

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * *

DOMONIC MALONE,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

CASE NO. 61006

Electronically Filed
Jan 14 2013 04:29 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

APPELLANT'S APPENDIX

VOLUME 19

Direct Appeal From A Judgment of Conviction
Eighth Judicial District Court
The Honorable Michael Villani, District Court Judge
District Court No. C224572

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Special Public Defender
JoNell Thomas
Deputy Special Public Defender
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Las Vegas, NV 89155

Attorneys for Appellant

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Attorneys for Respondent

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**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****August 02, 2006**

06C224572-2

The State of Nevada vs Domonic R Malone

August 02, 2006**9:00 AM****Initial Arraignment****INITIAL
ARRAIGNMENT
Court Clerk: Melissa
Swinn Relief Clerk:
Chanel West/cw
Reporter/Recorder:
Kiara Schmidt Heard
By: Kevin Williams****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Di Giacomo, Marc P.

Attorney

JOURNAL ENTRIES

- NEGOTIATIONS are as contained in the Guilty Plea Agreement. GUILTY PLEA AGREEMENT and AGREEMENT TO TESTIFY FILED IN OPEN COURT. DEFENDANT HERB ARRAIGNED AND PLED GUILTY TO ACCESSORY TO MURDER (F). Court ACCEPTED plea and, ORDERED, matter referred to the Division of Parole and Probation (P&P) for a PSI Report and set for SENTENCING.

CUSTODY

9/21/06 8:30 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 16, 2006

06C224572-2

The State of Nevada vs Domonic R Malone

August 16, 2006

9:00 AM

All Pending Motions

ALL PENDING
MOTIONS 8/16/06
Court Clerk: Melissa
Swinn Relief Clerk:
Chanel West/cw
Reporter/Recorder:
Kiara Schmidt Heard
By: Kevin Williams

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.
Di Giacomo, Marc P.
Malone, Domonic R
Public Defender

Attorney
Attorney
Defendant
Attorney

JOURNAL ENTRIES

- AS TO DEFENDANT MALONE: DEFT. MALONE ARRAIGNED, PLED NOT GUILTY and WAIVED THE 60-DAY RULE. COURT ORDERED, matter SET for TRIAL. Defense counsel requested 21 days, from the filing of the transcript, to file any necessary writs, and COURT SO ORDERED.

DEFT. MCCARTY ARRAIGNED, PLED NOT GUILTY and WAIVED THE 60-DAY RULE. COURT ORDERED, matter SET for TRIAL. Mr. Sgro requested 21 days from the filing of the transcript, to file any necessary writs, and COURT SO ORDERED. Further COURT ORDERED, Mr. Sgro's appointment as counsel CONTINUES, and Mr. Sgro to submit appropriate paperwork to Department V.

Mr. DiGiacomo provided counsel with additional discovery in open court.

CUSTODY(BOTH)

PRINT DATE: 06/06/2012

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Minutes Date:

August 02, 2006

06C224572-2

9/5/06 8:30 AM CONFIRMATION OF TRIAL DATE(BOTH)

1/2/07 8:30 AM CALENDAR CALL (BOTH)

1/8/07 10:00 AM JURY TRIAL(BOTH)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 05, 2006

06C224572-2

The State of Nevada vs Domonic R Malone

September 05, 2006

8:30 AM

All Pending Motions

ALL PENDING
MOTIONS 9/5/06
Court Clerk: Sandra
Jeter
Reporter/Recorder:
Rachelle Hamilton
Heard By: Jackie
Glass

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.	Attorney
Di Giacomo, Marc P.	Attorney
Malone, Domonic R	Defendant
Pike, Randall H.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

STATUS CHECK: CONFIRMATION OF TRIAL DATE (BOTH)...DEFT. MALONE'S MOTION TO EXTEND TIME TO FILE WRIT OF HABEAS CORPUS

Mr. Pike requested 30 days from receipt stating he just received the six-volume transcript. Mr. Sgro joined in Mr. Pike's request and advised he is missing one of the volumes. Mr. Digiacomo stated he has no objection to counsels' request because this was a six-day Preliminary Hearing. Further, he will check to make sure all volumes have been filed. COURT ORDERED, motion GRANTED. Defense counsel has until October 20 to file their Writs; State to respond by November 21; any Reply to be filed by December 5; and matter SET for HEARING.

Following a conference at the bench, Court noted Mr. Sgro requested another attorney be appointed

PRINT DATE: 06/06/2012

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Minutes Date:

August 02, 2006

as co-counsel; it has no problem appointing Mr. Sgro to the case, however, ORDERED, MR. ORAM APPOINTED as CO-COUNSEL opposed to counsel's suggestion. FURTHER, ADMONISHED defense counsel that they are to coordinate their efforts and not duplicate efforts.

Colloquy reference pretrial motions and trial date. Mr. Digiacoimo stated a severance may occur and each trial will take at least two weeks. COURT ORDERED, defense counsel to file severance motion by October 2; State to respond by October 16 and matter SET for HEARING. FURTHER, all motions to be heard on October 31 at which time trial setting will be further discussed.

CUSTODY (MALONE & MCCARTY)

10/31/06 8:30 AM ALL PRETRIAL MOTIONS...DEFTS' MOTION FOR SEVERANCE (MALONE & MCCARTY)

12/12/06 8:30 AM DEFTS. PETITIONS FOR WRIT OF HABEAS CORPUS (MALONE & MCCARTY)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 21, 2006

06C224572-2

The State of Nevada vs Domonic R Malone

September 21, 2006

8:30 AM

Sentencing

SENTENCING

**Court Clerk: Sandra
Jeter**

**Reporter/Recorder:
Rachelle Hamilton**

**Heard By: Jackie
Glass**

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT: Di Giacomo, Marc P.

Attorney

JOURNAL ENTRIES

- Following a conference at the bench, COURT ORDERED, deft. RELEASED from HOUSE ARREST;
matter CONTINUED. Deft. ADMONISHED to keep in touch with his probation officer.

NIC

1/25/07 8:30 AM FURTHER PROCEEDINGS: SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 31, 2006

06C224572-2

The State of Nevada vs Domonic R Malone

October 31, 2006

8:30 AM

All Pending Motions

ALL PENDING
MOTIONS 10/31/06
Court Clerk: Sandra
Jeter
Reporter/Recorder:
Rachelle Hamilton
Heard By: Jackie
Glass

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:	Cano, Charles A.	Attorney
	Di Giacomo, Marc P.	Attorney
	Malone, Domonic R	Defendant
	Special Public Defender	Attorney

JOURNAL ENTRIES

- HEARING (ALL MOTIONS)(BOTH)...DEFT. MCCARTY'S MOTION TO SEVER...DEFT. MALONE'S JOINDER TO MOTION TO SEVER

Mr. Oram moved to continue stating Mr. Sgro is out of town. Colloquy regarding scheduling conflicts. Mr. Dennie requested additional time to file deft. McCarty's writ. Mr. Digiacomo submitted stating the writ is due tomorrow. COURT ORDERED, counsel to file deft. McCarty's writ by 11/15/06. Mr. Cano stated he believes Mr. Pike already filed deft. Malone's writ, however, if the writ hasn't been filed, requested the same time as deft. McCarty's. SO ORDERED. COURT FURTHER ORDERED, motions to sever will be heard on 11/21/06 and writs remain scheduled for 12/12/06. State DIRECTED to make sure they respond. Mr. Dennie stated Mr. Sgro is unavailable on the 21st. Court directed co-counsel be prepared to argue in Mr. Sgro's absence.

CUSTODY

PRINT DATE: 06/06/2012

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Minutes Date:

August 02, 2006

06C224572-2

11/21/06 8:30 AM DEFTS' MOTIONS TO SEVER

12/12/06 8:30 AM DEFTS' WRITS OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 21, 2006

06C224572-2

The State of Nevada vs Domonic R Malone

November 21, 2006

8:30 AM

All Pending Motions

ALL PENDING
MOTIONS 11/21/06
Court Clerk: Sandra
Jeter
Reporter/Recorder:
Rachelle Hamilton
Heard By: Jackie
Glass

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.	Attorney
Di Giacomo, Marc P.	Attorney
Malone, Domonic R	Defendant
Owens, Christopher J.	Attorney
Pike, Randall H.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- DEFT. MCCARTY'S MOTION TO SEVER: Mr. Sgro argued for severance stating there are Bruton issues. Response by Mr. Digiacomo that he does not intend to use any testimonial evidence and he will not be using any statements by deft. Malone that implicate deft. McCarty. Further arguments by counsel. COURT ORDERED, the State will not be permitted to use anything that will violate Bruton. Further argument by Mr. Sgro that severance should be granted because co-defts. have antagonistic defenses, there was a third person involved but not charged and only deft. Malone is charged in Counts 1 and 2 which relate to a prior incident. Argument in response by Mr. Digiacomo. DEFT. MALONE'S JOINDER WITH CO-DEFT. MCCARTY'S MOTION TO SEVER...DEFT. MALONE'S MOTION TO SEVER: Argument by Mr. Cano in support of severance of defts. and

PRINT DATE: 06/06/2012

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Minutes Date:

August 02, 2006

Counts 1 and 2. Again, Mr. Digiacomo advised he does not intend to use any statements made to the officer by deft. Malone to implicate deft. McCarty, therefore, no Bruton issues exist. Further, he is agreeable to any redactions pursuant to Richardson. In addition, advised if defts. are severed, the trial will take a month as this is a massive case. Further arguments by counsel.

Court noted it wishes to review the pleadings more in depth and ORDERED, matter CONTINUED for DECISION.

CUSTODY (BOTH)

CONTINUED TO: 11/30/06 8:30 AM DECISION

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 30, 2006

06C224572-2

The State of Nevada vs Domonic R Malone

November 30, 2006

8:30 AM

All Pending Motions

ALL PENDING
MOTIONS 11/30/06
Court Clerk: Sandra
Jeter
Reporter/Recorder:
Rachelle Hamilton
Heard By: Jackie
Glass

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:	Di Giacomo, Marc P.	Attorney
	Malone, Domonic R	Defendant
	Owens, Christopher J.	Attorney
	Pike, Randall H.	Attorney
	Special Public Defender	Attorney

JOURNAL ENTRIES

- DEFT. MCCARTY'S MOTION TO SEVER...DEFT. MALONE'S JOINDER WITH CO-DEFT.
MCCARTY'S MOTION TO SEVER...DEFT. MALONE'S MOTION TO SEVER

After reviewing the applicable cases and pleadings, Court FINDS the crimes were part of the same transaction and joinder of the counts is not unfairly prejudicial. FURTHER, joinder of the trial will not subject the defendants to any legally cognizable prejudice and ORDERED, defendants' Motions to Sever, DENIED. State to prepare the Order.

Court noted it understands there may be an issue with the date of the trial. Mr. Digiacomo advised Mr. Oram and Mr. Owens have another capital murder trial set at the same time. COURT ORDERED, the issue of the trial date will be addressed when Mr. Oram and Mr. Sgro are present. CUSTODY (MALONE & MCCARTY)

PRINT DATE: 06/06/2012

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Minutes Date:

August 02, 2006

06C224572-2

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 12, 2006

06C224572-2

The State of Nevada vs Domonic R Malone

December 12, 2006

8:30 AM

All Pending Motions

ALL PENDING
MOTIONS 12/12/06
Court Clerk: Sandra
Jeter
Reporter/Recorder:
Rachelle Hamilton
Heard By: Jackie
Glass

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:	Di Giacomo, Marc P.	Attorney
	Malone, Domonic R	Defendant
	Owens, Christopher J.	Attorney
	Pike, Randall H.	Attorney
	Schieck, David M.	Attorney
	Special Public Defender	Attorney

JOURNAL ENTRIES

- DEFT. MCCARTY'S PETITION FOR WRIT OF HABEAS CORPUS...DEFT. MALONE'S PETITION FOR WRIT OF HABEAS CORPUS

Following arguments by Mr. Pike, Mr. Sgro and Mr. Digiacomo, Court FINDS there is sufficient evidence to keep all of the charges as they are including the kidnapping and pandering and ORDERED, petitions DENIED. Colloquy regarding resetting of the trial and motion dates. Mr. Sgro advised there are statements and an evidentiary hearing will need to be held on same. COURT ORDERED, all current dates, VACATED and RESET; all defense motions to be filed by 4/16/07; State to file its responses by 5/16/07 and any reply to be filed by 6/6/07. Court noted it does not like jury questionnaires; however, if counsel intends to have one, they are to begin working on it now and not

PRINT DATE: 06/06/2012

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Minutes Date:

August 02, 2006

wait until the last minute and get together and see what can be agreed upon and submit to the Court what is not in agreement.

CUSTODY (MALONE & MCCARTY)

6/22/07 9:00 AM ALL PRETRIAL MOTIONS...EVIDENTIARY HEARING (MALONE & MCCARTY)

8/7/07 8:30 AM CALENDAR CALL (MALONE & MCCARTY)

8/13/07 10:00 AM JURY TRIAL (MALONE & MCCARTY)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES January 25, 2007

06C224572-2 The State of Nevada vs Domonic R Malone

January 25, 2007	8:30 AM	Further Proceedings	FURTHER PROCEEDINGS: SENTENCING Court Clerk: Sandra Jeter Relief Clerk: Pamela Humphrey & Kathy Klein/kk Reporter/Recorder: Rachelle Hamilton Heard By: Glass, Jackie
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HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT: Di Giacomo, Marc P. Attorney

JOURNAL ENTRIES

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES June 22, 2007

06C224572-2 The State of Nevada vs Domonic R Malone

June 22, 2007 8:30 AM Motion to Suppress DEFT'S MTN TO
SUPPRESS
STATEMENTS/72
Court Clerk: Sandra
Jeter Heard By:
Jackie Glass

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES
PRESENT:

JOURNAL ENTRIES

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES June 22, 2007

06C224572-2 The State of Nevada vs Domonic R Malone

June 22, 2007	9:00 AM	All Pending Motions	ALL PENDING MOTIONS 6/22/07 Court Clerk: Sandra Jeter Reporter/Recorder: Rachelle Hamilton Heard By: Jackie Glass
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HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:	Bindrup, Scott L. Cano, Charles A. Di Giacomo, Marc P. Malone, Domonic R Owens, Christopher J. Special Public Defender	Attorney Attorney Attorney Defendant Attorney Attorney
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JOURNAL ENTRIES

- HEARING: ALL PRETRIAL MOTIONS

Mr. Sgro stated there is a conflict with the trial date because he and Mr. Owens have an older case in Department XXI scheduled for trial at the same time as the instant matter. Mr. Cano stated he anticipates being ready for the 8/13/07 trial date and objects to a continuance. Counsel advised the instant matter will take anywhere from 3 to 4 weeks to try. Mr. Digiacomo stated he cannot be prepared before March 2008, however, advised the reason the Department XXI case was continued was due to an issue with the defense. Mr. Owens stated he doesn't believe Mr. Cano will be ready in August and is just attempting to create an issue. COURT ORDERED, current trial date VACATED; matter RESET for TRIAL in accordance with counsels' schedules.

PRINT DATE: 06/06/2012

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Minutes Date:

August 02, 2006

DEFT MCCARTY'S MOTION TO DECLARE NRS 704.206 UNCONSTITUTIONAL/35: Submitted. COURT ORDERED, DENIED.

DEFT. MCCARTY'S MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH BASED UPON UNCONSTITUTIONAL WEIGHING EQUATION/36: Submitted. COURT ORDERED, DENIED.

DEFT MCCARTY'S MOTION TO BIFURCATE PENALTY PHASE PROCEEDINGS/37: Submitted. COURT ORDERED, DENIED.

DEFT MCCARTY'S MOTION TO STRIKE DEATH PENALTY BASED UPON UNCONSTITUTIONALITY/38: Submitted. COURT ORDERED, DENIED.

DEFT MCCARTY'S MOTION TO PRECLUDE THE COURT FROM PARTICIPATING IN REHABILITATION OF POTENTIAL JURORS/39: Submitted. COURT ORDERED, DENIED.

DEFT MCCARTY'S MOTION TO PROHIBIT EVIDENCE AND ARGUMENT ON IRRELEVANT MITIGATING CIRCUMSTANCES/40: Submitted. COURT ORDERED, DENIED.

DEFT MCCARTY'S MOTION TO ALLOW THE DEFENSE TO ARGUE LAST AT THE PENALTY PHASE/41: Submitted. COURT ORDERED, DENIED.

DEFT MCCARTY'S MOTION FOR IN-CAMERA REVIEW OF PRE-SENTENCE REPORTS/42: Submitted. COURT ORDERED, DENIED. Argument by Mr. Sgro that this motion is routinely granted with the documents being submitted to Chambers and the Court making a determination of what is relevant. Upon inquiry, Mr. Digiacoia stated the only witness that may have a PSI is Herb but it is an unrelated Drug Court case. Mr. Sgro stating he is looking for impeachment evidence and/or evidence showing bias. Mr. Cano joined in. COURT FURTHER ORDERED, PREVIOUS RULING REVERSED; motion GRANTED and the State is ORDERED to provide any PSIs to the Court for in-camera review at which time it will make a determination.

DEFT MCCARTY'S MOTION TO COMPEL PROSECUTING ATTORNEY TO DISCLOSE DEATH PENALTY DATA/43: Mr. Cano joined and submitted. COURT ORDERED, DENIED.

DEFT MCCARTY'S MOTION TO DISCLOSE INFORMANTS/44: Mr. Digiacoia stated there are no other confidential informants besides Herb. Mr. Owens expressed concern that the title of the motion is deceiving and the defense is requesting more information. Further advised, the State has already provided all Giglio information. Colloquy. COURT ORDERED, motion GRANTED and DENIED IN PART; State to disclose any informants and provide the defense with whatever needs to be turned over pursuant to Giglio.

DEFT MCCARTY'S MOTION FOR DISCLOSURE OF UNCHARGED ACTS PRIOR TO CRIMINAL CONDUCT OF DEFENDANT/45: Submitted. Upon inquiry, Mr. Digiacoia stated deft. McCarty had 23 cases in the system and believes those have been previously provided. Mr. Owens expressed concern that the defense is requesting the time periods moved up in which the State has to disclose thus holding the State to an even higher standard than required under Rule 250. Further, the State has provided everything and will continue to provide everything. Mr. Digiacoia stated he previously told Mr. Sgro and Mr. Pike that they need to come to the District Attorney's Office to review the file and the State will act in good faith. Mr. Sgro requested the Court impose a drop-dead date in which the detectives have to provide everything including their notebooks to the State so the defense can go to the DA's Office knowing everything the State will be going to trial with has been submitted. Further arguments. COURT ORDERED, motion GRANTED; matter to be set for STATUS CHECK in late November. The State is to make sure they have everything and then counsel are to set a date for the defense to go to the District Attorney's Office. FURTHER, if anything subsequent comes up, the

State is under an obligation to provide it to the defense. Mr. Digiacomio requested the defense come over very shortly.

DEFT MCCARTY'S MOTION FOR DISCOVERY AND EVIDENTIARY HEARING REGARDING THE MANNER AND METHOD OF DETERMINING IN WHICH MURDER CASES THE DEATH PENALTY WILL BE SOUGHT/46: Submitted. COURT ORDERED, DENIED.

DEFT MCCARTY'S MOTION FOR ACCUSED TO APPEAR AT ALL PROCEEDINGS WITHOUT RESTRAINTS/47: COURT ORDERED, motion GRANTED IN PART and pertains ONLY TO THE TRIAL PROCEEDINGS. FURTHER, deft. will not be restrained at trial; however, the Court's ruling is subject to modification and may change dependent on deft.'s behavior as well as officer and courtroom safety.

DEFT MCCARTY'S MOTION TO PROHIBIT THE USE OF PEREMPTORY CHALLENGES TO EXCLUDE JURORS WHO EXPRESS CONCERNS ABOUT CAPITAL PUNISHMENT/48: Submitted. COURT ORDERED, DENIED.

DEFT MCCARTY'S MOTION FOR DISCOVERY/49: Court NOTED it dealt with this subject matter in deft.'s prior motion. FURTHER, if anything needs to be supplemented, the Court will readress at the November status check and ORDERED, matter CONTINUED.

DEFT MCCARTY'S MOTION IN LIMINE TO PROHIBIT ANY REFERENCES TO THE FIRST PHASE AS THE "GUILT PHASE"/50: COURT ORDERED, motion GRANTED; it will be called the "trial phase" and counsel are ADMONISHED to do their best to comport; however, if the defense requests a mistrial based on a "slip" by the State, it will be denied.

DEFT MCCARTY'S MOTION IN LIMINE TO PROHIBIT INTRODUCTION AT TRIAL OF UNCORROBORATED ACCOMPLICE TESTIMONY/51: Court FINDS the accomplice testimony cannot stand alone and will have to be backed up but will not be excluded; therefore, ORDERED, motion DENIED.

DEFT MCCARTY'S MOTION FOR LISTS OF NAMES AND ADDRESSES OF PERSONS WHO MAY HAVE EVIDENCE FAVORABLE TO DEFENDANT AND FOR DISCLOSURE OF OTHER DISCOVERY MATERIAL/52: Mr. Owens stated the problem with this motion is the laundry list requested by the defense. COURT ORDERED, motion GRANTED IN PART and in compliance with the requirements of discovery but DENIED IN PART as to the extreme laundry list requested by the defense. FURTHER, if there is anything favorable to the defense and vice versa, both sides are required to provide it to the other.

DEFT MCCARTY'S MOTION TO REQUIRE PROSECUTOR TO STATE REASONS FOR EXERCISING PEREMPTORY CHALLENGES/53: Court FINDS the State does not have to give reasons and ORDERED, motion DENIED.

DEFT MCCARTY'S MOTION TO PROHIBIT THE PROSECUTOR FROM ARGUING AND THE COURT FROM GIVING INSTRUCTIONS REGARDING STATUTORY MITIGATING FACTORS NOT RAISED BY THE DEFENSE/54: Submitted. COURT ORDERED, motion DENIED. Motion RECALLED at the request of Mr. Sgro who argued this motion is routinely granted in part. Arguments by Mr. Sgro and Mr. Owens. Colloquy. Mr. Sgro stated the jurors should not be instructed on mitigators that defts. do not argue. Mr. Owens concurred and stated the defense controls the mitigators. COURT ORDERED, previous ORDER RESCINDED; motion GRANTED IN PART as outlined by Mr. Sgro in his last statement. FURTHER, anything else will be addressed as it comes up.

DEFT MCCARTY'S MOTION TO SUBMIT QUESTIONNAIRE TO PROSPECTIVE JURORS/55: Court noted it is not a fan of questionnaires. Mr. Digiacomo stated he believes questionnaires slow down the selection process but will submit. Colloquy. COURT ORDERED, counsel are to work together and submit a questionnaire to the Court within 60 days of today. FURTHER, Court encouraged counsel to make the Questionnaire more generic and less specific. Matter CONTINUED and will be re-addressed at the November status check.

DEFT MCCARTY'S MOTION IN LIMINE/56: Court NOTED it needs to know who would or wouldn't be inclined to impose the death penalty; therefore, ORDERED, motion DENIED.

DEFT MCCARTY'S MOTION TO PRECLUDE RE-ADMISSION OF TRIAL PHASE EVIDENCE AND EXHIBITS IN PENALTY PHASE, AND RELATED PROSECUTORIAL COMMENTS/57: Court noted in the Penalty Phase there is a lot of discretion and ORDERED motion DENIED. FURTHER, counsel will be permitted to submit whatever is appropriate within the rules and the law.

DEFT MCCARTY'S MOTION TO SUPPRESS/58: Mr. Digiacomo advised the State agreed to an evidentiary hearing on the instant motion but they are not prepared to do it today because they just received the Reply this morning. COURT ORDERED, matter SET for HEARING. Mr. Digiacomo stated he intends to put on testimony from Detectives Ridings and Collins and possibly a third officer. Mr. Sgro requested testimony be heard from all persons involved in the statement. Mr. Digiacomo stated he will subpoena the witnesses if Mr. Sgro provides him with the names. Further, he will provide the Court with a copy of all three recordings and transcripts thereof ahead of time in order to save time.

DEFT MCCARTY'S MOTION TO DECLARE NEVADA'S DEATH PENALTY STATUTES UNCONSTITUTIONAL/59: Submitted. COURT ORDERED, DENIED.

DEFT MALONE'S MOTION TO DECLARE NRS 704.206 UNCONSTITUTIONAL (NOT ON CALENDAR): Mr. Cano stated he submitted the instant motion but apparently it did not make it on calendar. Submitted. COURT ORDERED, motion DENIED.

DEFT MALONE'S MOTION IN LIMINE TO PROHIBIT ANY REFERENCES TO THE FIRST PHASE AS THE "GUILT PHASE"/60: Submitted. COURT ORDERED, motion GRANTED.

DEFT MALONE'S MOTION TO FEDERALIZE ALL MOTIONS, OBJECTIONS, REQUESTS AND OTHER APPLICATIONS FOR THE PROCEEDINGS IN THE ABOVE-ENTITLED CASE/61: Following arguments by Mr. Cano, Mr. Owens and Mr. Oram, COURT ORDERED, motion DENIED.

DEFT MALONE'S MOTION TO BIFURCATE PENALTY PHASE/62: Submitted. COURT ORDERED, motion DENIED.

DEFT MALONE'S MOTION IN LIMINE TO BAR IMPROPER PROSECUTORIAL ARGUMENT/63: Brief argument by Mr. Cano in support of his motion. COURT ORDERED, motion DENIED; however, counsel are ADMONISHED they are to adhere to the rules of professional conduct. FURTHER, motion maybe readdressed at trial if necessary.

DEFT MALONE'S MOTION TO PRECLUDE THE CONSIDERATION OF VICTIM IMPACT EVIDENCE PURSUANT TO NRS 175.552, 200.033 AND 200.035/64: Submitted. COURT ORDERED, motion DENIED.

DEFT MALONE'S MOTION TO ALLOW THE DEFENSE TO ARGUE LAST IN PENALTY PHASE/65: Submitted. COURT ORDERED, motion DENIED.

DEFT MALONE'S MOTION FOR SEPARATE JURY DURING JOINT TRIAL/66: Arguments by Mr. Cano and Mr. Digiacomo. Court NOTED this issue was already ruled upon. Further, Mr. Digiacomo

previously articulated what was and wasn't coming in order to keep depts. together; therefore, ORDERED, motion DENIED.

DEFT MALONE'S MOTION IN LIMINE TO PRECLUDE THE STATE FROM MOVING TO ADMIT INTO EVIDENCE PHOTOGRAPHS PREJUDICIAL TO MALONE/67: Mr. Cano stated no

Opposition has been filed. Mr. Digiacomio stated he hasn't offered any photographs as of yet.

COURT ORDERED, motion DENIED; however, the Court will decide what photographs will be admitted, the number, how long they will be shown to the Jury and whether they are duplicative.

DEFT MALONE'S MOTION TO COMPEL DISCLOSURE OF EXISTENCE AND SUBSTANCE OF EXPECTATIONS, OR ACTUAL RECEIPT OF BENEFITS OR PREFERENTIAL TREATMENT FOR COOPERATION WITH PROSECUTOR/68: Statements by Mr. Cano, Mr. Digiacomio and Mr. Oram.

COURT ORDERED, motion GRANTED; State to provide all Giglio information.

DEFT MALONE'S MOTION TO ALLOW JURY QUESTIONNAIRE/69: Matter CONTINUED in accordance with the Court's previous ruling as to deft. McCarty's motion and will be re-addressed at the November status check.

DEFT MALONE'S MOTION FOR DISCOVERY OF PROSECUTORIAL RECORDS, FILES AND INFORMATION NECESSARY TO A FAIR TRIAL/70: COURT ORDERED, motion GRANTED IN PART and all previously imposed deadlines and orders reference deft. McCarty's motion on same issues apply. However, motion DENIED IN PART as to the laundry list. FURTHER, matter CONTINUED to the November status check.

DEFT MALONE'S MOTION FOR DISCOVERY OF INSTITUTIONAL RECORDS AND FILES NECESSARY TO A FAIR TRIAL/71: Mr. Digiacomio stated usually the Special Public Defender subpoenas whatever they need from the Detention Center. COURT ORDERED, motion DENIED and defense counsel are to subpoena the records; however, if the State has any of that information, they are to turn it over to the defense.

DEFT MALONE'S MOTION TO SUPPRESS STATEMENTS OF DONALD HERB, OR IN THE ALTERNATIVE, MOTION IN LIMINE TO PROHIBIT INTRODUCTION OF STATEMENTS MADE BY CO-DEFENDANT HERB AT THE TIME OF TRIAL/72: Arguments by Mr. Cano and Mr. Digiacomio. COURT ORDERED, motion DENIED.

CUSTODY (BOTH)

10/5/07 9:00 AM EVIDENTIARY HEARING: DEFT. MCCARTY'S MOTION TO SUPPRESS/58

11/29/07 8:30 AM STATUS CHECK: DEFT MCCARTY'S MOTION FOR DISCLOSURE OF UNCHARGED ACTS PRIOR TO CRIMINAL CONDUCT OF DEFENDANT/45...DEFT MCCARTY'S MOTION FOR DISCOVERY/49...DEFT MALONE'S MOTION FOR DISCOVERY OF PROSECUTORIAL RECORDS, FILES AND INFORMATION NECESSARY TO A FAIR TRIAL/70...DEFT MCCARTY'S MOTION TO SUBMIT QUESTIONNAIRE TO PROSPECTIVE JURORS/55...DEFT MALONE'S MOTION TO ALLOW JURY QUESTIONNAIRE/69

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 07, 2007

06C224572-2

The State of Nevada vs Domonic R Malone

September 07, 2007

8:30 AM

Further Proceedings

**FURTHER
PROCEEDINGS:
SENTENCING
Court Clerk: Sandra
Jeter
Reporter/Recorder:
Rachelle Hamilton
Heard By: Glass,
Jackie**

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT: Di Giacomo, Marc P.

Attorney

JOURNAL ENTRIES

- Mr. Digiacomo stated this matter is to be continued and he will notify Mr. Durham of the next date.
COURT ORDERED, matter CONTINUED. Court ADMONISHED deft. to stay in contact with his attorney.

NIC

CLERK'S NOTE: 9/10/07 - I placed a copy of this minute order in Mr. Durham's attorney bin./sj

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 11, 2007

06C224572-2

The State of Nevada vs Domonic R Malone

September 11, 2007

8:30 AM

All Pending Motions

ALL PENDING
MOTIONS 9/11/07
Court Clerk: Sandra
Jeter
Reporter/Recorder:
Rachelle Hamilton
Heard By: Jackie
Glass

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.	Attorney
Di Giacomo, Marc P.	Attorney
Malone, Domonic R	Defendant
Maningo, Ivette A.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- Court noted Mr. Oram will be in another capital murder trial at the same time as the instant matter. Colloquy reference scheduling conflicts and counsels' availability. COURT ORDERED, current trial date of 3/17/08 VACATED; matter RESET in AUGUST 2008 pursuant to the agreement of counsel. FURTHER, motion deadlines STAND.
CUSTODY (MALONE & MCCARTY)
7/29/08 8:30 AM CALENDAR CALL (MALONE & MCCARTY)
8/04/08 10:00 AM JURY TRIAL (MALONE & MCCARTY)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 30, 2007

06C224572-2

The State of Nevada vs Domonic R Malone

October 30, 2007

8:30 AM

Motion for Judgment

DEFT'S MTN FOR
JUDGMENT NEW
COUNSEL/85 Court
Clerk: Denise
Trujillo
Reporter/Recorder:
Rachelle Hamilton
Heard By: Jackie
Glass

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.

Attorney

Malone, Domonic R

Defendant

Owens, Christopher J.

Attorney

JOURNAL ENTRIES

- Mr. Cano advised Deft. wants to withdraw his motion. Deft. concurred. COURT ORDERED, matter
OFF CALENDAR.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 29, 2007

06C224572-2

The State of Nevada vs Domonic R Malone

November 29, 2007

10:00 AM

All Pending Motions

ALL PENDING
MOTIONS 11/29/07
Court Clerk: Sandra
Jeter
Reporter/Recorder:
Rachelle Hamilton
Heard By: Jackie
Glass

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.	Attorney
Di Giacomo, Marc P.	Attorney
Malone, Domonic R	Defendant
Owens, Christopher J.	Attorney
Pike, Randall H.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- DEFT. MALONE'S MOTION FOR DISCOVERY OF PROSECUTION RECORDS, FILES AND INFORMATION NECESSARY FOR A FAIR TRIAL: Mr. Pike advised he met with the State; they were able to catalog all discovery, therefore, the State is in compliance but if anything comes up, he will raise the issue. Further, discovery is going on pace and they've issued a number of subpoenas for records. COURT ORDERED, motion OFF CALENDAR.

DEFT. MALONE'S MOTION TO ALLOW JURY QUESTIONNAIRE ... DEFT MCCARTY'S MOTION TO SUBMIT QUESTIONNAIRE TO PROSPECTIVE JURORS: Mr. Pike advised he provided the State with a copy of their questionnaire in hopes counsel will be able to prepare a joint questionnaire. Mr. Oram agreed with Mr. Pike's representations and stated they apply to deft. Malone as well. Mr.

PRINT DATE: 06/06/2012

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Minutes Date:

August 02, 2006

Digiacommo stated he believes counsel can reach an agreement on most of the questions. COURT ORDERED, motions GRANTED; all counsel are to exchange their versions of the Questionnaire and matter SET for STATUS CHECK as to the final version. FURTHER, 6/27/08 will be the date the jurors are brought in to fill out the questionnaires. Colloquy reference number of jurors needed for the panel.

EVIDENTIARY HEARING: DEFT. MCCARTY'S MOTION TO SUPPRESS: Arguments and colloquy reference parameters of testimony. Court NOTED it will begin with the May 25 statements regarding voluntariness. Testimony and exhibits. (See attached worksheets.) Arguments by counsel. COURT ORDERED, motion CONTINUED for DECISION.

CUSTODY (MALONE & MCCARTY)

12/6/07 8:30 AM DECISION: DEFT. MCCARTY'S MOTION TO SUPPRESS (MALONE & MCCARTY)

5/30/08 9:00 AM STATUS CHECK: JURY QUESTIONNAIRE (MALONE & MCCARTY)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 06, 2007

06C224572-2

The State of Nevada vs Domonic R Malone

December 06, 2007

8:30 AM

Motion to Suppress

DEFT'S MTN TO
SUPPRESS/58 Court
Clerk: Sandra Jeter
Reporter/Recorder:
Rachelle Hamilton
Heard By: Jackie
Glass

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:

Di Giacomo, Marc P.

Attorney

Luzaich, Elissa

Attorney

JOURNAL ENTRIES

- Court stated its FINDINGS and ORDERED, motion DENIED. State to prepare the Order.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 19, 2008

06C224572-2

The State of Nevada vs Domonic R Malone

February 19, 2008

8:30 AM

Motion to Dismiss

DEFT'S MTN TO
DISMISS FOR
FAILURE/89 Court
Clerk: Sandra Jeter
Reporter/Recorder:
Rachelle Hamilton
Heard By: Glass,
Jackie

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.

Attorney

Di Giacomo, Marc P.

Attorney

Malone, Domonic R

Defendant

Special Public Defender

Attorney

JOURNAL ENTRIES

- COURT ORDERED, matter CONTINUED for the State's Response; State to file same on or before
3/4/08.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 11, 2008

06C224572-2

The State of Nevada vs Domonic R Malone

March 11, 2008

8:30 AM

Motion to Dismiss

DEFT'S MTN TO
DISMISS FOR
FAILURE/89 Court
Clerk: Sandra Jeter
Relief Clerk: Denise
Trujillo/dt
Reporter/Recorder:
Rachelle Hamilton
Heard By: Glass,
Jackie

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.

Attorney

Fattig, John T

Attorney

Malone, Domonic R

Defendant

Special Public Defender

Attorney

JOURNAL ENTRIES

- Mr. Cano requested matter be CONTINUED, there being no opposition, COURT SO ORDERED.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 13, 2008

06C224572-2

The State of Nevada vs Domonic R Malone

March 13, 2008

8:30 AM

Motion to Dismiss

DEFT'S MTN TO
DISMISS FOR
FAILURE/89 Court
Clerk: Sandra Jeter
Reporter/Recorder:
Rachelle Hamilton
Heard By: Jackie
Glass

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.

Attorney

Malone, Domonic R

Defendant

Owens, Christopher J.

Attorney

Pike, Randall H.

Attorney

Special Public Defender

Attorney

JOURNAL ENTRIES

- Following arguments by counsel, Court stated its FINDINGS and ORDERED, motion DENIED.
State to prepare the Order.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 17, 2008

06C224572-2

The State of Nevada vs Domonic R Malone

April 17, 2008

8:30 AM

Further Proceedings

FURTHER
PROCEEDINGS:
SENTENCING
Court Clerk: Sandra
Jeter
Reporter/Recorder:
Rachelle Hamilton
Heard By: Glass,
Jackie

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT: Fattig, John T

Attorney

JOURNAL ENTRIES

- Mr. Zentz present for Mr. Durham and stated he understands this matter is being continued until after the co-defendants' trial. COURT ORDERED, matter CONTINUED.
NIC (HERB)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 30, 2008

06C224572-2

The State of Nevada vs Domonic R Malone

May 30, 2008

9:00 AM

All Pending Motions

ALL PENDING
MOTIONS 5/30/08
Court Clerk: Sandra
Jeter
Reporter/Recorder:
Rachelle Hamilton
Heard By: Jackie
Glass

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.	Attorney
Di Giacomo, Marc P.	Attorney
Owens, Christopher J.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- COURT ORDERED, defts.' presence WAIVED THIS DATE. FURTHER, the Questionnaire provided by the State is fine, however, counsel to prepare a final version with Questions 60 and 61 from Mr. Cano's Questionnaire added. Mr. Cano stated he prefers the Questionnaire he submitted. Court noted counsel will have an opportunity during Voir Dire to ask more questions; therefore, previous ruling STANDS; Deft. Malone's Proposed Questionnaire marked as Court's Exhibit 1. COURT FURTHER NOTED the prospective jurors will be brought in on 6/27/08 to complete the Questionnaires and it will be requesting a lot more jurors.

Mr. Oram requested permission to submit an Order for a mitigation expert in the instant case as well as in the Crawley case and the COURT SO ORDERED.

Colloquy regarding possible conflict with Mr. Oram's trial schedule. COURT ORDERED, matter SET for status check.

PRINT DATE: 06/06/2012

Page 32 of 148

Minutes Date:

August 02, 2006

06C224572-2

CUSTODY (MALONE & MCCARTY)

6/10/08 8:30 AM STATUS CHECK: POSSIBLE CONFLICT WITH MR. ORAM'S TRIAL SCHEDULE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 10, 2008

06C224572-2

The State of Nevada vs Domonic R Malone

June 10, 2008

8:30 AM

All Pending Motions

ALL PENDING
MOTIONS 6/10/08
Court Clerk: Sandra
Jeter
Reporter/Recorder:
Rachelle Hamilton
Heard By: Jackie
Glass

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Bindrup, Scott L.	Attorney
Cano, Charles A.	Attorney
Di Giacomo, Marc P.	Attorney
Malone, Domonic R	Defendant
Owens, Christopher J.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- STATUS CHECK: POSSIBLE CONFLICT WITH MR. ORAM'S TRIAL SCHEDULE (MALONE & MCCARTY)

Mr. Oram advised Judge Leavitt did not sever the defendants Cologne/Perez and that trial is going forward on August 12. Further, Mr. Oram stated that when the instant matter was set for trial, he objected but Mr. Lalli made representations that he would make sure there wouldn't be a conflict. Mr. Digiacomo submitted. Mr. Cano objected to any continuance. Court NOTED it will not sever the defendants. Mr. Cano requested the Court reconsider severance. DENIED. Mr. Oram stated he and counsel have discussed three possible settings - January 2009, April 2009 or switching trials out with the Crawley case. Mr. Cano stated he and co-counsel are not available until April 2009 and he cannot

PRINT DATE: 06/06/2012

Page 34 of 148

Minutes Date:

August 02, 2006

go forward on the November 2008 date currently set in the Crawley matter. In addition, he has a firm setting in Department XII on the Kelvin Johnson matter in January 2009. COURT ORDERED, matter CONTINUED and it will e-mail Judge Leavitt to see if she will agree to allow this Court to have the priority setting in January 2009.
CUSTODY (MALONE & MCCARTY)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES June 12, 2008

06C224572-2 The State of Nevada vs Domonic R Malone

June 12, 2008	8:30 AM	All Pending Motions	ALL PENDING MOTIONS 6/12/08 Court Clerk: Sandra Jeter Reporter/Recorder: Rachelle Hamilton Heard By: Jackie Glass
----------------------	----------------	----------------------------	--

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:	Bindrup, Scott L.	Attorney
	Cano, Charles A.	Attorney
	Di Giacomo, Marc P.	Attorney
	Malone, Domonic R	Defendant
	Special Public Defender	Attorney

JOURNAL ENTRIES

- Judge Glass stated she spoke with Judge Leavitt who indicated she is in agreement with this Court resetting the instant trial for the January 2009 setting; therefore, COURT ORDERED, current trial date VACATED and RESET over Mr. Cano's objection. Future motion dates, STAND. Court ADMONISHED counsel this matter will proceed to trial on the next date irregardless of any other Court's trial settings.

CUSTODY

12/30/08 8:30 AM CALENDAR CALL (MALONE & MCCARTY)

01/05/09 10:00 AM JURY TRIAL (MALONE & MCCARTY)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 24, 2008

06C224572-2

The State of Nevada vs Domonic R Malone

June 24, 2008

8:30 AM

Motion to Strike

DEFT'S MTN TO
STRIKE NTC OF
INTENT TO
SEEK/90 Court
Clerk: Sandra Jeter
Reporter/Recorder:
Rachelle Hamilton
Heard By: Jackie
Glass

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.

Attorney

Di Giacomo, Marc P.

Attorney

Malone, Domonic R

Defendant

Pike, Randall H.

Attorney

Special Public Defender

Attorney

JOURNAL ENTRIES

- Following arguments by counsel, COURT ORDERED, motion DENIED. FURTHER, defense counsel to provide Mr. Digiacomo with a list of items they want tested by close of business tomorrow as formal notice was provided to the State this date in open court.

CUSTODY (MALONE)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 28, 2008

06C224572-2

The State of Nevada vs Domonic R Malone

August 28, 2008

8:30 AM

Further Proceedings

**FURTHER
PROCEEDINGS:
SENTENCING
Court Clerk: Sandra
Jeter
Reporter/Recorder:
Rachelle Hamilton
Heard By: Glass,
Jackie**

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT: Di Giacomo, Marc P.

Attorney

JOURNAL ENTRIES

- Pursuant to the request of the parties, COURT ORDERED, matter CONTINUED.
NIC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 14, 2008

06C224572-2

The State of Nevada vs Domonic R Malone

October 14, 2008

8:30 AM

Motion

DEFT'S MTN FOR
MEDICAL FEES &
COSTS/100 Relief
Clerk: Willa Pettice
Reporter/Recorder:
Rachelle Hamilton
Heard By: Jackie
Glass

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.

Attorney

Di Giacomo, Marc P.

Attorney

Malone, Domonic R

Defendant

Pike, Randall H.

Attorney

Special Public Defender

Attorney

JOURNAL ENTRIES

- The Court advised it spoke with the Clark County Detention Center and they can provide the needed medical attention. The Court NOTED it does not want Deft transferred to a medical facility. Mr. Pike requested Deft be taken care of as soon as possible. The Court stated it would call the Detention Center.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 13, 2008

06C224572-2

The State of Nevada vs Domonic R Malone

November 13, 2008

8:30 AM

Status Check

STATUS CHECK
Court Clerk: Sandra
Jeter Heard By:
Glass, Jackie

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.

Attorney

Di Giacomo, Marc P.

Attorney

Special Public Defender

Attorney

JOURNAL ENTRIES

- The Court Services Officer advised defendant was transported to Courtroom 10D. Court noted defendant McCarty was not placed on calendar and ORDERED, matter CONTINUED and both defendants to appear on calendar next date.

CUSTODY (MALONE & MCCARTY)

11/18/08 8:30 AM STATUS CHECK (MALONE & MCCARTY)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 18, 2008

06C224572-2

The State of Nevada vs Domonic R Malone

November 18, 2008

8:30 AM

All Pending Motions

ALL PENDING
MOTIONS 11/18/08
Court Clerk: Sandra
Jeter
Reporter/Recorder:
Rachelle Hamilton
Heard By: Jackie
Glass

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Bindrup, Scott L.	Attorney
Cano, Charles A.	Attorney
Di Giacomo, Marc P.	Attorney
Malone, Domonic R	Defendant
Special Public Defender	Attorney

JOURNAL ENTRIES**- STATUS CHECK (MALONE & MCCARTY)**

Mr. Bindrup present appearing for Mr. Pike. Colloquy. Court NOTED it placed this matter on calendar as it is a CAPITAL MURDER CASE which has a January trial setting and, pursuant to some upcoming case load transfers, it will be transferred to Judge Villani. FURTHER, the Court understands counsel have some scheduling conflicts with the current setting and it would like them to address same with Judge Villani; therefore, ORDERED, matter SET on JUDGE VILLANI'S CALENDAR for status check.

CUSTODY

11/25/08 8:15 AM STATUS CHECK: DEPARTMENT TRANSFER AND TRIAL SETTING FOR CAPITAL MURDER CASE (MALONE & MCCARTY)

PRINT DATE: 06/06/2012

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Minutes Date:

August 02, 2006

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 25, 2008

06C224572-2

The State of Nevada vs Domonic R Malone

November 25, 2008

8:00 AM

All Pending Motions

ALL PENDING
MOTIONS 11-25-08
Court Clerk: Kristen
Brown
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.

Attorney

Di Giacomo, Marc P.

Attorney

Malone, Domonic R

Defendant

Special Public Defender

Attorney

JOURNAL ENTRIES

- STATUS CHECK: DEPARTMENT TRANSFER AND TRIAL SETTING FOR CAPITAL MURDER CASE (MALONE)...STATUS CHECK: DEPARTMENT TRANSFER AND TRIAL SETTING FOR CAPITAL MURDER CASE (MCCARTY)

Mr. Powell advised the Court that Mr. Sgro will be in a Construction Defect case and will not be able to handle this case on the current trial date. Mr. Oram stated that all parties, including the deft's, of this request. Counsel advised the Court that this will be a 4-6 week trial. Colloquy between Court and counsel regarding trial dates. Statement by deft. Malone. COURT ORDERED, Trial VACATED and RESET.

CUSTODY (BOTH)

10/06/09 8:00 AM CALENDAR CALL

10/12/09 10:00 AM JURY TRIAL (FIRM)

PRINT DATE: 06/06/2012

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Minutes Date:

August 02, 2006

06C224572-2

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 20, 2009

06C224572-2

The State of Nevada vs Domonic R Malone

January 20, 2009

8:00 AM

Motion to Dismiss

DEFT'S PRO PER
MTN TO DISMISS
COUNSEL/111 Court
Clerk: Kristen Brown
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.	Attorney
Malone, Domonic R	Defendant
Owens, Christopher J.	Attorney
Pike, Randall H.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- Statement by the deft. Mr. Pike stated that he has provided the deft. discovery at least two times after meeting with the District Attorney; further, a list has been provided to the deft. with all the documents that have been provided and has instructed the deft. to go through the list and to make a list of documents he does not have but the deft. has not provided that list. Mr. Pike further noted that 18 motions have been filed in this case including a Petition for Writ of Habeas Corpus. COURT ORDERED, Motion DENIED. Court advised the deft. that if discovery is missing, then will need to provide a list to the attorneys.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 29, 2009

06C224572-2

The State of Nevada vs Domonic R Malone

January 29, 2009

8:00 AM

Further Proceedings

**FURTHER
PROCEEDINGS:
SENTENCING
Court Clerk: Kristen
Brown
Reporter/Recorder:
Michelle Ramsey
Heard By: Villani,
Michael**

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:

Nelson III, Roy L.

Attorney

JOURNAL ENTRIES

- Mr. Nelson stated this is Mr. DiGiacomo's and Mr. Owens' case and requested this matter be
CONTINUED, COURT SO ORDERED.
NIC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 05, 2009

06C224572-2

The State of Nevada vs Domonic R Malone

February 05, 2009

8:00 AM

All Pending Motions

ALL PENDING
MOTIONS 2-05-09
Court Clerk: Kristen
Brown
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.	Attorney
Malone, Domonic R	Defendant
Owens, Christopher J.	Attorney
Pike, Randall H.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- DEFT. MALONE'S MOTION TO RECUSE THE DISTRICT ATTORNEY'S OFFICE...DEFT. MCCARTY'S JOINDER TO MALONE'S MOTION TO RECUSE Arguments by counsel. COURT ORDERED, Motion and Joinder DENIED. Mr. Pike stated that pursuant to the Court's instruction, the deft. was provided with a catalog of documents; deft. sent a letter indicating what he did not have and have the documents present today; further, the deft. has expressed a discontent in refusing to bring a motion. Statement by the deft. Corrections Officer advised counsel that the documents can be provided to the deft. in court. Court noted Mr. Pike has turned over the requested documents to the deft.
CUSTODY (BOTH)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 10, 2009

06C224572-2

The State of Nevada vs Domonic R Malone

February 10, 2009

8:00 AM

Motion

DEFT'S MTN FOR
MEDICAL FEES &
COSTS/114 Court
Clerk: Kristen Brown
Reporter/Recorder:
Michelle Ramsey
Heard By: Villani,
Michael

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.

Attorney

Malone, Domonic R

Defendant

Owens, Christopher J.

Attorney

Pike, Randall H.

Attorney

Special Public Defender

Attorney

JOURNAL ENTRIES

- Charlotte Bible, Esq., present on behalf of Metro. Statements by counsel. COURT ORDERED, matter CONTINUED for a report from the doctor describing the condition and to make a definitive decision as to if it is required at this time.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 12, 2009

06C224572-2

The State of Nevada vs Domonic R Malone

February 12, 2009

8:00 AM

Motion

DEFT'S MTN FOR
MEDICAL FEES &
COSTS/114 Court
Clerk: Kristen Brown
Reporter/Recorder:
Patti Slattery Heard
By: Michael Villani

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.	Attorney
Malone, Domonic R	Defendant
Owens, Christopher J.	Attorney
Pike, Randall H.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- Charlotte Bible, Esq., present on behalf of Metro. Court stated it has reviewed the report and understands that the deft's condition does not qualify as a medical emergency. Statement by Mr. Cano. Conference at the Bench. COURT ORDERED, Motion DENIED but will sign an order upon application for an evaluation and after the evaluation is received, counsel can place this matter back on calendar.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 02, 2009

06C224572-2

The State of Nevada vs Domonic R Malone

June 02, 2009

8:00 AM

Motion

DEFT'S MOTION
FOR MEDICAL
TREATMENT AND
TRANSPORATION
Court Clerk: Kristen
Brown Relief Clerk:
Michele Tucker/mlt
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Di Giacomo, Marc P.

Attorney

Pike, Randall H.

Attorney

Special Public Defender

Attorney

JOURNAL ENTRIES

- Mr. Pike requested glasses and treatment be provided to the defendant. COURT ORDERED, Mr. Pike to an submit Order to Metro's for signature and then the Court will sign the Order.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 01, 2009

06C224572-2

The State of Nevada vs Domonic R Malone

September 01, 2009

8:00 AM

All Pending Motions

ALL PENDING
MOTIONS 9-01-09
Court Clerk: Kristen
Brown
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:	Di Giacomo, Marc P.	Attorney
	Malone, Domonic R	Defendant
	Pike, Randall H.	Attorney
	Special Public Defender	Attorney

JOURNAL ENTRIES

- DEFT'S MOTION TO REQUIRE THE COURT TO ADVISE THE PROSPECTIVE JURORS AS TO THE MANDATORY SENTENCES REQUIRED IF THE DEFT. IS CONVICTED OF 2ND DEGREE MURDER AND/OR 1ST DEGREE KIDNAPPING: Submitted by counsel. COURT ORDERED, Motion DENIED.

DEFT'S MOTION IN LIMINE TO PROHIBIT INTRODUCTION OF HEARSAY STATEMENTS MADE BY CO DEFT. MCCARTY AND OTHERS THAT REFERENCE DEFT. MALONE AT TIME OF TRIAL: Arguments by counsel. Court stated it will consider this as a trial brief by both parties. CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 22, 2009

06C224572-2

The State of Nevada vs Domonic R Malone

September 22, 2009

8:00 AM

Motion to Continue

**DEFT'S MTN TO
CONTINUE TRIAL
DATE ON OST/0120
Court Clerk: Kristen
Brown
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani**

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:

Di Giacomo, Marc P.
Lalli, Christopher J.

Attorney
Attorney

JOURNAL ENTRIES

- Mr. Oram requested to withdraw the motion; will be ready to proceed with trial based on his conversation with the deft. COURT ORDERED, Motion WITHDRAWN.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 29, 2009

06C224572-2

The State of Nevada vs Domonic R Malone

September 29, 2009

8:00 AM

Motion to Suppress

DEFT'S MTN TO
SUPPRESS
STATEMENTS OF
DEFENDANT Court
Clerk: Kristen Brown
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:	Cano, Charles A.	Attorney
	Lalli, Christopher J.	Attorney
	Malone, Domonic R	Defendant
	Pike, Randall H.	Attorney
	Special Public Defender	Attorney

JOURNAL ENTRIES

- Arguments by counsel. COURT ORDERED, Motion DENIED. Colloquy between Court and counsel regarding jury questionnaire and lack of reports from deft's expert witnesses. Arguments by counsel. Mr. Lalli requested the Court direct counsel to have the experts prepare a report; if an expert witness is reviewing materials, have the right to know what materials are being reviewed; further, the State has the right to obtain their own expert witness. Mr. Oram stated his expert witness are reviewing past medical records. COURT ORDERED, the medical records or any functional testing be turned over to the State and counsel for Deft. Malone. Mr. Lalli further requested the deft. be made available for independent testing. Mr. Pike advised the Court that witness Shiro has been retained on a consulting basis to help analyze and offer suggestion for possible cross examination; because there

PRINT DATE: 06/06/2012

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Minutes Date:

August 02, 2006

was no DNA evidence tying the deft. to this, Mr. Shiro may be called if something else happens or if something unusual comes out.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 06, 2009

06C224572-2

The State of Nevada vs Domonic R Malone

October 06, 2009

8:00 AM

Calendar Call

CALENDAR CALL
(VC 03-25-10) Court
Clerk: Kristen Brown
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.	Attorney
Di Giacomo, Marc P.	Attorney
Lalli, Christopher J.	Attorney
Malone, Domonic R	Defendant
Pike, Randall H.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- Counsel stated they are ready to proceed to trial.

Deft's Motion to Waive Trial set for October 13, 2009: Mr. Pike stated it is only as to the counts that involve Melissa Estores but the State will not give permission. Mr. DiGiacomo stated an opposition was filed and will not give consent. COURT ORDERED, Motion DENIED.

Colloquy between Court and counsel regarding the audio and video tapes. Mr. DiGiacomo stated as to the information on the witnesses; a witness list was filed with an updated address; does not have the address to the person indicated but when he obtains it, will provide it to Mr. Sgro. Mr. Sgro requested the phone number as well. Court stated it will have a status check on the video and discovery issues. Arguments by counsel regarding records produced to the deft's expert witnesses. Court stated it will consider today's request as an oral motion. Further arguments by counsel.

PRINT DATE: 06/06/2012

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Minutes Date:

August 02, 2006

06C224572-2

COURT ORDERED, each side is to file a brief by tomorrow at 3:00 pm and will address it on Thursday, October 8, 2009.

CUSTODY (BOTH)

10/08/09 8:00 AM STATUS CHECK: VIDEO TAPES/STATE'S MOTION FOR DOCUMENTS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 08, 2009

06C224572-2

The State of Nevada vs Domonic R Malone

October 08, 2009

8:00 AM

All Pending Motions

ALL PENDING
MOTIONS 10-08-09
Court Clerk: Kristen
Brown
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:	Cano, Charles A.	Attorney
	Di Giacomo, Marc P.	Attorney
	Lalli, Christopher J.	Attorney
	Malone, Domonic R	Defendant
	Pike, Randall H.	Attorney
	Special Public Defender	Attorney

JOURNAL ENTRIES

- STATUS CHECK: VIDEO TAPES/STATE'S MOTION FOR DOCUMENTS (MALONE & MCCARTY) ...STATE'S REQUEST STATUS CHECK: COUNSEL (HERB)
DEFT. HERB: Mr. DiGiacomo stated that Mr. Durham has withdrawn. COURT ORDERED, Mr. Hart APPOINTED AS COUNSEL and set for Confirmation.
DEFT'S MALONE & MACCARTY: Mr. Sgro stated that the District Attorney called yesterday and said the tape does not exist but the police report reflects that there was a tape. Mr. Lalli stated that he can not make any representations and that he is continuing to work on it and will provide everything that he has. Arguments by counsel regarding the State's Motion for Documents. COURT ORDERED, Counsel is to provide everything to the Court that was provided to the doctor for an in-camera

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August 02, 2006

06C224572-2

review and the Court will then make a determination.
CUSTODY (ALL)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 12, 2009

06C224572-2

The State of Nevada vs Domonic R Malone

October 12, 2009

10:00 AM

All Pending Motions

ALL PENDING
MOTIONS 10-12-09
Court Clerk: Kristen
Brown
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.	Attorney
Lalli, Christopher J.	Attorney
Malone, Domonic R	Defendant
Pike, Randall H.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES**- TRIAL BY JURY (MALONE & MCCARTY)**

Court stated it received a call that Mr. Oram had a family emergency and all parties agree that Mr. Oram will not be able to participate in the trial, therefore, will need a continuance. Mr. Sgro and Mr. Cano advised the Court that they have spoken with the deft's about the situation. Court FINDS there is good cause shown to continue the trial. COURT ORDERED, Trial OFF CALENDAR. Statement by Deft. Malone regarding a possible conflict with Mr. Sgro. Statement by Mr. Sgro. Mr. Digiacomio noted that Mr. Sgro does not represent Deft. Malone. COURT ORDERED, matter set for status check regarding the possible conflict and for a trial setting.

CUSTODY (BOTH)

10/27/09 8:00 AM STATUS CHECK: POSSIBLE CONFLICT/TRIAL SETTING

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 27, 2009

06C224572-2

The State of Nevada vs Domonic R Malone

October 27, 2009

8:00 AM

All Pending Motions

ALL PENDING
MOTIONS 10-27-09
Court Clerk: Kristen
Brown
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.	Attorney
Di Giacomo, Marc P.	Attorney
Lalli, Christopher J.	Attorney
Malone, Domonic R	Defendant
Pike, Randall H.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- Colloquy between Court and counsel regarding the video tapes being produced and trial dates. Arguments by counsel. Court stated counsel can file the appropriate motion. COURT ORDERED, matter set for trial in April and will give a secondary date in the event this case does not proceed to trial in April. Upon Court's inquiry, Mr. Sgro stated that he did contact the State Bar about the conflict issue. Mr. Cano stated it has been determined that a conflict does not exist.

CUSTODY (BOTH)

3/30/10 8:15 AM CALENDAR CALL (BOTH)

4/05/10 10:00 AM JURY TRIAL (BOTH)

10/05/10 8:15 AM CALENDAR CALL (BOTH)

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10/11/10 10:00 AM JURY TRIAL (BOTH)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 10, 2009

06C224572-2

The State of Nevada vs Domonic R Malone

November 10, 2009

8:30 AM

All Pending Motions

**ALL PENDING
MOTIONS 11-10-09
Court Clerk: Kristen
Brown
Reporter/Recorder:
Michelle Ramsey
Heard By: Valerie
Adair**

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT: Lalli, Christopher J.

Attorney

JOURNAL ENTRIES

- CONFIRMATION OF COUNSEL (HART)...FURTHER PROCEEDINGS: SENTENCING
Mr. Hart CONFIRMED AS COUNSEL. COURT ORDERED, matter CONTINUED.

CUSTODY

5/18/10 8:15 AM FURTHER PROCEEDINGS: SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 15, 2009

06C224572-2

The State of Nevada vs Domonic R Malone

December 15, 2009

8:15 AM

Motion

DEFT'S PRO PER
MTN FOR SPEEDY
TRIAL OR MTN T
Relief Clerk: Nicole
McDevitt
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Lalli, Christopher J.

Attorney

Malone, Domonic R

Defendant

Pike, Randall H.

Attorney

Special Public Defender

Attorney

JOURNAL ENTRIES

- Court noted that Deft. is represented by counsel and therefore, cannot file proper person motions. Colloquy between Court and Mr. Pike regarding allegations in motion. Court FINDS Motion was not properly filed and ORDERED, Motion DENIED WITHOUT PREJUDICE. Colloquy between Court, Deft. and Mr. Pike regarding Defense counsel not filing Deft's documents and Deft's request to represent himself. COURT ORDERED, matter SET for Faretta Canvas.

CUSTODY

1/8/10 9:00 AM FARETTA CANVAS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 08, 2010

06C224572-2

The State of Nevada vs Domonic R Malone

January 08, 2010

9:00 AM

Hearing

FARETTA CANVAS
Court Clerk: Kristen
Brown
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.	Attorney
Di Giacomo, Marc P.	Attorney
Lalli, Christopher J.	Attorney
Malone, Domonic R	Defendant
Schieck, David M.	Attorney
Special Public Defender	Attorney

JOURNAL ENTRIES

- Court noted it has provided the deft. with a copy of the Information. Court canvassed the deft. Court stated it is clear that the deft. does not understand the elements of the crime, proper defenses and is not familiar with the evidence or procedure. Argument by Mr. Lalli. Court FINDS the deft. has knowingly and voluntarily WAIVED his right to counsel but has concerns about the deft's physical limitation regarding his eye sight; Court has discretion to not allow the deft. to represent himself. Mr. Lalli stated the deft. meets the eligibility to represent himself and has a constitutional right to do so and perhaps the issue regarding the deft's eye sight can be dealt with by having the deft's glasses repaired; further, requested that Mr. Pike and Mr. Cano be appointed as stand by counsel. Argument by Mr. Schieck. Court FINDS the deft. is competent to WAIVE his right and FINDS it was freely and voluntarily WAIVED; deft. knows the consequences, however, due to the

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August 02, 2006

deft's eye issues, ORDERED, Motion GRANTED; FURTHER ORDERED, Mr. Pike and Mr. Cano will be APPOINTED as STAND BY COUNSEL. Argument by Mr. Schieck regarding the appointment. Mr. Schieck further advised the Court that not everything can be turned over to the deft. as the jail will not permit some of the stuff to be provided to the deft. Deft. stated that he understands that he will not be provided with certain things. Upon Court's inquiry, Deft. stated that he will not be ready to proceed to trial in April. Arguments by Mr. Lalli and Mr. DiGiacomo regarding the trial dates and noted that this is an issue that is a basis for denying deft's motion to represent himself. Court stated that if the deft. can not be ready, will deny the motion to represent himself. Upon Court's inquiry, deft. stated that he will be ready to proceed to trial in April. Mr. DiGiacomo requested an order that stand by counsel be ready to proceed to trial in the event that the deft. elects not to represent himself. Mr. Schieck stated that counsel had previously announced ready and will do what they can but can not control what transpires between now and the trial since the deft. is representing himself.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 16, 2010

06C224572-2

The State of Nevada vs Domonic R Malone

February 16, 2010

8:15 AM

All Pending Motions

ALL PENDING
MOTIONS (02-16-10)
Court Clerk: Carol
Donahoo
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.
Di Giacomo, Marc P.
Lalli, Christopher J.
Malone, Domonic R
Pike, Randall H.

Attorney
Attorney
Attorney
Defendant
Attorney

JOURNAL ENTRIES

- DEFT.'S PRO PER MOTION TO PRESERVE AND PRODUCE EVIDENCE INCLUDING
POTENTIALLY EXCULPATORY EVIDENCE . . . DEFT.'S PRO PER MOTION FOR EXPENSES FOR
PRIVATE INVESTIGATOR

Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present as Deft.'s stand-by counsel.

Court and counsel indicated that due to the poor quality of the handwritten motions, they were
difficult to read. Colloquy regarding providing Deft. with a Felt Tip Pen to prepare his motions so
they will be legible. COURT SO ORDERED. Deft. requested some supplies to organize his papers; i.e.,
files rubber bands, etc. COURT FURTHER ORDERED, said supplies shall be provided to Deft.

Colloquy regarding the requested discovery. Mr. DiGiacomo advised that Mr. Pike and Mr. Cano had
been to his office and all discovery in his possession has been provided to Deft. Malone. Court

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Minutes Date:

August 02, 2006

directed Deft. to look through everything that has been provided and if something is missing; Deft. to make a specific request.

With regard to the Motion for Expenses for Private Investigation, COURT ORDERED, Motion GRANTED. Deft. to prepare the Order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 16, 2010

06C224572-2

The State of Nevada vs Domonic R Malone

March 16, 2010

8:15 AM

Motion

DEFT'S MTN FOR
JUDICIAL
DETERMINATION
OF Court Clerk:
Carol Donahoo
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.

Attorney

Di Giacomo, Marc P.

Attorney

Pike, Randall H.

Attorney

Special Public Defender

Attorney

JOURNAL ENTRIES

- Deft. Herb not present. Mr. DiGiacomo advised the Motion was filed on behalf of Deft. Malone not Deft. Herb so the wrong Deft. is on calendar. COURT ORDERED, Motion for Judicial Determination of Standby Counsel's Obligations pursuant to Hollaway vs. State placed on calendar as to Deft. Malone.

CUSTODY

03/18/10 8:15 AM Deft. Malone's Motion

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 18, 2010

06C224572-2

The State of Nevada vs Domonic R Malone

March 18, 2010

8:15 AM

Motion

MOTION FOR
JUDICIAL
DETERMINATION
Court Clerk: Carol
Donahoo
Reporter/Recorder:
Michelle Ramsey
Heard By: Villani,
Michael

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Di Giacomo, Marc P.

Attorney

Malone, Domonic R

Defendant

Pike, Randall H.

Attorney

Special Public Defender

Attorney

JOURNAL ENTRIES

- Mr. Pike advised he and Charles Cano, Dep SPD, are standby counsel and have assumed an Amicus position with the Court. The SPD is to present a mitigation defense regardless of the Deft. s wishes unless the Court precludes such a presentation. Upon Court's inquiry, Deft. stated he may have an objection but is not sure he has seen the motion.

Colloquy regarding Deft.'s request to review certain materials. The investigator, Mr. Dillard, will make the appropriate arrangements to meet with Deft. COURT ORDERED, Motion CONTINUED; Mr. Pike to make sure Deft. has a copy of the Motion and, if possible, Mr. Dillard to be present next date.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 25, 2010

06C224572-2

The State of Nevada vs Domonic R Malone

March 25, 2010

8:15 AM

Motion

MOTION FOR
JUDICIAL
DETERMINATION
Court Clerk: Carol
Donahoo
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:	Di Giacomo, Marc P.	Attorney
	Lalli, Christopher J.	Attorney
	Malone, Domonic R	Defendant
	Pike, Randall H.	Attorney
	Schieck, David M.	Attorney

JOURNAL ENTRIES

- David Schieck, Dep SPD, appearing on behalf of Charles Cano, Dep SPD.
Deft. Malone's Motion for Reconsideration of Writ of Habeas Corpus and Deft. Malone's Motion in Limine to Prohibit Introduction of Hearsay Statements made by Co-Defendant McCarthy and Others that Reference Deft. Malone at the Time of Trial FILED IN OPEN COURT.
Colloquy regarding the Motion for Judicial Determination. COURT ORDERED, Motion GRANTED.
With regard to Deft. Malone's Motion in Limine, Court advised no hearsay statements will be allowed.

Mr. Pike needs additional surgery; colloquy regarding the trial date. COURT ORDERED, the April 5, 2010, trial date shall be VACATED; the new trial date will be October 11, 2010, which was previously

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scheduled as a back-up.

Mr. Oram made representations regarding the Motion to Sever. COURT ORDERED, the Motion to Sever and Deft. Malone's Motion for Reconsideration shall be set for April 13.

CUSTODY

04/13/10 8:15 MOTION TO SEVER & MOTION FOR RECONSIDERATION

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 13, 2010

06C224572-2

The State of Nevada vs Domonic R Malone

April 13, 2010

8:15 AM

All Pending Motions

ALL PENDING
MOTIONS (04-13-10)
Court Clerk: Carol
Donahoo
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Di Giacomo, Marc P.

Attorney

Malone, Domonic R

Defendant

Pike, Randall H.

Attorney

Schieck, David M.

Attorney

Special Public Defender

Attorney

JOURNAL ENTRIES

- 0. DEFT. MALONE'S MOTION FOR RECONSIDERATION OF WRIT OF HABEAS CORPUS ...
DEFT. MCCARTY'S RENEWED MOTION TO SEVER

Deft. Malone stated a copy of the State's Opposition to his Motion for Reconsideration was not served upon him; he received a copy from his stand-by counsel, Randall Pike, SPD; colloquy. No oral argument. COURT ORDERED, Motion for Reconsideration DENIED as the Court previously found that slight or marginal evidence was presented to support the charges. Deft. has presented no new evidence to convince the Court that its previous decision was incorrect. Furthermore, pursuant to EDCR 7.12, Deft. did not seek permission from the Court to file said motion.

Arguments by counsel on the Renewed Motion to Sever. Court advised it wanted to review the previous motion to sever and ORDERED, matter CONTINUED. Deft. Malone requested he be

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August 02, 2006

06C224572-2

transported for the continued hearing. COURT SO ORDERED.
CUSTODY (BOTH)
CONTINUED TO: 04/29/10 8:15 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 29, 2010

06C224572-2

The State of Nevada vs Domonic R Malone

April 29, 2010

8:15 AM

Motion to Sever

MCCARTY'S
RENEWED
MOTION TO SEVER
Court Clerk: Carol
Donahoo
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:	Di Giacomo, Marc P.	Attorney
	Lalli, Christopher J.	Attorney
	Malone, Domonic R	Defendant
	Schieck, David M.	Attorney
	Special Public Defender	Attorney

JOURNAL ENTRIES

-

Colloquy regarding Deft. Malone's intentions to continue to represent himself; Deft. stated he will be representing himself. COURT ORDERED, McCarty's Renewed Motion to Sever GRANTED. Court discussed with counsel the order in which the trials should go forward. Mr. DiGiacomo advised the State would prefer that Deft. McCarty go first and then Malone could follow immediately after. COURT ORDERED, the October trial date STANDS for both Deft.'s; counsel are directed to meet with one another and the Detective sixty (60) days prior to trial to ensure all discovery has been exchanged.

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Minutes Date:

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06C224572-2

CUSTODY

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

May 18, 2010

06C224572-2

The State of Nevada vs Domonic R Malone

May 18, 2010

8:15 AM

Status Check

STATUS CHECK:
SENTENCING
Court Clerk: Carol
Donahoo
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT: Lalli, Christopher J.

Attorney

JOURNAL ENTRIES

- Mr. Lalli advised the parties would like to continue this matter until sometime in November.
COURT SO ORDERED.

CUSTODY

CONTINUED TO: 11/23/10 8:15 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 20, 2010

06C224572-2

The State of Nevada vs Domonic R Malone

July 20, 2010

8:15 AM

Motion

DEFT'S MOTION
FOR PARALEGAL
FINANCIAL
ASSISTANCE
MEDICAL PRIVATE
INVESTIGATOR
Court Clerk: Carol
Donahoo
Reporter/Recorder:
Michelle Ramsey
Heard By: Michael
Villani

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Di Giacomo, Marc P.
Malone, Domonic R

Attorney
Defendant

JOURNAL ENTRIES

- Also present: Randall Pike, SPD, standby counsel for Deft. Malone.

Deft. stated in his Motion that all inmates have lost the privilege to go to the law library; that he was found to be indigent but has not been provided with the funds or materials to conduct his legal defense; that he needs medical treatment for an impacted wisdom tooth; and that he wants Investigator Tom Dillard removed and replaced with Richard Franky. Deft. claims Investigator Dillard has done nothing on his case. Colloquy regarding Deft.'s Motion. Upon Court's inquiry, Deft. stated that he has had no contact with Investigator Dillard except for an initial meeting. COURT ORDERED, Motion CONTINUED. Court directed Investigator Dillard to be present next date. CUSTODY

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06C224572-2

CONTINUED TO: 07/27/10 8:15 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 27, 2010

06C224572-2

The State of Nevada vs Domonic R Malone

July 27, 2010

8:15 AM

Motion

Deft. Malone's
Motion for Paralegal,
Financial Assistance,
Medical, Private
Investigator

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Asst DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Deft. Malone present pro se; and Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present as standby counsel for Deft. Malone.

Mr. Lalli advised that Michael Wysocki is present today and could accept the Investigator appointment. Wysocki was originally assigned to this case but was in a car accident and unable to continue so Tom Dillard was appointed. At this point, no investigative work has been done. COURT ORDERED, Michael Wysocki shall be APPOINTED as Investigator on this case. Court directed Wysocki to meet with Deft. as soon as possible.

Colloquy regarding Deft.'s dental issues and whether said dental issues are a medical necessity. Court advised it would NOT order that Deft. be transported for dental treatment at this point but instead requested Mr. Pike and Mr. Cano to check further into Deft.'s dental needs.

Colloquy regarding Deft.'s request for paralegal assistance. Deft. advised that he is unable to use the legal library for the reasons stated on the record and is having difficulty in obtaining Case Law and preparing for trial. Mr. Lalli stated that Deft. was apprised of these issues when he decided to

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August 02, 2006

represent himself. Mr. Pike added that due to Deft.'s limited knowledge of the law, he is not requesting the appropriate information. Upon Court's inquiry, Deft. stated that he will continue to represent himself. Court requested Mr. Pike and Mr. Cano comply with Deft.'s requests.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 12, 2010

06C224572-2

The State of Nevada vs Domonic R Malone

August 12, 2010

8:15 AM

Motion to Suppress

Deft.'s Pro Per
Motion To Suppress
Statements Of
Correna Phillips Or
In The Alternative
Motion In Limine To
Prohibit Introduction
Of Statements Made
By State Witness
'Phillips' At The
Time Of Trial

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Asst DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Deft. Malone present, pro se; and Charles Cano, Dep SPD, present as stand-by counsel for Deft. Michael Wysocki, Investigator, also present.

Mr. Lalli advised the State filed an Opposition to Deft.'s Motion. Deft. stated he did not receive a courtesy copy. Court noted this is a continuing problem. Upon Court's inquiry, Deft. again stated that he wanted to continue representing himself. Mr. Wysocki addressed the Court; colloquy regarding clerical issues and what Mr. Wysocki is doing to assist Deft.

COURT ORDERED, Motion CONTINUED to August 26; Deft's Motion for Paralegal will also be continued to August 26.

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Minutes Date:

August 02, 2006

06C224572-2

CUSTODY

CONTINUED TO: 08/26/10 8:15 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 26, 2010

06C224572-2

The State of Nevada vs Domonic R Malone

August 26, 2010

8:15 AM

All Pending Motions

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- DEFT.'S PRO PER MOTION TO SUPPRESS STATEMENTS OF CORRENA PHILLIPS OR, IN THE ALTERNATIVE, MOTION IN LIMINE TO PROHIBIT INTRODUCTION OF STATEMENTS MADE BY STATE'S WITNESS PHILLIPS AT THE TIME OF TRIAL . . . DEFT.'S MOTION FOR PARALEGAL

Sandra DiGiacomo, Chf Dep DA, present on behalf of the State; Deft. Malone present pro se; and Charles Cano, Dep SPD, present as stand-by counsel for Deft.

Deft. prepared a Reply to the State's Response; however the Court did not receive a copy of same. Therefore, COURT ORDERED, matters CONTINUED.

CUSTODY

CONTINUED TO: 08/31/10 8:15 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 31, 2010

06C224572-2

The State of Nevada vs Domonic R Malone

August 31, 2010

8:15 AM

All Pending Motions

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- DEFT.'S PRO PER MOTION TO SUPPRESS STATEMENTS OF CORRENA PHILLIPS OR, IN THE ALTERNATIVE, MOTION IN LIMINE TO PROHIBIT INTRODUCTION OF STATEMENTS MADE BY STATE'S WITNESS "PHILLIPS" AT THE TIME OF TRIAL ... DEFT.'S MOTION FOR PARALEGAL

Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Deft. Malone present pro se; and Charles Cano, Dep SPD, present as stand-by counsel for Deft.

Deft. claims that Correna Phillips lied under oath and, for the reasons stated on the record, should not be allowed to be a witness in this case. Arguments by counsel. COURT ORDERED, Motion to Suppress DENIED as there is no legal basis to exclude the testimony of said witness. Mr. DiGiacomo to prepare the Order.

Colloquy regarding Deft.'s request for a paralegal. Deft. stated that he needs someone to assist him with his defense; specifically, he needs help with research as he is not allowed access to the law library at the Clark County Detention Center (CCDC). Colloquy regarding the difficulties in representing one's self under Deft's circumstances; Court noted it cannot appoint the Special Public Defender's office to do his research for him. COURT ORDERED, matter set for status check. This Department's Law Clerk to check with the CCDC Law Library.

CUSTODY

PRINT DATE: 06/06/2012

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Minutes Date:

August 02, 2006

06C224572-2

09/14/10 8:15 AM STATUS CHECK: USE OF CCDC LAW LIBRARY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 14, 2010

06C224572-2

The State of Nevada vs Domonic R Malone

September 14, 2010

8:15 AM

Status Check

Use of CCDC Law
Library

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. Malone present pro se; and Charles Cano, Dep SPD, present as stand-by counsel for Deft. Michael Wysocki, Investigator, also present.

Court noted there was some miscommunication regarding the Law Library issue. Therefore, COURT ORDERED, status check CONTINUED.

Deft. stated that he needs to hire an forensic science expert and requested to file a motion in open court; colloquy. Mr. Lalli advised he would not be opposed to the appointment of a Mr. Schiro. COURT ORDERED, Deft.'s oral Motion for Appointment of Expert is GRANTED.

CUSTODY

CONTINUED TO: 09/21/10 8:15 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****September 21, 2010**

06C224572-2

The State of Nevada vs Domonic R Malone

September 21, 2010**8:15 AM****Status Check****Use Of CCDC Law
Library****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Cheryl Carpenter**REPORTER:****PARTIES****PRESENT:****JOURNAL ENTRIES**

- Christopher Lalli, Sr. Dep DA, present on behalf of the State; Deft. Malone present pro se; and Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present as stand-by counsel for Deft.

Court noted the Director of the Clark County Detention Center (CCDC) law library was contacted. Conference at the Bench. Court trailed matter for Mr. Pike to speak with Deft.

MATTER RECALLED: Mr. Pike will prepare an Amicus Order so Deft. will be allowed to use the CCDC law library to prepare for trial. Colloquy regarding the Jury Questionnaire for Deft. Malone and Deft. McCarty and discovery issues.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 30, 2010

06C224572-2

The State of Nevada vs Domonic R Malone

September 30, 2010 8:15 AM

Status Check

Jury Questionnaire

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Deft. Malone present Pro Se; and David Schieck, SPD, Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present as stand-by counsel for Deft.

Also present today: Deft. McCarty, the Co-Deft. and his counsel.

Colloquy regarding the Jury Questionnaire. Mr. Lalli indicated that he gave Deft. a copy of the proposed Jury Questionnaire prior to court today. Upon Court's inquiry, Deft. stated that he did receive a copy. Mr. Lalli advised that the Jury Questionnaire for the Co-Deft. is different and Deft. also has a copy of that one. COURT ORDERED, matter CONTINUED for the purpose of discussing and finalizing said Jury Questionnaire.

CUSTODY

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 05, 2010

06C224572-2

The State of Nevada vs Domonic R Malone

October 05, 2010

10:00 AM

Status Check

Jury Questionnaire

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Deft. Malone present pro se; and Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present as stand-by counsel for Deft.

Also present: Anthony Sgro, Esq., and Christopher Oram, Esq., on behalf of Deft. McCarty, who is also present.

Upon Court's inquiry, Deft. Malone stated he was not ready for trial as he thought he was going second; colloquy. Mr.Sgro announced ready. COURT ORDERED, the trial for Deft. McCarty will go forward on Tuesday, October 12, 2010. The trial for Deft. Malone shall be VACATED and RESET.

Counsel discuss the Jury Questionnaire for Deft. Malone's case; Deft. was giving a copy of both Questionnaires. COURT ORDERED, matter set for status check.

CUSTODY (BOTH)

10/12/10 10:00 AM JURY TRIAL (MCCARTY)

10/19/10 8:15 AM STATUS CHECK: JURY QUESTIONNAIRE (MALONE)

10/26/10 8:15 AM CALENDAR CALL (MALONE)

PRINT DATE: 06/06/2012

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Minutes Date:

August 02, 2006

06C224572-2

11/01/10 10:00 AM JURY TRIAL (MALONE)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 26, 2010

06C224572-2

The State of Nevada vs Domonic R Malone

October 26, 2010

8:15 AM

All Pending Motions

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo; Linda Denman; Sharry Frascarelli; Alice Polci

RECORDER: Michelle Ramsey

REPORTER:

PARTIES**PRESENT:**

Cano, Charles A.

Attorney

Di Giacomo, Marc P.

Attorney

Lalli, Christopher J.

Attorney

Malone, Domonic R

Defendant

Pike, Randall H.

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES**- STATUS CHECK: JURY QUESTIONNAIRE...CALENDAR CALL**

Court advised still in trial on another case and this trial is to be reset. Colloquy on next possible trial date. COURT ORDERED a tentative trial date. Mr. Lolli advised there was a mix up on the Deft's bail. COURT CONFIRMED there is NO BAIL on the Murder charge, and a \$2,000,000.00 bail was set for the other charges. Colloquy on Jury Questionnaire. Deft agreed to use the co-defendant's Jury Questionnaire but to change his name. FURTHER ORDERED, counsel to fax over dates they are unavailable for trial.

CUSTODY

11/9/10 8:15 AM STATUS CHECK: TRIAL SETTING

5/31/11 8:15 AM CALENDAR CALL

6/6/11 10:00 AM JURY TRIAL

PRINT DATE: 06/06/2012

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Minutes Date:

August 02, 2006

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES November 09, 2010

06C224572-2 The State of Nevada vs Domonic R Malone

November 09, 2010 8:15 AM Status Check Trial Setting

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. Malone present pro se; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present as stand-by counsel for Deft.

Colloquy regarding scheduling issues. Court noted that it has at least two firm setting on each of its 2011 criminal stacks and is going to have a meeting with the Criminal Presiding Judge. COURT ORDERED, status check CONTINUED. In the meantime, all parties to submit their trial schedules to the Court so it can coordinate a trial date.

With regard to Deft.'s Motion to Dismiss, COURT ORDERED, Motion will be CONTINUED to coincide with the status check.

CUSTODY

CONTINUED TO: 11/18/10 8:15 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES November 18, 2010

06C224572-2 The State of Nevada vs Domonic R Malone

November 18, 2010 8:15 AM All Pending Motions

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- STATUS CHECK: TRIAL SETTING . . . DEFT.'S MOTION TO DISMISS FOR PROSECTORIAL
MIDCONDUCT GROUNDS BRADY VIOLATION OR, IN THE ALTERNATIVE, THE JURY TO BE
INSTRUCTED ON MALONE'S EXACT WHEREABOUTS DURING THE TIME OF MURDERS

Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. Malone, who is pro se, is not
present.

Court Services noted that Deft. refused to be transported today. COURT ORDERED, matters
CONTINUED. COURT FURTHER ORDERED, Deft. to be transported next date.

CUSTODY

CONTINUED TO: 11/23/10 8:30

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 23, 2010

06C224572-2

The State of Nevada vs Domonic R Malone

November 23, 2010

8:15 AM

All Pending Motions

STATUS CHECK:
TRIAL
SETTING...DEFT'S
PRO PER MOTION
FOR
PROSECUTORIAL
MISCONDUCT
GROUNDS BRADY
VIOLATION OR IN
THE ALTERNATIVE
THE JURY TO BE
INSTRUCTED ON
MALONE'S EXACT
WHEREABOUTS
DURING THE TIME
OF MURDER(S)

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Karina Kennedy

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:	Cano, Charles A.	Attorney
	Lalli, Christopher J.	Attorney
	Malone, Domonic R	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deft requested to withdraw his Motion, COURT ORDERED GRANTED. The Court admonished Deft if he did not appear at the next hearing Mr. Cano would be representing him. Colloquy regarding Deft needing access to the law library to do research before trial. FURTHER ORDERED,

PRINT DATE: 06/06/2012

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Minutes Date:

August 02, 2006

06C224572-2

Order for Deft to access library every other day for three hours VACATED. Deft to put Motion for library privileges back on calendar. COURT ORDERED, Trial VACATED and RESET.

CUSTODY

01.03.11 8:15 A.M. CALENDAR CALL

01.09.11 10:00 A.M. JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 25, 2011

06C224572-2

The State of Nevada vs Domonic R Malone

January 25, 2011

8:15 AM

All Pending Motions

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- DEFT.'S MOTION TO DISMISS STAND-BY COUNSEL . . . DEFT.'S MOTION FOR FULL TRANSCRIPTS, DISCOVER OF PROSECUTION RECORDS, FILES, AND INFORMATION NECESSARY TO A FAIR TRIAL

Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Deft. Malone present pro se; and Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present as stand-by counsel for Deft.

Court noted Deft.'s Motion is only one page. Deft. advised that the Battery with Substantial Bodily Harm and the First Degree Kidnapping charges originate from a Las Vegas case and he was arrested in Las Vegas but taken to Henderson and booked and charged on those charges along with additional charges. Deft. contends that the Henderson Justice of the Peace did not have the procedural right to hear the Las Vegas case or bind him up to the District Court on the Las Vegas charges. Deft. had asked that his stand-by counsel correct this issue and they never did, therefore, Deft.'s stand-by counsel has jeopardized his case and a conflict has been created.

Mr. Pike advised this matter was discussed with Deft. and the Justices of the Peace have Countywide jurisdiction. Deft. requested that counsel challenge the arrest on probable cause as stated on the record. Mr. Pike advised that all possible claims were investigated, researched, and raised in the appropriate motions. The issue of the Countywide jurisdiction of the Justices of the Peace and the ability to arrest outside of the jurisdiction on a probable cause arrest within Clark County was not raised in the manner Deft. had requested but it was addressed. Mr. Cano added the original alleged

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Minutes Date:

August 02, 2006

crimes did happen in Henderson.

Mr. DiGiacomo advised that the crimes happened in Henderson; to his knowledge, Deft. was not arrested on the above-named charges, they were part of the Criminal Complaint filed by the District Attorney's office. Further, the District Attorney's office has Countywide jurisdiction and the Counts were found to be properly joined. Colloquy regarding the conflict issue.

Court noted that it appears that Deft.'s counsel (stand-by counsel) reviewed the legal issues in this matter and filed all the appropriate motions. However, since Deft. is now his own counsel, he is free to file any motions he feels are appropriate. The Motion to Dismiss Stand-by Counsel and Motion for Full Transcript . . . do not have any Points and Authorities attached to them and, therefore, are improper. Court has already advised Deft. that if he failed to follow the rules that could be grounds for this Court to no longer allow Deft to represent himself. If Deft. fails to follow the rules again, this Court will determine that Deft. is unable to represent himself and will then appoint Mr. Pike and Mr. Cano as counsel of record. COURT ORDERED, Deft.'s Motion to Dismiss Stand-by Counsel DENIED, without prejudice.

With regard to Deft.'s request for Transcripts, Court directed Deft. to set forth the reasons why the particular transcripts are needed and identify which ones are needed. COURT ORDERED, Motion DENIED, without prejudice.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES June 09, 2011

06C224572-2 The State of Nevada vs Domonic R Malone

June 09, 2011 8:15 AM Motion Deft.'s Motion for
Complete Rough
Draft Transcript

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. Malone present pro se.

This is the time set for hearing on Deft.'s Motion for Complete Rough Draft Transcript of Co-Deft.'s trial. Court noted it did not receive an Opposition. Mr. Lalli advised the transcripts have been available for months. Colloquy regarding the Motion and the Kite mentioned on page 2 of Deft.'s Motion.

Court noted that Deft. is representing himself but is not following the rules and ORDERED, Deft.'s Motion DENIED as he did not file a proper motion.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 21, 2011

06C224572-2

The State of Nevada vs Domonic R Malone

June 21, 2011

8:15 AM

Motion

Motion for Discovery
of Prosecution
Records, Files and
Information
Necessary to a Fair
Trial

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. Malone present pro se; Randal Pike, Asst SPD, and Charles Cano, Dep SPD, present as stand-by counsel for Deft.

Deft. has filed a Motion for Discovery of Prosecution Records, Files, and Information Necessary to a Fair Trial pro se. Mr. Lalli advised that this is the third discovery motion filed in a short period of time. The Motion is very hard to understand; the Special Public Defender (SPD) has reviewed the State's file and is in possession of everything the State has. Therefore, the State is not sure how to respond at this time.

Deft. advised that he does not have a complete set of discovery; he was given some discovery but there are a lot of duplicates in what he received. Deft. talks about the cell phones that were impounded. Mr. Lalli again advised that Mr. Pike and Mr. Cano reviewed the State's file and all their requests with regard to discovery have been honored. Mr. Pike responded that he prepared an inventory list of all the discovery received and made certain Deft. had a copy of all the documents. Copies of the transcripts from the Co-Deft.'s trial were also provided to Deft.'s investigator. Colloquy regarding the inventory list, other discovery issues, and Deft.'s investigator.

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Minutes Date:

August 02, 2006

Court noted that Deft.'s motion needs more specificity and directed either Mr. Pike or Mr. Cano to provide Deft. with a redacted copy of the inventory list, if possible. COURT ORDERED, Motion DENIED, without prejudice. Deft. may re-file his motion with more specificity as to what has not been handed over to him.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES July 12, 2011

06C224572-2 The State of Nevada vs Domonic R Malone

July 12, 2011 8:15 AM All Pending Motions

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- PRO SE MOTION FOR COMPLETE ROUGH DRAFT TRANSCRIPT OF CASE NO. C224572-1 . . .
PRO SE MOTION FOR DISCOVERY OF PROSECUTION RECORDS, FILES, AND INFORMATION
NECESSARY TO A FAIR TRIAL

Marc DiGiacomo, Chf Dep DA, present on behalf of the State and Deft. Malone present pro se.

Mr. DiGiacomo advised that the Special Public Defender is not present and may not be aware this matter is on calendar today. Upon Court's inquiry, Deft. advised he served all the appropriate parties; colloquy. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 07/19/11 8:15 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 19, 2011

06C224572-2

The State of Nevada vs Domonic R Malone

July 19, 2011

8:15 AM

All Pending Motions

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Patti Slattery

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- PRO SE MOTION FOR COMPLETE ROUGH DRAFT TRANSCRIPT OF CASE C224572-1 . . . PRO SE MOTION FOR DISCOVERY OF PROSECUTION RECORDS, FILES, AND INFORMATION NECESSARY TO A FAIR TRIAL

Christopher Lalli, Chf Dep DA, present on behalf of the State; Deft. Malone present pro se; and Randall Pike, Asst SPD, present as stand-by counsel for Deft.

Court noted it received a pleading entitled "Ex-Parte Communication (Defendant Memorandum to Court)" from Deft. Mr. Lalli and Mr. Pike advised they have seen the document; colloquy. Court noted Deft. indicated in said document that he was forced to represent himself, the Court then quoted some of Deft.'s statements from the document. When a case is overly complex, the Court can DENY a Deft. the right to represent themselves. This is a complex case and due to the Deft.'s statements that he was forced to represent himself, this Court now ORDERS, Deft.'s request to represent himself DENIED. FURTHER, the Special Public Defender (SPD) is ORDERED to represent Deft. and will no longer be Stand-By Counsel.

Upon Court's inquiry, Mr. Pike advised the Court that the SPD will be ready for trial on January 9, 2012, for trial.

With regard to the above-named motions, COURT ORDERED, both motions are OFF CALENDAR.

PRINT DATE: 06/06/2012

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Minutes Date:

August 02, 2006

06C224572-2

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 09, 2011

06C224572-2

The State of Nevada vs Domonic R Malone

August 09, 2011

8:15 AM

Motion to Withdraw as
CounselDavid Schieck's
Motion to Withdraw
as Counsel

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State; David Shieck, SPD, Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

This is the time set for hearing on Shieck's Motion to Withdraw as Counsel. Mr. Schieck advised that Deft. contacted the office of the Special Public Defender (SPD) by letter and requested that they withdraw as counsel of record. Therefore, the SPD placed the matter on calendar to give Deft. an opportunity to make representations to the Court.

Upon Court's inquiry, Deft. advised there is a conflict between him and the SPD that cannot be resolved. Deft. believes the SPD is conspiring with the State to murder him for the reasons stated on the record. There is a trust issue; colloquy regarding same and the continuing discovery issues. COURT FINDS, Deft.'s lack of specificity with regard to the discovery issues and the allegations that there is a conspiracy to murder him are belied by the record and, therefore, ORDERED, motion DENIED.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 15, 2011

06C224572-2

The State of Nevada vs Domonic R Malone

December 15, 2011

8:15 AM

Status Check

Trial Status/Jury
Questionnaire

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

This is the time set for the status check with regard to trial status. Mr. Lalli advised the State will be ready to go; the trial is expected to last five and-a-half to six weeks. Colloquy regarding the Jury Questionnaires; the final version of the Questionnaire will more than likely be ready by Friday (December 16). Court advised it would like both counsel to review the Questionnaires and let the Court know on Thursday (January 5) of any agreements to exclude potential jurors.

Mr. Pike advised that he and Mr. Lalli have a conflict on January 9 and would request to postpone the start of the trial to Tuesday, January 10. COURT SO ORDERED.

CUSTODY

01/10/12 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES January 03, 2012

06C224572-2 The State of Nevada vs Domonic R Malone

January 03, 2012 8:15 AM Calendar Call

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Marc DiGiacomo, Chf Dep DA, and Christopher Lalli, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

State and Defense announced ready. Colloquy regarding the Jury Questionnaires; Court would like counsel to review said documents and perhaps come to an agreement on releasing any non-qualified prospective jurors by Thursday, January 5, 2012.

Mr. Lalli advised the State has no mitigation evidence from the Defense; further colloquy. Mr. DiGiacomo is requesting any underlying data that Dr. Paglini uses to render his opinions be turned over to the State as soon as possible. COURT ORDERED, any documentation that was provided to Dr. Paglini to render his opinion, whether it be oral or written be turned over within one (1) week from today; trial will begin Tuesday, January 10, 2012, at 10:00 a.m.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 10, 2012

06C224572-2

The State of Nevada vs Domonic R Malone

January 10, 2012

10:00 AM

Jury Trial

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

10:48 a.m. Jury Trial commenced. Court and counsel begin Voir Dire examination of the Prospective Jurors.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS: Prospective Juror No. 021 canvassed. This Prospective Juror is familiar with some of the witnesses that may be called to testify in this matter; therefore, Court released him.

PROSPECTIVE JURORS PRESENT: Voir Dire examination of the Prospective Jurors continued.

5:54 p.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

CONTINUED TO: 01/11/12 9:15 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES January 11, 2012

06C224572-2 The State of Nevada vs Domonic R Malone

January 11, 2012 9:15 AM Jury Trial

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

10:04 a.m. Jury Trial resumed. Court and counsel continued with the Voir Dire examination of the Prospective Jurors.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS: Prospective Juror No. 312 canvassed; he may have been sleeping. State advised the Court of its concerns; colloquy.

PROSPECTIVE JURORS PRESENT: Voir Dire examination of the Prospective Jurors continued.

5:36 p.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

CONTINUED TO: 01/12/12 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES January 12, 2012

06C224572-2 The State of Nevada vs Domonic R Malone

January 12, 2012 10:00 AM Jury Trial

HEARD BY: Villani, Michael COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

10:15 a.m. Jury Trial resumed. Court and counsel continued with the Voir Dire examination of the Prospective Jurors.

5:45 p.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

CONTINUED TO: 01/13/12 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES January 13, 2012

06C224572-2 The State of Nevada vs Domonic R Malone

January 13, 2012 8:30 AM Jury Trial

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

9:06 a.m. Jury Trial resumed. Court and counsel continue Voir Dire examination of the Prospective Jurors.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS: Prospective Juror No. 540 canvassed. This Prospective Juror has been sleeping through the Voir Dire process. Court released him.

PROSPECTIVE JURORS PRESENT: Voir Dire examination of the Prospective Jurors continued. Jury and four (4) alternates selected and sworn. Court released the Jury at 5:15 p.m.

OUTSIDE THE PRESENCE OF THE JURY: Mr. Pike made a Batson Challenge; Prospective Juror No. 469 and Prospective Juror No. 312 were excluded via Peremptory Challenge by the State. Arguments by counsel. COURT ORDERED, the Jury Questionnaires for the above-named Prospective Jurors shall be marked for identification as Court's Exhibits 1 and 2 respectively.

5:45 p.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

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Minutes Date:

August 02, 2006

06C224572-2

CONTINUED TO: 01/17/12 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES January 17, 2012

06C224572-2 The State of Nevada vs Domonic R Malone

January 17, 2012 10:00 AM Jury Trial

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

10:31 a.m. Jury Trial resumed. EXCLUSIONARY RULE invoked.

JURY PRESENT: Clerk read the Second Amended Information to the Jury and stated the Deft.'s plea thereto. Opening statements by Mr. DiGiacomo and Mr. Pike.

Testimony and exhibits presented (see worksheets).

5:00 p.m. Court ADJOURNED, COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

CONTINUED TO: 01/18/12 9:45 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES January 18, 2012

06C224572-2 The State of Nevada vs Domonic R Malone

January 18, 2012 9:45 AM Jury Trial

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

10:03 a.m. Jury Trial resumed. Testimony and exhibits presented (see worksheets).

4:09 p.m. Court ADJOURNED, COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

CONTINUED TO: 01/19/12 10:15 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES January 19, 2012

06C224572-2 The State of Nevada vs Domonic R Malone

January 19, 2012 10:15 AM Jury Trial

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

10:31 a.m. Jury Trial resumed. Testimony and exhibits presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: The witness, Nicolin Broderway, was examined with regard to her testimony for trial today.

JURY PRESENT: Testimony and exhibits presented (see worksheets).

5:25 p.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

CONTINUED TO: 01/20/12 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES January 20, 2012

06C224572-2 The State of Nevada vs Domonic R Malone

January 20, 2012 9:30 AM Jury Trial

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

9:43 a.m. Jury Trial resumed. Testimony and exhibits presented (see worksheets).

3:36 p.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

CONTINUED TO: 01/23/12 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES January 23, 2012

06C224572-2 The State of Nevada vs Domonic R Malone

January 23, 2012 9:30 AM Jury Trial

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey; Debbie Winn

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

9:30 a.m. Jury Trial resumed. Testimony and exhibits presented (see worksheets).

2:38 p.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

CONTINUED TO: 01/24/12 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES January 24, 2012

06C224572-2 The State of Nevada vs Domonic R Malone

January 24, 2012 10:00 AM Jury Trial

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

10:04 a.m. Jury Trial resumed. Testimony and exhibits presented (see worksheets).

4:47 p.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

CONTINUED TO: 01/25/12 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES January 25, 2012

06C224572-2 The State of Nevada vs Domonic R Malone

January 25, 2012 10:00 AM Jury Trial

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

10:09 a.m. Jury Trial resumed. Testimony and exhibits presented (see worksheets).

11:40 a.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

CONTINUED TO: 01/26/12 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 26, 2012

06C224572-2

The State of Nevada vs Domonic R Malone

January 26, 2012

10:00 AM

Jury Trial

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

Malone's Objections to the State's Proposed Trial Phase Jury Instructions FILED IN OPEN COURT.

11:01 a.m. Jury Trial resumed. Testimony and exhibits presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Mr. DiGiacomo orally moved to Introduce the taped statement of a non-testifying co-deft. Arguments by counsel; colloquy regarding redactions. COURT ORDERED, decision DEFERRED.

JURY PRESENT: Testimony and exhibits presented (see worksheets).

4:40 p.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

CONTINUED TO: 01/27/12 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES January 27, 2012

06C224572-2 The State of Nevada vs Domonic R Malone

January 27, 2012 10:00 AM Jury Trial

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

Deft.'s Points and Authorities in Opposition to the Introduction of the Non-Testifying Co-Deft.'s Recorded Telephone Call and State's Points and Authorities in Reply to Deft.'s Opposition to the Introduction of the Non-Testifying Co-Deft.'s Recorded Telephone Call FILED IN OPEN COURT.

9:43 a.m. Jury Trial resumed. OUTSIDE THE PRESENCE OF THE JURY: Arguments by counsel regarding the above-referenced issue. On the issue of the continuance of the conspiracy, the COURT DOES NOT FIND, that the statements in question fall into the concealment of the crime or a conspiracy; FURTHER, the statements are not specific enough to allow them in under NRS 51.069. COURT ORDERED, the motion is DENIED.

JURY PRESENT: Testimony and exhibits presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Court canvassed Deft. with regard to his right not to testify.

JURY PRESENT: Testimony and exhibits presented (see worksheets).

06C224572-2

3:49 p.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED; Court directed the Jury not to return until Tuesday at 10:00 a.m. as the Court is going to settle Jury Instructions on Monday, January 30, 2012.

CUSTODY

CONTINUED TO: 01/30/12 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES January 30, 2012

06C224572-2 The State of Nevada vs Domonic R Malone

January 30, 2012 10:00 AM Jury Trial

HEARD BY: Villani, Michael COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

Third Amended Information and State's Opposition to Deft. Malone's Motion in Limine to Preclude Presentation of "Other Matter" Evidence Related to Another Homicide FILED IN OPEN COURT.

11:52 a.m. Jury Trial resumed. OUTSIDE THE PRESENCE OF THE JURY: the Jury is not present today as the Court is working on the Jury Instructions for this case. Jury Instructions settled on the record.

12:30 p.m. Court ADJOURNED, COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

CONTINUED TO: 01/31/12 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES January 31, 2012

06C224572-2 The State of Nevada vs Domonic R Malone

**January 31, 2012 8:15 AM Motion Motion in Limine to
Bar Improper
Prosecutorial
Argument**

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

This is the time set for hearing on Deft.'s Motion in Limine to Bar Improper Prosecutorial Argument. The State is seeking to introduce evidence of a charge that was filed against Deft. in 2000. Arguments by counsel. Court advised it is concerned about the Jury getting a complete picture, perhaps being confused and speculating about what happened in Deft.'s other case. This information is highly prejudicial, therefore, COURT ORDERED, Motion is GRANTED; Mr. Pike to prepare the Order.

Mr. Lalli requested the Court STAY its ruling as the State would like to seek review from the Nevada Supreme Court. Additional arguments by counsel. COURT ORDERED, Mr. Lalli's request for a STAY is DENIED.

CUSTODY

CLERK'S NOTE: For the record, the hearing on Deft.'s Motion in Limine to Bar Improper Prosecutorial Argument was actually held on February 1, 2012, not January 31, 2012.

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES January 31, 2012

06C224572-2 The State of Nevada vs Domonic R Malone

January 31, 2012 10:00 AM Jury Trial

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

Reply to State's Opposition to Deft.'s Motion to Admit Evidence of Other Bad Acts in Limine to Bar Improper Prosecutorial Argument FILED IN OPEN COURT.

10:00 a.m. Jury Trial resumed. Court instructed the Jury. Closing arguments by Mr. Lalli and Mr. Cano; rebuttal by Mr. DiGiacomo.

At the hour of 3:16 p.m. the Jury retired to deliberate

OUTSIDE THE PRESENCE OF THE JURY: Mr. Pike advised that at the end of Mr. DiGiacomo's Closing Argument, he made a statement which Mr. Pike believes was a reference to the Deft.'s failure not to testify and right to remain silent. Therefore, Mr. Pike orally moved for a mistrial. Argument by Mr. DiGiacomo. COURT ORDERED, motion DENIED.

3:16 p.m. Court ADJOURNED. Jury deliberated until 5:00 p.m. at which time COURT ORDERED, Jury Trial CONTINUED. The Jury is to return tomorrow at 9:00 a.m. to resume their deliberations.

CUSTODY

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06C224572-2

CONTINUED TO: 02/01/12 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 01, 2012

06C224572-2

The State of Nevada vs Domonic R Malone

February 01, 2012

9:00 AM

Jury Trial

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

9:00 a.m. The Jury returned and retired to deliberate. During the Jury's deliberations, they presented four (4) questions to the Court. The Court provided answers to said questions and where the answered required consultation with counsel, the Court did so. The question were marked for identification as Court's Exhibits 32, 33, 34, and 35.

At the hour of 1:22 p.m., the Jury returned with a verdict as follows:

GUILTY of COUNT 1 - BATTERY WITH SUBSTANTIAL BODILY HARM (F); GUILTY of COUNT 2 - CONSPIRACY TO COMMIT KIDNAPPING (F); GUILTY of COUNT 3 - FIRST DEGREE KIDNAPPING (F); GUILTY of COUNT 4 - BATTERY WITHOUT SUBSTANTIAL BODILY HARM (F); NOT GUILTY of COUNT 5 - ROBBERY (F); NOT GUILTY of COUNT 6 - PANDERING (F); GUILTY of COUNT 7 - CONSPIRACY TO COMMIT BURGLARY (GM); GUILTY of COUNT 8 - CONSPIRACY TO COMMIT KIDNAPPING (F); GUILTY of COUNT 9 - CONSPIRACY TO COMMIT MURDER (F); NOT GUILTY of COUNT 10 - BURGLARY (F); GUILTY of COUNT 11 - FIRST DEGREE KIDNAPPING (F); GUILTY of COUNT 12 - FIRST DEGREE KIDNAPPING (F); GUILTY of COUNT 13 - FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON (CHARLOTTE COMBADO) (F); GUILTY of COUNT 14 - FIRST DEGREE MURDER WITH USE OF A DEADLY

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WEAPON (VICTORIA MAGEE) (F); GUILTY of COUNT 15 - ROBBERY WITH USE OF A DEADLY WEAPON (F); and GUILTY of COUNT 16 - ROBBERY WITH USE OF A DEADLY WEAPON (F).

Jury Polled.

1:33p.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED for Penalty Hearing.

CUSTODY

CONTINUED TO: 02/06/12 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 03, 2012

06C224572-2

The State of Nevada vs Domonic R Malone

February 03, 2012

9:30 AM

Motion For
Reconsideration

State's Motion to
Reconsider the
Exclusion of Highly
Probative and
Admissible Evidence
from the Penalty
Hearing

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

Court sets forth the history of the June 2000 murder case, the facts of which the State wishes to introduce during the Penalty Hearing for Deft. Mr. Lalli presented a Case History and some Photographs, which he would like marked for identification as State's Exhibits 1 through 5.

Arguments by counsel; State's Exhibits ADMITTED. COURT ORDERED, decision DEFERRED, the Court will make a decision on this Motion in the next couple of hours. Court noted that Mr. Lalli attached several witness statements to his Motion and inquired as to whether or not any of them have criminal convictions; colloquy. Court directed Mr. Lalli to run NCIC on the all above-mentioned witnesses and turn over any applicable information to Mr. Pike.

CUSTODY

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August 02, 2006

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 03, 2012

06C224572-2

The State of Nevada vs Domonic R Malone

February 03, 2012

9:30 AM

Decision

**Decision: State's
Motion to Reconsider
the Exclusion of
Highly Probative and
Admissible Evidence
from the Penalty
Hearing**

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- State's Motion for Reconsideration came before this Court on February 3, 2012.

State filed its Notice of Evidence in Aggravation on September 24, 2009, and filed its Supplemental Notice of Evidence in Aggravation on November 30, 2011. Defendant's trial began on January 10, 2012. Defendant filed his Motion in Limine to Bar Improper Prosecutorial Argument on January 17, 2012. Defendant asserts that the use of a 2000 Homicide identified in the 2009 Notice of Evidence in Aggravation as evidence at the sentencing hearing of trial is improper.

NRS 175.552 permits four types of evidence to be admissible at a capital sentencing hearing. See *Thomas v. State*, 122 Nev. 1361, 148 P.3d 727, 733 (2006). The State asserts that the 2000 Homicide is admissible evidence as "other matter" evidence. *Id.* In accordance with *Nunnery v. State*, 127 Nev. Adv. Op. 69, 263 P.3d 235, 249 (2011), "evidence of uncharged crimes may be admitted ... as 'other matter' evidence." Such evidence is relevant because a sentencing determination should be based on the entirety of a defendant's "character, record, and the circumstances of the offense," *Browning v. State*, 124 Nev. 517, 526, 188 P.3d 60, 67 (2008), but it may be excluded from a capital penalty hearing

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if it is 'impalpable or highly suspect.'" Nunnery, 127 Nev. Adv. Op. 69, 263 P.3d at 249,

Under NRS 175.552 "evidence that a defendant had committed an unrelated homicide for which he had not been convicted may be admitted during the penalty phase of defendant's trial ... as 'other matter which the court deems relevant to sentence.'" Gallego v. State, 117 Nev. 348, 369, 23 P.3d 227, 241 (2001). Other matter evidence permits "testimony regarding police investigations of a defendant's other crimes so long as the evidence is not impalpable or highly suspect." Id.; see also, People v. Valencia, 43 Ca. 4th 268, 74 Cal.Rptr.3d 605, 180 P.3d 351 (2008). As such, the Nevada Supreme Court upheld the admissibility of evidence concerning police investigations of other crimes. Id.

Under NRS 175.552 evidence which may or may not ordinarily be admissible under the rules of evidence may be admitted in the penalty phase of a capital trial as long as the questioned evidence is not supported solely by impalpable or highly suspect evidence. Homick v. State, 108 Nev. 127, 138, 825 P.2d 600, 607 (1992). As such, the Nevada Supreme Court upheld the admissibility of evidence concerning other pending homicide charges. Id.

In Leonard v. State, 114 Nev. 1196, 1214, 969 P.2d 288, 299 (1998), the Nevada Supreme Court maintained the standard articulated in Homick, and, upheld the admissibility of evidence concerning police investigation of crimes for which defendant had not been convicted.

The State's original Opposition did not include any exhibits of which the Court could review to determine a factual basis to allow the 2000 arrest into evidence at the Penalty hearing. The fact that a former Deputy District Attorney did not pursue the 2000 murder charge against Malone is not substantive evidence for this Court's inquiry as to whether the evidence is "impalpable or highly suspect." The State's Motion for Reconsideration included the Police Report and the Voluntary Statements of five (5) witnesses.

Based upon a review of the exhibits attached to the Motion for Reconsideration and further argument by counsel, the COURT FINDS, that evidence of the murder of 2000 is not based upon "impalpable or highly suspect evidence." COURT ORDERED State's Motion is GRANTED. State to prepare the Order consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved pursuant to EDCR 5.90(e).

CUSTODY

CLERK'S NOTE: A copy of this minute order was e-mailed to the District Attorney and Special Public Defender by the Law Clerk.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 06, 2012

06C224572-2

The State of Nevada vs Domonic R Malone

February 06, 2012

9:30 AM

Jury Trial

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

Deft.'s Motion to Recuse the Clark County District Attorney's Office and Malone's Objections to the State's Proposed Penalty Phase Jury Instructions FILED IN OPEN COURT.

9:56 a.m. Jury Trial resumed; PENALTY HEARING. OUTSIDE THE PRESENCE OF THE JURY: Argument by Mr. Cano on the Motion to Recuse. For the reasons stated on the record, Mr. Cano believes that Mr. DiGiacomo should not participate any further in these proceedings and moved for a mistrial; he is requesting that a Special Prosecutor be appointed. Argument by Mr. DiGiacomo. Court noted that the Motion for Reconsideration of Deft.'s Motion in Limine to Bar Improper Prosecutorial Argument was GRANTED; in the State's original opposition, the Court based its decision on the documents provided; it did not have the numerous pages of documents and exhibits that the State attached to the Motion for Reconsideration. Upon reviewing the substantial number of documents attached thereto, the Court found that the 2000 charge was not based on highly suspect evidence. COURT ORDERED, Motion for Mistrial DENIED. Colloquy regarding the Deft.'s previously filed Motion to Bifurcate the Penalty Phase of the trial. COURT FURTHER ORDERED, Motion DENIED.

For the record, the Exclusionary Rule, which was previously INVOKED, is WAIVED for the purposes of the Penalty Hearing.

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Minutes Date:

August 02, 2006

06C224572-2

10:07 a.m. JURY PRESENT: Opening statements by Mr. DiGiacomo and Mr. Pike. Testimony and exhibits presented (see worksheets).

4:47 p.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

CONTINUED TO: 02/07/12 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 07, 2012

06C224572-2

The State of Nevada vs Domonic R Malone

February 07, 2012

10:00 AM

Jury Trial

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

10:16 a.m. Jury Trial resumed; PENALTY HEARING. OUTSIDE THE PRESENCE OF THE JURY: Mr. Lalli advised that the State is prohibited from having victims' family members tell the Jury that they want a death sentence. Yesterday during cross-examination there were some questions with that type of an implication. Colloquy regarding this issue and State's Exhibit No. 262.

10:39 a.m. JURY PRESENT: Testimony and exhibits presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: The Court advised Deft. of his right of allocution.

JURY PRESENT: Testimony and exhibits presented (see worksheets).

5:03 p.m. Court released the Jury. OUTSIDE THE PRESENCE OF THE JURY: Mr. Pike orally moved for a mistrial based on a question that was asked by Mr. DiGiacomo to the witness, Tami Bass. Mr. Pike objected and a conference was held at the bench. COURT ORDERED, Motion DENIED.

5:11 p.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED.

06C224572-2

CUSTODY

CONTINUED TO: 02/08/12 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 08, 2012

06C224572-2

The State of Nevada vs Domonic R Malone

February 08, 2012

9:30 AM

Jury Trial

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

9:37 a.m. Jury Trial resumed; PENALTY HEARING. Testimony and exhibits presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Arguments by counsel regarding State's Exhibit No. 262 and Deft.'s Exhibit No. HHH.

JURY PRESENT: Testimony and exhibits presented (see worksheets).

3:00 p.m. Court released Jury. OUTSIDE THE PRESENCE OF THE JURY: Jury Instructions settled on the record.

4:19 p.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

CONTINUED TO: 02/09/12 10:00 AM

PRINT DATE: 06/06/2012

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Minutes Date:

August 02, 2006

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 09, 2012

06C224572-2

The State of Nevada vs Domonic R Malone

February 09, 2012

10:00 AM

Jury Trial

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

10:01 a.m. Jury Trial resumed; PENALTY HEARING. OUTSIDE THE PRESENCE OF THE JURY: Further colloquy regarding State's Exhibit 262, the Exhibit will be admitted with certain documents being replaced/ removed as stated on the record.

10:06 a.m. JURY PRESENT: Court instructed the Jury. Closing arguments by Mr. Lalli, Mr. Cano and Mr. Pike; rebuttal by Mr. DiGiacomo.

At the hour of 12:58 p.m., the Jury retired to deliberate. Court noted that immediately after the Jury retired, lunch was provided. After lunch, the Jurors commenced deliberations. At 3:39 p.m. the Jury sent a note out. The Court held a telephonic conference with counsel and agreed upon a response. The Jury was instructed to continue to deliberate; the note was marked for identification as Court's Exhibit 42 and ADMITTED. After the response was provided to the Jury, they were admonished and discharged for the evening and instructed to return on February 10, 2012, at 9:00 a.m. to continue their deliberations.

4:14 a.m. COURT ORDERED, Jury Trial CONTINUED.

PRINT DATE: 06/06/2012

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Minutes Date:

August 02, 2006

06C224572-2

CUSTODY

CONTINUED TO: 02/10/12 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 10, 2012

06C224572-2

The State of Nevada vs Domonic R Malone

February 10, 2012

9:00 AM

Jury Trial

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, and Marc DiGiacomo, Chf Dep DA, present on behalf of the State; Randall Pike, Asst SPD, and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

9:00 a.m. The Jury returned and retired to deliberate.

At the hour of 11:19 a.m., the Jury returned with a Special Verdict as recorded herein and a Verdict of Life without the Possibility of Parole for each victim.

Court thanked and excused the Jury and alternates. COURT ORDERED, matter set for sentencing; Deft. REMANDED to CUSTODY without bail.

11:42 a.m. Court ADJOURNED.

CUSTODY

04/12/12 8:15 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 16, 2012

06C224572-2

The State of Nevada vs Domonic R Malone

February 16, 2012

8:15 AM

Request

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo; Kathy Sweatt; Dulce Romea; Sharon Coffman

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

Lalli, Christopher J.
Malone, Domonic R
State of Nevada

Attorney
Defendant
Plaintiff

JOURNAL ENTRIES

- Defense counsel not present. COURT noted trial has been completed and ORDERED, material witness warrant for Mr. Ramaan Hall RECALLED.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 10, 2012

06C224572-2

The State of Nevada vs Domonic R Malone

April 10, 2012

8:15 AM

Motion for New Trial

Deft.'s Motion for
New Trial

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

Court advised Mr. Cano that Deft. filed a Motion for New Trial, pro se. Deft. has an attorney of record, so all motions need to be filed by counsel; colloquy. Mr. Lalli advised that because the Motion was filed pro se and Deft. is represented by counsel, the State would request that said document be STRICKEN. COURT ORDERED, Motion STRICKEN; said Motion will not be considered by the Court. If Mr. Cano believes there are grounds for a new trial, he will file the appropriate motion.

Conference at the Bench; Mr. Cano presented an Ex-Parte Application and Order to Prepare Transcripts and Receipt of Copy to the Court. The Order was signed by the Court on the bench and the Receipt of Copy was signed by the Court Recorder and both were FILED IN OPEN COURT.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES April 12, 2012

06C224572-2 The State of Nevada vs Domonic R Malone

April 12, 2012 8:15 AM Sentencing

HEARD BY: Villani, Michael COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Randall Pike, Asst. SPD, present on behalf of Deft. Malone, who is also present.

Court noted it would like to review its notes with regard to the sentencing of the Co-Deft. McCarty before proceeding with the sentencing of this Deft. Therefore, COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 04/24/12 8:15 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 24, 2012

06C224572-2

The State of Nevada vs Domonic R Malone

April 24, 2012

8:15 AM

Sentencing

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Christopher Lalli, Chf Dep DA, present on behalf of the State and Charles Cano, Dep SPD, present on behalf of Deft. Malone, who is also present.

Pursuant to the Jury's verdict, DEFT. MALONE ADJUDGED GUILTY of COUNT 1 - BATTERY WITH SUBSTANTIAL BODILY HARM (M), COUNT 2 - CONSPIRACY TO COMMIT KIDNAPPING (F), COUNT 3 - FIRST DEGREE KIDNAPPING (F), COUNT 4 - BATTERY WITHOUT SUBSTANTIAL BODILY HARM (M), COUNT 7 - CONSPIRACY TO COMMIT BURGLARY (GM), COUNT 8 - CONSPIRACY TO COMMIT KIDNAPPING (F), COUNT 9 - CONSPIRACY TO COMMIT MURDER (F), COUNT 11 - FIRST DEGREE KIDNAPPING (F), COUNT 12 - FIRST DEGREE KIDNAPPING (F), COUNT 13 - MURDER WITH USE OF A DEADLY WEAPON (CHARLOTTE COMBADO) (F), COUNT 14 - MURDER WITH USE OF A DEADLY WEAPON (VICTORIA MAGEE) (F), COUNT 15 - ROBBERY WITH USE OF A DEADLY WEAPON (F), and COUNT 16 - ROBBERY WITH USE OF A DEADLY WEAPON (F). Matter argued and submitted. Statement by Deft. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, the \$150.00 DNA Analysis fee including testing to determine genetic markers, which was collected in another case, the \$2,554.41 RESTITUTION, jointly and severally, and an Indigent Defense Civil Assessment Fee in the amount of \$250.00, Deft. SENTENCED as follows:

AS TO COUNT 1, Deft. SENTENCED to a MAXIMUM of FORTY-EIGHT (48) MONTHS and a MINIMUM of NINETEEN (19) MONTHS in the Nevada Department of Corrections (NDC);

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AS TO COUNT 2, Deft. SENTENCED to a MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS in NDC, CONSECUTIVE to Count 1;

AS TO COUNT 3, Deft. SENTENCED to LIFE in NDC with PAROLE ELIGIBILITY beginning after a MINIMUM of FIVE (5) YEARS has been served, CONCURRENT with Count 2;

AS TO COUNT 4, Deft. SENTENCED to the Clark County Detention Center (CCDC) for SIX (6) MONTHS, CONCURRENT with Count 3;

AS TO COUNT 7, Deft. SENTENCED to the Clark County Detention Center (CCDC) for TWELVE (12) MONTHS, CONSECUTIVE to Count 3;

AS TO COUNT 8, Deft. SENTENCED to a MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS in NDC, CONCURRENT with Count 7;

AS TO COUNT 9, Deft. SENTENCED to a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and a MINIMUM of FORTY-EIGHT (48) MONTHS in NDC, CONSECUTIVE to Count 8;

AS TO COUNT 11, Deft. SENTENCED to LIFE in NDC WITHOUT the POSSIBILITY OF PAROLE, CONSECUTIVE to Count 9;

AS TO COUNT 12, Deft. SENTENCED to LIFE in NDC WITHOUT the POSSIBILITY OF PAROLE, CONSECUTIVE to Count 11;

AS TO COUNT 13, Deft. SENTENCED to LIFE in NDC WITHOUT the POSSIBILITY OF PAROLE, plus a CONSECUTIVE term of LIFE WITHOUT the POSSIBILITY OF PAROLE for use of a deadly weapon, CONSECUTIVE to Count 12;

AS TO COUNT 14, Deft. SENTENCED to LIFE in NDC WITHOUT the POSSIBILITY OF PAROLE, plus a CONSECUTIVE term of LIFE WITHOUT the POSSIBILITY OF PAROLE for use of a deadly weapon, CONSECUTIVE to Count 13;

AS TO COUNT 15, Deft. SENTENCED to a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS and a MINIMUM of FORTY-EIGHT (48) MONTHS in NDC, plus a CONSECUTIVE term of ONE HUNDRED EIGHTY (180) MONTHS and a MINIMUM of FORTY-EIGHT (48) MONTHS for use of a deadly weapon, CONCURRENT with Count 14; and

AS TO COUNT 16, Deft. SENTENCED to a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS and a MINIMUM of FORTY-EIGHT (48) MONTHS in NDC, plus a CONSECUTIVE term of ONE HUNDRED EIGHTY (180) MONTHS and a MINIMUM of FORTY-EIGHT (48) MONTHS for use of a deadly weapon, CONSECUTIVE to Count 15.

Deft. has TWO THOUSAND ONE HUNDRED FORTY-EIGHT (2,148) DAYS credit for time served;

06C224572-2

BOND, if any, EXONERATED.