GARDNER: Do we want to see some how if they start -- if
8 we can start Wednesday 'cause it's --

9 MS. WONG: Well, Judge --

10 MR. GARDNER: -- a two and a half day trial with the jury.

11 MS. WONG: -- we have two out-of-state witnesses. One coming
12 from Hawaii and one coming from Florida, so that just leaves us too
13 much uncertainty in the air if we were to see what happens with the
14 first case.

15 THE COURT: I can start -- I can give you a start next
16 Wednesday on this case if its -- if the other case is going to be
17 completed.

18 MS. WONG: And --

19 THE COURT: I mean, there's someone available now or we can
20 set you for Wednesday.

21 MS. WONG: I spoke with the Deputy who's going to be handling
22 the -- the robbery trial starting Monday and she has no idea
23 whether it is going to start Tuesday or Wednesday or end Tuesday or
24 Wednesday because it depends on Judge Leavitt's calendar and at
25 what time she starts her trial. She's starting Monday at 1:30 and

1 then Tuesday it's uncertain whether or not she's going to start
2 also at 1:30 or after her morning criminal calendar.

3 THE COURT: You know, actually I have a Judge that has five
4 days next week and three days the following week.

5 MS. HERBERT: That'll work.

6 THE COURT: So perhaps we could --

7 MR. GARDNER: Is it a horrible Judge? Who do you have, Your
8 Honor?

9 THE COURT: We may think -- I don't know --

10 MR. GARDNER: No, I don't want to say it here.

11 THE COURT: I mean, there's an option that we could -- I don't
12 know if you're going to have an issue of starting -- start, you
13 know, Thursday start time as far as getting a jury to come in mid
14 week and then coming back.

15 MS. WONG: Right. They'll have to come back Monday
16 potentially, so it would just be easier --

17 [Counsel conferring]

18 MR. GARDNER: I just want to get it over with, Your Honor.

19 THE COURT: Let me -- since we're waiting for prisoners, let
20 me see if my law clerk can call down to that Judge and -- 'cause I
21 was going to assign that Judge a case for this week, but he just
22 advised us that he basically has a week and a half. And the case
23 is getting this week is only four day case so I don't know why he
24 couldn't -- if he's willing to pick this up the following Monday.

25 [The Court conferring with the Law Clerk]

1 THE COURT: You're ready -- you think you're guaranteed a
2 Thursday start or we can try to do -- start the following Monday?

3 MS. HERBERT: Yes.

4 MS. WONG: We're looking for the following Monday because we
5 have two out-of-state witnesses coming from across the country and
6 we might -- it's just easier.

7 THE COURT: And I don't know if we can get a commitment from
8 this Judge now, you know, for -- you know, two weeks down the road,
9 but we only have two or two and a half day trial -- is that what it
10 is a two and a half days?

11 MS. HERBERT: Yes --

12 MS. WONG: Yeah, two.

13 MS. HERBERT: -- two.

14 MS. WONG: At the most three.

15 THE COURT: Well, it would have to start next week 'cause he
16 only has three days next week, but if it becomes a three to four --

17 MS. WONG: If we start it on August 8th we'll definitely be
18 done by August 10th.

19 THE COURT: Just so you know it says three to four, so I'm --
20 I can't control his calendar.

21 MS. HERBERT: Our trial says its three to four is that right,
22 Judge?

23 THE COURT: That's what --

24 MS. HERBERT: Oh --

25 MS. WONG: Okay.

1 MS. HERBERT: Two to three.

2 THE COURT: That's what Department 8 put down in the calendar.

3 MS. WONG: Neither one of us were there for calendar call, but
4 definitely two to three, no more than three days.

5 THE COURT: Do you agree, Mr. Gardner?

6 MR. GARDNER: It'll be short on our side.

7 THE COURT: He's calling right now to see if we can
8 accommodate you.

9 [Off the road discussions]

10 [Matter trailed]

11 [Matter recalled at 9:56 a.m.]

12 THE COURT: Watters. We can -- you know -- State, my
13 understanding is that who -- is it the State's -- no, the Defendant
14 has a trial on Monday --

15 MR. WONG: Yes.

16 MS. HERBERT: Yes.

17 MR. WONG: In Judge Leavitt's courtroom.

18 THE COURT: We contacted Judge Cory's chambers and because of
19 his schedule it's just not going to work for, you know, the
20 following week. And I understand that Judge Smith is -- is dark
21 all next week. I think I can go ahead if you want and put it on
22 overflow for next Friday. And with the short trial day, I'm
23 positive that we can find you a home.

24 MS. HERBERT: Okay.

25 MR. WONG: Thank you, Judge.

1 THE COURT: Do you want to do that, Mr. Gardner?

2 MR. GARDNER: We want a speedy trial, so we just needed that -
3 - sounds like what we needed to do then, Your Honor.

4 THE COURT: So, we'll put this on the overflow calendar for
5 next Friday, Carol.

6 THE CLERK: August 5th.

7 MR. GARDNER: Your Honor, there was an issue that Mr. Watters
8 wanted raised that he believed there's an issue about whether he
9 unconditionally waived a preliminary hearing and whether it was
10 conditional. In reading the transcript, it looked like there was
11 some talk about it being conditional with the District Attorney
12 held open their offer for 30 days. I told the DA's today and the
13 District Attorney said that that was -- it was handled -- Julie Ray
14 was his attorney then and the District Attorneys believe that it
15 was resolved at Lower Level Arraignment when he pled guilty and
16 that issue came up.

17 But -- but I need to tell the Defendant that we're going
18 to look into it some more and we would raise that in front of the
19 overflow Judge then.

20 THE COURT: All right.

21 THE DEFENDANT: We also have the minutes here with us actually
22 --

23 MR. GARDNER: Well, there's more to it --

24 THE COURT: Right.

25 MR. GARDNER: -- and we will look at all of it.

1 THE COURT: Perhaps -- right -- we'll probably get the
2 transcript, the minutes and --

3 THE DEFENDANT: Yeah, we have that.

4 THE COURT: All right. Sounds good then, okay. All right.

5 MR. WONG: See you next week.

6 MS. HERBERT: Thank you, Judge.

7 MR. WONG: Thank you, Judge.

8 THE DEFENDANT: Thank you, Your Honor.

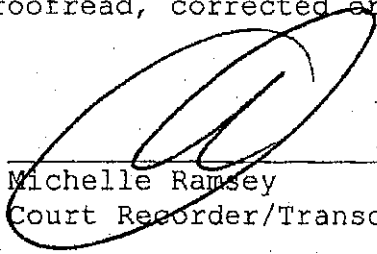
9 THE COURT: Okay.

10 [Proceeding concluded at 9:58 a.m.]

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

19 ATTEST: Pursuant to Rule 3C(d) of the Nevada Rules of Appellate
20 Procedure, I acknowledge that this is a rough draft transcript,
21 expeditiously prepared, not proofread, corrected or certified to be
22 an accurate transcript.

23 
Michelle Ramsey
24 Court Recorder/Transcriber
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No. 59703

Appellant,

vs.

THE STATE OF NEVADA.

Respondent.

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