

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

DAIMON MONROE,

Appellant,

vs.

LAS VEGAS METROPOLITAN  
POLICE DEPARTMENT,

Respondent.

Case No.: 62264 Electronically Filed  
Feb 08 2016 09:04 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

**RESPONSE TO APPELLANT'S APPEAL STATEMENT**

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6 Respondent, Las Vegas Metropolitan Police Department (“LVMPD”), is  
7 a government entity, and it is not owned in whole or in part by any publicly  
8 traded company.

12 Dated this 5th day of February, 2016.

MARQUIS AURBACH COFFING

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1 **I. INTRODUCTION**

2 This appeal involves Daimon Monroe's<sup>1</sup> challenge to the District Court's  
3 summary judgment order granting LVMPD's sole claim for civil forfeiture.<sup>2</sup>  
4 This Court's recent opinion in Ferguson v. Las Vegas Metropolitan Police  
5 Dept., 131 Nev. Adv. Op. 94 (2015), set forth more clearly the requirements for  
6 a civil forfeiture (NRS 179.1156–NRS 179.121) based on a criminal  
7 conviction.<sup>3</sup> The Court's order from December 30, 2015 requires this response  
8 to include consideration of the Ferguson opinion.

9 The Court should affirm summary judgment in LVMPD's favor for the  
10 following reasons: First, Monroe's argument based on jurisdiction should be  
11 rejected because the District Court was never divested of jurisdiction in this  
12 case. Second, all of Monroe's arguments are based on allegations that the  
13 warrant was backdated, and, therefore, the money was allegedly seized as part  
14 of an illegal search and seizure. Monroe filed no written opposition to the  
15 summary judgment containing evidence; rather, he filed a series of unrelated  
16 motions containing only allegations and conclusory statements. He failed to  
17 establish that an issue of material fact remains regarding the warrants.<sup>4</sup> Third,

18  
19 <sup>1</sup> At times in the trial transcript, which is attached to the Summary Judgment  
20 Motion as an exhibit, Daimon Monroe (Daimon Devi Hoyt) is also referred to  
21 by witnesses as "Devon," a first name which was clarified at the beginning of  
22 trial to refer to Daimon Monroe.

21 <sup>2</sup> Record on Appeal ("ROA") 4:704–710.

22 <sup>3</sup> The complete text of NRS 179.1156–NRS 179.121 is attached as **Exhibit 1**.

23 <sup>4</sup> Monroe raises a new argument on appeal regarding due process, that attorney  
Al Lasso never gave Monroe services for the money that was seized, and  
Monroe was thereby denied his counsel and due process. Appeal Statement

1 the funds Monroe claims, including cash in his home and in accounts shared  
2 with Tonya Trevarthen (“Trevarthan”), were established by the evidence as  
3 “proceeds” under NRS 179.1161, derived directly or indirectly from the  
4 commission or attempted commission of a crime. Under the requirements in  
5 the recent Ferguson opinion, the link between the proceeds and Monroe’s  
6 convictions was established by clear and convincing evidence by LVMPD in  
7 its motion for summary judgment. Therefore, this Court should affirm the  
8 District Court’s summary judgment order.

## 9 **II. FACTUAL AND PROCEDURAL BACKGROUND**

10 Monroe was involved with an extensive burglary ring in Las Vegas,  
11 involving three other convicted individuals: Bryan Ferguson (“Ferguson”),  
12 Robert Holmes III (“Holmes”), and Trevarthen. All defendants were  
13 adjudicated guilty.<sup>5</sup> Monroe was found guilty by a jury for one count of  
14 Conspiracy to Possess Stolen Property and/or to Commit Burglary, and 26  
15 counts of Possession of Stolen Property.<sup>6</sup> Ferguson was found guilty by a jury  
16 for one count of Conspiracy to Possess Stolen Property and/or to Commit  
17 Burglary, and 25 counts of Possession of Stolen Property. Holmes entered a  
18 plea of guilty to one count of Conspiracy to Possess Stolen Property and/or  
19 Commit Burglary and two counts of Possession of Stolen Property.  
20 (NRS 205.275). Trevarthen also pleaded guilty to one count of Conspiracy to

21 at 5. Monroe has waived this argument, as it was not raised in the District  
22 Court. See Old Aztec Mine, Inc. v. Brown, 97 Nev. 49, 623 P.2d 981 (1981).

23 <sup>5</sup> ROA 3:700:14–17.

<sup>6</sup> ROA 3:700:17–23.

1 Possess Stolen Property and/or to Commit Burglary and one count of  
2 Possession of Stolen Property.<sup>7</sup>

3 Monroe appealed his criminal conviction in 2008.<sup>8</sup> This Court affirmed  
4 Monroe's conviction on all counts, but agreed there was insufficient evidence  
5 of value on the one count of stolen property with value of \$2,500 or more,  
6 where the value was \$2,310.<sup>9</sup> On remand, the District Court vacated this one  
7 Count and amended the judgment.<sup>10</sup> Monroe has filed numerous unsuccessful  
8 motions, writs, and appeals on all aspects of his criminal case, including the  
9 stop, arrest, warrant, various evidentiary matters, effectiveness of his counsel,  
10 and contesting a finding of vexatious litigant.<sup>11</sup>

11 LVMPD initially filed a complaint for forfeiture on March 9, 2007.<sup>12</sup>  
12 The forfeiture case was stayed on May 18, 2007.<sup>13</sup> The stay was lifted on  
13 April 27, 2012.<sup>14</sup> On May 1, 2012, LVMPD filed a motion for summary  
14 judgment on the forfeiture claim.<sup>15</sup> Rather than filing an opposition, Monroe

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15 <sup>7</sup> Id.

16 <sup>8</sup> RA 1: 1.

17 <sup>9</sup> RA 1:120–125.

18 <sup>10</sup> RA 1:128–141.

19 <sup>11</sup> See, e.g., Monroe v. State, 2013 WL 3325102 (Nev. 2013) (vexatious  
20 litigant); Monroe v. Eighth Judicial District Court, 2013 WL 3270959 (Nev.  
21 2013) (declining to exercise jurisdiction on writ on seized property); Monroe v.  
22 State, 2015 WL 1877693 (2015) (ineffective counsel regarding handling of  
23 warrant matter).

<sup>12</sup> ROA 1:1–6.

<sup>13</sup> ROA 1:67–68.

<sup>14</sup> ROA 2:322–325.

<sup>15</sup> ROA 2:326–429.

1 instead filed a motion to strike summary judgment on May 11, 2012 (“First  
2 Motion to Strike”), focusing on issues with the warrant.<sup>16</sup> LVMPD filed an  
3 opposition to this motion on June 8, 2012.<sup>17</sup> Monroe then filed a document  
4 similar to a reply to LVMPD’s opposition.<sup>18</sup>

5 The Court denied Monroe’s First Motion to Strike on August 7, 2012,  
6 and continued the summary judgment hearing to November, providing  
7 additional time for all Defendants to oppose the motion for summary judgment  
8 until October 9, 2012.<sup>19</sup> Monroe then filed a notice of appeal on the order  
9 denying his First Motion to Strike, which was docketed as Supreme Court  
10 Case 61616.<sup>20</sup> After filing his appeal, Monroe filed two additional motions in  
11 the District Court on the warrants, the motion for return of seized property and  
12 suppression of evidence<sup>21</sup> and a motion for material evidence in September  
13 2012.<sup>22</sup> Monroe argued additional discovery was required to prove the warrants  
14 were fraudulent and the property was the result of an unlawful seizure.<sup>23</sup> Three  
15 days later, on September 21, 2012, Monroe filed another motion to strike  
16 LVMPD’s motion for summary judgment (“Second Motion to Strike”), also on  
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18 <sup>16</sup> ROA 2:455–451.

19 <sup>17</sup> ROA 3:581–583.

20 <sup>18</sup> ROA 3:598–603.

21 <sup>19</sup> ROA 3:615–616.

22 <sup>20</sup> ROA 3:630–632.

23 <sup>21</sup> ROA 3:638–639.

<sup>22</sup> ROA 3:638–639.

<sup>23</sup> See id.

1 the warrants.<sup>24</sup> In early November 2012, the District Court denied Monroe's  
2 motion for material evidence.<sup>25</sup>

3 On November 13, 2012, the continued hearing was held on LVMPD's  
4 motion for summary judgment.<sup>26</sup> In the hearing, Monroe stated he had a  
5 pending appeal in Supreme Court Case 61616, and there was an issue of  
6 jurisdiction.<sup>27</sup> Judge Smith said he would look at the jurisdiction issue, but he  
7 asked Monroe if he had anything to add to the written motions.<sup>28</sup> Monroe  
8 continued to discuss the warrant issue.<sup>29</sup>

9 On November 27, 2012, the District Court granted LVMPD's motion for  
10 summary judgment on civil forfeiture, pursuant to NRS 179.1171(1),  
11 179.1171(5) and 179.1156 to 179.121.<sup>30</sup> The forfeiture was based on  
12 \$281,656.73, representing "proceeds attributable to the commission or  
13 attempted commission of a felony," including burglary, grand larceny, and/or  
14 possession of stolen property.<sup>31</sup>

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18 <sup>24</sup> ROA 3:647–651.

19 <sup>25</sup> ROA 3:695.

20 <sup>26</sup> See Transcript of Hearing, Respondent's Appendix ("RA") 1:128–141.

21 <sup>27</sup> RA 1:129, ll. 7–19.

22 <sup>28</sup> RA 1:129, ll. 20–21.

23 <sup>29</sup> RA 1:130–131.

<sup>30</sup> ROA 3:702, ll. 8–11.

<sup>31</sup> See ROA 3:702 (finding the elements of the forfeiture complaint were established); Complaint at ROA 1:2, ll. 5–20.

1 With respect to Monroe, \$40,002 of the funds subject to forfeiture were  
2 held by attorneys Al Lasso, Jonathan Lord, and Joel Mann.<sup>32</sup> The complaint  
3 stated that \$26,502.18 was seized from Al Lasso's client trust account; \$3,500  
4 from attorney Jonathan Lord related to seizure proceedings; and \$10,000  
5 transferred to Joel Mann by co-defendant Trevarthen for legal services on  
6 behalf of Daimon Monroe.<sup>33</sup> The complaint for forfeiture also included  
7 \$13,825 collected during a search at 1504 Cutler Drive, hidden in oven mitts in  
8 a kitchen drawer and \$1,040 in coins in the home.<sup>34</sup> The cash in the house and  
9 bank accounts are the subject of Monroe's current appeal.<sup>35</sup>

10 In the motion for summary judgment, LVMPD set forth relevant facts  
11 and exhibits from the trial.<sup>36</sup> Trevarthen lived with Monroe since 2001.<sup>37</sup> They  
12 resided at 1504 Cutler Drive.<sup>38</sup> Trevarthen and Monroe shared bank accounts in  
13 her name, because Monroe used Trevarthen's ATM card and online login and  
14 did not have his own identification and account.<sup>39</sup> The money in the bank  
15  
16

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17 <sup>32</sup> Appeal Statement at 4–5; ROA 5:3–12.

18 <sup>33</sup> Id.

19 <sup>34</sup> ROA 1:4, ll. 4–7. Monroe similarly discusses the \$14,000 cash from his  
20 home at 1504 Cutler Drive was improperly taken without a warrant. Notice of  
21 Appeal, ROA 4:712–715.

22 <sup>35</sup> See Appeal Statement at 3, Statement of Facts.

23 <sup>36</sup> See ROA 2:326–429.

<sup>37</sup> ROA 2:422, ll. 2–25 (stating she moved in with Monroe in 2001, and he only  
had a job when they first got together).

<sup>38</sup> See ROA 2:402.

<sup>39</sup> ROA 2:421.



1 accounts was “mostly” from Monroe selling stolen property.<sup>40</sup> Monroe  
2 frequently brought cash home from burglaries and did not work.<sup>41</sup> Monroe kept  
3 money in a drawer in the kitchen, which was money from burglaries or from  
4 selling the stolen property.<sup>42</sup> Trevarthen earned \$2,000 per month as a  
5 substitute teacher, and her income did not cover the bills.<sup>43</sup>

6 The fact that attorneys possessed the money was critical in the summary  
7 judgment hearing. This was discussed during the hearing on summary  
8 judgment, including testimony by the District Attorney, stating:

9 But what Mr. Monroe doesn’t understand and forgets to tell the  
10 Court is that the money that was seized in this case was not seized  
11 personally from him. If Mr. Monroe can remember, he paid this  
12 money to Al Lasso, he paid this money to John Lloyd, and – and

13 <sup>40</sup> ROA 2:427, ll. 5–8:

14 Q: Now that \$145,000 where did you get that money from?

15 A: It was from the bank accounts in my name.

16 Q: Okay. . . . I mean, if you’re making \$2,000 a month how did  
17 you accumulate all that money? . . . Was that from legitimate  
18 means?

19 A: Most of it was just cash that was made through selling the  
20 stolen property.

21 <sup>41</sup> See ROA 2:422 (Stating Trevarthen lived with Monroe since 2001, and he  
22 only had a job for a few months when they first got together). See also ROA  
23 2:401, ll. 9–21 (“Did he tell you he actually would go in and burglarize the  
businesses? A: Yes. Q: Did he tell you—I mean, how often would he come  
home with these items? A: He basically considered it his job. I mean, it was  
every Friday and Saturday, and occasionally one day in the middle of the  
week”).

<sup>42</sup> ROA 2:406 (“I know that there was money in a drawer in the kitchen. And  
but I don’t know exactly how much though. Q. That wasn’t for you to go  
shopping or anything with? A. No. Q. Okay. Whose money was that? A. It  
was money that Devin had received either from, you know, I guess it could  
have been from a burglary or received from selling property.”).

<sup>43</sup> ROA 2:422, ll. 23–25; 2:427, ll. 4–24; 2:412, ll. 5–16; see also ROA 2:333,  
ll. 11–12.

1 he paid this money to Joel Mann who were his attorneys at the  
2 time. They were the ones who gave this money up to the police.  
3 He was no longer in possessory possession of that money. His  
4 attorneys were in possession of that money. They accepted that for  
the legal fees. They were the ones that gave up that money, not  
Mr. Monroe.<sup>44</sup>

5 The District Court determined, “As to Monroe and Holmes, the money turned  
6 over pursuant to search warrants was in the possession of their attorneys at the  
7 time of the seizure therefore they have no possessory claim to the money.”<sup>45</sup>  
8 Judge Smith concluded, “The proof of facts necessary to sustain the conviction  
9 are, therefore, conclusive evidence in this forfeiture action against  
10 [Defendants], and satisfy all elements of the forfeiture complaint.”<sup>46</sup> Summary  
11 judgment was granted on November 27, 2012.<sup>47</sup>

### 12 **III. STANDARDS FOR REVIEWING ORDERS GRANTING** 13 **SUMMARY JUDGMENT**

14 This Court reviews a district court’s order resolving a motion for  
15 summary judgment de novo, without deference to the findings of the lower  
16 court.<sup>48</sup> Summary judgment is appropriate and “shall be rendered forthwith”  
17 when the pleadings and other evidence on file demonstrate that “no genuine  
18 issue as to any material fact [remains] and that the moving party is entitled to a

19 <sup>44</sup> RA 1:135, ll. 16–23.

20 <sup>45</sup> ROA at 3:702, ll. 17–19.

21 <sup>46</sup> ROA 3:702, ll. 12–16.

22 <sup>47</sup> ROA 3:703.

23 <sup>48</sup> Wood v. Safeway, Inc., 121 Nev. 724, 121 P.3d 1026, 1029 (2005) (citing  
GES, Inc. v. Corbitt, 117 Nev. 265, 268, 21 P.3d 11, 13 (2001) (citation  
omitted)).

1 judgment as a matter of law.”<sup>49</sup> The substantive law will determine which facts  
2 are material.<sup>50</sup> A factual dispute is genuine when the evidence is such that a  
3 rational trier of fact could return a verdict for the nonmoving party.<sup>51</sup>

#### 4 **IV. LEGAL ARGUMENT**

##### 5 **A. JURISDICTION WAS PROPER FOR THE DISTRICT** 6 **COURT’S SUMMARY JUDGMENT ORDER.**

7 A primary issue raised by Monroe in this appeal is whether the District  
8 Court lacked jurisdiction, based on his appeal filed in Case 61616.<sup>52</sup> LVMPD  
9 filed its motion for summary judgment on May 1, 2012.<sup>53</sup> Rather than opposing  
10 the motion for summary judgment, Monroe instead filed the First Motion to  
11 Strike.<sup>54</sup> In a hearing on August 7, 2012, the Court denied Monroe’s First  
12 Motion to Strike.<sup>55</sup> The hearing on the motion for summary judgment was  
13 continued to November 13, 2012, and the Defendants were given additional  
14 time, until October 9, 2012, to file any opposition and/or supplemental briefs.<sup>56</sup>

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16 <sup>49</sup> Id., (citing NRCP 56(c); Tucker v. Action Equip. and Scaffold Co., 113 Nev.  
17 1349, 1353, 951 P.2d 1027, 1029 (1997)).

18 <sup>50</sup> Id., 121 Nev. at 730, 121 P.3d at 1030.

19 <sup>51</sup> Id., 121 Nev. at 731, 121 P.3d at 1031 (citing Matsushita Elec. Indus. Co. v.  
20 Zenith Radio, 475 U.S. 574, 586, 106 S.Ct. 1348 (1986); Posadas v. City of  
Reno, 109 Nev. 448, 452, 851 P.2d 438, 441–442 (1993)).

21 <sup>52</sup> Appeal Statement at 3 & 5.

22 <sup>53</sup> ROA 2:326–429.

23 <sup>54</sup> ROA 2:445–451.

<sup>55</sup> ROA 3:615–616.

<sup>56</sup> ROA 3:616.

1 After this hearing, Monroe filed an appeal in this Court, which was  
2 docketed as Case 61616, based on the denial of his First Motion to Strike.<sup>57</sup>  
3 The District Court moved forward with the calendar as set on the motion for  
4 summary judgment, which provided Monroe ample time to oppose the motion  
5 or provide supplemental briefs,<sup>58</sup> but he instead appealed the non-appealable  
6 order on the First Motion to Strike and filed several other motions. After  
7 summary judgment was granted,<sup>59</sup> Monroe argued that jurisdiction in the  
8 District Court was improper based on his appeal from the order denying his  
9 First Motion to Strike.<sup>60</sup>

10 Monroe's argument for lack of jurisdiction should be rejected. The  
11 District Court retained jurisdiction in the summary judgment proceedings. As a  
12 general rule, perfection of an appeal divests a district court of jurisdiction to act  
13 except with regard to matters collateral to or independent from the appealed  
14 order, but the district court "retains a limited jurisdiction to review motions  
15 made in accordance with this procedure."<sup>61</sup> The District Court retains  
16 jurisdiction "to direct briefing on the motion, hold a hearing regarding the  
17 motion, and enter an order denying the motion, but lacks jurisdiction to enter an  
18 order granting such a motion."<sup>62</sup> In this case, the District Court retained

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19 <sup>57</sup> ROA 3:630.

20 <sup>58</sup> See ROA 3:616.

21 <sup>59</sup> See ROA 4:704–710.

22 <sup>60</sup> See Appeal Statement at 3.

23 <sup>61</sup> Foster v. Dingwall, 228 P.3d 453, 455, 126 Nev. Adv. Op. 5 (2010).

<sup>62</sup> Id. at 455 (citing Huneycutt v. Huneycutt, 94 Nev. 79, 575 P.2d 585 (1978)).

1 jurisdiction to hold the hearing, and Judge Smith stated he was going to check  
2 on and research Supreme Court Case No. 61616 before making a  
3 determination.<sup>63</sup>

4 An appeal from a non-appealable order does not divest the trial court of  
5 jurisdiction.<sup>64</sup> The August 7, 2012 order denying Monroe's First Motion to  
6 Strike was not an appealable order. In addition, the Court continued the hearing  
7 on summary judgment and provided additional time for the Defendants to  
8 provide oppositions or supplemental briefing on the motion for summary  
9 judgment. The District Court had jurisdiction to hold the hearing and to grant  
10 summary judgment. Thus, the Court should reject Monroe's jurisdictional  
11 argument.

12 **A. SUMMARY JUDGMENT WAS APPROPRIATE WHERE**  
13 **MONROE FAILED TO FILE AN OPPOSITION TO THE**  
14 **MOTION FOR SUMMARY JUDGMENT, AND THE OTHER**  
15 **MOTIONS HE FILED CONTAINED NO EVIDENCE.**

16 If a party fails to file and serve a written opposition, the District Court  
17 has the discretion to construe that failure as an admission that the motion is  
18 meritorious and consent to granting the motion.<sup>65</sup> Monroe did not file and serve  
19 a written opposition to LVMPD's motion for summary judgment, but instead

20 <sup>63</sup> RA 1:139, ll. 2–6; RA 1:140, ll. 20–21.

21 <sup>64</sup> Knox v. Dick, 99 Nev. 514, 516, 665 P.2d 267, 269 (1983); Wilmurth v.  
22 District Court, 80 Nev. 337, 393 P.2d 302 (1964).

23 <sup>65</sup> King v. Cartlidge, 121 Nev. 926, 927, 124 P.3d 1161, 1162 (2005); see also  
E.D.C.R. Rule 2.20; Las Vegas Fetish & Fantasy Halloween Ball, Inc. v. Ahern  
Rentals, Inc., 124 Nev. 272, 277–278, 182 P.3d 764, 768 (2008) (“[F]ailure to  
serve and file a written opposition may be construed as an admission that the  
motion is meritorious and a consent to granting it.”).

1 repeatedly filed his own motions after the motion for summary judgment was  
2 filed, including the First and Second Motions to Strike, the motion for material  
3 evidence, and the motion for return of seized property and suppression of  
4 evidence.<sup>66</sup> When the District Court dismissed his First Motion to Strike and  
5 provided all Defendants additional time to oppose the motion for summary  
6 judgment,<sup>67</sup> Monroe proceeded with his alternative motions rather than an  
7 opposition. The Court should not construe these motions to be Monroe's  
8 opposition. NRCP 56(e) requires a party opposing summary judgment to  
9 include any evidentiary support.<sup>68</sup> A party opposing summary judgment must  
10 set forth specific facts by affidavit or other proper evidence indicating there is a  
11 genuine issue of material fact.<sup>69</sup> Mere allegations and conclusory statements are  
12 insufficient to survive summary judgment.<sup>70</sup> In his motions, including the  
13 Second Motion to Strike, Monroe continued to make allegations that the  
14 warrants were backdated and obtained "almost a year after illegally arresting,  
15 seizing, and giving property away."<sup>71</sup> Monroe's filings consist entirely of

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16  
17 <sup>66</sup> See ROA 2:455–451; 3:630–632; 3:638–639; and 3:647–651.

18 <sup>67</sup> ROA 3:615–616.

19 <sup>68</sup> NRCP 56(e); see also King v. Cartlidge, 121 Nev. 926, 928, 124 P.3d 1161,  
20 1162–1163 (2005).

21 <sup>69</sup> Id., (citing Posadas v. City of Reno, 109 Nev. 448, 452, 851 P.2d 438, 442  
22 (1993)).

23 <sup>70</sup> King, 121 Nev. at 928, 124 P.3d at 1162–63 (citing Yeager v. Harrah's Club, Inc., 111 Nev. 830, 833, 897 P.2d 1093, 1094–1095 (1995)); see also Collins v. Union Fed. Sav. & Loan Ass'n, 99 Nev. 284, 302, 662 P.2d 610, 621 (1983).

<sup>71</sup> ROA 3:648, ll. 1–3; see also ROA 3:598–603; 3:638–639; and 3:647–651 (Monroe's additional filed motions during this time period for similar allegations without evidence).

1 allegations and conclusory statements with no evidence. These allegations and  
2 conclusory statements are insufficient to survive summary judgment.<sup>72</sup>

3  
4 **B. MONROE’S BELIEF THAT THE WARRANT WAS  
BACKDATED IS UNSUBSTANTIATED.**

5 In the event the Court revisits the warrant issue, Monroe’s arguments are  
6 unsubstantiated. Monroe requested that Judge Smith look into the issue of the  
7 warrant again during the summary judgment hearing, stating:

8 [H]e’s bringing up the criminal case to take this money, why can’t  
9 I bring up the criminal case to try to get my money back? If there  
10 wasn’t a search warrant, a valid search warrant, and there wasn’t,  
Your Honor, then that money should have never been taken.<sup>73</sup>

11 Judge Smith stated he was going to “review the criminal stuff,” after Monroe  
12 made this request.<sup>74</sup>

13 The District Court, in its order granting summary judgment, confirmed  
14 all Defendants “were served with the original search warrants, as well as being  
15 provided with filed copies of the search warrants at a later date.”<sup>75</sup> The District  
16 Court found the “**allegation that they never received copies of the search  
17 warrants is inaccurate** pursuant to the facts of the case.”<sup>76</sup>

18  
19  
20 <sup>72</sup> See King, 121 Nev. at 928, 124 P.3d at 1162-63; see also Bird v. Casa Royale West, 97 Nev. 67, 70, 624 P.2d 17, 19 (1981) (stating that mere conclusory language is not evidence).

21 <sup>73</sup> RA 1:138–139.

22 <sup>74</sup> RA 1:139, ll. 2–3.

23 <sup>75</sup> ROA 4:709–710.

<sup>76</sup> Id. (emphasis added).

1           **C.    THE FUNDS WERE SUBJECT TO FORFEITURE UNDER**  
2           **THE STATUTE AND BASED ON THE OPINION IN**  
3           **FERGASON.**

4           The funds in Monroe's home and bank were "proceeds" under  
5           NRS 179.1161, derived directly or indirectly from the commission or attempted  
6           commission of a crime. The proof of a conviction, under NRS 179.1173(5) is  
7           "conclusive evidence of all facts necessary to sustain the conviction."

8           In Ferguson, this Court sets forth requirements under NRS 179.1161;  
9           179.1164(1)(a); and NRS 179.1173(4):

10           The State must establish by clear and convincing evidence (a) that  
11           a felony was committed or attempted, and (2) that the funds seized  
12           are "attributable to" or "derived directly or indirectly from" the  
13           commission or attempt.<sup>77</sup>

14           These elements were established in Monroe's case. Clear and convincing  
15           evidence requires "evidence establishing every factual element to be highly  
16           probable."<sup>78</sup> Under the Ferguson opinion, the proof of a conviction, under  
17           NRS 179.1173(5) is "conclusive evidence of all facts necessary to sustain the  
18           conviction."<sup>79</sup> Monroe was found guilty by a jury for one count of Conspiracy  
19           to Possess Stolen Property and/or to Commit Burglary, and 26 counts of  
20           Possession of Stolen Property. Amended Convictions were filed in his two  
21           criminal cases.<sup>80</sup>

22           <sup>77</sup> Ferguson, 131 Nev. Adv. Op. 94 at \*6 (2015).

23           <sup>78</sup> See id.

<sup>79</sup> See id.

<sup>80</sup> ROA 3:700-701.



1 As set forth in exhibits to the motion for summary judgment, the  
2 evidence shows Trevarthen lived with Monroe at 1504 Cutler Drive.<sup>81</sup> Monroe  
3 shared bank accounts in Trevarthen's name, and Trevarthen provided him  
4 access to her ATM card and online login.<sup>82</sup> Trevarthen stated the money in the  
5 bank accounts was "mostly" from Monroe selling stolen property.<sup>83</sup> Trevarthen  
6 testified that Monroe brought cash home from burglaries<sup>84</sup> and did not work.<sup>85</sup>  
7 He also kept money in a drawer in the kitchen, which was money from  
8 burglaries or from selling the stolen property.<sup>86</sup> That is, when Monroe and his  
9 co-conspirators stole from businesses, they often took cash from the registers.  
10 Trevarthen testified she earned \$2,000, and her income did not pay the bills.<sup>87</sup>  
11 These facts were all before the District Court in deciding the motion for  
12 summary judgment. LVMPD, in its motion and hearing met its burden to  
13

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14 <sup>81</sup> See ROA 2:402; 2:422.

15 <sup>82</sup> ROA 2:421; ROA 2:402–403.

16 <sup>83</sup> ROA 2:427, ll. 4–24:

17 Q: Now that \$145,000 where did you get that money from?

18 A: It was from the bank accounts in my name.

19 Q: Okay. . . . I mean, if you're making \$2,000 a month how did  
20 you accumulate all that money?. . . Was that from legitimate  
21 means?

22 A: Most of it was just cash that was made through selling the  
23 stolen property.

21 <sup>84</sup> ROA 2:402, l. 22 through 2:403, l. 5.

22 <sup>85</sup> ROA 2:402–403; 2:422, ll. 2–25; 2:414, ll. 5–18.

23 <sup>86</sup> ROA 2:406.

<sup>87</sup> ROA 2:422, ll. 23–25.

1 prove, with clear and convincing evidence, that these funds were directly  
2 connected to Monroe's convictions.

3 The Ferguson opinion discusses a Mississippi case, One 1979 Ford 15V  
4 v. State, 721 So. 2d 631, 636-37 (Miss. 1991), which found bank accounts with  
5 "amounts of cash in excess of what would normally be expected from the  
6 operation of a store or working at a factory," could sustain a forfeiture of bank  
7 accounts. Here, LVMPD presented similar evidence regarding Monroe and  
8 Trevarthen: Monroe did not have a job other than treating the burglaries as his  
9 job,<sup>88</sup> and he lived with Trevarthen, who admittedly did not earn enough to pay  
10 the bills.<sup>89</sup> The bank accounts and kitchen oven mitt drawer had an amount in  
11 excess of what would normally be expected from a household with \$2,000 per  
12 month income that did not cover the bills.<sup>90</sup> Also before the District Court was  
13 the evidence that Trevarthen said the cash in the kitchen drawer was from  
14 burglaries including stealing cash, and Monroe held *weekly* sales of stolen  
15 property.<sup>91</sup> Monroe's conviction was set forth in LVMPD's motion for  
16 summary judgment,<sup>92</sup> and the motion set forth Possession of Stolen Property as

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20 <sup>88</sup> ROA 2:402, ll. 9–21; 2:422.

21 <sup>89</sup> ROA 2:422, ll. 23–25

22 <sup>90</sup> See id.

23 <sup>91</sup> ROA 2:405–506.

<sup>92</sup> ROA 2:330; see also ROA 2:364–370 (Amended Judgment of Conviction, attached as Exhibit 8 to Plaintiff's Motion for Summary Judgment).

1 a felony.<sup>93</sup> The State met its burden, as described in Ferguson, with respect to  
2 the money in the home and bank accounts and Monroe.

3  
4 **D. MONROE LACKS STANDING TO CONTEST ANY FUNDS  
HE PAID TO HIS ATTORNEYS.**

5 Monroe's appeal does not dispute the summary judgment order as it  
6 applied to the funds seized from his attorneys. Monroe does not assert the  
7 attorney-held funds are a basis of his appeal, and as such, this Court should not  
8 consider this issue as an issue in Monroe's appeal.<sup>94</sup> Very Simply, Monroe  
9 lacks standing to claim the forfeited funds related to the attorney payments,  
10 which he did not possess.

11 Standing is an issue of subject matter jurisdiction that can be raised at  
12 any time.<sup>95</sup> Monroe admittedly gave the money to his attorney.<sup>96</sup> With no  
13 possessory interest in the funds, Monroe lacks standing with respect to the  
14 forfeiture of all funds held by his attorneys. Although the Court discussed  
15 standing at length in Ferguson, this situation is different because Monroe did  
16 not have a possessory interest in the funds held by his attorneys.<sup>97</sup> On this  
17 alternative basis, the Court should affirm summary judgment against Monroe.

18  
19 <sup>93</sup> ROA 2:329, ll. 14–18.

20 <sup>94</sup> See Old Aztec Mine, Inc.

21 <sup>95</sup> See Applera Corp. v. MP Biomedicals, LLC, 93 Cal. Rptr.3d 178, 192 (Ct.  
App. 2009) (citation omitted).

22 <sup>96</sup> RA 1:138, ll. 12–15; see also ROA 3:702, ll. 17–19.

23 <sup>97</sup> See Ferguson at \*15-20 (finding Ferguson did not follow the specifications in  
the statute in describing the interest, but he claimed an interest in the funds in  
the subject bank accounts).

1 **V. CONCLUSION**

2 There are a variety of reasons this Court should affirm the District  
3 Court's summary judgment order against Monroe: First, Monroe's argument  
4 based on jurisdiction should be rejected because the District Court was never  
5 divested of jurisdiction in this case. Second, all of Monroe's arguments are  
6 based on his unsubstantiated belief that the warrants were fraudulent. Third, the  
7 funds Monroe claims were established by the evidence as "proceeds" under  
8 NRS 179.1161, derived directly or indirectly from the commission or attempted  
9 commission of a crime. Therefore, for the foregoing reasons, this Court should  
10 affirm the District Court's summary judgment order against Monroe.

11 Dated this 5th day of January, 2016.

12 MARQUIS AURBACH COFFING

13  
14 By /s/ Micah S. Echols

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1 **CERTIFICATE OF COMPLIANCE**

2 1. I hereby certify that this brief complies with the formatting  
3 requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5)  
4 and the type style requirements of NRAP 32(a)(6) because this brief has been  
5 prepared in a proportionally spaced typeface using Microsoft Word 2007 in 14-  
6 point Times New Roman font.

7 2. I further certify that this brief complies with the page- or type-  
8 volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief  
9 exempted by NRAP 32(a)(7)(C), it is either:

10 ☒ proportionally spaced, has a typeface of 14 points or more and  
11 contains 4,360 words; or

12 ☐ does not exceed \_\_\_\_\_ pages.

13 3. Finally, I hereby certify that I have read this brief, and to the best  
14 of my knowledge, information and belief, it is not frivolous or interposed for  
15 any improper purpose. I further certify that this brief complies with all  
16 applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1),  
17 which requires every assertion in the brief regarding matters in the record to be  
18 supported by a reference to the page and volume number, if any, of the  
19 transcript or appendix where the matter relied on is to be found. I understand  
20 that I may be subject to sanctions in the event that the accompanying brief is not

1 in conformity with the requirements of the Nevada Rules of Appellate  
2 Procedure.

3 Dated this 5th day of January, 2016.

4  
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N/A

Damon Monroe  
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HDSP  
P.O. Box 650  
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*Appellant in Proper Person*

Thomas Moreo, Esq.  
District Attorney  
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Las Vegas, NV 89155

Leah Dell  
 Leah Dell, an employee of  
 Marquis Aurbach Coffing

# Exhibit 1



**NRS 179.1156 Scope.** Except as otherwise provided in [NRS 179.1211](#) to [179.1235](#), inclusive, and [207.350](#) to [207.520](#), inclusive, the provisions of [NRS 179.1156](#) to [179.121](#), inclusive, govern the seizure, forfeiture and disposition of all property and proceeds subject to forfeiture.

(Added to NRS by [1987, 1380](#); A [1989, 1789](#); [2007, 205](#))

**NRS 179.1157 Definitions.** As used in [NRS 179.1156](#) to [179.119](#), inclusive, unless the context otherwise requires, the words and terms defined in [NRS 179.1158](#) to [179.11635](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by [1987, 1380](#); A [1989, 1789](#); [1991, 209](#))

**NRS 179.1158 “Claimant” defined.** “Claimant” means any person who claims to have:

1. Any right, title or interest of record in the property or proceeds subject to forfeiture;
2. Any community property interest in the property or proceeds; or
3. Had possession of the property or proceeds at the time of the seizure thereof by the plaintiff.

(Added to NRS by [1987, 1380](#))

**NRS 179.1159 “Plaintiff” defined.** “Plaintiff” means the law enforcement agency which has commenced a proceeding for forfeiture.

(Added to NRS by [1987, 1380](#))

**NRS 179.1161 “Proceeds” defined.** “Proceeds” means any property, or that part of an item of property, derived directly or indirectly from the commission or attempted commission of a crime.

(Added to NRS by [1987, 1380](#))

**NRS 179.1162 “Property” defined.** “Property” includes any:

1. Real property or interest in real property.
2. Fixture or improvement to real property.

3. Personal property, whether tangible or intangible, or interest in personal property.

4. Conveyance, including any aircraft, vehicle or vessel.

5. Money, security or negotiable instrument.

6. Proceeds.

(Added to NRS by [1987, 1380](#))

**NRS 179.1163 “Protected interest” defined.** “Protected interest” means the enforceable interest of a claimant in property, which interest is shown not to be subject to forfeiture.

(Added to NRS by [1987, 1380](#))

**NRS 179.11635 “Willful blindness” defined.** “Willful blindness” means the intentional disregard of objective facts which would lead a reasonable person to conclude that the property was derived from unlawful activity or would be used for an unlawful purpose.

(Added to NRS by [1991, 209](#))

**NRS 179.1164 Property subject to seizure and forfeiture; exceptions.**

1. Except as otherwise provided in subsection 2, the following property is subject to seizure and forfeiture in a proceeding for forfeiture:

(a) Any proceeds attributable to the commission or attempted commission of any felony.

(b) Any property or proceeds otherwise subject to forfeiture pursuant to [NRS 179.121](#), [200.760](#), [202.257](#), [370.419](#), [453.301](#) or [501.3857](#).

2. Property may not, to the extent of the interest of any claimant, be declared forfeited by reason of an act or omission shown to have been committed or omitted without the knowledge, consent or willful blindness of the claimant.

3. Unless the owner of real property or a mobile home:

(a) Has given the tenant notice to surrender the premises pursuant to [NRS 40.254](#) within 90 days after the owner receives notice of a conviction pursuant to subsection 2 of [NRS 453.305](#); or

(b) Shows the court that the owner had good cause not to evict the tenant summarily pursuant to [NRS 40.254](#),

↳ the owner of real property or a mobile home used or intended for use by a tenant to facilitate any violation of the provisions of [NRS 453.011](#) to [453.552](#), inclusive, except [NRS 453.336](#), is disputably presumed to have known of and consented to that use if the notices required by [NRS 453.305](#) have been given in connection with another such violation relating to the property or mobile home. The holder of a lien or encumbrance on the property or mobile home is disputably presumed to have acquired an interest in the property for fair value and without knowledge or consent to such use, regardless of when the act giving rise to the forfeiture occurred.

(Added to NRS by [1987, 1380](#); A [1989, 1235](#); [1991, 209](#), [2286](#), [2288](#); [1995, 2534](#); [2001, 1066](#); [2003, 562](#); [2005, 1198](#))

#### **NRS 179.1165 Seizure of property: Requirement of process.**

1. Except as provided in subsection 2, property that is subject to forfeiture may only be seized by a law enforcement agency upon process issued by a magistrate having jurisdiction over the property.

2. A seizure of property may be made by a law enforcement agency without process if:

(a) The seizure is incident to:

(1) An arrest;

(2) A search pursuant to a search warrant; or

(3) An inspection pursuant to a warrant for an administrative inspection;

(b) The property is the subject of a final judgment in a proceeding for forfeiture;

(c) The law enforcement agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The law enforcement agency has probable cause to believe that the property is subject to forfeiture.

(Added to NRS by [1985, 1466](#); A [1987, 1382](#))

## **NRS 179.1169 Title in property; transfer.**

1. All right, title and interest in property subject to forfeiture vests in the plaintiff:

(a) In the case of property used or intended for use to facilitate the commission or attempted commission of any felony, when the property is so used or intended for such use.

(b) In the case of property otherwise subject to forfeiture, when the event giving rise to the forfeiture occurs.

(c) In the case of proceeds, when they become proceeds.

2. Any transfer of property which occurs after title to the property has become vested in the plaintiff, and before the termination of the proceeding for forfeiture, is void as against the plaintiff, unless the person to whom the transfer is made is a good faith purchaser for value. If such a transfer is made, the purchaser must, in the proceeding for forfeiture, establish by a preponderance of the evidence that the purchaser has:

(a) An interest of record in the property;

(b) Given fair value for the interest; and

(c) Acquired the interest without notice of the proceeding or the facts giving rise to the proceeding.

↪ If the purchaser acquires the interest after the seizure of the property by the plaintiff, it is conclusively presumed that the interest has been acquired with notice of the proceeding.

(Added to NRS by [1987, 1381](#))

## **NRS 179.1171 Proceedings for forfeiture: Rules of practice; complaint; service of summons and complaint; answer; parties.**

1. Except as otherwise provided in [NRS 179.1156](#) to [179.119](#), inclusive, the Nevada Rules of Civil Procedure are applicable to and constitute the rules of practice in a proceeding for forfeiture pursuant to those sections.

2. A proceeding for forfeiture is commenced by filing a complaint for forfeiture. If the property has been seized without process, the plaintiff shall promptly file the complaint for forfeiture. The property is subject to an action to

claim its delivery only if the plaintiff does not file the complaint for forfeiture within 60 days after the property is seized. If the complaint for forfeiture is filed following the commencement of an action claiming delivery, the complaint must be treated as a counterclaim.

3. A proceeding for forfeiture is in rem. The complaint for forfeiture must be filed in the district court for the county in which the property which is the subject of the proceeding is located.

4. The plaintiff shall cause service of the summons and complaint to be made upon each claimant whose identity is known to the plaintiff or who can be identified through the exercise of reasonable diligence. If real property or any interest in real property is affected by the proceeding, the plaintiff shall file notice of the proceeding in the manner provided in [NRS 14.010](#).

5. Each claimant served with the summons and complaint who desires to contest the forfeiture shall, within 20 days after the service, serve and file a verified answer to the complaint. The claimant shall admit or deny the averments of the complaint and shall, in short and plain terms, describe the interest which the claimant asserts in the property. Concurrently with the answer, the claimant shall serve answers or objections to any written interrogatories served with the summons and complaint.

6. No person, other than the plaintiff and any claimant, is a proper party in the proceeding.

(Added to NRS by [1987, 1381](#))

**NRS 179.1173 Proceedings for forfeiture: Priority over other civil matters; motion to stay; standard of proof; conviction of claimant not required; confidentiality of informants; return of property to claimant.**

1. The district court shall proceed as soon as practicable to a trial and determination of the matter. A proceeding for forfeiture is entitled to priority over other civil actions which are not otherwise entitled to priority.

2. At a proceeding for forfeiture, the plaintiff or claimant may file a motion for an order staying the proceeding and the court shall grant that motion if a criminal action which is the basis of the proceeding is pending trial. The court shall, upon a motion made by the plaintiff, lift the stay upon a satisfactory showing that the claimant is a fugitive.

3. The plaintiff in a proceeding for forfeiture must establish proof by clear and convincing evidence that the property is subject to forfeiture.

4. In a proceeding for forfeiture, the rule of law that forfeitures are not favored does not apply.

5. The plaintiff is not required to plead or prove that a claimant has been charged with or convicted of any criminal offense. If proof of such a conviction is made, and it is shown that the judgment of conviction has become final, the proof is, as against any claimant, conclusive evidence of all facts necessary to sustain the conviction.

6. The plaintiff has an absolute privilege to refuse to disclose the identity of any person, other than a witness, who has furnished to a law enforcement officer information purporting to reveal the commission of a crime. The privilege may be claimed by an appropriate representative of the plaintiff.

7. If the court determines that the property is not subject to forfeiture, the court shall order the property and any interest accrued pursuant to subsection 2 of [NRS 179.1175](#) returned to the claimant found to be entitled to the property. If the court determines that the property is subject to forfeiture, the court shall so decree. The property, including any interest accrued pursuant to subsection 2 of [NRS 179.1175](#), must be forfeited to the plaintiff, subject to the right of any claimant who establishes a protected interest. Any such claimant must, upon the sale or retention of the property, be compensated for the claimant's interest in the manner provided in [NRS 179.118](#).

(Added to NRS by [1987, 1382](#); A [2001, 874](#))

#### **NRS 179.1175 Disposition of property after seizure and forfeiture.**

1. Except as otherwise provided in subsection 2, after property has been seized the agency which seized the property may:

(a) Place the property under seal;

(b) Remove the property to a place designated by the agency for the storage of that type of property; or

(c) Remove the property to an appropriate place for disposition in a manner authorized by the court.

2. If an agency seizes currency, unless otherwise ordered by the court, the agency shall deposit the currency in an interest-bearing account maintained for the purpose of holding currency seized by the agency.

3. When a court declares property to be forfeited, the plaintiff may:

(a) Retain it for official use;

(b) Sell any of it which is neither required by law to be destroyed nor harmful to the public; or

(c) Remove it for disposition in accordance with the applicable provisions of NRS.

(Added to NRS by [1985, 1467](#); A [1987, 1383](#); [2001, 875](#))

**NRS 179.118 Distribution of proceeds from forfeited property.**

1. The proceeds from any sale or retention of property declared to be forfeited and any interest accrued pursuant to subsection 2 of [NRS 179.1175](#) must be applied, first, to the satisfaction of any protected interest established by a claimant in the proceeding, then to the proper expenses of the proceeding for forfeiture and resulting sale, including the expense of effecting the seizure, the expense of maintaining custody, the expense of advertising and the costs of the suit.

2. Any balance remaining after the distribution required by subsection 1 must be deposited as follows:

(a) Except as otherwise provided in this subsection, if the plaintiff seized the property, in the special account established pursuant to [NRS 179.1187](#) by the governing body that controls the plaintiff.

(b) Except as otherwise provided in this subsection, if the plaintiff is a metropolitan police department, in the special account established by the Metropolitan Police Committee on Fiscal Affairs pursuant to [NRS 179.1187](#).

(c) Except as otherwise provided in this subsection, if more than one agency was substantially involved in the seizure, in an equitable manner to be directed by the court hearing the proceeding for forfeiture.

(d) If the property was seized pursuant to [NRS 200.760](#), in the State Treasury for credit to the Fund for the Compensation of Victims of Crime to be used for the

counseling and the medical treatment of victims of crimes committed in violation of [NRS 200.366](#), [200.710](#) to [200.730](#), inclusive, or [201.230](#).

(e) If the property was seized as the result of a violation of [NRS 202.300](#), in the general fund of the county in which the complaint for forfeiture was filed, to be used to support programs of counseling of persons ordered by the court to attend counseling pursuant to [NRS 62E.290](#).

(f) If the property was forfeited pursuant to [NRS 201.351](#), with the county treasurer to be distributed in accordance with the provisions of subsection 4 of [NRS 201.351](#).

(Added to NRS by [1985, 1467](#); A [1987, 1383](#); [1989, 1789](#); [1995, 1150](#); [1997, 1599](#); [2001, 875](#); [2003, 1120](#); [2009, 575](#))

**NRS 179.1185 Issuance of certificate of title for forfeited vehicle or other conveyance.** If a vehicle or other conveyance is forfeited of a kind which is subject to the provisions of title 43 of NRS governing certificates of title, the agency charged by law with responsibility for issuing certificates of title for conveyances of the kind shall issue a certificate of title to:

1. The governing body or the agency to whom the title was awarded by the court if the conveyance is retained for official use; or
2. The purchaser if the conveyance is sold by the governing body or the plaintiff.

(Added to NRS by [1985, 1467](#); A [1987, 1384](#); [2003, 478](#))

**NRS 179.1187 Establishment of account for proceeds from forfeited property; restrictions on use of money in account; distribution of certain amount to school district; duties of school district and chief administrative officer of law enforcement agency.**

1. The governing body controlling each law enforcement agency that receives proceeds from the sale of forfeited property shall establish with the State Treasurer, county treasurer, city treasurer or town treasurer, as custodian, a special account, known as the “..... Forfeiture Account.” The account is a separate and continuing account and no money in it reverts to the State General Fund or the general fund of the county, city or town at any time. For the purposes of this section, the governing body controlling a metropolitan police department is the Metropolitan Police Committee on Fiscal Affairs.



2. The money in the account may be used for any lawful purpose deemed appropriate by the chief administrative officer of the law enforcement agency, except that:

(a) The money must not be used to pay the ordinary operating expenses of the agency.

(b) Money derived from the forfeiture of any property described in [NRS 453.301](#) must be used to enforce the provisions of [chapter 453](#) of NRS.

(c) Money derived from the forfeiture of any property described in [NRS 501.3857](#) must be used to enforce the provisions of title 45 of NRS.

(d) Seventy percent of the amount of money in excess of \$100,000 remaining in the account at the end of each fiscal year, as determined based upon the accounting standards of the governing body controlling the law enforcement agency that are in place on March 1, 2001, must be distributed to the school district in the judicial district. If the judicial district serves more than one county, the money must be distributed to the school district in the county from which the property was seized.

3. Notwithstanding the provisions of paragraphs (a) and (b) of subsection 2, money in the account derived from the forfeiture of any property described in [NRS 453.301](#) may be used to pay for the operating expenses of a joint task force on narcotics otherwise funded by a federal, state or private grant or donation. As used in this subsection, “joint task force on narcotics” means a task force on narcotics operated by the Department of Public Safety in conjunction with other local or federal law enforcement agencies.

4. A school district that receives money pursuant to paragraph (d) of subsection 2 shall deposit such money into a separate account. The interest and income earned on the money in the account, after deducting any applicable charges, must be credited to the account. The money in the account must be used to purchase books and computer hardware and software for the use of the students in that school district.

5. The chief administrative officer of a law enforcement agency that distributes money to a school district pursuant to paragraph (d) of subsection 2 shall submit a report to the Director of the Legislative Counsel Bureau before January 1 of each odd-numbered year. The report must contain the amount of

money distributed to each school district pursuant to paragraph (d) of subsection 2 in the preceding biennium.

(Added to NRS by [1989, 1789](#); A [1991, 2287](#); [2001, 876](#); [2003, 2528](#))

**NRS 179.119 Reports by law enforcement agencies that receive forfeited property or related proceeds; inclusion of such anticipated revenue in budget prohibited.**

1. Any law enforcement agency that receives forfeited property or the proceeds of a sale of such property pursuant to the provisions contained in [NRS 179.1156](#) to [179.119](#), inclusive, shall:

(a) File a quarterly report of the approximate value of the property and the amount of the proceeds with the entity that controls the budget of the agency; and

(b) Provide the entity that controls the budget of the agency with a quarterly accounting of the receipt and use of the proceeds.

2. Revenue from forfeitures must not be considered in the preparation of the budget of a law enforcement agency except as money to match money from the Federal Government.

(Added to NRS by [1985, 1468](#); A [1987, 1384](#); [1989, 1790](#); [2003, 2529](#))

**NRS 179.121 Forfeiture of personal property and conveyances used in commission of crime.**

1. All personal property, including, without limitation, any tool, substance, weapon, machine, computer, money or security, which is used as an instrumentality in any of the following crimes is subject to forfeiture:

(a) The commission of or attempted commission of the crime of murder, robbery, kidnapping, burglary, invasion of the home, grand larceny or theft if it is punishable as a felony;

(b) The commission of or attempted commission of any felony with the intent to commit, cause, aid, further or conceal an act of terrorism;

(c) A violation of [NRS 202.445](#) or [202.446](#);

(d) The commission of any crime by a criminal gang, as defined in [NRS 213.1263](#); or

(e) A violation of [NRS 200.463](#) to [200.468](#), inclusive, [201.300](#), [201.320](#), [202.265](#), [202.287](#), [205.473](#) to [205.513](#), inclusive, [205.610](#) to [205.810](#), inclusive, [370.380](#), [370.382](#), [370.395](#), [370.405](#), [465.070](#) to [465.085](#), inclusive, [630.400](#), [630A.600](#), [631.400](#), [632.285](#), [632.291](#), [632.315](#), [633.741](#), [634.227](#), [634A.230](#), [635.167](#), [636.145](#), [637.090](#), [637A.352](#), [637B.290](#), [639.100](#), [639.2813](#), [640.169](#), [640A.230](#), [644.190](#) or [654.200](#).

2. Except as otherwise provided for conveyances forfeitable pursuant to [NRS 453.301](#) or [501.3857](#), all conveyances, including aircraft, vehicles or vessels, which are used or intended for use during the commission of a felony or a violation of [NRS 202.287](#), [202.300](#) or [465.070](#) to [465.085](#), inclusive, are subject to forfeiture except that:

(a) A conveyance used by any person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to the felony or violation;

(b) A conveyance is not subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge, consent or willful blindness;

(c) A conveyance is not subject to forfeiture for a violation of [NRS 202.300](#) if the firearm used in the violation of that section was not loaded at the time of the violation; and

(d) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the felony. If a conveyance is forfeited, the appropriate law enforcement agency may pay the existing balance and retain the conveyance for official use.

3. For the purposes of this section, a firearm is loaded if:

(a) There is a cartridge in the chamber of the firearm;

(b) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver; or

(c) There is a cartridge in the magazine and the magazine is in the firearm or there is a cartridge in the chamber, if the firearm is a semiautomatic firearm.

4. As used in this section, “act of terrorism” has the meaning ascribed to it in [NRS 202.4415](#).

(Added to NRS by [1983, 1135](#); A [1985, 638, 1239](#); [1989, 656, 1187, 1188, 1241, 1242, 1453](#); [1991, 210, 2287, 2288](#); [1995, 1150, 1424](#); [1997, 639](#); [1999, 2711](#); [2003, 2952](#); [2005, 90, 1199](#); [2007, 1269](#); [2009, 575](#); [2013, 1857, 2248, 2420](#))