

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Oct 03 2013 04:49 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

JAQUEZ DEJUAN BARBER,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

Case No. 62649

**OPPOSITION TO APPELLANT'S MOTION TO STRIKE THE EXHIBIT
ATTACHED TO THE STATE'S MOTION TO STRIKE ISSUE I AND ISSUE
II IN APPELLANT'S OPENING BRIEF**

**Appeal From Judgment of Conviction
Eighth Judicial District Court, Clark County**

PHILIP J. KOHN
Clark County Public Defender
309 South Third Street
Las Vegas, Nevada 89155-2610
(702) 388-6577

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar # 001565
Regional Justice Center
200 Lewis Avenue
Post Office Box 552212
Las Vegas, Nevada 89155-2212
(702) 671-2500
State of Nevada

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

Counsel for Appellant

Counsel for Respondent

1 IN THE SUPREME COURT OF THE STATE OF NEVADA
2
3

4 JAQUEZ DEJUAN BARBER,

5 Appellant,

6 v.

7 THE STATE OF NEVADA,

8 Respondent.
9

Case No. 62649

10 **OPPOSITION TO APPELLANT'S MOTION TO STRIKE THE EXHIBIT**
11 **ATTACHED TO THE STATE'S MOTION TO STRIKE ISSUE I AND ISSUE**
12 **II IN APPELLANT'S OPENING BRIEF**

13 COMES NOW the State of Nevada, by STEVEN B. WOLFSON, Clark County
14 District Attorney, through his Chief Deputy, JONATHAN E. VANBOSKERCK, and
15 files this Opposition to Appellant's Motion to Strike the Exhibit Attached to the
16 State's Motion to Strike Issue I and Issue II In Appellant's Opening Brief. This
17 motion is filed pursuant to NRAP Rule 27 and is based on the following memorandum
18 and all papers and pleadings on file herein.
19

20 Dated this 2nd day of October, 2013.
21

22 Respectfully submitted,

23 STEVEN B. WOLFSON
24 Clark County District Attorney
25 Nevada Bar # 001565

26 BY /s/ Jonathan E. VanBoskerck

27 Jonathan E. VanBoskerck
28 Chief Deputy District Attorney
 Nevada Bar #006528
 Office of the Clark County District Attorney

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1 Strike Issues within Appellant's Opening Brief, p. 6). The difficulty with Appellant's
2 argument is that the Certification Order has been a public document since at least
3 October 21, 2010. (Las Vegas Justice Court Bindover, attached as Exhibit 1, p. 7-10).
4 Since the Certification Order was filed in Appellant's criminal case any member of
5 the public could have walked into the Justice Court's Clerk's Office or the Criminal
6 Court's Clerk's Office and reviewed and copied the Certification Order. See, NRS
7 179A.100(1)(b); NRS 239.010(1); [http://www.clarkcountycourts.us/clerk/records-](http://www.clarkcountycourts.us/clerk/records-search.html)
8 [search.html](http://www.clarkcountycourts.us/clerk/records-search.html) (setting forth the Eighth Judicial District Court Clerk's Office policy
9 regarding public access to records). As such any discussion of sealing at this late date
10 is moot.
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13

14 **CONCLUSION**

15 WHEREFORE, the State respectfully requests that this Court deny Appellant's
16 Motion to Strike as well as the Sealing Motion and direct Appellant to file an
17 amended appendix including the missing documents.
18
19

20 Dated this 2nd day of October, 2013.

21 Respectfully submitted,

22 STEVEN B. WOLFSON
23 Clark County District Attorney
Nevada Bar # 1565

24 BY */s/ Jonathan E. VanBoskerck*

25 JONATHAN E. VANBOSKERCK
26 Chief Deputy District Attorney
Nevada Bar #006528
27 Office of the Clark County District Attorney
200 Lewis Avenue
28 Post Office Box 552212
Las Vegas, Nevada 89155-2212

CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on 2nd day of October, 2013. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

CATHERINE CORTEZ MASTO
Nevada Attorney General

SHARON G. DICKINSON
Deputy Public Defender

JONATHAN E. VANBOSKERCK
Chief Deputy District Attorney

BY /s/ j. garcia
Employee, District Attorney's Office

JEV/jg

EXHIBIT 1

EXHIBIT 1

FILED
OCT 21 2010
[Signature]
CLERK OF COURT

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA.

C-10-268471-1

STATE OF NEVADA,
Plaintiff,

vs.

BARBER, JAQUEZ DEJUAN,
Defendant(s)

) District Court Case No.:

) Justice Court Case No.: 10F18646X

LV

CERTIFICATE

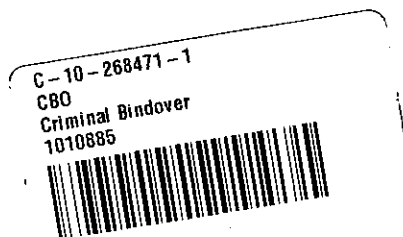
I hereby certify the foregoing to be a full, true and correct copy of the proceedings as the same appear in the above case.

Dated this October 19, 2010

[Signature]

Justice of the Peace, Las Vegas Township

RECEIVED
OCT 21 2010
CLERK OF THE COURT



JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

STATE OF NEVADA,
Plaintiff,

VS.

BARBER, JAQUEZ DEJUAN,
Defendant(s)

District Court Case No.:

Justice Court Case No.: 10F18646X

COMMITMENT and ORDER TO APPEAR

An Order having been made this day by me that **BARBER, JAQUEZ DEJUAN** be held to answer before the Eighth Judicial District Court, Department upon the charge(s) of **CT. 1 - BURGLARY; CT. 2 - GL**, committed in said Township and County, on 21ST DAY OF JANUARY, 2009 .

IT IS FURTHER ORDERED that the Sheriff of the County of Clark is hereby commanded to receive the above named defendant(s) into custody, and detain said defendant(s) until he/she can be legally discharged, and be committed to the custody of the Sheriff of said County, until bail is given in the sum of \$6,000/6,000 TOTAL BAIL.

IT IS FURTHER ORDERED that said defendant(s) is/are commanded to appear in the Eighth Judicial District Court, Regional Justice Center, Lower Level Arraignment Courtroom "A", Las Vegas, Nevada at 9:00 AM on the 28THday of OCTOBER, 2010 for arraignment and further proceedings on the within charge(s).

Dated this October 19, 2010

Justice of the Peace, Las Vegas Township

JUSTICE COURT, LAS VEGAS TOWNSHIP

STATE VS. BARBER, JAQUEZ AKA JAQUEZ DEJUAN BARBER

CASE NO. 10F18646X

PAGE: 1

DATE, JUDGE
OFFICERS OF COURT
PRESENT

APPEARANCES - HEARING

CONTINUED TO:

SEPTEMBER 30, 2010	CRIMINAL COMPLAINT FILED COUNT 1 – BURGLARY COUNT 2 – GRAND LARCENY	LP
OCTOBER 5, 2010 E. GOODMAN A. NANCE, DA D. DICKSON, PD APPOINTED P. SMITH, CR L. PEREZ, CLK	INITIAL ARRAIGNMENT DEFENDANT PRESENT IN COURT IN CUSTODY DEFENDANT ADVISED OF CHARGES/WAIVES READING OF COMPLAINT PRELIMINARY HEARING DATE SET DEFENDANT REMANDED TO THE CUSTODY OF THE SHERIFF	10/19/10 9AM #11 LP
OCTOBER 19, 2010 E. GOODMAN A. NANCE, DA C. MAXEY, PD AND C. ROMNEY, PD P. SMITH, CR J. MONTERROSO, CLK	TIME SET FOR PRELIMINARY HEARING DEFENDANT PRESENT IN COURT *IN CUSTODY* PER NEGOTIATIONS: DEFENDANT UNCONDITIONALLY WAIVES THE RIGHT TO A PRELIMINARY HEARING DEFENDANT BOUND OVER TO DISTRICT COURT AS CHARGED DEFENDANT TO APPEAR IN THE LOWER LEVEL ARRAIGNMENT COURTROOM A DATE SET DEFENDANT REMANDED TO THE CUSTODY OF THE SHERIFF	10/28/10 9:00 DCA Jm
	CASE FORWARDED TO OCT 21 2010 DISTRICT COURT CLERK'S OFFICE	

FILED

JUSTICE COURT, LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA

SEP 30 9 10 AM '10

THE STATE OF NEVADA,

Plaintiff,

-vs-

JAQUEZ BARBER, aka,
Jaquez Dejuan Barber, #2705160,

Defendant.

JUSTICE COURT
LAS VEGAS, NEVADA

BY RC

DEPUTY CASE NO: 10F18646X

DEPT NO: 11

CRIMINAL COMPLAINT

The Defendant above named having committed the crimes of BURGLARY (Felony - NRS 205.060) and GRAND LARCENY (Felony - NRS 205.220, 205.222), in the manner following, to-wit: That the said Defendant, on or about the 21st day of January, 2009, at and within the County of Clark, State of Nevada,

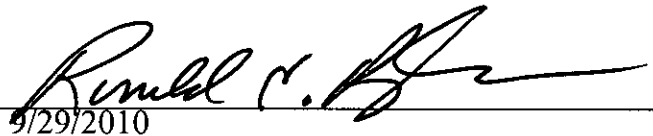
COUNT 1 - BURGLARY

did then and there wilfully, unlawfully, and feloniously enter, with intent to commit larceny, that certain building occupied by ALDEGUNDA MENDOZA, located at 1873 Star Sapphire Court, Las Vegas, Clark County, Nevada.

COUNT 2 - GRAND LARCENY

did then and there wilfully, unlawfully, and feloniously with intent to deprive the owner permanently thereof, steal, take, carry, lead or drive away property owned by ALDEGUNDA MENDOZA, having a value of \$250.00, or more, to-wit: \$7,000.00.

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


9/29/2010

10F18646X/no
LVMPD EV# 0901211550
(TK11)

RIM
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Exhibit 1, p. 0000048

6

COPY

1 DAVID ROGER
2 DISTRICT ATTORNEY
3 NEVADA STATE BAR NO. 002781
4 PHILIP BROWN
5 Deputy District Attorney
6 Nevada State Bar No. 6240
7 601 North Pecos Road
8 Las Vegas, NV 89101-2408
9 (702) 455-5320
10 Attorney for the State of Nevada

FILED IN OPEN COURT

SEP 27 2010

STEVEN D. GRIERSON
CLERK OF THE COURT

MARY LOU BALLEZ

BY _____ DEPUTY

DISTRICT COURT
JUVENILE DIVISION
CLARK COUNTY, NEVADA

In the Matter of:

JAQUEZ BARBER

Date of Birth: 07/05/1991

19 Years of Age.

CASE NO. 08J309689

DEPT NO. A

COURTROOM NO. 18

**FINDING OF PROBABLE CAUSE AND
TRANSPORTATION ORDER FOR A CERTIFIED ADULT**

Arraignment Date: 10-5-10
Arraignment Time: 7:30 A
Justice Court for: Las Vegas

19 This matter having come before the Court on the 27 day of
20 September, 2010, the subject minor being present in Court and represented
21 by Counsel, the State being represented by DAVID ROGER, District Attorney, by and
22 through his Deputy District Attorney at Juvenile Court, after having a Certification Hearing
23 and full investigation, this Court finds probable cause to believe that the crimes stated herein
24 were committed by the subject minor and further finds cause to certify the subject minor to
25 adult status;

26 IT IS HEREBY ORDERED that the above-named subject minor be transported to the
27 Clark County Detention Center and remanded to the custody of the Clark County Sheriff,
28 Douglas Gillespie;

1 IT IS FURTHER ORDERED that the subject minor be set for Arraignment on the
2 5th day of October, 2010, at the hour 7:30 o'clock A m., in the
3 Justice Court of Las Vegas Township, Clark County, Nevada; bail is now set
4 in the following amounts for the following charges:

<u>CHARGE</u>	<u>N.R.S.</u>	<u>CASH/SURETY BAIL</u>	<u>PROPERTY</u>
4(1)- BURGLARY	205.060	3,000	
4(2)- GRAND LARCENY	205.220	3,000	

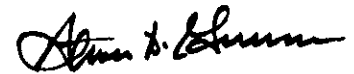
10 DATED this _____ day of SEP 27 2010, 20____.

13 WILLIAM O. VOY

14 WILLIAM O. VOY
15 DISTRICT COURT JUDGE

16 PB/hsa

17 LVMPD Event No. 090121-1550
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CLERK OF THE COURT

DAVID ROGER
DISTRICT ATTORNEY
NEVADA STATE BAR NO. 002781.
PHILIP BROWN
Deputy District Attorney
Nevada State Bar No. 6240
601 North Pecos Road
Las Vegas, NV 89101-2408
(702) 455-5320
Attorney for the State of Nevada

DISTRICT COURT
JUVENILE DIVISION
CLARK COUNTY, NEVADA

In the Matter of:

JAQUEZ BARBER

Date of Birth: 07/05/1991

19 Years of Age.

JUVI ID# 112379 03

CASE NO. 08J309689

DEPT NO. A

COURTROOM NO. 18

CERTIFICATION TO ADULT STATUS ORDER

The above-entitled matter having come on for hearing on 27th day of September, 2010, in the above-entitled Court to determine whether the subject minor, **JAQUEZ BARBER**, should be certified to be tried as an adult under the provisions of NRS 62B.390; and

The court being duly advised that the Subject Minor, **JAQUEZ BARBER**, of this Petition is 19 years of age, having been born on the 5th day of July, 1991; and

The court being fully advised that the subject of this Petition is charged with the offenses of Petition Number 4, Count 1- BURGLARY, a felony under N.R.S. 205.060, if committed by an adult; and Count 2- GRAND LARCENY, a felony under N.R.S. 205.220, if committed by an adult; said offenses having allegedly been committed on January 21, 2009.

The court having heard argument in open court and being fully advised in the premises;

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1 NOW, THEREFORE, IT IS HEREBY ORDERED that JAQUEZ BARBER be and
2 hereby is Certified to the Eighth Judicial District Court of the State of Nevada in and for the
3 County of Clark for proper criminal proceedings as an adult for the following reasons:

4 **1. Nature and Seriousness of Charged Offense(s):**

5 The Declaration of Arrest signed by Detective J. NORDSTROM P#8254, of the Las
6 Vegas Metropolitan Police Department (LVMPD) as well as the other reports and statements
7 contained in the record are sufficient to set forth establish prosecutive merit. The
8 Declaration of Arrest clearly establishes the heinous nature of the offense:

9 On February 5, 2009, I Det. J. Nordstrom P#8254, was assigned a
10 burglary case under event number 090121-1550. The details of the case
11 stated that the victim Aldegunda Mendoza, DOB 11-28-76, had filed a
12 police report stating that her residence located at 1873 Star Sapphire Ct.
13 Las Vegas, NV 89106 had been broken into, and she was the victim of a
14 burglary. She called the police on February 21, 2009 around 1030 hours
15 when she returned home to find her back door open and her check book
16 on the floor. She ran out of the house and called the police and waited
17 outside until they arrived. Once she went back into the house she found
18 that her items were moved around and her sock drawer in her bedroom
was open. Mendoza stated that she had \$5000.00 dollars in cash hidden
in her sock drawer. She stated that she also had two black wallets that
contained \$2000.00 dollars inside of them. These wallets were also
hidden in her sock drawer.

19 Officer C. Shevlin P# 13411 responded to the call and filled out the
20 police report as well as calling out ID Specialist R. Dahn P# 5947. ID
21 Specialist R. Dahn P# 5947 processed the residence for latent prints as
22 well as photographing the residence. He lifted prints off of the entry
23 point which was a bathroom window at the rear of the residence. The
24 prints were on the lower corner of the exterior window, near the edge of
25 the window. This is the common location to place your hand and push
the window open. ID Specialist R. Dahn P# 5947 also took photographs
of the water faucet that was damaged while the suspect climbed up the
wall and went through the bathroom window.

26 On March 17, 2009 I was informed by Las Vegas Metropolitan Police
27 Department Forensic Laboratory that ID Specialist R. Dahn P# 5947 had
28 processed the latent prints recovered on the rear window of the victim's
residence located at 1873 Star Sapphire Ct., Las Vegas, NV 89106,
which had been determined to be the suspect's entry point. The latent

1 finger prints that had been processed returned to a Jaquez Barber ID
2 number 2705160. Barber had been arrest for attempted murder on
3 March 3, 2009 and his latent finger prints were entered into AFIS data
4 base. Once his latent finger prints were in the system a match returned
5 from the latent prints recovered on the 1873 Star Sapphire Ct. Las Vegas,
6 NV 89106 case.

7 On April 2, 2009 I went over to the victim's house with a Spanish
8 speaking translator, Ada Wilson P# 9114. Wilson P# 9114 asked
9 Mendoza if she knew a Jaquez Barber, in which Mendoza stated "no". I
10 showed Mendoza a picture of Barber to make sure that she did not know
11 him and she once again stated that she did not know him. She stated that
12 he did not have permission to enter her residence as well as being in her
13 backyard.

14 Jaquez Barber is being charged with burglary due to the evidence
15 recovered on January 21, 2009 in which the suspect's latent finger prints
16 were recovered on the entry window. This was the bathroom window at
17 the rear of the victim's residence. This window was pushed open and the
18 suspect broke the water faucet that was directly under the window when
19 he climbed in through the window.

20 (Declaration of Arrest attached to Statc's Memorandum of Points and Authorities in
21 Support of Certification Petition).

22 **2. Persistency and Seriousness of Past Adjudicated or Admitted Offenses(s):**

Offense	Date
Malicious Destruction of Property	05/06/2008
Possession of Firearm	07/11/2008

23 WHEREFORE, THE COURT FINDS the records supports Prosecutive Merit for
24 Petition Number 4, Counts 1 and 2.

25 The COURT FURTHER FINDS that under NRS 62B.390 and the Court's authority
26 to order certification pursuant In Re Seven Minors, 99 Nev.427, 437, 664 P2d 947, 953
27 (1983), discretionary certification is warranted based on the fact that the offenses are serious,
28 that Subject Minor has serious prior adjudications, and that the subjective factors, including
Subject Minor's age and current prison sentence, show that public safety will be best
serviced by transferring this case to the adult system. The Court has considered the Subject

1 Minor's role in the offense.

2 Accordingly, the Court grants the State's motion to certify **JAQUEZ BARBER** to
3 adult status on Petition Number 4, Counts 1 and 2, on discretionary grounds pursuant to In
4 Re Seven Minors, 99 Nev.427, 437, 664 P2d 947, 953 (1983).

5 The COURT FURTHER ADVISES that subject minor has the right to appeal this
6 decision to the Supreme Court and that a notice of appeal must be filed after the entry of this
7 written Order and no later than 30 days after the date of service of written notice of the entry
8 of this Order.


9 The COURT FURTHER ADVISES that subject minor may petition the adult court
10 for transfer of the case back to the juvenile court only upon a showing of exceptional
11 circumstances. If the case is transferred back to juvenile court the judge of this court shall
12 determine whether the exceptional circumstances warrant accepting jurisdiction.

13 The Director of the Department of Juvenile Justice Services of Clark County is
14 charged with the execution of this Order.


15 This matter is continued to the 5th day of October, 2010 at the hour of 7:30 a.m., for
16 the purpose of arraignment in the Las Vegas Justice Court. The court having heard argument
17 orders subject minor's bail set in the amount of Count 1-\$3,000.00 and Count 2-\$3,000.00,
18 for a grand total amount of \$6,000.00.

19 **JAQUEZ BARBER** is hereby remanded to the custody of the Sheriff.

20 Dated this 27th day of September, 2010.

21
22 
23 _____
24 WILLIAM O. VOY
25 DISTRICT COURT JUDGE
26 FAMILY DIVISION

27 Submitted by:

28 

PHILIP BROWN
Deputy District Attorney
Nevada State Bar No. 6240
PB/hsa

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

PRETRIAL SERVICES INFORMATION SHEET

CASE #
10F18646X
NAME:
Jaquez Barber

DEPT #
JC-11
ID #
2705160

REQUESTED BY:

CHARGES:
BURGLARY, GRAND LARCENY
CURRENT BAIL: \$6,000

VERIFIED: ADDRESS: High Desert Prison, , Indian Springs, NV
WITH WHOM/HOW LONG: Prison , Inmate / 1Y

VERIFIED: EMPLOYMENT STATUS: High Desert Prison / Inmate
LENGTH: 1Y

VERIFIED: RELATIVES - LOCAL : **NOT LOCAL:**

FELONY/GROSS MISDEMEANOR CONVICTIONS: 09NV BATT WDW WSBH

MISDEMEANOR CONVICTIONS: 0

FAIL TO APPEAR: 0

COMMENTS:

RECOMMENDATION:

DATE: 10/18/2010

PRETRIAL SERVICES: Maritza Aguilar

CONFIDENTIAL

Exhibit 1, p. 000011

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JUSTICE COURT, LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA

PRETRIAL SERVICES INFORMATION SHEET

CASE #

10F18646X

DEPT #

11

REQUESTED BY:

JUVENILE REMAND

NAME:

Jaquez Barber

ID #

2705160

CHARGES:

BURGLARY, GRAND LARCENY

TOTAL BAIL:

6,000

VERIFIED: ADDRESS: High Desert Prison, , Indian Springs, NV
WITH WHOM/HOW LONG: Prison , Inmate / 1Y

VERIFIED: EMPLOYMENT STATUS: High Desert Prison / Inmate
LENGTH: 1Y

VERIFIED: RELATIVES - LOCAL :

NOT LOCAL:

FELONY/GROSS MISDEMEANOR CONVICTIONS: 09NV BATT WDW WSBH

MISDEMEANOR CONVICTIONS: 0

FAIL TO APPEAR: 0

COMMENTS:

RECOMMENDATION:

DATE: 10/04/2010

PRETRIAL SERVICES: Tyanna Johnson

CONFIDENTIAL
Exhibit 1, p. 000012

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SF