

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * *

JASON JONES,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

CASE NO. 63136

Electronically Filed
Sep 04 2013 08:42 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

APPELLANT'S APPENDIX

VOLUME 1

Direct Appeal From A Judgment of Conviction
Eighth Judicial District Court
The Honorable Valerie Adair, District Court Judge
District Court No. C285488

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CLERK OF THE COURT

1 **INFM**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **NELL E. CHRISTENSEN**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #008822**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

12 **I.A. 11/15/12**
13 **9:30 A.M.**
14 **SPD**

DISTRICT COURT
CLARK COUNTY, NEVADA

15 **THE STATE OF NEVADA,**
16
17 **Plaintiff,**

18 **-vs-**

19 **JASON JONES,**
20 **#2735018**

21 **Defendant.**

Case No: C-12-285488-1
Dept No: XXI

INFORMATION

22 **STATE OF NEVADA** }
23 **COUNTY OF CLARK** } ss.

24 **STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State**
25 **of Nevada, in the name and by the authority of the State of Nevada, informs the Court:**

26 **That JASON JONES, the Defendant(s) above named, having committed the crime of**
27 **MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010,**
28 **200.030, 193.165), on or about the 17th day of June, 2012, within the County of Clark, State**
of Nevada, contrary to the form, force and effect of statutes in such cases made and
provided, and against the peace and dignity of the State of Nevada, did then and there
wilfully, feloniously, without authority of law, and with premeditation and deliberation, and

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1 with malice aforethought, kill JAIME CORONA, a human being, by Defendant shooting at
2 and into the body of the said JAIME CORONA, with a deadly weapon, to-wit: a firearm.

3 STEVEN B. WOLFSON
4 Clark County District Attorney
Nevada Bar #001565

6 BY /s//NELL E. CHRISTENSEN
7 NELL E. CHRISTENSEN
8 Chief Deputy District Attorney
9 Nevada Bar #008822

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

<u>NAME</u>	<u>ADDRESS</u>
BOUCHER, DOLPHIS – LVMPD P#4636	
BROWN, JIMMIE – 1416 F ST., #8, LVN 89106	
COLEMAN, LORETTA – 1416 F ST., #7, LVN 89106	
COLEMAN, WILLIAM – 1416 F ST., #16, LVN 89106	
CUSTODIAN OF RECORDS – CLARK COUNTY DETENTION CENTER	
CUSTODIAN OF RECORDS – LVMPD COMMUNICATIONS	
CUSTODIAN OF RECORDS – LVMPD RECORDS	
DOUGHERTY, ED – DISTRICT ATTORNEY INVESTIGATOR	
DUTRA, DR. TIMOTHY – CLARK COUNTY CORONER'S OFFICE	
HERRERA, VINCENT – 1416 F ST., #1, LVN 89106	
HONAKER, JAMIE – DISTRICT ATTORNEY INVESTIGATOR	
IVIE, TRAVIS – LVMPD P#6405	
MCGHEE, EBONY – LVMPD P#5158	
OLIVAS, KAZANDRA – 1416 F ST., #1, LVN 89106	
RAMIREZ, FRANCISCA – 3650 E. LAKE MEAD BLVD., #123, LVN 89115	
REVELS, JEROME – DISTRICT ATTORNEY INVESTIGATOR	

1 SANBORN, TATE - LVMPD P#5450
2 SCOTT, JON - LVMPD P#4532
3 SHEFFIELD, JAMES - 1416 F ST., #9, LVN 89106
4 SMITH, JEFFREY - LVMPD P#8177
5 THOMAS, KRISTINA - LVMPD P#13574
6 VACHON, CHRISTIN - C/O BEXAR COUNTY
7 WILLIAMS, DENISE - ADDRESS UNKNOWN
8 WRIGHT, AMANDA - LVMPD P#9974

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DA#12F09802X/mmw/GCU
LVMPD EV#1206174103
(TK12)

DISTRICT COURT
CLARK COUNTY, NEVADA

Defendant.

CASE NO. C285488-1
DEPT. XXI

RECORDER'S TRANSCRIPT OF HEARING RE:
ARRAIGNMENT CONTINUED

RANDALL H. PIKE, ESQ.
Assistant Special Public Defender
CHARLES A. CANO, ESQ.
Deputy Special Public Defender

0004

1 LAS VEGAS, CLARK COUNTY, NV., TUES., NOV. 27, 2012

2
3 THE COURT: State versus Jason Jones. Mr. Cano is here --

4 MR. CANO: Mr. Pike is here as well.

5 THE COURT: And Mr. Jones, and this was a continued arraignment it looks
6 like.

7 MR. CANO: What happened was there was a mix-up between Justice Court
8 and the District Court after he was bound over, after the preliminary hearing, and so
9 they didn't transport him over there in time. So we just pushed it over to today to do
10 the arraignment.

11 THE COURT: Okay. So we just need to arraign him on the Information
12 charging him with Murder with use of a deadly weapon, correct?

13 MR. CANO: Yes, Your Honor.

14 THE COURT: All right.

15 THE DEFENDANT: Your Honor, may I say something?

16 THE COURT: In a minute.

17 Mr. Jones, have you received a copy of the Information charging you
18 with the felony charge of murder with use of a deadly weapon?

19 THE DEFENDANT: Have I read what?

20 THE COURT: The Information -- I see you've got a paper there shoved into
21 your pocket. Is that the Information?

22 THE DEFENDANT: These are NRS codes.

23 MR. PIKE: Your Honor, I provided him a copy of the Information. I went over
24 to meet with him on Monday, and the Information was the same charging document
25 as --

1 THE COURT: As the Complaint in Justice Court.

2 MR. PIKE: That's correct.

3 THE COURT: So you've seen that and you've read it over and discussed the
4 charge with your lawyer Mr. Pike; is that true?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: And what is your true name? Is your true name Jason Jones?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: And is that the name that appeared on that Information?

9 Mr. Pike, was it Jason Jones?

10 MR. PIKE: Yes, Your Honor.

11 THE COURT: Okay. And you understand, Mr. Jones, that if that is not your
12 true name, you have to tell me your true name now; do you understand that?

13 MR. PIKE: Is it your true name?

14 THE COURT: Is that your real name?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: May I see counsel up here.

17 (Conference at the bench not recorded.)

18 THE COURT: How old are you, Mr. Jones?

19 THE DEFENDANT: 26.

20 THE COURT: All right. How far did you go in school?

21 THE DEFENDANT: Some college.

22 THE COURT: All right. How many years of college? One year? Six
23 months? What?

24 THE DEFENDANT: One year.

25 THE COURT: One year, all right. And do you read, write, and understand the

1 English language?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: All right. Will you waive the formal reading of the Information
4 and the list of witnesses here in open court?

5 THE DEFENDANT: What do you mean?

6 THE COURT: Do you want this lady right here in the black sweater to read
7 the Information out loud and the names of the witnesses or will you waive that, her
8 reading it out loud today?

9 THE DEFENDANT: No, she can read it.

10 THE COURT: Okay. Ms. Husted.

11 Ms. Christensen, can you help us out here?

12 MS. CHRISTENSEN: Yes, Your Honor, may I approach?

13 THE COURT: All right. This may be a first. All right. Ms. Husted is going to
14 read that out loud here in open court.

15 THE DEFENDANT: Yes, ma'am.

16 (Information and list of witnesses read out loud.)

17 THE COURT: All right. Do you understand the nature of the charge
18 contained against you in the Information?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: All right. And have you, as Mr. Pike said, you've discussed the
21 nature of the charge and the charge with your attorney Mr. Pike over at the jail?

22 He went over and talked to you and you visited with him and went over
23 the charge together; is that true?

24 THE DEFENDANT: To a certain extent.

25 THE COURT: All right. Do you want more time to talk about it before you

1 enter your plea of either guilty or not guilty here in open court this morning?

2 THE DEFENDANT: I would like to put something on record, Your Honor.

3 THE COURT: Okay. Well, we're going to go through this first, and then you
4 can say what you want to say.

5 Are you prepared to either enter a plea of guilty or not guilty to the
6 charge?

7 THE DEFENDANT: Absolutely.

8 THE COURT: All right. What is your plea?

9 THE DEFENDANT: Not guilty.

10 THE COURT: All right. You have the right to have a trial within 60 days. Do
11 you wish to invoke your right to a trial within 60 days, or do you wish to waive and
12 give up this right?

13 THE DEFENDANT: I would like to invoke.

14 THE COURT: All right. We'll go ahead and set a trial within 60 days as soon
15 as the Court can accommodate it within the 60-day time frame.

16 THE CLERK: The trial will be January 22nd at 9:30 with a calendar call
17 January 17th at 9:30 as well.

18 THE COURT: Yes.

19 THE DEFENDANT: I would also like to put on record that I do not want my
20 counsel to file any petition and/or motions on my behalf.

21 THE COURT: All right. Well, I don't know if Mr. Pike and Mr. Cano feel that
22 there are any appropriate motions that should be filed; however, if there are, then
23 that may become an issue.

24 So, Mr. Pike --

25 MR. PIKE: Your Honor, when we received the first volume of the preliminary

1 hearing transcript -- there is a second volume that hasn't been filed with the court
2 yet -- I did an initial draft of a writ of habeas corpus to file on Mr. Jones' defense. I
3 also had -- I was considering whether or not a portion of that would be to remand the
4 matter back down to Justice Court for the presentation of evidence that the Justice
5 of the Peace did not allow me to get into not believing it was relevant for the
6 preliminary hearing, and then use that as a basis to have it dismissed.

7 The -- he is only charged with the one count, one of murder, which is
8 the charging document and the writ is seeking to have it dismissed. I don't believe
9 that I can ethically -- well, if there is a basis for a writ or a motion to dismiss, I feel
10 I'm ethically bound to bring that motion to dismiss. Or if there's a motion to bring in
11 evidence, hearsay evidence that we feel may be beneficial to the defendant, I need
12 to bring those motions, but he -- Mr. Jones does not want me to file any motions on
13 his behalf.

14 THE COURT: Right. There's also the obligation to consult with your client
15 and to some extent do --

16 Mr. Jones, let me suggest this. Have you had an opportunity to discuss
17 that with your lawyer because Mr. Cano and Mr. Pike they do pretty much nothing
18 but defend -- well, they do nothing but defend murder cases, many of which are
19 capital murder cases. So they're very experienced, not just in criminal defense
20 generally but in murder trials and murder defense specifically.

21 So what I would suggest is perhaps privately discussing your concerns
22 about motions and a petition and whatnot with your attorneys before you make any
23 definitive judgment one way or the other, and perhaps you can express your -- I
24 don't want you to do it in open court right now today with me. You can express your
25 concerns with your lawyers. They can explain to you in a private setting what their

1 tactics are and what the likelihood of success is with filing the motions and whatnot.

2 You know, appellate issues are something else your lawyers look out
3 for. So even if they may think, oh, Judge Adair, she's not going to do that, they want
4 to preserve issues in case you're convicted so that then there's more that they can
5 say I made a mistake about. If they don't file any motions, then I can't rule
6 incorrectly because there was nothing for me to rule on. So those are things that
7 your lawyers are going to be thinking about.

8 So why don't we pass this over.

9 Mr. Pike, you haven't discussed this issue yet with your --

10 THE DEFENDANT: He has, Your Honor.

11 MR. PIKE: I gave him an initial draft --

12 THE DEFENDANT: I went over the draft and --

13 THE COURT: Well, maybe let's give you an opportunity to discuss that fully
14 with them.

15 Is the reason you don't want a petition filed because you're afraid it will
16 impact your right to a trial within 60 days? Is that why?

17 THE DEFENDANT: That's one reason. It pertains to that, and also, after
18 going -- after reviewing the draft, Your Honor, I found that in that draft was, you
19 know, information that's not beneficial to me.

20 THE COURT: Well, Mr. -- I don't know what's in the draft obviously, and
21 here's the thing. I'm sure what Mr. Pike puts in the draft is based on what's in the
22 transcript of the preliminary hearing. So even if there was information that you
23 consider not beneficial to you, if it's part of the record, then that's something that Mr.
24 Pike has to acknowledge. The record is what the record is. So I don't know if that's
25 what you're talking about or not.

1 THE DEFENDANT: Your Honor, also I haven't even received my preliminary
2 hearing transcript from Volume 2, and in my draft he has information from those
3 transcripts. So basically, you know, they tell the evidence --

4 THE COURT: Mr. Jones, we're not going to have this discourse right now.

5 Mr. Pike, what would you suggest?

6 MR. PIKE: I have a trial next week. If we could set this on for a status check.
7 If Mr. Jones wants to file or bring it to the Court's attention what he believes are
8 unreasonable efforts I -- we have not received Volume 2. I just was there. I knew
9 what the evidence was from writing it down and preparing for it.

10 THE COURT: Right, so he can write it down from what he heard.

11 All right, Mr. Jones, we'll pass this over for a status check, and in the
12 meantime one or both of your lawyers will come and meet with you at the jail and
13 discuss these issues with you in privacy.

14 THE DEFENDANT: They've already done that, Your Honor.

15 THE COURT: Well, Mr. Jones, there's no point in you and me discussing it
16 now any further --

17 THE DEFENDANT: I'm just saying --

18 THE COURT: Mr. Jones.

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Ms. Husted's going to give a status check date.

21 THE CLERK: Do you want to go a week?

22 MR. PIKE: Two weeks. I have a trial next week.

23 THE COURT: Let's go a couple weeks.

24 THE CLERK: December 11 at 9:30.

25 And are we going to keep the trial date?

1 THE COURT: Trial date stands.

2 -oOo-

3 ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video
4 proceedings in the above-entitled case.

5 
6 JANIE L. OLSEN
Recorder/Transcriber


CLERK OF THE COURT

1 **NOTC**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 NELL E. CHRISTENSEN
6 Chief Deputy District Attorney
7 Nevada Bar #008822
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10
11 Plaintiff,

11 -vs-

12 JASON JONES,
13 #2735018

14 Defendant.

CASE NO: C-12-285488-1

DEPT NO: XX1

14 **NOTICE OF WITNESSES AND/OR EXPERT WITNESSES**
15 **[NRS 174.234]**

16 TO: JASON JONES, Defendant; and

17 TO: RANDY PIKE and CHARLES CANO, Special Public Defenders,

18 Counsel of Record:

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

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

23 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF
24 NEVADA intends to call expert witnesses in its case in chief as follows:

25 The substance of each expert witness testimony and copy of all reports made by or at
26 the direction of the expert witness has been provided in discovery.

27 A copy of each expert witness curriculum vitae, if available, is attached hereto.

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TAFOYA, STEVE – LVMPD P#4435(or designee): COMPUTER EXPERT: Expert in the area of electronic media, electronic communication and computer technology and to the collection and preservation of evidence and is expected to testify as an expert to the identification, documentation, retrieval, collection and preservation of the evidence in this case.

DUTRA, DR. TIMOTHY - A medical doctor, employed by the Clark County Coroner's Office as a Deputy Medical Examiner/Forensic Pathologist. He is an expert in the area of forensic pathology and will give scientific opinions related thereto. He is expected to testify regarding the cause and manner of death of Jaime Corona.

KRYLO, JAMES – LVMPD P#5945 (or designee): FIREARMS/TOOLMARK EXAMINER with the Las Vegas Metropolitan Police Department. He is an expert in the field of firearm and toolmark comparisons and is expected to testify thereto.

VACHON, CRYSTINA - Bexar County Forensic Science Center, Criminal Investigation Laboratory, 7337 Louis Pasteur, San Antonio, Texas 78229-4565: Forensic Scientist- Conducts forensic testing and analyses in the area of Trace Evidence. Interprets test results and prepares forensic reports for law enforcement personnel on criminal investigations.

STEVEN B. WOLFSON
District Attorney
Nevada Bar #001565

BY /s/NELL E. CHRISTENSEN
NELL E. CHRISTENSEN
Chief Deputy District Attorney
Nevada Bar #008822

1 **CERTIFICATE OF ELECTRONIC FILING**

2 I hereby certify that service of State's Opposition was made this 5th day of December,
3 2012, by Electronic Filing to:

4 RANDY PIKE, Special Public Defender
5 CHARLES CANO, Special Public Defender
6 E-mail Address: RPike@ClarkCountyNV.gov
canoca@ClarkCountyNV.gov
KFitzger@ClarkCountyNV.gov

7
8 Shellie Warner
Secretary for the District Attorney's Office

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CURRICULUM VITAE OF: STEVEN TAFOYA, LVMPD PERSONNEL #4435

DATES	COURSE TITLE	PROVIDER	TOPICS COVERED	HOURS
04/17/00-04/21/00	Basic Data Recovery and Analysis	National White Collar Crime Center	Preparing investigators for the challenge created by computer literate criminals	36
02/13/01-02/16/01	Encase Intermediate Professional V.2	Guidance Software	Computer Forensic Methodology and Examinations	32
08/06/01-08/24/01	BCERT pt.1 (E.C.S.A.P.)	U.S. Customs Cyber Smuggling Center & U.S. Secret Service	Multiple topics resulting in Certification to conduct Federal computer exams	110
09/09/01-09/28/01	BCERT pt.2 (E.C.S.A.P.)	Federal Law Enforcement Training Center & U.S. Secret Service	Multiple topics resulting in Certification to conduct Federal computer exams	142
01/08/02-02/10/02	Basic Network Investigation Techniques	National Infrastructure Protection Center FBI Academy Quantico, Virginia	Multiple topics resulting in Certification to conduct Federal computer exams	40
02/19/02-02/22/02	Cognitech Video Investigation 2000	Cognitech Inc.	Certification course for Video Enhancement using Cognitech Hardware/Software tools	32
03/11/02-03/15/02	Law Enforcement Internet Communications Workshop	Microsoft Corporation, Redmond, Washington	Hidden Data Communications, VPN, Remote Storage, and Compromising Windows	40
06/17/02-06/21/02	Solaris Unit System Administration	Sun Microsystems	Certification as Solaris Unit System Administrator	40
06/24/02-06/28/02	Solaris Unit Security Administration	Sun Microsystems	Certification to conduct Unix and Unix examinations	32
08/27/02-08/30/02	Encase Linux/Unix Examiner Course	Guidance Software	Computer Forensic Methodology and Examinations	24
09/09/02-09/11/02	Access Data Basic Computer Forensic Training Course	Access Data	Computer Forensic Methodology and Examinations	18
09/12/02-09/14/02	Ilseok Train the Trainer Course	FBI Computer Analysis Response Team	Certification as Ilseok Trainer	24
10/15/02-10/18/02	Investigating Cyber Attacks	Foundation Inc.	Multiple Topics including Denial of Service Attacks, Sniffing, Exploits and Hacking	32
02/16/03-02/17/03	Encase Intermediate V.3	Guidance Software	Computer Forensic Methodology and Examinations	32
03/03/03-03/07/03	SMART Next Generation Linux Forensics	ASR Data	Computer Forensic Methodology and Examinations	40
05/19/03-05/23/03	Authorized Encase Trainer Course V.4	Guidance Software	Computer Forensic Methodology and Examinations	40
06/09/03-06/20/03	Advanced Computer Evidence Recovery Training (ACERT)	U.S. Customs Cyber Smuggling Center & U.S. Secret Service	Certification as an Encase Instructor for the U.S. Secret Service	24
09/03/03-09/05/03	Access Data Intermediate Computer Forensics	Access Data	Advanced Network Computer Evidence Recovery	24
09/15/03-09/20/03	Advanced Incident Handling and Hacker Exploits	The SANS Institute	Computer Forensic Methodology and Examinations	36
01/22/04-01/25/04	SMART Next Generation Linux Forensics Intermediate	ASR Data	Advanced handling of hacking incidents and reverse hacking	32
03/09/04-03/11/04	3rd International Anti-Terror Conference	Arctangent Corporation	Computer Forensic Methodology and Examinations	24
04/19/04-04/23/04	Introductory Macintosh Forensic Training	Budding Inc.	Computer Forensic Methodology and Examinations for Linux	40
05/03/04-05/07/04	Certified Ethical Hacking and Countermeasures	The Training Camp	Multiple Topics including Cyber-Terrorism	40
07/13/04-07/16/04	Encase Internet and Email Examination Course	Guidance Software	Computer Forensic Methodology and Examinations for Macintosh	40
08/30/04-08/30/04	Mac OS X Server Essentials v 10.3	Apple Computer Corp.	Certification as Certified Ethical Hacker (CEH)	32
01/26/05-01/26/05	Hidden Data Communications	Synatry Inc.	Expert Series Class on Internet and Email Tracing	32
06/06/05-06/17/05	Macintosh Forensic Examinations	Department of Defense Computer Investigations Training Program	Mac OS X Administration	35
09/19/05-09/23/05	Introduction To Mobile Forensics	Mobile Forensics Incorporated	Covered IP tunnelling communications	8
12/12/05-12/16/05	Network Hacking	Synatry Inc.	Computer Forensic Methodology and Examinations for Macintosh	80
01/31/06-02/03/06	Mac OS X Server Essentials v 10.4	Apple Computer Corp.	Computer Forensic Methodology and Examinations for Mobile Phones	35
02/06/06-02/10/06	Harris Corporation Cellular Wireless CDMA/GSM	Harris Corporation	Deploying Pocket Capture Devices and Implementation of Network Analysis	32
05/22/06-05/25/06	Wireless Communications	Synatry Inc.	Mac OS X Administration	35
06/27/06-06/30/06	Encase Advanced Course	Guidance Software	Cellular Telephone Operations GSM/CDMA	40
11/13/06-11/21/06	Encase Field Intelligence Model Training V.6	Guidance Software	802.11 Standard, Physics, Antennas, Mac Layers, Security, Encryption and Hacking	32
04/11/09-04/17/09	Access Data Forensic Toolkit Training	Access Data	Advanced Data Recovery and analysis of MFT, NTFS, Mac OSX, and Linux	32
01/05/10-01/07/10	AccessData MAC Forensics	Access Data	Use and Deployment of the F.L.M. in the Enterprise	32
04/04/11-04/08/11	Cellular Phone Repair and Chip-Off Forensics Training	Total Technologies and WIND PCS	Forensics for Windows XP and Windows Vista	35
05/09/11-05/12/11	Advanced Computer Forensic Analysis and Incident Resp.	The SANS Institute	Computer Forensic Methodology and Examinations for Macintosh	24
05/12/11-05/16/11	Lantern OS Forensics	Katana Forensics Inc.	Advanced Cellular Repair and NAND (EEPROM)/Chip Removal for Data Recovery	30
06/05/11-06/08/11	Techno Security & Mobile Forensics Conference	Access Data / Catalysts / Blacking Inc.	Advanced Forensics with SIFT, Timeline and Super Timeline artifacts	36
10/11/11-10/13/11	Celebrite UFED Training and Certification	Sunint LLC	iPhone/iPod Touch/iPad iOS Forensic analysis with Lantern	16
			Yearly conference with multitude of classes related to advanced computer forensics	32
			Cell Phone Forensics and certification using the Cellebrite UFED Hardware/Software	24
				1540

Curriculum Vitae

Timothy Franklin Dutra, M.D., M.S., Ph.D.

Current Occupation:

Medical Examiner (Forensic Pathologist)
Clark County Coroner's Office
1704 Pinto Lane
Las Vegas, NV 89106
Tel. (702) 455-3210
E-mail: tdutra@co.clark.nv.us

Personal Data:

Languages: English & Spanish

Board Certifications:

Forensic Pathology
ABP Diplomate and certified, September 9, 2009

Blood Banking and Transfusion Medicine
ABP Diplomate and certified, September 9, 2005

Anatomic and Clinical Pathology
ABP Diplomate and certified, November 11, 1998

Most Recent Fellowship:

Fellowship, Forensic Pathology
St. Louis University
(A.C.G.M.E. accredited: 10/01/08 – 9/30/09)
St. Louis City Medical Examiner's Office

Recent Colleague:

Visiting Colleague, Forensic Pathology
(10/05/09 – 10/31/09)
Servicio Medico Forense
Mexico, D.F. 06720

Recent Teaching:

Instructor: Physiology Laboratory
Monterey Peninsula College
Monterey, CA 93940

Recent Research:

Co-Investigator: "Marrow Tissue Cultivation ex vivo
in vitro for Blood Cell Collection (animal cell model)"
LABioMed Research Institute
Torrance, CA 90502

Previous Fellowship:

Fellowship, Blood Bank and Transfusion Medicine
University of Wisconsin
(A.C.G.M.E. accredited: 08/01/04 – 07/31/05)
University of Wisconsin Hospital
Madison, WI 53792-2472

Previous Pathology Practice:

Post-Certification Pathology Practice (1999 – 2003)
Physician Specialist, Anatomic and Clinical Pathology,
including gross and microscopic surgical pathology,
aspiration cytopathology and bone marrow pathology.
Section Chief of Clinical and Special Chemistry.
Blood Bank and Transfusion Medicine acting Chief,
during absences of BB & TM Section Chief.
Pathology Department
Martin Luther King, Jr. Hospital
Los Angeles, CA 90059

Locum Tenens Practice:

Locum tenens Pathology Practice (9/00, 9/01, 9/02, & 9/03)
One month locum tenens for each of four years, as Acting Director
for a solo practice Pathology Department, including coverage
of surgical pathology and clinical laboratory.
Pathology Department
Orthopaedic Hospital
Los Angeles, CA 90007

Current Licensure:

Active Status Medical Doctor, Nevada, renewal 7/1/2011
Physician and Surgeon, California, renewal 3/2011
Practitioner, D.E.A., U.S., renewal 7/2011

Educational Degrees:

University:	University of California at Berkeley, B.A. in Chemistry and Zoology, 1968
Medical School:	University of Southern California, M.D., 1972
Graduate School:	University of Southern California, M.S. in Anatomy and Cell Biology, 1986
Graduate School:	University of California at Los Angeles, Ph.D. in Anatomy and Cell Biology, 1993

Professional Societies:

Fellow, National Association of Medical Examiners, 2009 –
Fellow, College of American Pathologists, 1999 –
Fellow, American Society of Clinical Pathologists, 1999 –
Member, American Association for the Advancement of Science, 1994 –

Recent Meetings and Courses:

Annual Meeting, American Society for Clinical Pathology
San Francisco, CA, 10/27 – 10/31/10
Interim Meeting, National Association of Medical Examiners
Seattle, WA, 2/23/10
Segunda Conferencia Internacional de la Medicina Forense
Mexico City, 4/28 – 4/30/10
Annual Meeting, National Association of Medical Examiners
San Francisco, CA, 10/11 – 10/15/09
Osler Anatomic Pathology Review Course
Los Angeles, CA, 3/9 – 3/12/09
Medicolegal Death Investigator Training Course
St. Louis, MO, 4/17 – 4/21/09

Professional Training/Practice Chronology:

Internship: Cottage Hospital (Santa Barbara, CA),
rotating internship, 1972-73

Residency: Cottage Hospital (Santa Barbara, CA),
first year, Pathology, 1973-74

General Practice: Santa Barbara, CA, 1974-77. General admission privileges
for Cottage and Goleta Valley Hospitals.

General Practice: King City, CA, 1977-78. General admission privileges
for George L. Mee Memorial Hospital.

Residency: Highland/Alameda County Hospital (Oakland, CA),
second and third years, General Surgery, 1978-80

Residency: Duke University Medical Center (Durham, NC),
first and second years, Orthopaedics, 1980-82

Residency: Los Angeles County/U.S.C. Medical Center,
third year, Orthopaedics, 1982-83

Graduate School: University of Southern California School of Medicine,
Department of Anatomy and Cell Biology, 1984-86

Graduate School: University of California at Los Angeles School of Medicine,
Department of Anatomy and Cell Biology, 1987-93

Residency: Harbor-U.C.L.A. Medical Center (Torrance, CA), second through
fifth years, Anatomic and Clinical Pathology, 1994-9

Fellowship: Orthopaedic Hospital (Los Angeles, CA), six months of
Fellowship, Bone and Soft Tissue Pathology, 1998-99

Pathology Practice: Los Angeles, CA, 1999-2003. Anatomic and Clinical
Pathology privileges at King-Drew Medical Center

Fellowship: University of Wisconsin (Madison, WI), one year Fellowship,
Blood Banking and Transfusion Medicine, 2004-05

Research Scientist: LABioMed Research Institute, 2005-07. Co-investigator:
"Marrow stromal fibroblastic cell cultivation in vitro on
de-cellularized bone marrow extracellular matrix"

Instructor: Physiology Laboratory, Fall and Spring semesters, 2007-08
Monterey Peninsula College (Monterey, CA)

Fellowship: St. Louis City Medical Examiner's Office (St. Louis, MO),
one year Fellowship, Forensic Pathology, 2008-09

Teaching Experience:

Teaching Assistant: Anatomy Dissection Laboratory, Fall semester, 1985
University of Southern California School of Medicine

Teaching Assistant: Anatomy Dissection Laboratory, Fall semesters. 1987-88
University of California at Los Angeles School of Medicine

Assistant Lecturer: "Head, Neck, & Dental Embryology", Fall semesters, 1990-91
University of California at Los Angeles School of Medicine

Teaching Experience (continued):

Staff Pathologist: Routinely presented histopathology of cases for review
at the weekly hospital Tumor Board Conferences
Martin Luther King, Jr. Hospital, Los Angeles, CA 1999-03

Staff Pathologist: Routinely presented histopathology case reviews at
subspecialty surgical Resident training conferences
King-Drew Medical Center, Los Angeles, CA 1999-2003

Lecturer: "Blood Banking and Transfusion Medicine", Winter, 2005
University of Wisconsin School of Medical Technology

Instructor: Physiology Laboratory, Fall and Spring semesters, 2007-08
Monterey Peninsula College

Publications:

Dutra, T.F. and Bernard, G.W.: "Size-selective Comparison of Fetal Calvarial
versus Adult Marrow Osteogenic Colony-forming Entities"; *Anatomical Record*;
239: 1 – 8; 1994

Dutra, T.F. and Bernard, G.W.: "Post-fracture stimulation of in vitro osteogenesis
is not systemic"; *International Journal of Oral Biology*; 23: 213 – 217; 1998

Dutra, T. and French, S.: "Marrow stromal fibroblastic cell cultivation in vitro on de-
cellularized bone marrow extracellular matrix"; manuscript published in *Experimental
and Molecular Pathology* on 9/22/2009

Presentations:

Dutra, T.F.: "Cultured Human Circulating Fibrocytes Express CD34 and Endothelial
Markers"; Hematopoietic Stem Cell Transplantation (Sixth International Symposium);
San Diego, CA; 4/16-4/18/98

Dutra, T.F.: "Flow Cytogenetics"; Clinical Cytogenetics Program, California State
University at Dominguez Hills; 4/25/01

Dutra, T.F. and Graham, M.A.: Poster presentation: "Big People, Big Hearts:
histochemical and immunohistochemical stain comparisons of hypertrophic heart
sections from morbidly obese decedents, compared with heart sections from age
matched controls"; 43rd Annual Meeting of the National Association of Medical
Examiners; 9/11-9/16/09

Dutra, T.F.: "Marrow stromal fibroblastic cell cultivation in vitro on de-cellularized bone
marrow extracellular matrix", Pathology Grand Rounds, Harbor-UCLA Medical Center,
1/22/10

Dutra, T.F.: "La Muerte Subita", Segunda Conferencia Internacional de la Medicina
Forense, Mexico City, 4/28/10

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
FORENSIC LABORATORY
STATEMENT OF QUALIFICATIONS**

Date: 07/01/10

Name: James Krylo P#: 5945 Classification: Forensic Scientist II

Current Discipline of Assignment: Firearms / Toolmarks

EXPERIENCE IN THE FOLLOWING DISCIPLINE(S)			
Controlled Substances		Blood Alcohol	
Toolmarks	X	Breath Alcohol	
Trace Evidence		Arson Analysis	
Toxicology		Firearms	X
Latent Prints	X	Crime Scene Investigations	X
Serology		Clandestine Laboratory Response Team	
Document Examination		DNA Analysis	
Quality Assurance		Technical Support	
EDUCATION			
<i>Institution</i>	<i>Dates Attended</i>	<i>Major</i>	<i>Degree Completed</i>
California State University, Long Beach	9/76 - 12/80	Criminalistics	B.S.
ADDITIONAL TRAINING / SEMINARS			
<i>Course / Seminar</i>	<i>Location</i>	<i>Dates</i>	
Benelli Shotgun Armorer's Course	Las Vegas, NV	06/10	
Association of Firearm & Toolmark Examiners (AFTE) Annual Training	Las Vegas, NV	05/10	
Introduction to Cartridge Reloading (AFTE)	Las Vegas, NV	05/10	
Scientific Working Group for Firearms/Toolmarks (SWGUN) Meeting	Baton Rouge, LA	04/10	
Shooting, Hunting, Outdoor Trade (SHOT) Show	Las Vegas, NV	01/10	
American Society of Crime Laboratory Directors Laboratory Accreditation Board (ASCLDLAB) International Accreditation Preparation Course	Henderson, NV	12/09	
Association of Firearm & Tool Mark Examiners (AFTE) Annual Training	Miami, FL	06/09	
Silencer Course (AFTE)	Miami, FL	06/09	
Innov-X Systems XRF Training	Las Vegas, NV	08/08	

ADDITIONAL TRAINING / SEMINARS		
Course / Seminar	Location	Dates
Colt Defense Colt .45 Pistol Armorer's Course	Las Vegas, NV	08/08
AFTE Annual Training Seminar	Honolulu, HI	05/08
Springfield Armory XD Pistol Armorer's Course	Las Vegas, NV	01/08
Scientific Working Group for Firearms/Toolmarks (SWGgun) Meeting	Atlanta, GA	11/07
Innov-X Systems XRF Training	Las Vegas, NV	08/07
Small Arms Review Convention & Gun Show	Las Vegas, NV	08/07
AFTE Annual Training Seminar	San Francisco, CA	06/07
LVMPD Use of Force Seminar	Las Vegas, NV	05/07
SWGgun Meeting	Albuquerque, NM	04/07
Long Mountain Outfitters AK 47 Armorer's Course	Henderson, NV	10/06
LVMPD Civilian Use of Force & Firearm Training	Las Vegas, NV	08/06
Smith & Wesson M & P Pistol Armorer's Class (AFTE)	Springfield, MA	06/06
AFTE Annual Training Seminar	Springfield, MA	06/06
SWGgun Meeting	Las Vegas, NV	4/06
SHOT Show	Las Vegas, NV	2/06
AFTE Annual Training Seminar	Indianapolis, IN	6/05
SWGgun Meeting	Quantico, VA	3/05
Ammo / Firearm Demonstration, Nellis AFB	Las Vegas, NV	2/05
SHOT Show	Las Vegas, NV	1/05
Winchester Ballistic Workshop	Las Vegas, NV	12/04
Front Sight Firearms Training Institute: Defensive Handgun Course	Pahrump, NV	12/04
Forensic Scene Consultants & Forensic Science Services: Forensic Science Shooting Reconstruction Course	Prescott, AZ	11/04
SWGgun Meeting	Quantico, VA	9/04
Full Auto Conversion Workshop (AFTE)	Vancouver, Canada	5/04
AFTE Annual Training Seminar	Vancouver, Canada	5/04
SHOT Show	Las Vegas, NV	2/04
SWGgun Meeting	Quantico, VA	4/03

ADDITIONAL TRAINING / SEMINARS		
Course / Seminar	Location	Dates
California Association of Criminalists (CAC) / Northwestern Association of Forensic Scientists (NWAFS) Training Seminar - Colt Armorer's Workshop	Reno, NV	4/03
Southwestern Association of Forensic Scientists (SWAFS) Training Seminar	Scottsdale, AZ	11/02
Mossberg Shotgun Field Armorer's Course (AFTE)	San Antonio, TX	5/02
Hi-Point Firearms Armorer's Course (AFTE)	San Antonio, TX	5/02
Ricochet Analysis Workshop (AFTE)	San Antonio, TX	5/02
AFTE Annual Training Seminar	San Antonio, TX	5/02
National Integrated Ballistic Information Network (NIBIN) Training	Largo, FL	3/02
FBI: Techniques in Firearms Identification Course	Quantico, VA	2/02
SHOT Show	Las Vegas, NV	2/02
Southern California Firearms Study Group	San Bernardino, CA	11/01
Digital Imaging Workshop	Las Vegas, NV	10/01
Digital Imaging Workshop	Las Vegas, NV	9/01
AFTE Annual Training Seminar	Newport Beach, CA	7/01
Forensic Identification Training Seminars: Advanced Shooting Incident Reconstruction	Las Vegas, NV	9/00
AFTE Annual Training Seminar	St. Louis, MO	6/00
Forensic Identification Training Seminars: Shooting Incident Reconstruction	Las Vegas, NV	2/00
AFTE Annual Training Seminar	Williamsburg, Va	7/99
National Forensic Science Technology Center: Laboratory Auditing	Las Vegas, NV	6/99
International Association for Identification (IAI) Nevada State Division Training Conference	Las Vegas, NV	4/99
FBI Bullet Trajectory and Shooting Reconstruction School	Los Angeles, CA	10/98
Washington State Criminal Justice Training Center (WSCJTC) & Washington State Law Enforcement Firearms Instructors Association (WSLEFIA) Training Seminar	Seattle, WA	02/98
International Association of Bloodstain Pattern (IABPA) Analysts Training Seminar	Seattle, WA	11/97
FBI: Gunshot Residue School	Marysville, WA	08/97
Forensic Technology "IBIS" Training Course	Tacoma, WA	08/97
Mnemonic Systems Inc. Introduction to "Drugfire" Course	Washington, DC	08/97

ADDITIONAL TRAINING / SEMINARS		
Course / Seminar	Location	Dates
Remington Shotgun/Rifle Armorer's Course	Bellevue, WA	05/97
Oehler Ballistics Workshop	Fredricksberg, TX	04/96
Heckler & Koch MP5/Rifle Armorer's Course	Tacoma, WA	03/96
WSLEFIA Training Seminar	Seattle, WA	12/95
Colt M16 / AR15 Armorer's Course	OR	10/95
Federal Cartridge Co. Law Enforcement Ammunition and Ballistics Seminar	Tacoma, WA	04/95
WSCJTC & WSLEFIA Training Seminar	Seattle, WA	03/95
Range Management Services Inc.: Managing Lead Hazards in Indoor Firing Ranges	Olympia, WA	11/94
WSLEFIA Training Seminar	Seattle, WA	04/94
Ruger Revolver/Pistol/Rifle Armorer's Course	Tacoma, WA	11/93
WSCJTC & WSLEFIA Training Seminar	Seattle, WA	10/93
SigSauer Pistols Armorer's Course (AFTE)	Raleigh, NC	05/93
Ruger Revolver Familiarization Course (AFTE)	Raleigh, NC	05/93
AFTE Annual Training Seminar	Raleigh, NC	05/93
Smith & Wesson Pistol Armorer's Course	Bellevue, WA	04/93
Beretta Pistol Armorer's Course	Tacoma, WA	10/92
Smith & Wesson Revolver Armorer's Course	Galt, CA	06/92
Glock Pistol Armorer's Course	Oregon City, OR	04/92
WSLEFIA Training Seminar	Seattle, WA	02/92
Oregon State Police Advanced Firearms Training	OR	1992
Washoe County Sheriff's Office Advanced Crime Scene Reconstruction	Reno, NV	02/91
IABPA Training Seminar	Reno, NV	11/90
IAI Pacific Northwest Division Training Seminar	Yakima, WA	05/90
Midwestern Association of Forensic Scientists (MWAFS) Blood Spatter Workshop	MN	04/90
IAI Pacific Northwest Division Training Seminar	Spokane, WA	05/89
WSCJTC Homicide Investigation	Seattle, WA	04/89
Kodak/Nikon Law Enforcement Photography	Tacoma, WA	03/89

ADDITIONAL TRAINING / SEMINARS		
<i>Course / Seminar</i>	<i>Location</i>	<i>Dates</i>
AFTE Annual Training Seminar	Seattle, WA	1988
Washington State Patrol Leaf Marijuana Identification	Shelton, WA	09/87
FBI: Advanced Latent Fingerprint Techniques	Seattle, WA	12/86
Loctite Corp. Cyanoacrylate Fuming for Latent Fingerprint Techniques		06/85
IAI Pacific Northwest Division Training Seminar	Olympia, WA	05/85
FBI: Fingerprint Identification	Seattle, WA	12/84
(AFTE) Annual Training Seminar	San Mateo, CA	1983
COURTROOM EXPERIENCE		
<i>Court</i>	<i>Discipline</i>	<i>Number of Times</i>
Federal Court: Washington (Tacoma)	Latent Prints	1
Municipal Court: California (Orange County)	Latent Prints	5
Superior Court: California (Orange County)	Latent Prints	2
Superior Court: Washington (King & Pierce Counties)	Latent Prints	11
Federal Court: Nevada (Las Vegas)	Firearms	2
District Court: Nevada (Clark and Nye Counties)	Firearms	115
Coroner's Inquest : Nevada (Clark County)	Firearms	5
Grand Jury: Nevada (Clark County)	Firearms	14
Justice Court: Nevada (Las Vegas, North Las Vegas and Henderson)	Firearms	10
Federal Grand Jury: Washington (King County)	Firearms	1
Superior Court: Washington (Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, King, Kitsap, Klicitat, Lewis, Mason, Pacific, Pierce, San Juan, Skamania, Snohomish, and Thurston Counties)	Firearms	110
District Court: Washington (Pacific County)	Firearms	1
Juvenile Court: Washington (Pierce and King Counties)	Firearms	4
Coroner's Inquest: Washington (King County)	Firearms	4
Superior Court: California (Orange County)	Firearms	11
Juvenile Court: California (Orange County)	Firearms	1
Grand Jury: California (Orange County)	Firearms	1

COURTROOM EXPERIENCE		
<i>Court</i>	<i>Discipline</i>	<i>Number of Times</i>
Military Court: USMC El Toro (CA)	Firearms	1

EMPLOYMENT HISTORY		
<i>Employer</i>	<i>Job Title</i>	<i>Date</i>
Las Vegas Metropolitan Police Department	Forensic Scientist II	1998 - present
Washington State Patrol	Forensic Scientist 3	1991 - 1998
Pierce County Sheriff's Department	Identification Officer	1986 - 1991
Seattle Police Department	Identification Technician	1984 - 1986
Orange County Sheriff's Department	Forensic Specialist	1981 - 1984
Anaheim Police Department	Identification Technician	1981

PROFESSIONAL AFFILIATIONS	
<i>Organization</i>	<i>Date(s)</i>
Association of Firearm and Toolmark Examiners (AFTE)	1993 - present
Scientific Working Group for Firearms and Toolmarks (SWGgun)	2002 - 2008

PUBLICATIONS / PRESENTATIONS:
BRI 12 GA/.500 Sabot Bullet - AFTE Journal - October 1983
Trigger Pull Statistics - AFTE Journal - January 1985
Drop Testing a 45 Auto Colt 1911 - AFTE Journal - Spring 1997
Cartridge Interchangeability in a Norinco Pistol - AFTE Journal - Summer 2000
Slide Failure of a Jennings/Bryco Pistol - AFTE Journal - Spring 2004
Armscor Precision Strike Three Ammunition - AFTE Journal - Summer 2004

OTHER QUALIFICATIONS:
AFTE Certification in Firearm Evidence Examination and Identification - May 2003
AFTE Certification in Toolmark Evidence Examination and Identification - May 2003
AFTE Certification in Gunshot Residue Evidence Examination and Identification - May 2003
AFTE Distinguished Member - June 2006
AFTE President - 2009 to 2010

Curriculum Vitae
CRYSTINA R. VACHON

Bexar County Forensic Science Center
Criminal Investigation Laboratory
7337 Louis Pasteur
San Antonio, Texas 78229-4565
(210) 335-4116 [Office]
(210) 335-4101 [Office Fax]
e-mail: cvachon@bexar.org

EMPLOYMENT

Jun 2004-Present

Bexar County Criminal Investigation Laboratory
San Antonio, Texas

Forensic Scientist-Conducts forensic testing and analyses in the area of Trace Evidence. Interprets test results and prepares forensic reports for law enforcement personnel on criminal investigations. Testifies in court as an expert witness. Responsible for the proper and safe operation of laboratory instruments and equipment.

Nov 2003-Jan 2004

Proctor and Gamble Wipes Company
Dover, Delaware

Analytical Technician-Responsible for performing and documenting all testing required to release incoming manufacturing starting materials and finished product. Performs chemical analysis of raw materials. Employed through Lab Support.

Aug 2001-Nov 2001

DuPont Pharmaceuticals, Co./Bristol-Myers Squibb
Newark, Delaware

Associate Scientist-Assists in preclinical pharmacokinetic studies to support regulatory submissions in a GLP environment. Sample preparation and trace level quantization in various biological matrices. Analyzes pharmacokinetic raw data. Performs protein binding studies. Employed through The Franklin Company.

Dec 2000-Mar 2001

Mohawk Laboratories

Irving, Texas

Laboratory Technician-Responsible for water analysis for use in cooling towers and boilers and diesel fuel analysis for storage purposes. Assists in training of new employees. Develops operating procedures for new equipment. Worked with LIMS database system.

Oct 2000-Dec 2000

Pepsi Cola

Arlington, Texas

Laboratory Technician-Responsible for sample preparation in pilot program begun to test product quality from distributors. Assembles sample test kits for bottlers and handled quality data reports. Employed through Kforce.

Apr 2000-Aug 2000

Mohawk Laboratories

Irving, Texas

Laboratory Technician-Same as above duties at Mohawk Laboratories for this position. Employed through Lab Support.

Aug 1999-Mar 2000

Louisiana State University Health Sciences Center

Shreveport, Louisiana

Research Associate-Performs small animal intracranial and indwelling catheter surgeries. Administers intraperitoneal, intramuscular and intracranial injections. Performed lavage. Performed *in vivo* micro dialysis. Proficient in intracardiac perfusions. Analyzes loco motor activity data. Sections and stains brain samples. Performs protein assays. Handled controlled substances. Responsible for maintaining laboratory equipment and ordering all supplies.

TRAINING

August 2005

McCrone Research Institute

Chicago, Illinois

Certificate of completion in *Forensic Paint Microscopy and Microanalysis*. Completion of a 36 hour course

CRYSTINA R. VACHON

Curriculum Vitae

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on the principles of paint analysis. Included instruction and hands-on experience in the areas of artist and synthetic pigment characterization, cross-section preparation, fluorescence microscopy, microchemical tests and cathodoluminescence. Course Lecturers: Skip Palinek, Chris Palinek

June 2005

Lehigh University Microscopy School
Bethlehem, Pennsylvania

Certificate of completion in *Scanning Electron Microscopy (SEM) and X-Ray Microanalysis (EDX)*. Completion of a 50 hour course on the principles of Scanning Electron Microscopy and X-Ray Microanalysis. Additional topics discussed during the course included specialized imaging techniques, x-ray analysis of difficult specimens, organic materials, and forensic analysis. The course also allowed for hands on experience with various SEM/EDX systems. Course Lecturers: Slade Cargill, Helen Chan, Alwyn Eades, Patrick Echlin, John Friel, Joe Goldstein, David Joy, Chris Kiely, Charles Lyman, John Mansfield, Joe Michael, Dale Newbury, John Henry Scott and Dave Williams

March 2005

Federal Bureau of Investigation, FBI Academy
Quantico, Virginia

Certificate of completion in *Introduction to Hairs and Fibers School*. Completion of an 80 hour course on identification of animal hair, human hair and natural and synthetic fibers. Additional topics discussed during the course included evidence collection, mitochondrial DNA analysis, instrumental analysis of fibers, report writing, and courtroom testimony. Primary Instructors: Craig Henderson and Cary Oien

December 2004

Oxford's INCA Gunshot Residue Training
San Antonio, Texas

Completion of a 24 hour course on the introducing the new Oxford EDX INCA software for the Joel 6480 Scanning Electron Microscope. Included operation of the new software and how it can be used specifically for gunshot residue automated and manual analysis, as well as how to prepare court appropriate reports. Instructor: James Holland, Ph.D., Oxford Instruments

CRYSTINA R. VACHON
Curriculum Vitae
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September 2004

**Department of Public Safety (DPS) Crime Laboratory
Headquarters
Austin, Texas**

Certificate of Completion in *Introduction to Forensic Examinations of Pressure Sensitive Tape*. Completion of a 16 hour course on examination of the components of pressure sensitive tapes such as release coat, backing, primer, reinforcement and adhesive using physical match, polarized light microscopy, FT-IR, elemental analysis, pyrolysis-GC/MS and fluorescence. Focus placed on duct, black electrical, packing, filament and masking tapes. Instructor: Jenny Smith, Missouri State Highway Patrol Crime Laboratory

September 2004

**Department of Public Safety (DPS) Crime Laboratory
Headquarters
Austin, Texas**

Certificate of Completion in *Automobile Lamp Examination*. Completion of a 24-hour course on the applied forensic techniques on how incandescent lamps work, determining on/off status of incandescent lamps, crash effects on automobile lamps, filament deformation, lamp ageing, halogen lamps, oxide formation, lamp examination, as well as hands-on examination of deformed lamps and lamp filaments. Additional topics included speedometer slap and court testimony. Instructor: Ray Gieszl

August 2004

**McCrone Research Institute
Chicago, Illinois**

Certificate of Completion in *Forensic Microscopy*. Completion of a 36 hour course on the fundamentals of critical polarized light microscopy and an overview of specialized methods and applications. Acquired the basic knowledge and practical skills to apply polarized light methods in trace evidence: fibers, paint, glass, hair, explosives, soil, drugs, etc. Course topics included: crystal morphology and optics, micro chemical analysis, particle isolation, and hot stage microscopy and polymorphism. Instructors: Andrew Bowen, Dave Stoney and Sebastian Sparenga

Instrumentation

Following is a list of analytical instrumentation and techniques that I currently use or have used in the past.

- Scanning Electron Microscope with Energy Dispersive X-Ray Detector (SEM/EDX),
- Fourier Transform-Infrared Spectrophotometer (FT-IR)
- Polarized Light Comparison Microscope
- High Performance Liquid Chromatograph (HPLC)
- Ultra Violet-Visible Spectrophotometer (UV-Vis)
- Liquid Chromatograph/ Mass Spectrophotometer (LC/MS)
- Mettler Hot Stage
- Hach Spectrophotometer
- Karl Fischer Titrator for moisture determination
- Sensorlink pH meter
- Mettler and Brinkman Autotitrators

DISTRICT COURT
CLARK COUNTY, NEVADA

Defendant.

CASE NO. C285488-1
DEPT. XXI

0033

1 LAS VEGAS, CLARK COUNTY, NV., TUES., DEC. 11, 2012

2
3 THE COURT: State versus Jason Jones. And Mr. Jones is present in
4 custody. And this was set for a status check, communication with counsel.

5 MR. CANO: Yes, Your Honor. Last time he was indicating that he didn't want
6 us to file any kind of motions, things of that nature. You were a little bit concerned
7 with that.

8 I had an opportunity to speak with him yesterday regarding our roles in
9 this case, and he's informed of what our duties are as his attorney and his advocate
10 on his behalf.

11 THE COURT: I'm sorry. Say that again. He's been informed what your
12 duties are and that you're here to advocate on his behalf?

13 MR. CANO: Yeah, as an advocate on his behalf, yes.

14 THE COURT: And so have you sort of resolved the issues of what your roles
15 are, and do you feel, Mr. Cano, you can go forward and do what you believe as an
16 attorney is in Mr. Jones's best interests?

17 MR. CANO: Yes, I think we have resolved --

18 THE COURT: Mr. Jones, so you understand that your lawyers are trained in
19 the law and they're very experienced. You know pretty much all they do is murder
20 cases, and so they're going to file what's in your best interests, and you understand
21 that now?

22 THE DEFENDANT: No, Your Honor, because for the simple fact that I, you
23 know, requested that my attorneys, you know, file certain motions, you know, bail
24 motions, OR motions or --

25 THE COURT: You're not getting an OR, Mr. Jones.

1 THE DEFENDANT: -- you know exculpatory evidence motions.

2 THE COURT: Wait. Mr. Jones, look, you're charged with murder with use of
3 a deadly weapon. You're not getting an OR. So Mr. Cano can stand on his head
4 and file all the motions in the world and you're not getting an OR.

5 He has an ethical responsibility not to file frivolous motions, and, you
6 know, just because you think a motion's a good idea doesn't mean it's actually a
7 good idea. And if he, you know, opens the door by filing a motion, then the State,
8 you know, may introduce all sorts of things that, you know, Mr. Cano's got to think
9 about. So there may be reasons he doesn't file each and every motion that you
10 think is a good idea.

11 So with respect to the OR, the chance of you getting an OR is pretty
12 nonexistent.

13 THE DEFENDANT: Your Honor, those were just examples. I'm not saying I
14 asked him to file those motions. I'm just saying, you know, based upon the fact that
15 they could have filed motions and petitions, you know, five months ago at the
16 beginning of this case and didn't, but all of a sudden want to come in and put in
17 motions and petitions, raises a brow on my behalf because I don't feel that, you
18 know, after reviewing the motion drafts that those motions or petitions, you know,
19 would be in my best interests.

20 You know, based upon that -- based on the fact that they are the
21 experts of the law --

22 THE COURT: They are.

23 THE DEFENDANT: -- they could, you know --

24 THE COURT: And we said this last time --

25 THE DEFENDANT: They could, you know, put -- file a motion or a petition,

1 you know, which is in the image of another motion or petition and, you know, it
2 completely, you know, would be unbeneficial to me.

3 THE COURT: Well, here's the thing, Mr. Jones. I told you this last time.
4 Your lawyers think about two things. They think about what goes on in District
5 Court, and they think about what happens if you're convicted and the issues that
6 they can raise on appeal, whether it be, you know, in the Nevada Supreme Court or
7 the Federal Courts or wherever. And so in order to preserve certain issues, they
8 have to raise them here.

9 Sometimes it doesn't matter what I might do. Sometimes the whole
10 issue is preserving the arguments that they're going to make for later appellate
11 review. And so there are things Mr. Cano knows about that you really would have
12 no idea what he might be thinking. So --

13 THE DEFENDANT: And that's the problem with --

14 THE COURT: -- Mr. Cano, you know, basically, you're still attorney. We
15 have a trial date set for January 22nd. If there is an issue with a motion regarding
16 him not wanting you to file it or something like that, then bring -- come before the
17 Court --

18 MR. CANO: We'll bring it to your attention.

19 THE COURT: -- on that particular motion. So that's where we are.

20 Thank you.

21 MR. CANO: Thank you, Your Honor.

22 THE DEFENDANT: I don't understand what just happened.

23 THE COURT: Basically, you're going to trial January 22nd. If there's an issue
24 on an individual motion, Mr. Cano will bring that before the Court.

25 THE DEFENDANT: What does that entail?

1 THE COURT: What that entails is you'll be brought back here, and we'll
2 discuss it in open court, and you'll be informed at that time by Mr. Gallo (sic) what's
3 going on. Right now there's nothing --

4 THE DEFENDANT: Does that give them the right to file motions or petitions?

5 MR. CANO: Mr. Cano, Your Honor.

6 THE COURT: Mr. Jones, there's nothing for us to discuss right now.

7 Mr. Gallo, as issues arise --

8 MR. CANO: Cano, Your Honor.

9 THE COURT: Mr. Cano as issues arise can bring them before the Court if
10 that's what he needs to do to make a record and to address the differences that you
11 may have to the extent he can without violating attorney/client privilege, without
12 damaging his defense of your case and other things that Mr. Cano needs to be
13 mindful of.

14 THE DEFENDANT: At this point in time, there's not going to be any motions
15 or petitions filed?

16 THE COURT: I don't know that.

17 Mr. Cano, do you plan on filing any motions or petitions?

18 MR. CANO: Your Honor, if they're necessary, we will do that.

19 THE DEFENDANT: That's what I don't want, you know, on my behalf.

20 THE COURT: Mr. Jones, if you object to having the Court consider that, then
21 you'll be transported and you can say that on the record. Right now we're talking
22 about a lot of nothing because there are no motions that have been filed. There are
23 no petitions that have been filed. So you can sit down and --

24 THE DEFENDANT: I have a motion draft that they're trying to --

25 THE COURT: Mr. Jones, this is done. Our next pending court date unless

1 something changes is January 17th for calendar call.

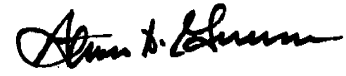
2 THE DEFENDANT: Yes, ma'am. Thank you, Your Honor.

3 THE COURT: Thank you.

4 -oOo-

5 ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video
6 proceedings in the above-entitled case.

7 
8 JANIE L. OLSEN
9 Recorder/Transcriber
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CLERK OF THE COURT

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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA

Plaintiff,

vs.

JASON JONES,

Defendant.

CASE NO. C-12-285488-1
DEPT NO. 21

PETITION FOR WRIT OF HABEAS CORPUS
OR, IN THE ALTERNATIVE, MOTION TO REMAND
FOR ADMISSION OF EVIDENCE OF OTHER ACTS/DEFENSES

DATE: 1-03-13
TIME: 9:30am

TO: The Honorable Eighth Judicial District Court of the State of Nevada, in and for the County of Clark:

The Petition of Randall H. Pike, Assistant Special Public Defender and Charles A. Cano, Deputy Special Public Defender, for the above-captioned individual, respectfully shows:

1. Petitioners are duly qualified, practicing and licensed attorneys and court-appointed counsel for Defendant Jason Jones.

2. That Petitioners make application herein on behalf of their client for a Writ of

1 Habeas Corpus; that the place where Applicant is restrained of his liberty is the Clark County
2 Detention Center; that the officer by whom he is restrained is Douglas Gillespie, Sheriff.

3 3. That the imprisonment and restraint of said above-captioned client of Petitioner is
4 unlawful in that the evidence was insufficient to sustain the bindover on the charge of
5 Murder.

6 4. That client of Petitioners does not waive the 60-day limitation for bringing said
7 client to trial.

8 5. That client of Petitioners consents that if the Petition is not decided within 15 days
9 before the date set for trial, the Court may, without notice or hearing, continue the trial
10 indefinitely to a date designated by the Court;

11 6. That client of Petitioners consents that if any party appeals the Court's rulings and
12 the appeal is not determined before the date set for trial, the trial date is automatically
13 vacated and the trial postponed unless the Court otherwise orders.

14 7. That no other Petition for Writ of Habeas Corpus has heretofore been filed on
15 behalf of defendant on this particular issue.

16 WHEREFORE, Petitioner prays that the Honorable Court issue an order directing the
17 Clark County Clerk to issue a Writ of Habeas Corpus directed to the said Sheriff,
18 commanding him to bring the above-captioned defendant before your Honor, and return the
19 cause of imprisonment.

20 DATED this 17th day of day of December, 2012.

21 Respectfully submitted

22 DAVID M. SCHIECK
23 SPECIAL PUBLIC DEFENDER

24 /s/ RANDALL H. PIKE

25 _____
26 RANDALL H. PIKE
27 CHARLES A. CANO
28 Attorneys for Jones

1 **POINTS AND AUTHORITIES IN SUPPORT OF**
2 **PETITION FOR WRIT OF HABEAS CORPUS**
3 **OR, IN THE ALTERNATIVE, MOTION TO REMAND**
 FOR ADMISSION OF EVIDENCE OR OTHER ACTS/DEFENSES

4 **I. STATEMENT OF THE CASE**

5 This matter came before the Las Vegas Justice Court for preliminary hearing on
6 November 6, 2012 and November 9, 2012. At the conclusion of the hearing, the Defense
7 moved for the Court to find that the State had not established probable cause and that the
8 matter be dismissed.

9 The Court denied the defense motion. Thereafter, the matter was bound over for trial
10 setting. At the initial appearance date and time, the Defendant was not transported. (Counsel
11 for the Defendant believes this was caused due to a delayed communication between the
12 Justice Court and the District Court Clerk.) Counsel requested that the matter be continued
13 to the assigned department for entry of plea and trial setting.

14 On November 27, 2012, the Defendant plead not guilty and invoked his right to trial
15 in 60 days. The Court set the trial for January 22, 2013.

16 **II. STATEMENT OF FACTS**

17 At the preliminary hearing, the cause of death and identity of the Deceased was
18 established via the introduction of the Autopsy Report. The toxicology and drug
19 involvement of the Deceased was established by the Toxicology Report that was filed
20 therewith. The State called the following witnesses: (1) Jimmie Brown; (2) Richard Hart
21 (hereinafter "Hart"); (3) William Coleman (hereinafter "Coleman"); (4) Loretta Marie
22 Coleman (hereinafter "Loretta"), eyewitness to the alleged shooting; and (5) Detective Ivie,
23 who offered impeachment testimony regarding the above witnesses. No witnesses were
24 called by the Defendant.

25 **A. Volume 1 of the Preliminary Hearing**

26 Jimmie Brown identified the nature of the apartment building in which the shooting
27 occurred. (PHT 27) He was "familiar" with all of the neighbors that lived there, including
28

1 the defendant, whom he identified in open court. (Id). He identified the apartment that he
2 resided in as well as the apartment in which the deceased, Jamie Corona, was located. (PHT
3 29).

4 Over defense objection (PHT 32), the witness testified about a conversation that he
5 had with the Defendant on the Friday before the shooting (PHT 33). Mr. Brown described a
6 conversation that he had with the Defendant about "somebody broke into his apartment and
7 he wanted to know did I see anybody since I lived right in front across from him." (PHT 32)
8 Brown described the Defendant's demeanor as "calm" (PHT 33) and "curious" (PHT 34);
9 "he was trying to find out what happened. He was kind of excited". (Id). Brown testified
10 that on that Friday he saw an exchange involving the Defendant at Jaime's door. He saw the
11 Defendant "like throwing his hands around talking, he was really excited. Jaime never came
12 out the door." (PHT 36). Over an objection for speculation (PHT 37), the witness stated "I
13 **think** he wanted to find out who broke into his apartment. It sounded like that's what he was
14 doing. I **couldn't hear** the conversation." (Emphasis added)

15 The direct examination then continued to Sunday the 17th of June (the day of the
16 shooting). Mr. Brown testified that in the afternoon "it was daylight" (PHT 39) and he saw
17 the Defendant "talking to him [Jaime] through the screen door." (PHT 38) He "didn't hear
18 anything. I was too far away and he wasn't talking loud for everybody to hear." (PHT 39)

19 Mr. Brown also observed the police arrive at the apartments later that day about "like
20 6:00 or 7:00 o'clock it was in the evening." (Id) After the police left, the Defendant "came
21 and smoked a cigarette" with Mr. Brown at his apartment and left (PHT 40); this was at
22 about 8:00 p.m. (PHT 47) Mr. Brown did not see the Defendant again until he testified in
23 Court. (Id) He was awakened later that evening by a shooting around 10:00 p.m.

24 The State attempted to impeach their own witness by asking him questions about
25 alleged prior inconsistent statements. This questioning involved references to "a
26 conversation that I [D.A. Christensen] had with you with my investigator [Eddy Dougherty]
27 and Mr. Pandelis [co-counsel]." (PHT 42-44). Mr. Brown indicated that the "banging on the
28 door" was not unusual, and that he did not recall the defendant and yelling anything to the

1 deceased. (PHT 49-50)

2 On cross examination, Mr. Brown recalled that on the Friday before the shooting,
3 Jamie "got beat up. He went to the hospital had he came home Saturday." (PHT 56) That he
4 talked with Jaime and that he had "27, 28 stitches ... In his head." (PHT 56) Mr. Brown
5 further testified that the second time he saw Mr. Jones, "I saw him, hollered at him. He came
6 downstairs and we shared a cigarette together," and he did not seem agitated, upset or
7 anxious. In fact, he testified that "he was actually just waking up." (PHT 64)

8 William Coleman testified on behalf of the State. On the date of the shooting he was
9 in the apartment complex in his apartment with Ms. Butler. (PHT 85) He was watching TV,
10 heard a loud bang, and looked out of his window and saw "like two cars there." (PHT 88)
11 One looked like a car "belonging to the defendant." (PHT 89). He saw "somebody with short
12 hair jump in a car and drive off fast. That's it...It looked male." (PHT 90). He heard his
13 girlfriend say "They shot him, they shot him" and they ran down to offer help. Mr. Coleman
14 testified that prior to the shooting on June 17th; he had not seen the defendant at the complex
15 at any time. (PHT 91)

16 The State then sought to impeach this witness by questioning him about a statement
17 that he gave on that date to a detective. This was not recorded. The questioning went as
18 follows:

19 Q. And do you recall telling the detective that in fact you did see the defendant
20 at the property that day?

21 A. No. I seen the car drive off

22 Q. Okay. Do you recall in fact telling the detective that about an hour before
23 the shooting you heard the defendant voice on the property that day?

24 A. That's what I was told. You know, I had like a friend that was there but he
25 had recently passed. He's the one that had told me.

26 Q. Mr. Coleman, I'm going to stop you. I don't care. It's not important what
27 you were told, but do you remember telling the detective that about an hour
28 before the shooting you heard the defendant knocking outside of Jaime's door.

...

29 The Court: The question is do you remember telling the detective that you
30 heard something.

31 The witness: No, ma'am, I don't.

32 The Court: That's the answer. (PHT 93)

33 The prosecution then attempted to establish that the witness heard the defendant talking to

1 another person by the name of "Vincent" about "getting his money" and that he sounded
2 upset. (PHT 98) The reference to the statements given to the prosecutors and their
3 investigator were, according to the witness what "I was told about." (PHT 99) They
4 concluded Coleman's testimony by bringing in the excited utterances from Loretta Coleman
5 that the deceased was shot over \$5.00.

6 Loretta Coleman was then called to testify by the State. Loretta was in the apartment
7 with Jaime Corona "on and off" on the day of the shooting. (PHT 117) She and the
8 Deceased were drinking and "having fun." (PHT 118) The toxicology report indicated that
9 the Deceased's blood alcohol level was almost 4 times over the limit for intoxication. She
10 heard "loud banging" and "yelling" at the door but could not determine if it was a male or
11 female voice. She additionally testified that the person was yelling that "he owed \$5,
12 something 5, money." (PHT 120). Her memory of the evening was affected by her alcohol
13 use that day. "I was pretty loaded" (PHT 127), "we had a 24-pack I think it was." (PHT 142)
14 Additionally, she testified she suffers from Schizophrenia and she had taken her medication
15 for that earlier in the morning. (PHT 132).

16 On cross examination, Loretta indicated that there was a light outside the door "above
17 the porch" (PHT 135) and that she could see the people that were out there "pretty much."
18 (PHT 136) She had seen the Defendant, Jason Jones, in the apartment complex prior to the
19 day of the shooting. (Id) During questioning, Loretta was offered information that she
20 provided to the defense prior to the preliminary hearing. Specifically when asked, So if you
21 in fact told me and Mr. Cano and Mr. Perez at a later time that there were two people out
22 there, one with a gun and another that was with him but neither of them were Jason Jones,
23 then you would have no reason to refute that." She answered "No." (PHT 138) Loretta did
24 indicate when questioned about the correlation between the \$5 and the stitches in his head
25 that "He didn't mention any money that he owed but it was definitely told." (PHT 146)

26 When queried by the Court, Loretta offered that she had been drinking a lot in the
27 evening before she came in to testify. (PHT 148) On redirect Loretta offered that
28 "sometimes I get blackouts." (PHT 150) Her testimony was aptly described as "kind of like

1 a merry-go-round unfortunately” by the Court (PHT 151).

2 Upon the preliminary hearing being reconvened, one of the primary detectives was
3 produced to “talk about all the prior inconsistent or prior consistent statements.” (PHT 154)

4 **B . Volume II of the Preliminary Hearing**

5 The State thereafter sought to introduce evidence by the impeachment of their
6 witnesses. Objections were raised requesting that the State specify the statements that they
7 were allegedly impeaching (PHT II 35) rather than hearsay corroborative or bolstering
8 statements. Even with the use of this tenuous information, the State was unable to have the
9 witness either identify the Defendant as being involved in or present during the shooting or
10 contradict the questioning during her testimony that the shooter was not the Defendant.

11 The same procedure was used regarding the testimony of Mr. Coleman, who testified
12 on the first day of the preliminary hearing. (PHT II 59) During the attempts by the State to
13 impeach the witness, the Court allowed the defense to have a standing objection to hearsay as
14 well as to whether or not the statement was in fact impeachment. (PHT II p. 58) Detective
15 Ivie testified that in an unrecorded interview, Mr. Coleman had **not** indicated that he was
16 given the information that he testified about via hearsay, but that his information came from
17 personal observation. The testimony consisted of Mr. Coleman saying, “Basically, he heard
18 the voice of J banging on Jamie’s door, asking for money, very loud for approximately 10
19 minutes, at which time he heard a gunshot. He looked outside and saw J run to his Dodge...
20 get in the driver’s seat and drive away at a high rate of speed.” (PHT II p. 60) Detective
21 Ivie, under cross examination, indicated that he did not take the opportunity to re-interview
22 Mr. Coleman at any time. (PHT II 81)

23 Attempts to locate the registered owner of the vehicle, Denise Williams, were testified
24 to as well as a text message from a cellular telephone that was purportedly associated to the
25 Defendant. (PHT II 74) This was admitted over the objection of the Defendant. (PHT II p.
26 76)

27 The Defendant was arrested in this case and gun shot residue testing was conducted
28 upon him with negative results. (PHT II p. 93) Additionally, no weapon matching the caliber

1 of the death producing bullet has been located. (Id)

2 Additional individuals interviewed included Danny, a brother to Denise Williams. He
3 had long dreadlocks (PHT II p. 96)

4
5 **III. ARGUMENT**

6 **A. The Evidence Adduced Before the Justice of the Peace is Insufficient to Hold**
7 **Defendant Jones to Answer for the Death.**

8 The State has alleged in this case that Mr. Jones committed First Degree Murder
9 defined as the unlawful, willful, deliberate and premeditated killing of a human being with
10 malice aforethought pursuant to NRS 200.010; 200.030. Along with the use of a deadly
11 weapon pursuant to NRS 193.165. The theory as delineated within the charging document is
12 based upon the theory that the Defendant himself fired the deadly shot which resulted in the
13 death of Jamie Corona.

14 The standard for the Justice of the Peace to bind a case over to trial has been well
15 established by Nevada case authority. Stated simply, if from the evidence it appears to the
16 magistrate that there is probable cause to believe that an offense has been committed and that
17 the defendant has committed it, the magistrate shall forthwith hold him to answer in the
18 district court; otherwise the magistrate shall discharge him. NRS 171.206. The Nevada
19 Supreme Court has held that a suspect may not be bound over for trial unless the State
20 demonstrates that there exists probable cause that the suspect committed the charged crime.
21 Sheriff v. Richardson, 103 Nev. 180, 734 P.2d 735 (1987). To establish probable cause to
22 bind a defendant over for trial, the State must show that (1) a crime has been committed and
23 (2) there is probable cause to believe the defendant committed it. NRS 172.155; Frutiger v.
24 State, 111 Nev. 1385, 1389; 907 P.2d 158, 160 (1995). Probable cause to support a criminal
25 charge "may be based on 'slight,' even 'marginal' evidence to support a reasonable inference
26 that the accused committed the offense." Kinsey v. Sheriff, 87 Nev. 361, 363, 487 P.2d 340,
27 341 (1971). (Emphasis added to citations.)

28 This Honorable Court must determine if the State has met its burden for each theory

1 charged by the State, discussed *infra*.

2 **1. There is no Direct Evidence that Jason Jones Committed the Murder of Jaime**
3 **Corona**

4 The first theory of the Murder Count alleges that Jones actually shot or fired at and
5 into the body of the deceased with said killing having been "Willful, deliberate, and
6 premeditated." The evidence produced at the time of the preliminary hearing indicated, at
7 best, that a car similar to that driven by the Defendant and/or his girlfriend was seen leaving
8 the area rapidly after the shooting.

9 There was no ballistics testimony, there were no admissions, and there was no
10 eyewitness testimony offered. Clearly, as far as direct evidence - - there was not a "scintilla"
11 of evidence presented that Jones was present at the time of the shooting or that he fired a gun
12 at all, and if so, that it was the death-producing shot.

13 **2. The Basis for the Theory of Circumstantial Evidence Presented By the State**
14 **was not Based Upon Competent or Admissible Evidence**

15 It appears at the time of the preliminary hearing in this matter, the State acknowledged
16 that any attempt to base a bind over of the case would require the impeachment of its own
17 witnesses. The record established at the preliminary hearing reveals that the impeachment
18 was incomplete, and therefor could not provide the necessary substantive evidence to support
19 the bind over. Under Nevada law, when a witness fails, for whatever reason, to remember a
20 previous statement made by that witness, the lack of recollection constitutes a denial and
21 makes it a prior inconsistent statement. Crowley v. State, 120 Nev. 30, 35, 83 P.3d 282, 286
22 (2004). A prior inconsistent statement is admissible both substantively and for impeachment.
23 Id. Unlike the Federal Rules of Evidence, the Nevada rules do not require that a prior
24 inconsistent statement be made under oath to be admitted substantively. Dorsey v. State, 96
25 Nev. 951, 953, 620 P.2d 1261, 1262 (1980). Further, Nevada law does not strictly require
26 that counsel disclose the contents of or show a witness a prior inconsistent statement that is
27 being used to impeach the witness, unless requested by opposing counsel. See NRS
28 50.135(1). However, if a witness is not confronted with the prior inconsistent statement

1 during his examination, there must be an opportunity, at some point in the trial, for the
2 witness to explain, repudiate, or deny the statement. Atkins v. State, 112 Nev. 1122, 1128,
3 923 P.2d 1119 (1996), cert denied, 520 U.S. 1126 (1997) (overruled on other grounds by
4 Bejarano v. State, 122 Nev. 1066, 1076, 146 P.3d 265, 272 (2006)).

5 Other jurisdictions, most prominently Illinois, strictly prohibit the practice of
6 impeaching testimony with statements not in evidence. See e.g. People v. Williams, 204 Ill.
7 2d 191, 208, 788 N.E.2d 1126, 1139 (2003) (citing People v. Olinger, 112 Ill. 2d 324, 341,
8 493 N.E.2d 579, 588 (1986) ("it is improper for the prosecutor to ask a witness questions for
9 purposes of impeachment unless the prosecutor is prepared to offer proof of the impeaching
10 information"); People v. Enis, 139 Ill. 2d 264, 297, 564 N.E.2d 1155, 1168 (1990) ("it is
11 error for the State to ask a defense witness questions presuming facts not in evidence as a
12 precursor to impeachment of that witness, unless the State has admissible evidence to
13 substantiate the inquiry")). The inherent danger posed by such cross-examination questions
14 is that the [trier of fact] will ignore the witness' denial, make a presumption that the
15 insinuation created by the questions is accurate, and substitute the presumption for proof.
16 People v. Williams, 204 Ill. 2d 191, 208, 788 N.E.2d 1126, 1139 (2003) (citing People v.
17 Hood, 229 Ill. App. 3d 202, 212, 593 N.E.2d 805, 813 (1992), People v. O'Banner, 215 Ill.
18 App. 3d 778, 794, 575 N.E.2d 1261, 1271(1991); People v. Burbank, 53 Ill. 2d 261, 270, 291
19 N.E.2d 161 (1972) ("The asking of the leading question and the denial carry a harmful
20 innuendo which is unsupported by any evidence")). See also Preuss v. Thomson, 112 Idaho
21 169, 170, 730 P.2d 1089, 1091 (1986) (concluding that unfinished impeachment is a
22 disfavored practice although is not always reversible error).

23 The Nevada Supreme Court has concluded that the admission of extrinsic
24 impeachment evidence is required under some circumstances. See e.g. LaPierre v. State, 108
25 Nev. 528, 532, 836 P.2d 56, 58 (1992) (concluding that evidence of prior inconsistent
26 statement of a witness was improperly excluded where witness was on the witness stand and
27 available to explain or deny the alleged previous statement and both the defense and the
28 prosecution had an opportunity to interrogate her regarding the statement); Burns v. State, 96

1 Nev. 802, 805, 618 P.2d 881, 883 (1980) (concluding that where the possibility of confusion
2 was obvious due to the witness having given more than one prior statement, the trial judge
3 was within his discretion in requiring that the allegedly inconsistent statements be shown to
4 the witnesses).

5 Simply put, statements by counsel at trial or preliminary hearing are not evidence.
6 United States v. Callison, 408 F.2d 1362, 1364 (9th Cir. Ariz. 1969). Therefore, if a witness
7 denies making a prior inconsistent statement in response to counsel's attempt at
8 impeachment, and counsel does not introduce extrinsic evidence (a document or testimony of
9 another witness) that the prior inconsistent statement was made, then there is no evidence of
10 the prior inconsistent statement. When this occurs, the impeachment is incomplete and the
11 prior inconsistent statement is also inadmissible substantively because no evidence of the
12 statement has been proffered for the trier of fact to consider.

13 When an attempt at impeachment establishes that the basis for the statement is
14 hearsay, and the impeaching witness has no basis to contradict the original source of the
15 information, there then is no basis for "impeachment" and the attempted impeachment
16 merely becomes a double hearsay, without the establishment of the original declarant.

17 **3. There was no Admissible Evidence Produced to Show that Jason Jones had**
18 **any Animus or Reason to Kill Jamie Corona**

19 The evidence presented by the witnesses' testimony revealed that there was an
20 absence of motive as to Jones, and that there was a previous altercation with others that
21 evidenced the desire, willingness, and ability to cause serious bodily injury to Mr. Corona.
22 That competing motive, when considered in conjunction with the lack of direct evidence as
23 to the identity of the individual who fired the death producing shot, and even who or how
24 many people were at the door of Mr. Corona at the time of the shooting, is indicia that there
25 is insufficient evidence to bind over Jones on the charges.

26

27 ...

28

1 **B. Even Under the Relaxed Standard of a Preliminary Hearing, the Evidence is**
2 **so Conflicting that it is, as a Matter of Law, Insufficient to Sustain the Charge Against**
3 **Jason Jones**

4 Jones recognizes that a preliminary examination is not a trial. Bishop v. Sheriff, 88
5 Nev. 580, 581, 502 P.2d 1098, 1098 (1972). However, at the preliminary examination, if
6 there are contradictory inferences presented, the State must present enough evidence "to
7 support a reasonable inference that the accused committed the offense." Sheriff v.
8 Wittenberg, 122 Nev. 1056, 1059, 145 P.3d 1001, 1004 (2006) (quoting Lamb v. Holstein,
9 85. Nev. 566, 459 P.2d 771 (1989)). The presentation of the supportive evidence is
10 necessary in order to provide the magistrate with sufficient facts to perform her duties.

11 The Nevada Supreme Court has stated that, if at the time of the preliminary hearing,
12 the evidence is in conflict, it is the function of the magistrate to determine the weight to be
13 given to the witness testimony and determine that which supports the "reasonable inference".
14 Ricci v. State, 88 Nev. 662, 663, 503 P.2d 1222 (1972). The Court below failed to articulate
15 its basis for resolution and/or address the issue of which of the conflicting witnesses and
16 conflicting testimony is sufficiently reliable to establish probable cause, apparently a result of
17 the State's failure to present the "supportive evidence" (e.g., ballistics evidence, gunshot
18 residue testing, alternate suspects, inculpatory statements, etc.) to indicate that Jones should
19 be held to answer for these offenses.

20 The need for this supportive evidence is to prohibit due process violations in
21 prosecutions that are based upon conflicting theories and conflicting testimonial evidence.
22 See In re Sakarias, 106 P.3d 931, 942 (Cal.2005) (the prosecutor's unjustified use of
23 inconsistent and irreconcilable factual theories to convict two people of a crime only one
24 could have committed, or to obtain harsher sentences for both on the basis of an act only one
25 could have committed, violates due process because in those circumstances the state has
26 necessarily convicted or sentenced a person on a false factual basis).

1 **C. Hearsay Cannot Support the Bindover of the Case to the District Court**

2 In the present case, the witnesses noted that the information provided to the Detective,
3 were based upon hearsay. They were not asked to identify the source of the hearsay
4 information, without which there is an inadequate foundation to establish any basis for its
5 admissibility and/or reliability.

6 **NRS 51.035 "Hearsay" defined.** "Hearsay" means a statement offered in evidence to
7 prove the truth of the matter asserted unless:

- 8 1. The statement is one made by a witness while testifying at the trial or
hearing;
9 2. The declarant testifies at the trial or hearing and is subject to cross-
examination concerning the statement, and the statement is:
10 (a) Inconsistent with the declarant's testimony;
11 (b) Consistent with the declarant's testimony and offered to rebut an
express or implied charge against the declarant of recent fabrication or
12 (c) One of identification of a person made soon after perceiving the person; or
13 (d) A transcript of testimony given under oath at a trial or hearing or before a
grand jury; or
14 3. The statement is offered against a party and is:
15 (a) The party's own statement, in either the party's individual or a
representative capacity;
16 (b) A statement of which the party has manifested adoption or belief in
its truth;
17 (c) A statement by a person authorized by the party to make a statement
concerning the subject;
18 (d) A statement by the party's agent or servant concerning a matter
within the scope of the party's agency or employment, made before the
19 (e) A statement by a coconspirator of a party during the course
and in furtherance of the conspiracy.

20 **NRS 51.055 "Unavailable as a witness" defined.**

- 21 1. A declarant is "unavailable as a witness" if the declarant is:
22 (a) Exempted by ruling of the judge on the ground of privilege from
testifying concerning the subject matter of the declarant's statement;
23 (b) Persistent in refusing to testify despite an order of the judge to do so;
24 (c) Unable to be present or to testify at the hearing because of death or
then existing physical or mental illness or infirmity;...

25 Impeachment of a witness does not *per se* make the basis for the impeachment substantive
26 evidence for admission as to the guilt or innocence of the accused.

27 ...

1 **IV. Conclusion**

2 Wherefore, JASON JONES prays that the Court find inadequate evidence to bind the
3 him over on the open murder charge.

4 DATED this 17th day of December, 2012.

5 Respectfully submitted

6 DAVID M. SCHIECK
7 SPECIAL PUBLIC DEFENDER

8 /s/ RANDALL H. PIKE

9
10 RANDALL H. PIKE
11 CHARLES A. CANO
12 Attorneys for Jones

13 **CERTIFICATE OF ELECTRONIC FILING**

14 I hereby certify that service of the above and foregoing, was made on December 17,
15 2012, by Electronic Filing to:

16 DISTRICT ATTORNEY'S OFFICE

17 email: pdmotions@ccdanv.com

18 /s/ Kathleen Fitzgerald

19 Legal Executive Assistant for
20 Special Public Defender



CLERK OF THE COURT

1 MDIS
2 DAVID M. SCHIECK
3 SPECIAL PUBLIC DEFENDER
4 Nevada Bar #0824
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6 Assistant Special Public Defender
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15 rpike@clarkcountynv.gov
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DISTRICT COURT

CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,
13 Plaintiff

14 vs.

15 JASON JONES,
16 Defendant.

CASE NO. C-12-285488-1
DEPT. NO. 21

17 MOTION FOR DISCOVERY, SPECIFICALLY DISCLOSURE
18 OF ALL PHYSICAL EVIDENCE COLLECTED IN THE
19 INVESTIGATION OF THIS CASE AND/OR THIS DEFENDANT
20 AND OF ALL FORENSIC TESTING CONDUCTED THEREON

21 DATE: _____

22 TIME: _____

23 COMES NOW, Defendant, JASON JONES, by and through his attorneys, David M.
24 Schieck, Special Public Defendant, Randall H. Pike, Assistant Special Public Defender, and
25 Charles A. Cano, Deputy Public Defender, and hereby moves this Honorable Court for an
26 Order requiring the State to provide to the Defendant's attorneys all forensic testing that has
27 been done on any item of physical evidence that relates to this case and/or this Defendant as set
28 forth in the body of this motion.

1 This motion is based upon the pleadings and papers on file, the Points and Authorities
2 attached hereto, and any argument as may be had by counsel at the time of the hearing.

3 **NOTICE OF MOTION**

4 TO: The State of Nevada, Plaintiff; and

5 TO: The District Attorney's Office, attorney for Plaintiff:
6

7 Please take notice that the Defendant's Motion for Discovery, Specifically Disclosure
8 of all Physical Evidence Collected in the Investigation of this Case and/or this Defendant, and
9 of all Forensic Testing Conducted Thereon shall be heard on Jan 8, 2013, at
10 9 : 3 0 a m a.m.
11

12 **STATEMENT OF THE CASE**

13 This matter is set for trial on January 22, 2013. To provide sufficient time for scientific
14 review and/or the retaining of appropriate experts and to accommodate the current trial date,
15 the Defendant is entitled to have a timely production of the items requested.

16 **STATEMENT OF FACTS**

17 Jason Jones is charged with firing one shot through a screen door, striking the Deceased
18 which resulted in his death. Other than a GSR test on the Defendant, which was negative, the
19 defense is unaware of any pending forensic testing on any weapons or any items collected
20 during the course of investigation in this matter.
21

22 **POINTS AND AUTHORITIES**

23 . NRS 174.235 states:

24 Upon motion of a Defendant the Court may order the District
25 Attorney to permit the Defendant to inspect and copy or photograph
26 any relevant:

26 ...

27 2. Results or reports of physical or mental examinations, and of
28 scientific tests or experiments made in connection with the

1 particular case, or copies thereof, within the possession, custody or
2 control of the State, the existence of which is known, or by the
3 exercise of due diligence may become known, to the District
4 Attorney.

5 Jason Jones submits knowledge of any scientific testing, analysis and or forensic
6 examination of any evidence related to this case or to this defendant is critical to preparing a
7 constitutionally adequate defense. Fundamental fairness and the absence of any compelling
8 reason for non-disclosure require revelation of not only any physical evidence any evidence
9 that the State intends to use during trial, including, but not limited to all physical, photographic
10 and/or computer evidence collected and/or all such examinations of evidence generated during
11 the investigation of the instant case. See State v. Johnson, 28 N.J. 133, 145 A.2d 313 (1958),
12 cited in ABA Standards for Criminal Justice - Discovery and Procedure Before Trial. This has
13 been partially codified in the State of Nevada under NRS 174.245 states:

14 "Other books, papers, documents, tangible objects or places.

15
16 Upon motion of a Defendant the Court may order the District
17 Attorney to permit the Defendant to inspect or photograph books,
18 papers, documents, tangible objects, buildings or places, or copies or
19 portions thereof, which are within the possession, custody or control
20 of the State."

21 Unfortunately, subsequent testing and/or collection of evidence is often not disclosed to the
22 prosecutor's office or the Defense until an examination of the impounded evidence is
23 conducted and the additional testing is discovered by the examiner's initials on the impound
24 bags. While the lead detective or the State may not intend to call the witnesses who conducted
25 such examinations during their case in chief, it is clear that the existence of the testing must be
26 disclosed. Witnesses known to the State but not called by the State could prove to have
27 exculpatory evidence which should be made available to the defense. No legitimate interest
28 could be served by precluding the State from identifying such examination and witnesses or the

1 defense from calling such witnesses for trial. Accordingly both the existence of such testing,
2 the results thereof and the identity of the examiner or expert should accordingly be made
3 known. United States v. Eley, 335 F.Supp. 353 (N.D. Ga. 1972); United States v. Houston,
4 339 F.Supp. 762 (N.D. GA 1972).

5 It is clear that the trial court has wide discretion in permitting discovery. See, Marshall
6 v. District Court, 79 Nev. 280, 382 P.2d 214 (1963). Repeatedly, the Courts have ruled that the
7 prosecution has the duty to disclose to the Defendant all exculpatory evidence. Brady v.
8 Maryland, 373 U.S. 83 (1963); See, also, Giles v. Maryland, 386 U.S. 66 (1967); Dennis v.
9 U.S., 384 U.S. 855, 873 (1966); Giglio v. U.S., 925 S.Ct. 763 (1972). It is equally well
10 established that counsel for the Defendant cannot rely upon the State or the investigative
11 agency to make a determination as to what is "exculpatory". Due process requires that any
12 evidence be disclosed which may provide grounds to attack the reliability, thoroughness, and
13 good faith of the police investigation or to impeach the credibility of the State's witnesses, be
14 they lay or expert witnesses. Lay v. State, 116 Nev. 1185, 1194 (2000). All the information
15 requested relating to the examination and/or processing of physical evidence is required for the
16 defendant to receive a constitutionally adequate defense and protect the defendant's due
17 process under the 14th Amendment to the U.S. Constitution and the Nevada Constitution.
18

19 Because the prosecutor's Brady obligation to disclose exculpatory and sentence-
20 reducing matters is a constitutional duty deriving from the due process clause, the prosecutor
21 has this duty regardless of who may be in possession of the information. The Supreme Court
22 addressed this obligation in the capital context in the case of Strickler v. Greene, 119 S. Ct.
23 1936 (1999). In the Strickler case the trial prosecutor gave defense counsel "open file"
24 discovery, but his files did not contain certain exculpatory materials found in the police files
25
26
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28

1 after conviction. The exculpatory documents in the Strickler case were conceded by the
2 prosecutor to have been in police records, and that he had never seen some of the documents
3 until long after the trial. Id. at 1945. Relying on Kyles, the Supreme Court established that it
4 is the individual prosecutor's "duty to learn of any favorable evidence known to the others
5 acting on the government's behalf in [the] case, including the police." Id. at 1948 (emphasis
6 added)
7

8 In preparing for trial, it unfortunately is often found that police investigators sometimes
9 fail to inform a prosecutor of all they know. This, the United States Supreme Court has ruled
10 is not an acceptable reason for non-disclosure to the defense and that "procedures and
11 regulations can be established to carry [the prosecutor's] burden and to insure communication
12 of all relevant information on each case to every lawyer who deals with it." Giglio v. United
13 States, 405 U.S. 150, 154 (1972) (emphasis added). Any argument for excusing a prosecutor
14 from disclosing what he does not happen to know about boils down to a plea to substitute the
15 police for the prosecutor, and even for the courts themselves, as the final arbiters of the
16 government's obligation to ensure fair trials. Kyles v. Whitley, 514 U.S. 419, 438 (1995).
17
18

19 This obligation extends to all evidence that may be associated with the defendant in the
20 case at bar as well as any information generally associated with the possible prosecution of
21 others or examination of physical evidence in other cases that may have relevance to the
22 defendant. This does not create an undo burden upon the State, as the evidence is accessible
23 via computer search by local law enforcement agencies. In Clark County, this is known as the
24 LRMS. . The LRMS is described in its non-metro authorized user manual (which is available
25 to the Court upon request, but inappropriate to attach as an exhibit) as:
26

27 LRMS (Law Records Management System) manages the recording, indexing and
28 tracking of criminal an non-criminal related incidents for Metro. It provides Metro with

1 an effective tool for incident reporting, case management and crime analysis. It is also a
2 valuable tool for tracking people and individual information such as DOB, SS#, last
known addresses etc.

3 The evidence that is requested the prosecutor must disclose includes information known by the
4 prosecutor's office and information known to those who work regularly with that office, such
5 as law enforcement agencies. See Kyles v. Whitley, 514 U.S. 419 (1995). Such is the
6 information contained within LRMS, and falls within the definition those sources of
7 information which are unquestionably within the Prosecutor's and law enforcement's
8 "possession, custody, and control" as contained within the above Statute.
9

10 CONCLUSION

11 Wherefore, the Defendant prays that the Court Order the prosecution provide:

12 (1) Verification of all physical evidence impounded under this case and all reports and
13 results of scientific tests; and
14

15 (2) Any photographs in the State's possession including photographs of Danny
16 Williams and Everett Williams, the scene of the crime, photo enlargements of latent prints, and
17 all photographs the State intends to introduce as evidence;
18

19 DATED this 18th day of December, 2012.

20 Respectfully submitted

21 DAVID M. SCHIECK
22 SPECIAL PUBLIC DEFENDER

23 /s/ RANDALL H. PIKE

24 _____
25 RANDALL H. PIKE
26 CHARLES A. CANO
27 Attorneys for Jones
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CERTIFICATE OF ELECTRONIC FILING

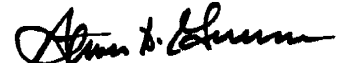
I hereby certify that service of the above and foregoing, was made on December 18,
2012, by Electronic Filing to:

DISTRICT ATTORNEY'S OFFICE

email: pdmotions@ccdnav.com

/s/ Kathleen Fitzgerald

Legal Executive Assistant for
Special Public Defender



CLERK OF THE COURT

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2 Special Public Defender
NSB 0824
3 RANDALL H. PIKE
Assistant Special Public Defender
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9 Attorneys for Defendant

10 DISTRICT COURT
11 CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA

13 Plaintiff,

14 vs.

15 JASON JONES,

16 Defendant.

CASE NO. C-12-285488-1
DEPT NO. 21

17
18 Defendant's Motion in Limine to Admit Evidence
19 of and Contents of Recorded 911 Report

20 Date: _____
Time: _____

21 COMES NOW, Defendant, JASON JONES, by and through his attorneys, David M.
22 Schieck, Special Public Defender, Randall H. Pike, Assistant Special Public Defender and
23 Charles A. Cano, Deputy Special Public Defender, and hereby moves this Honorable Court for
24 admission of the existence and contents of the 911 Call report and transcript into evidence in the
25 Defense's case in chief, or through cross examination of the State's witnesses.

26 Said Motion is based upon the attached Points and Authorities, all papers and pleadings
27 on file herein, and on oral argument, if any, at the time of the hearing of said Motion.
28

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NOTICE OF MOTION

TO: THE STATE OF NEVADA, Plaintiff; and

TO: DISTRICT ATTORNEY'S OFFICE, Plaintiff's attorneys:

YOU WILL PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion on for hearing before the above-entitled Court on Jan 8, 2013 at the hour 9 : 3 0 a m a.m.

POINTS AND AUTHORITIES

ARGUMENT

Defendant adopts the Statement of Facts contained within the Writ of Habeas Corpus previously filed in this case.

In addition to the above, Defendant submits the following facts which directly support the reliability of the recorded statement. Specifically, the witness references two brothers who look like "twins" except for the hair. Denise Williams, the resident of apartment 18, who is described in the statement has two brothers – Danny Williams and Everett Williams. They are approximately the same age and approximately the same height (6'1"). The witness notes that the one with the short hair specifically had a moustache that he shaved off. Everett has short hair and, in the LVMPD photograph of 8/31/2011, appears to have such a moustache. The witness indicates that the actual shooter had dread locks as the style of his hair. Danny Williams has dread locks. The information was given to the police during a recorded telephone call.

The witness passed due to natural causes prior to the time of the preliminary hearing.

The evidence sought to be admitted is the 911 call report and transcript. Respectfully, it is admissible because it is a statement of the Deceased expressing his observations which is recorded in the ordinary course of business by the Las Vegas Metropolitan Police Department, and it is reliable exculpatory hearsay evidence that is "otherwise admissible" under the hearsay exceptions found in NRS 51.315 and Federal Rule of Evidence 807, as well as the Nevada Supreme Court holding in Williams v. State, 110 Nev. 1182, 885 P.2d 536 (1994).

1 **A. The 911 Report is admissible under NRS 51.315**

2 NRS 51.315 provides a general exception to the rule against hearsay; "A statement is not
3 excluded by the hearsay rule if (a) its nature and the special circumstances under which it was
4 made offer strong assurances of accuracy; and (b) the declarant is unavailable as a witness." The
5 requirements of this exception are clearly met in this instance as the 911 report is part of an
6 emergency telephone number system that also allows members of the community to provide
7 information about criminal activity. It allows citizens to provide crime solving assistance to the
8 authorities and, in the case at bar with being directly involved in the investigation process. In
9 the present case, the caller, identified previously as a neighbour, witness (Exhibit B, written
10 statement) and disseminator of evidence to other neighbors. (PHT) The victim is deceased, thus
11 precluding his testimony as to his direct observation of someone other than the Defendant as
12 being the shooter. In light of the unavailability of the witness/caller, this report must be let in
13 as it is the only way of presenting this highly probative information. NOTE: the transcription
14 will be filed directly with the Court when completed. It is currently being transcribed for use
15 in this motion and will be submitted as Exhibit A in support of the instant motion.

16 **B. The 911 transcription is admissible under FRE 807**

17 In examining the propriety of the admission of this recording, the Federal Rule of
18 Evidence 807 provides analogous authority.

19
20 "A statement not specifically covered by Rule 803 or 804 but having equivalent
21 circumstantial guarantees of trustworthiness, is not excluded by the hearsay rule,
22 if the court determines that (A) the statement is offered as evidence of a material
23 fact; (B) the statement is more probative on the point for which it is offered than
24 any other evidence which the proponent can procure through reasonable efforts;
25 and (C) the general purposes of these rules and the interests of justice will best be
served by admission of the statement into evidence. However, a statement may not
be admitted under this exception unless the proponent of it makes known to the
adverse party sufficiently in advance of the trial or hearing to provide the adverse
party with a fair opportunity to prepare to meet it, the proponent's intention to
offer the statement and the particulars of it, including the name and address of the
declarant."

26 The three prong test required for admissibility of evidence is clearly met in this instance:

27 (A) The 911 recording is offered for the material fact of the eyewitnesses'
28 identification of an individual other than the defendant. The circumstances and details

1 of the information is verifiable and verified regarding the peculiar hair style of the
2 shooter, the ethnic background of the shooter and his ties to the apartment complex. The
3 only eyewitness directly impacts the weight of the State's evidence against the defendant.
4 The jury must be allowed to weigh all probative evidence especially that supporting a
5 reasonable defense theory that another man committed this crime. See Williams, 110
6 Nev. At 1185, 885 P.2d at 538 (holding defendant should have been allowed to introduce
7 into evidence testimony which even tended to support her theory of defense).

8 (B) The Crime Stoppers report is the most probative way to present the
9 information regarding the eyewitness's testimony because the witness is deceased and
10 cannot testify to such observations. Additionally, the caller who gave this information
11 to 911 did not wish to remain anonymous and gave full information as to his identity and
12 follow up information for the police to conduct an additional recorded interview. In light
13 of the unavailability of the caller, this report must be let in as it is the only way to present
14 this highly probative information.

15 (C) The truth finding function of the courts and a general sense of justice requires
16 that this report be admitted into evidence. The technical requirements of the hearsay
17 rules should not deprive Defendant of his right to present all evidence in support of his
18 defensive theory and must not deny the jury an opportunity to consider such highly
19 valuable evidence.

20
21 **C. The 911 recording is admissible under *Williams v. State***

22 Due process requires that the 911 telephone recording be admitted into evidence. "Few
23 rights are more fundamental than that of an accused to present witnesses in his own defense."
24 Williams, 110 Nev. At 1184, 885 P.2d at 537 (quoting Chambers v. Mississippi, 410 U.S. 284
25 (1973) (concluding it was harmful error for a trial court to exclude hearsay evidence which
26 evinced persuasive assurances of trustworthiness where such exclusion denied the accused
27 traditional and fundamental due process)). The Defendant's theory, that someone else
28 committed this crime, must not be undermined by an exclusion of the 911 recording. "The Due

1 process clauses of our constitutions assures an accused the right to introduce into evidence any
2 testimony or documentation which would tend to prove the defendant's theory of the case."
3 Emphasis added. Williams, 110 Nev. At 1185, 885 P.2d at 537-538 (quoting Vipperman v.
4 State, 96 Nev. 592, 614 P.2d 532 (1980)). Just as in Williams, where the Court found harmful
5 error when defendant was not allowed to introduce hearsay evidence supporting her theory of
6 insanity, it too would be harmful error for this court to exclude the recording supporting
7 Defendant's theory that someone else committed this crime.

8 As the requirements for admissibility under NRS 51.513 and FRE 807 are clearly met,
9 and according to Nevada case law, the report should be admitted. This evidence is relevant both
10 to Defendant's theory of defense, and is permitted under the Rules of Evidence. The report is
11 crucial to establishing the identity of the perpetrator excluding the evidence and allowing the
12 jury only a partial, incomplete picture would be harmful, prejudicial error.

13 **D. Analogous authority for the admission of this evidence is found under NRS**
14 **51.035**

15 Pursuant to NRS 51.035, hearsay is an out of court statement offered in evidence to prove
16 the truth of the matter asserted. Hearsay is generally inadmissible. NRS 51.065. However,
17 where the offered statement is considered non-hearsay, or where the statement falls under an
18 exception to the rule, said statement is admissible. NRS 51.065.

19 NRS 51.095 provides that "[a] statement relating to a startling event or condition made
20 while the declarant was under the stress of excitement caused by the event or condition is not
21 inadmissible under the hearsay rule." The Nevada Supreme Court has specifically addressed the
22 circumstances warranting admission of an excited utterance. Generally, a declarant's out-of-
23 court statement is admissible as an excited utterance where the declarant, at the time the
24 statement is made, still appears under some type of stress, such as where the declarant is
25 described as frightened, nervous, upset, crying and/or agitated. See, Clem v. State, 104 Nev.
26 351, 760 P.2d 103 (1988), overruled on other grounds; Zgombic v. State, 106 Nev. 571, 798
27 P.2d 548 (1990); Dearing v. State, 100 Nev. 590, 691 P.2d 419 (1984); Franco v. State, 109 Nev.
28 1229, 866 P.2d 247 (1993).

1 Defendant acknowledges that this statement is made one day after the event, however,
2 there have been cases in Nevada in the statements were made an hour and one-half after the
3 startling event, they have been considered an excited utterance. See Brown v. State, 113 Nev.
4 1614, 933 P.2d 187 (1997); see also Dearing, 100 Nev. 590, 691 P.2d 419. The concern seems
5 to be the perception of the declarant.

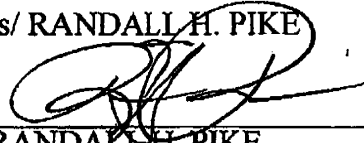
6 **CONCLUSION**

7 Wherefore, Jason Jones asks this court to admit evidence this highly probative, reliable
8 and exculpatory evidence.

9 DATED this 17th day of December, 2012.

10 Respectfully submitted
11 DAVID M. SCHIECK
12 SPECIAL PUBLIC DEFENDER

13 /s/ RANDALL H. PIKE

14 
15 RANDALL H. PIKE
16 CHARLES A. CANO
17 Attorneys for Jones
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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of the above and foregoing, was made on December 17, 2012,
by Electronic Filing to:

DISTRICT ATTORNEY'S OFFICE

email: pdmotions@ccdany.com

/s/ Kathleen Fitzgerald

Legal Executive Assistant for
Special Public Defender

EXHIBIT A

(transcript
recording of 9/11
to be provide

0067

EXHIBIT B

0068

Page 1 of 1

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT**

Event # 120617-4103

THIS PORTION TO BE COMPLETED BY OFFICER

Specific Crime <u>MURDER WITH DEADLY WEAPON</u>	Date Occurred <u>06/17/12</u>	Time Occurred <u>2238</u>
Location of Occurrence <u>1416 Fst #10 LV, NV 89106</u>	Sector/Beat <u>10-6</u>	<input checked="" type="checkbox"/> City <input type="checkbox"/> County

Your Name (Last / First / Middle) <u>SHEFFIELD, JAMES (NUN)</u>						Date of Birth <u>7-15-99</u>		Social Security # <u>267-8-9382</u>	
Race <u>BLK</u>	Sex <u>M</u>	Height <u>5'5"</u>	Weight <u>160</u>	Hair <u>BLD</u>	Eyes <u>BROWN</u>	Work Scholl. (Hours) <u>NONE</u>	(Days Off) <u>ALL</u>	Business / School <u>NA</u>	
Residence Address: (Number & Street) <u>1416 Fst</u>				Bldg./Apt.# <u>9</u>	City <u>LAS VEGAS</u>	State <u>NV</u>	Zip Code <u>89106</u>	Res. Phone: <u>702-318-1072</u>	
Bus. (Local) Address: (Number & Street)				Bldg./Apt.#	City	State	Zip Code	Bus. Phone: <u>SAME</u>	
Best place to contact you during the day <u>AT HOME</u>						Best time to contact you during the day <u>ANY TIME</u>		Can You Identify the Suspect? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

DETAILS I heard (1) GUN shot at Apt 10, 1416 Fst Las Vegas
NV and saw JAMES in Apt 10 laying on the floor. Shot in the
chest

I HAVE READ THIS STATEMENT AND I AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS STATEMENT WAS COMPLETED AT (LOCATION) 1416 Fst #10 LV, NV 89106 ON THE 17 DAY OF JUNE AT 2345 (AM/PM).

Witness/Officer: [Signature] (SIGNATURE)

Witness/Officer: B. Copley (PRINTED)

P# 14462

[Signature] SIGNATURE OF PERSON GIVING STATEMENT

0069

ORIGINAL

Electronically Filed
12/26/2012 10:58:26 AM



CLERK OF THE COURT

1 **ORDR**
2 DAVID M. SCHIECK
3 SPECIAL PUBLIC DEFENDER
4 Nevada Bar #0824
5 RANDALL H. PIKE
6 Deputy Special Public Defender
7 Nevada Bar #1940
8 CHARLES A. CANO
9 Deputy Special Public Defender
10 Nevada Bar #5901
11 330 So. Third Street, Suite #800
12 Las Vegas, Nevada 89155
13 (702) 455-6265
14 FAX: (702) 455-6273
15 E-MAIL: rpike@clarkcounty nv.gov
16 E-MAIL: canoca@clarkcountynv.gov
17 Attorneys for Jason Jones

10 DISTRICT COURT

11 CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,
13 Plaintiff

CASE NO. C-12-285488-1
DEPT. NO. 21

14 vs.

15 JASON JONES, ID 02735018,
16 Defendant.

17 **ORDER**

18 Date of Hearing: January 3, 2013
19 Time of Hearing: 9:30 AM

20 The Petition of JASON JONES, by and through his attorneys, DAVID M. SCHIECK,
21 Special Public Defender, RANDALL H. PIKE, Deputy Special Public Defender, and
22 CHARLES A. CANO, Deputy Special Public Defender, having been filed in the above-entitled
23 matter.

24 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Clerk of the
25 Eighth Judicial District Court of the State of Nevada, in and for the County of Clark, Issue a
26 Writ of Habeas Corpus, as is attached hereto.

27 DATED AND DONE: 18th day of December 2012

28 
DISTRICT COURT JUDGE

ORIGINAL

ORDR

DAVID M. SCHIECK
SPECIAL PUBLIC DEFENDER
Nevada Bar #0824
RANDALL H. PIKE
Deputy Special Public Defender
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Attorneys for Jason Jones

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff

vs.

JASON JONES, ID 02735018,
Defendant.

CASE NO. C-12-285488-1
DEPT. NO. 21

ORDER

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DATED AND DONE: 18th day of December 2012


DISTRICT COURT JUDGE

0071


CLERK OF THE COURT

1 **RET**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 NELL CHRISTENSEN
6 Chief Deputy District Attorney
7 Nevada Bar #008822
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 State of Nevada

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 In the Matter of Application,
11 of

12 JASON JONES,
13 #2735018

14 for a Writ of Habeas Corpus.

CASE NO: C-12-285488-1
DEPT NO: 21

16 **RETURN TO WRIT OF HABEAS CORPUS**

17 DATE OF HEARING: 01/03/2013
18 TIME OF HEARING: 9:30 A.M.

19 COMES NOW, DOUGLAS C. GILLESPIE, Sheriff of Clark County, Nevada,
20 Respondent, through his counsel, STEVEN B. WOLFSON, Clark County District Attorney,
21 through NELL CHRISTENSEN, Chief Deputy District Attorney, in obedience to a writ of
22 habeas corpus issued out of and under the seal of the above-entitled Court on the 17th day of
23 December, 2012, and made returnable on the 3rd day of January, 2013, at the hour of 9:30
24 o'clock A.M., before the above-entitled Court, and states as follows:

25 1. Respondent admits the allegations of Paragraphs 1 & 2 of the Petitioner's
26 Petition for Writ of Habeas Corpus.

27 2. Respondent denies the allegations of Paragraph 3 of the Petitioner's Petition
28 for Writ of Habeas Corpus.

1 3. Paragraphs 4, 5, 6, & 7 do not require admission or denial.

2 4. The Petitioner is in the actual custody of DOUGLAS C. GILLESPIE, Clark
3 County Sheriff, Respondent herein, pursuant to a Criminal Information.

4 Wherefore, Respondent prays that the Writ of Habeas Corpus be discharged and the
5 Petition be dismissed.

6 DATED this 26th day of December, 2012.

7 Respectfully submitted,

8 STEVEN B. WOLFSON
9 Clark County District Attorney
Nevada Bar # 001565

10
11 BY /s//NELL E. CHRISTENSEN
12 NELL CHRISTENSEN
13 Chief Deputy District Attorney
Nevada Bar #008822

14 **POINTS AND AUTHORITIES**

15 **STATEMENT OF FACTS**

16 On June 17, 2012, Jaime Corona was killed by a gunshot wound to the chest that
17 coursed through his heart. Preliminary Hearing Transcript Volume 1 (PHT1) p. 22-24. He
18 was killed while in his first floor apartment at 1416 F Street Apartment 10. PHT2 p. 27-30.

19 Earlier in the night, police had responded to the apartment complex due to a 911 call
20 for service from Jaime Corona. PHT2 p. 66-67. They cleared the call at 9:38 p.m. PHT2 p.
21 67. About an hour later, additional calls came in to dispatch regarding Corona being shot,
22 and police responded again. PHT2 p. 68.

23 When police responded to 911 calls regarding Corona being shot, they found Corona,
24 deceased from the gunshot wound, and a bullet hole through his metal security door. PHT2
25 p. 30. One .380 caliber cartridge case was located outside on the ground to the right of
26 Corona's door. PHT2 p. 29-31.

27 //

28 //

1 Detectives arrived and interviewed witnesses. PHT2 p. 33. Detective Travis Ivie first
2 interviewed Loretta Coleman, who had been inside the apartment with Corona when Corona
3 was killed. PHT2 p. 34. She was very intoxicated and was not wearing pants. PHT2 p. 34.
4 She told Detective Ivie that she was drinking and “messin’ around and partying” with
5 Corona on June 17, 2012. PHT2 p. 50, Loretta Coleman Statement (LCS) p. 2.¹ She heard
6 someone banging on the door. LCS p. 2-5. She heard the man who was banging call her by
7 name, but she did not see who it was. LCS p. 4-5. He was very mad at Corona, yelling
8 about five dollars that was owed to him. LCS p. 5-6. Corona asked him to leave, but the
9 man kept banging at the window. LCS p. 8. The man got very upset and it seemed like he
10 was going to break the window from the banging, then she heard one or two “bangs” and
11 Corona fell to the floor. LCS p. 7, 9. She also remembered Corona calling 911 at some
12 point during the night. LCS p. 12-13. Witnesses stated the Loretta Coleman ran out of the
13 apartment screaming after the shots were fired that someone shot him over five dollars.
14 PHT1 p. 91, 114.

15 Detective Ivie next interviewed William Coleman, Loretta Coleman’s brother, who
16 also stayed in the apartment complex. PHT2 p. 52. Based on reading the short handwritten
17 witness statement that William Coleman had filled out, Detective Ivie believed that it would
18 be a short interview. PHT2 p. 53. However, William Coleman actually had much additional
19 information. When Detective Ivie made contact with Coleman, right away Coleman asked if
20 the interview was being recorded and then looked up and down the street nervously. PHT2
21 p. 53-54. Coleman told Detective Ivie that about an hour before the shooting he heard
22 Defendant banging on Corona’s door and window and demanding money. PHT2 p. 57.
23 Then Defendant stopped and police officers arrived to the apartment complex. PHT2 p. 59.
24 After the police left, Coleman again heard Defendant banging on the door and window of
25 Corona’s apartment, demanding money. PHT2 p. 59. Defendant continued for about 10
26 minutes, and then Coleman heard a gunshot. PHT2 p. 60. Coleman looked outside after

27
28 ¹ The entire transcript of Ms. Coleman’s statement was admitted as State’s Exhibit 6 at the preliminary hearing pursuant to NRS 47.120.

1 hearing the gunshot, and he saw Defendant run to Defendant's girlfriend's black Dodge
2 Neon, get in the driver's seat, and drive away at a high rate of speed. PHT2 p. 60. Coleman
3 also told Detective Ivie that Defendant's girlfriend might still be in the apartment that she
4 shared with Defendant and their kids, and pointed the Detective to the apartment. PHT2 p.
5 63.

6 William Coleman's statement to Detective Ivie was admitted as a prior inconsistent
7 statement because Coleman testified at the preliminary hearing held on November 6, 2012,
8 that he did not see Defendant at all on June 17, 2012. PHT1 p. 91-92. He testified that he
9 did not remember telling the detectives about seeing Defendant at Corona's door before the
10 shooting or at any time during the day of Corona's death. PHT1 p. 92, 94. He also testified
11 that when he looked out of his window after hearing the gunshot, he saw the vehicle
12 Defendant typically drove take off, but did not see who was driving except to see the person
13 had short hair. PHT1 p. 88, 95. He also testified that a couple days before Corona's death
14 he heard Defendant tell another neighbor in an angry manner that he was going to get his
15 money. PHT1 p. 97-98. Defendant seemed upset. PHT1 p. 98.

16 After interviewing William Coleman a few hours after Corona's death, detectives had
17 information about Denise Williams, Defendant's girlfriend, possibly being located in the
18 apartment she shared with Defendant. PHT2 p. 63. She did not answer the door and police,
19 instead, procured a search warrant for the apartment, and SWAT served it. PHT2 p. 64. At
20 that time, they contacted Denise Williams. PHT2 p. 64.

21 Jimmie Brown, who also lived in the complex, was not interviewed at the time. In
22 preparation for the preliminary hearing, the Deputy District Attorneys and DA Investigator
23 handling the case spoke to him. PHT p. 42. He knows Defendant as "J", and lived in the
24 same apartment complex as Defendant and Corona in June of 2012. PHT p. 27-28. On the
25 Friday before Corona's death, Defendant had told Brown that someone had broken into his
26 apartment and asked if he had seen anything. PHT p. 32-33. Defendant told him that things
27 had been broken inside his apartment and someone had stolen things as well. PHT p. 35.
28 Later that day, Brown saw Defendant speaking to Jaime through Jaime's security gate, and

1 he noticed that Defendant was throwing his hands around talking, very excited. PHT p. 36.
2 It sounded like Defendant was trying to find out who broke into his apartment. PHT p. 37.

3 Then on the day Corona was shot, Brown, again, saw Defendant speaking to Corona
4 through Corona's door. PHT p. 38-39. He heard Defendant saying he wanted to talk to
5 Corona and saw Defendant banging on the door, beating on the screen. PHT p. 45-46, 65.
6 Brown later saw police arrive and speak to Corona for 10 or 15 minutes. PHT p. 39-40.
7 After the police left, Defendant returned to Corona's door about 30 to 45 minutes later. PHT
8 p. 47, 67. Defendant was banging on Corona's screen door saying that they needed to talk.
9 PHT p. 48. After seeing that, Brown went back inside and took a sleeping pill. PHT p. 49.
10 He fell asleep and then woke back up when police arrived. PHT p. 51. After that, he never
11 saw Defendant again, even when Defendant's girlfriend moved out a couple days later. PHT
12 p. 52. Both times he saw Defendant at Corona's door on the day Corona was shot, he only
13 briefly witnessed it before going back inside his apartment. PHT p. 66, 68-69. On the
14 second occasion he simply peeked out of his door. PHT p. 68.

15 Brown also testified that he had a cigarette with Defendant at some point on the day
16 Corona was shot. PHT p. 75. He indicated that he had the cigarette with Defendant and then
17 Defendant left somewhere in a car, and later he saw the Defendant again when he was in
18 front of Corona's apartment. PHT p. 75. He testified to several different times that it could
19 have been that he smoked a cigarette with Defendant, but said it was when Defendant was
20 just waking up. PHT p. 64. Brown testified that he had been friends with Defendant for
21 several months prior to the shooting. PHT p. 41.

22 In exhausting all leads, police looked into an incident that had occurred the day before
23 Corona was shot in which Corona was the victim of an attempt robbery. The suspect of that
24 robbery had been arrested leaving the scene on June 16, 2012, and was still in custody at the
25 time of Corona's death. PHT2 p. 68-69. Detectives checked his jail calls and noted that
26 none had been made from his arrest until the time of Corona's killing. PHT2 p. 69.

27 //

28 //

1 Defendant was arrested on June 21, 2012 when detectives surveilling the Black
2 Dodge Neon registered to his girlfriend saw Defendant approach and enter the vehicle.
3 PHT1 p. 77-80. The vehicle was searched pursuant to a search warrant, and detectives
4 located some cellular telephones. PHT2 p. 6. One of the cellular telephones found in the
5 vehicle was determined to belong to Defendant because the telephone number matched the
6 number that Denise Williams had given to detectives for Defendant, and because
7 photographs of Defendant were on the phone, and the person using the telephone referred to
8 himself as "J", Defendant's nickname. PHT2 p. 70-71. On that telephone, there was a series
9 of text messages that was of interest to the detectives². PHT2 p. 73-74. On June 14, 2012 at
10 21:15 hours GMT, Defendant texted a contact listed as "J.r", and the following exchange
11 occurred:

12 Defendant: U still got dat 380 bro....

13 J.r: Ya I do & I got a 22 for I need 125 for tho!

14 Defendant: U want a buc' nd a quarter for a 22 bro.....man nd wat kind of
15 22..a revolver?

16 J.r: Yea a dillenger there HARD to come across that's we not trippin if noone
17 wants it lol.

18 Defendant: Send me a pic of da 380 nd da 22....

19 J.r: I don't send pics of hammers

20 Defendant: Wy@bro

21 State's Exhibit 3.

22 //

23 //

24 //

25 //

26 //

27 _____
28 ² The telephone records were admitted at the preliminary hearing, including all text messages that were retrievable by the software used.

LEGAL DISCUSSION

I. THE STATE MET ITS BURDEN BY THE EVIDENCE PRODUCED AT THE GRAND JURY PRESENTATION.

As this Court is well aware, "[t]he finding of probable cause may be based on slight, even 'marginal,' evidence because it does not involve a determination of the guilt or innocence of an accused." Sheriff v. Hodes, 96 Nev. 184, 186, 606 P.2d 178 (1980); see also Sheriff v. Shade, 109 Nev. 826, 828, 858 P.2d 840 (1993); Sheriff v. Simpson, 109 Nev. 430, 435, 851 P.2d 428 (1993); Sheriff v. Crockett, 102 Nev. 359, 361, 724 P.2d 203 (1986).

The Nevada Supreme Court has explicitly held that a probable cause determination is "not a substitute for trial," and that the "full and complete exploration of all facets of the case" should be reserved for trial. Marcum v. Sheriff, 85 Nev. 175, 178, 451 P.2d 845, 847 (1969); see also, Robertson v. Sheriff, 85 Nev. 681, 683, 462 P.2d 528, 529 (1969). If the evidence produced establishes reasonable inference that the defendant committed the crime, the probable cause to order the defendant to answer in the district court has been established. Morgan v. Sheriff, 86 Nev. 23, 467 P.2d 600 (1970). "To commit an accused for trial, the State is not required to negate all inferences which might explain his conduct, but only to present enough evidence to support a reasonable inference that the accused committed the offense." Kinsey v. Sheriff, 87 Nev. 361, 363, 487 P.2d 340, 341 (1971).

Further, in Schuster v. Eighth Judicial Dist. Court ex rel. County of Clark, 160 P.3d 873, 876-877 (2007), the Court explained:

The finding of probable cause "does not involve a determination of the guilt or innocence of an accused," and this court has consistently held that to secure an indictment, the State is not required to negate all inferences which might explain away an accused's conduct. This court has further held that "it is not mandatory for the prosecuting attorney to instruct the grand jury on the law."

Thus, our review of the statutory scheme regulating the grand jury process reveals that the Legislature viewed the primary role of the grand jury as investigative and accusatory. That is to say, the primary function of the grand jury in Nevada is to investigate, obtain, and review evidence, and based on that evidence, to determine whether there is probable cause to believe that a crime has been committed and that a particular person or persons committed it.

1 (footnotes omitted).

2 In the instant case, the State presented the following evidence at the grand jury
3 presentation. Neighbors from the apartment complex at 1416 F Street knew for a couple
4 days that Defendant's home had been burglarized and he wanted his money back. On
5 Thursday, June 14, 2012, Defendant texted a person in his telephone identified as "J.r"
6 asking for a .380 firearm. On Friday, June 15, 2012, Defendant was asking around about the
7 burglary and was seen by Jimmie Brown talking to Corona through Corona's door in an
8 excited manner. That same day, William Coleman heard Defendant angrily speaking to
9 another neighbor about getting his money back.

10 On Sunday, June 17, Brown and William Coleman observed Defendant banging on
11 Corona's door and window again and demanding to speak with him. Coleman heard him
12 demanding money. Corona called the police that night sometime after 9:00 p.m., and police
13 arrived and then cleared the call at 9:38 p.m. Coleman and Brown both noted that Defendant
14 was not present when police arrived, but came back after police left. When he came back, he
15 began to bang on the door and window again, demanding money. Brown briefly saw this
16 when he peeked out of his door. Loretta Coleman was inside the apartment at the time of the
17 shooting and heard the man demanding money in an angry manner. Based on Brown and
18 William Coleman's information about Defendant banging on the door, it is clear that this
19 man she heard was Defendant. William Coleman told police that Defendant continued
20 banging and demanding money for about 10 minutes, and then Coleman heard a gunshot.
21 Coleman looked outside after hearing the gunshot, and he saw Defendant flee to Defendant's
22 girlfriend's black Dodge Neon, get in the driver's seat, and drive away at a high rate of
23 speed. Loretta Coleman heard one or two bangs, and then saw Corona fall to the floor.

24 Police responded and found a .380 cartridge case outside Corona's door. Based on
25 speaking to William Coleman, they identified Defendant as the suspect. Texts were later
26 found on Defendant's telephone showing that he was seeking a .380 firearm a few days
27 before the murder.
28

1 Defendant never returned home that night and neighbors did not see him again, even
2 when his girlfriend moved out of the apartment with their two children a couple days later.

3 It is clear that the State met its burden at the preliminary hearing stage in the instant
4 case.

5 **II. ALTHOUGH THE STATE NEED NOT PROVE MOTIVE, EVIDENCE OF**
6 **DEFENDANT'S MOTIVE WAS PRESENTED AT THE PRELIMINARY HEARING.**

7 In his Petition, the Defendant complains that the State did not show motive on Defendant's
8 behalf. As counsel is no doubt aware, the State need not prove motive to prove the crime of
9 murder was committed, as it is not an element of the crime. Richmond v. State, 118 Nev.
10 924, 942, 59 P.3d 1249, 1261 (2002). Nevertheless, there was evidence of motive presented
11 at the Preliminary Hearing, and it may be considered for identity. Jimmie Brown testified
12 that on the Friday before Corona was killed the Defendant told him that someone broke into
13 his apartment and broke and stole his items, and he was trying to find out who did it. He
14 later saw Defendant at Corona's door throwing his hands up in the air in an excited manner.
15 William Coleman testified that that same day, he heard Defendant telling another neighbor
16 that he was going to get his money back, and that Defendant was upset when he said it.
17 Then on the day of Corona's death two days later, Brown and William Coleman both saw
18 Defendant outside of Corona's apartment demanding to speak to him, then police arrived,
19 then Defendant returned and banged on Corona's door more. Loretta Coleman, who was
20 inside, said that the person who was banging on the door was demanding money in an angry
21 manner.

22 **III. THE BINDOVER WAS BASED ON LEGALLY ADMISSIBLE EVIDENCE.**

23 In his Petition, Defendant also complains that "hearsay cannot support the bindover",
24 however, he fails to identify the portions of the preliminary hearing transcript about which
25 he complains. (PWHC p. 13). In the instant case, any hearsay that was admitted was done
26 pursuant to a valid hearsay exception. The prior inconsistent statements that were admitted
27 were all admitted in accordance with statutes and caselaw. Although Defendant complains
28 that the State should be not able to admit the statements in the manner in which the State did

1 in this case, and Defendant cites caselaw from other jurisdictions to support his complaint,
2 he still comes to the conclusion that the law is on the side of the State in Nevada. In
3 Crowley v. State, 120 Nev. 30, 83 P.3d 282 (2004), the Court explained the law regarding
4 the admissibility of prior inconsistent statements in Nevada:

5 NRS 51.035 defines hearsay as "a statement offered in evidence to
6 prove the truth of the matter asserted." Under subsection 2 of that
7 statute, a statement is not hearsay if it is inconsistent with the
8 declarant's testimony and the declarant is "subject to cross-
9 examination concerning the statement." Further, NRS 50.135(2)
10 precludes admission of "[e]xtrinsic evidence of a prior contradictory
11 statement by a witness" unless "[t]he statement fulfills all the
12 conditions required by subsection 3 of NRS 51.035; or ... [t]he
13 witness is afforded an opportunity to explain or deny the statement
14 and the opposite party is afforded an opportunity to interrogate him
15 thereon."

16 We conclude that when a trial witness fails, for whatever reason, to
17 remember a previous statement made by that witness, the failure of
18 recollection constitutes a denial of the prior statement that makes it a
19 prior inconsistent statement pursuant to NRS 51.035(2)(a). The
20 previous statement is not hearsay and may be admitted both
21 substantively and for impeachment.

22 This conclusion is in harmony with our prior decisions. In *Atkins v.*
23 *State*, we held that a witness's failure to recall might be construed as a
24 denial of a prior statement. As such, a district court may admit a prior
25 statement as inconsistent with the presumed lack of memory at trial.
26 The United States Court of Appeals for the Ninth Circuit similarly
27 upheld the admission of a prior inconsistent statement when the
28 witness was allowed at some point to explain or deny the prior
inconsistent statement. Therefore, we conclude the district court
properly admitted Brownfield's testimony.

29 Crowley v. State, 120 Nev. 30, 35, 83 P.3d 282, 286 (2004) (footnotes omitted).

30 In the instant case, William Coleman's statement to the detectives hours after
31 Corona's death became admissible when he was given the chance to explain or deny it and
32 denied memory of having made the statements. Thus, the statement Coleman had made to
33 detectives was admitted substantively and for impeachment on the State's motion.

34 On the other hand, the State did not attempt to admit extrinsic evidence of Jimmie
35 Brown's statements at the pretrial conference, in part, because he agreed with some of the
36 statements that he had made at the pretrial conference, making them no longer inconsistent.
37 For example, he first testified that he saw Defendant talking to Corona through the screen
38

1 door on the day of Corona's death but did not hear anything (PHT p. 39), then later had a
2 cigarette with Defendant (PHT p. 40), and then never saw Defendant again. (PHT p. 40).
3 When given a chance to explain or deny the statements when confronted with the fact that he
4 had said something different during the pretrial conference, he further clarified that he could
5 in fact hear what was happening when he first saw Defendant at Corona's door on June 17,
6 2012, and had heard Defendant banging on Corona's door saying that he wanted to talk to
7 Corona. PHT p. 45-46. Brown also clarified that he did, in fact, see Defendant again after
8 having the cigarette with him when Brown took his dog outside briefly; Defendant was at
9 Corona's door banging on it again and saying they need to talk. PHT p. 47-48. Thus, due to
10 Brown's acceptance of his prior statements, the State did not move to admit evidence of the
11 prior statements had he made.

12 Loretta Coleman's prior statement was admissible in several different manners. First,
13 she had problems remembering statements she made on the night of Corona's death and
14 what happened that night when she testified, thus, making her prior statement admissible as a
15 prior inconsistent statement. Second, the defense attacked her credibility, so some of the
16 statements she made were admissible as prior consistent statements pursuant to NRS
17 51.035(2)(b), which makes admissible statements "[c]onsistent with the declarant's
18 testimony and offered to rebut an express or implied charge against the declarant of recent
19 fabrication or improper influence or motive." Finally, once parts of the statement were
20 admitted, the statement was admissible in whole pursuant to NRS 47.120(1), which states,
21 "[w]hen any part of a writing or recorded statement is introduced by a party, the party may
22 be required at that time to introduce any other part of it which is relevant to the part
23 introduced, and any party may introduce any other relevant parts."

24 //

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28 //

1 **CONCLUSION**

2 Based on the foregoing, the State respectfully asks this Court to deny the Defendant's
3 Petition for Writ of Habeas Corpus.

4 DATED this 26th day of December, 2012.

5 Respectfully submitted,

6 STEVEN B. WOLFSON
7 Clark County District Attorney
8 Nevada Bar # 001565

9 BY /s//NELL E. CHRISTENSEN

10 NELL CHRISTENSEN
11 Chief Deputy District Attorney
12 Nevada Bar #008822

13 **CERTIFICATE OF ELECTRONIC FILING**

14 I hereby certify that service of State's Opposition was made this 26th day of
15 December, 2012, by Electronic Filing to:

16 RANDY PIKE, Special Public Defender
17 E-mail Address: RPike@ClarkCountyNV.gov

18 CHARLES CANO, Special Public Defender
19 E-mail Address: canoca@ClarkCountyNV.gov
20 KFitzger@ClarkCountyNV.gov

21 Shellie Warner
22 Secretary for the District Attorney's Office
23
24
25
26
27

28 mmw/GCU

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LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 1

EVENT #: 120617-4103

SPECIFIC CRIME: HOMICIDE

DATE OCCURRED: 06-17-12

TIME OCCURRED: 2238 HOURS

LOCATION OF OCCURRENCE: 1416 F STREET, #10

CITY OF LAS VEGAS

CLARK COUNTY

NAME OF PERSON GIVING STATEMENT: LORETTA COLEMAN

DOB: 08-16-70

SOCIAL SECURITY #: 552-15-1809

RACE:

SEX:

HEIGHT:

WEIGHT:

HAIR:

EYES:

HOME ADDRESS: 1416 F STREET
APARTMENT 7
LAS VEGAS, NV 89106

PHONE 1: NO PHONE

WORK ADDRESS:

PHONE 2:

The following is the transcription of a tape-recorded interview conducted by DETECTIVE T. IVIE, P#6405, LVMPD HOMICIDE Detail, on 06-18-12 at 0050 hours. Also present is Detective M. Gillis, P#6432.

Q: Operator this is Detective T. Ivie P#6405 I'll be conducting a taped voluntary statement under event #120617-4103. The person giving the statement is a Loretta Coleman, C-O-L-E-M-A-N. Date of birth 8-16 of 1970. Soc of 552-15-1809. She currently resides at 1416 F as in Frank Street, uh, Las Vegas, Nevada 89106 in apartment #7. She has no phone. Today's date is 6-18-2012 at approximately 0050 hours. Other persons present right now is uh, Detective

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EVENT #: 120617-4103
STATEMENT OF: LORETTA COLEMAN

Matt Gillis P#6432. This statement is being conducted in my LVMPD unmarked vehicle in front of uh, 1416 F Street. All right Lor...

A: Loretta.

Q: Loretta.

A: Loretta Mae Coleman.

Q: All right. Ms. Coleman.

A: Yes my identification of knowing what happened.

Q: Yep. That's pretty much what we're gonna ask ya.

A: My knowledge.

Q: There ya go, your knowledge.

A: And my exceeding and my seeing vision.

Q: Okay. You were with Jamie this af...tonight right?

A: We were messin' around and partying as Father's Day.

Q: Uh huh.

A: And we were drinking and I was cleaning up his house and I was decorating and it was just him and I. And we were messin' around um, my clothes might be still in the house. I don't know.

Q: Okay. So you're messin' around...do you...do you remember when the other...

A: And someone banging...banging at the door.

Q: Right. Before that do you remember the cops coming at all?

A: Mm mm.

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Q: No?

A: No.

Q: When...when the cops were leaving they said they saw you. Did you see them?

A: Uh uh.

Q: Okay. That was a couple hours prior to the shooting.

A: No.

Q: Nothing at all? Okay.

A: No.

Q: So let's go into...you were in...in Jamie's apartment right?

A: Uh, yeah I live right...I live right down the street.

Q: Right you live in the same complex right?

A: Right. Mm hmm.

Q: Okay so how long have you known Jamie?

A: Since I moved in.

Q: Which was how...how long?

A: Mm maybe like a month.

Q: Okay. So you're in there with him tonight and someone comes knockin' at the door right?

A: Bang. Wasn't knocking.

Q: Bang like loud banging like...

A: It was not knocking.

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- Q: Like scary banging or what?
- A: Uh huh.
- Q: Okay. Do you ever see who's banging?
- A: No but they called my name.
- Q: They knew who you were?
- A: A lot of people know who I am but I don't know.
- Q: But whoever...whoever this was tonight knew who...knew your name?
- A: Yes.
- Q: And what do you go by?
- A: Loretta.
- Q: Okay. And do you know if this guy was white, black, Hispanic?
- A: Um, I'm not exactly sure because I did not see who exactly it was.
- Q: Mm hmm.
- A: But Jamie has quite a bit of fun.
- Q: Okay. If you had to guess uh, if you had to guess who it was by their voice...
- A: I have no idea. No name, no color...
- Q: Okay.
- A: No nothing. I just know there's people that know me as Loretta.
- Q: Okay. So...
- A: And they know that I go over there.
- Q: So people...people are banging on the door or pers...a person.

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- A: That person was banging at the door.
- Q: Do you know if there was more than one?
- A: With five dollars owed to him.
- Q: Okay so he's...this person is saying... first of all is it a male or female at the door?
- A: It was a man.
- Q: It was definitely a man.
- A: Yeah dude.
- Q: Okay. So... and how do you know he's wanting Jamie to pay \$5?
- A: He kept yelling it at the window.
- Q: What was he saying?
- A: He owes him \$5.
- Q: Like you owe me mother fucker \$5? What was he saying?
- A: I... several names.
- Q: Okay. And what else is he saying besides that he owes him \$5?
- A: That was about it.
- Q: Okay. Did he say Loretta I know you're in there or anything like that?
- A: Uh, I heard my name but I didn't hear anything else.
- Q: Okay what is. When you guys...
- A: I just know he was mad at Jamie.
- Q: Okay so he's hot...whoever it was was mad at Jamie...
- A: I know he...I...

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Q: ...for owing him money.

A: ...yes very mad at Jamie.

Q: Okay.

A: But then I...I...I supposedly heard Jamie mention about some guy he...his brother owed too. So I don't know exactly how much the amount was.

Q: Uh huh.

A: But at the time where I was at Jamie's house it was \$5 that Jamie owed.

Q: So tonight...

A: And someone had to do the same thing to his brother.

Q: So tonight the person whoever came knocking wanted Jamie to pay \$5?

A: Yes. It was only five bucks.

Q: Okay. Now...

A: That's what he mentioned.

Q: ...does Jamie open the door?

A: And that's when I saw...'cause I was drinking and we were messing around...

Q: Right.

A: ...so I kinda pass out 'cause we were messin' around and I pass out on the floor or the couch or I...I don't know...I kind of pass out.

Q: Mm hmm.

A: Either way I passed out for a couch and I woke up but I...I...I knew he opened the door for some...my conscience knew he opened up the door.

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Q: Mm hmm.

A: And I heard a bang and he fell on the floor.

Q: All right. How many...how many bangs did you hear? Just the one?

A: Uh, two.

Q: Okay so you heard two bangs.

A: Yes.

Q: And what'd you think those were? Do you know? Did you think they were gunshots?

A: I thought...I thought they were towards me 'cause I have blood on me too.

Q: You have blood on you?

A: Yes.

Q: But you're not hurt or anything right?

A: I wasn't paying attention.

Q: But you're not shot right? Or you don't know.

A: No. I don't even know.

Q: Okay.

A: But I'm not...I...I mean I'm...my leg is bleeding but that's...I was too busy looking at him and I...I don't feel nothin' bad. I don't feel anything hurt but I was too busy with him.

Q: Okay after...after you see Jamie fall on the ground...

A: The guy must've ran and took off.

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Q: Do you know which way he ran?

A: No. I never seen nothin'. I told him not to answer the door and I said don't worry about it. But he answered it anyway.

Q: Was Jamie upset when he answered the door?

A: No.

Q: Was he...was he...did he argue with the guy?

A: No 'cause he was messin' around with me and so he wasn't upset at all. He was just...

Q: He wanted to get whoever to move along right?

A: Yeah he wanted him to leave.

Q: Did he tell him that?

A: _____ yeah.

Q: Did he scream at him or what was he doing?

A: Oh yeah he tell...he was yelling at him through the door and the window...

Q: What was he saying?

A: ...and the walls.

Q: What was he saying?

A: Tellin' him to leave.

Q: In a nice way or like mother fucker move along?

A: He was telling him in a nice way but he kept bangin' at the window.

Q: The guy outside.

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- A: Right. And then that's when he got upset.
- Q: Okay so he...he opens the door.
- A: And then I told him to get away from the window 'cause the window...'cause it seemed like he was gonna break the window like bangin'...
- Q: Like beatin' on it.
- A: Like...like he could've busted it or something.
- Q: Okay so he goes to the door. Do you know if the...the door to Jamie's apartment...
- A: And I heard...and I heard too...I heard too like bam, bam. I...I...it was like...it's like a...a screen door slamming twice.
- Q: Okay.
- A: That's like the...
- Q: But you didn't know if they were gunshots or not though right?
- A: Well no.
- Q: Not at the time.
- A: Yeah.
- Q: You know now?
- A: N...um, sorta yeah.
- Q: Okay. Kinda drew your own conclusions okay. So Jamie opens the door. Do you know if there's a screen door and a...and...
- A: Yeah there is.

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Q: There is like a security gate? But do you know if he ever opens the security gate?

A: Well I don't even know if the guy lives here or...I don't even know if the guy lives on property. I don't know if the guy lives on property or he climbed the gate.

Q: Okay.

A: And...you know what I mean?

Q: No.

A: I have no clue if he cl...

Q: Do you know if Jamie opened both the door and the security door?

A: I don't think he...

Q: To the apartment?

A: ...locked the screen door.

Q: Okay. Now do you know a black male who runs around here with the...

A: Most...most of the time...most of the time he locks the screen door.

Q: Okay. Do you know a...a black...about a black guy that...around here that carries a 9mm that everybody knows about?

A: No.

Q: Okay.

A: Never seen it. I've heard about it sorta kinda.

Q: What apartments he livin' in? That guy?

A: Me?

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Q: No. The guy w...that you heard about with the gun.

A: I have no idea. I never knew he live...I mean I...he can live anywhere.

Q: Oh I know that.

A: I don't know. I just heard about it.

Q: Okay.

A: Like I heard that...I heard people...I heard a person that was a dark man that was real sick and he had like a disease and don't mess around with him. And then I heard a person that uh, that has rifles and uh, bunch of kids and then uh, a wife that was uh, just...

Q: All right.

A: I used to live over here like ni...like five, six years.

Q: Okay.

A: So I'm just getting...I'm just learning all sorts of things.

Q: New stuff right?

A: Yeah.

Q: Since you've been gone. All right so he op...Jamie opens the door, he gets shot...falls back. Do you ever see anything? Anybody running? Anything like that?

A: No.

Q: You don't know where anybody went?

A: No. I...

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- Q: What'd you do after Jamie fell on the ground?
- A: I jump....I....I like wake up, wake up, wake up.
- Q: Did you try and do CPR or anything?
- A: No. My brother kept yelling at...my family kept yelling at me...everybody kept yelling at me.
- Q: Who...who all came in the apartment after the shooting?
- A: Everybody.
- Q: Who's everybody? Name some names.
- A: Alton...Alton...
- Q: Alton came in the apartment?
- A: Yeah Alton kept yelling at me and yet they were yelling at me, "Leave him alone, leave him alone. He's gone, he's gone, he's gone." And I'm like...
- Q: Okay.
- A: "Jamie get up. Jamie get up."
- Q: Do you know who called 911? Did you call 911?
- A: Uh, no. Jamie called 911.
- Q: Right. When did he call 911?
- A: He kept calling it two times.
- Q: Before...before the shooting?
- A: Yep.
- Q: Right before the shooting?

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- A: Yep.
- Q: Okay. Do you know if anybody here took anything from inside the apartment?
- A: I...um, I was decorating...I was...I cleaned up the whole...I was...we were drinking and we were partying and we were talking and everything like that. We were dancing. I cleaned up the whole apartment, put a tablecloth on the...on the table. And then I was taking...I was bringing uh, well I was gonna fix some dinner and then we were cleaning and stuff and I brought a bunch of stuff over.
- Q: Okay.
- A: And I was decorating his house. So my stuff is over there for decorating things.
- Q: Did you stay...did you stay in the apartment 'til the cops got here or did you end up...where did...where were you at when the cops got here?
- A: Uh, the cop pulled me out over here...
- Q: Okay.
- A: ...and I stood over there for like...
- Q: Sat over there.
- A: Well I didn't sit I mean...
- Q: Do you have a phone number at all?
- A: We were messin' around...we were messin' around round.
- Q: Right. Do you have a floor nu...phone number or anything?
- A: No. Someone stole my phone.
- Q: Okay but you're living here right?

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A: Yeah.

Q: Who do you live with?

A: Just me.

Q: Just you?

A: My puppy.

Q: Okay.

A: But everybody kept yelling at me telling me to leave him alone.

Q: Okay.

A: And I kept going like this, "Get up, get up, get up, get up, get up."

Q: Besides you did anybody else touch Jamie?

A: No. But we were messin' around.

Q: I understand that.

A: I'm not crap.

Q: Detective Gillis do you have anything?

MG(MATT GILLIS): Yeah. When did you uh, get here yesterday?

A: Not yesterday.

MG: Well it's after midnight so...

A: Last night...I don't know.

MG: Were you uh, were you here when the...when the police came over earlier today?

Q: The first time?

A: No that's...no I mean I was here yes but I didn't see them.

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Q: You were here at the apartment?

A: Yeah I was here.

Q: You were in the apartment complex but you weren't at Jamie's apartment.

A: Right. Because they were here a couple days ago too.

Q: Mm hmm.

MG: Who...who was here?

A: A police officer was here like...they were like here...this is the...today is the third time a police officer has been here.

MG: Okay let's start with the first one. When...when did the police come here the first time?

A: Uh, someone broke and entry at the uh, that corner apartment and stole a bunch of stuff.

MG: Did Jam...did Jamie talk to the police about that?

A: Yes Jamie did talk to the police.

MG: Okay did he see who may have broken into that apartment?

A: I don't know. He didn't tell me.

MG: He didn't say anything about it?

A: Mm mm.

MG: Did you see it?

A: No I didn't see it either.

MG: Okay who's apartment was that?

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A: Um, no one lives there.

MG: It was an empty apartment?

A: It...it's an empty apartment. They were sleeping in the apartment.

MG: Who was sleeping in the apartment?

A: I don't know. Some people. The cops came in...

MG: Maybe um, black male?

A: I don't know. They...they were sleeping in the apartment. It's the...the very...the top apartment and the very, very corner. They was sleeping there and the maintenance got mad and...and took all his stuff out 'cause they were sleeping in it and ripped up the sleeping bag.

Q: Where is the maintenance guy at? Is he living here?

A: He doesn't live here.

Q: He doesn't live on scene?

A: No 'cause we have a new manager.

Q: Okay.

A: 'Cause the one manager I used to have...

Q: Is the manager here during the day? How do you get a hold of them?

A: Uh, I don't know. I don't have their number or nothin'.

Q: Okay.

A: I have the...I have the...I have the landlord's number that's it. But today the police officer came today again.

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MG: Okay.

A: But they've been here three times with officers.

MG: Okay let's go to the second time. When...

A: I did not see the second time.

MG: Okay.

A: I seen the first time when the broken entry they were sleeping up there upstairs
and then what happened just now.

MG: Okay did the police come earlier to the problem in #10?

A: I don't know.

MG: What's that?

A: I'm not sure.

MG: You're not sure.

A: I didn't see.

MG: Who did Jamie owe money too?

A: Um, I don't know. I'm not his wife so I don't really know. I mean we're good
friends.

MG: Okay well he had to have told you like, hey...

A: No Jamie did not tell me anybody he owes anything...we're...we're um...

MG: Did he get in trouble with a girl a couple days ago? Was it yesterday?

A: I'm not sure. Jamie...Jamie's a good-looking person and he's a good dad and
he's a good per...he's a good neighbor and a good person. Um...

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MG: Who would be mad at Jamie?

A: Uh, hi...his brother had passed away supposedly over money so he was very upset. Jamie was very upset and I was trying to calm him down and we're good friends and I've known him for...since we moved in the...since I moved into this apartment and I met him. And we were messing around, you know, like messin' around kissing and French kissing and _____ messin' well, I'm wearing this right? So we're messin' around and then some guy ge...and then the...yes...the other day...yesterday uh, yesterday this guy kept saying hey Loretta but this dark guy...these...these people were yellin' at him and walking back and forth into his house.

MG: What were they yelling at him about?

A: I don't know. I guess money.

MG: Okay what do they look like?

A: Thin...thin people. They were thin guys. They were like real...real thin, tall thin guys.

MG: What color was the skin?

A: Brown, brown people.

MG: Hispanic?

A: No.

MG: Light skin black?

A: Yeah. And they were...they were a...they...they...they know me I guess because

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Jamie had mentioned who I was.

MG: Okay so these people that Jamie...

A: So they know me too.

MG: Okay so these people that Jamie was talking to yesterday and he owed money to
Jamie told them about you.

A: Yeah.

MG: So that very well could possibly be the people that knocked on the door.

A: Right. So I don't know...

MG: Let's...let's get more detail about them.

A: I don't know who they are.

MG: I know that let's...but describe them to me. How tall?

A: Mm like 5'9" 5'10" pretty tiny tall guy.

MG: About how much does he weigh?

A: Does that mean they're after me too?

MG: How much did they weigh?

A: Um, maybe like 164.

MG: Okay uh, tell me about their hair.

A: Mm long but short shaved.

MG: Okay short...

A: I mean it wasn't like this but...

MG: A short afro?

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A: Um, it's like shaved like...

Q: Braided?

A: No not braided.

Q: Corn rows?

A: You know how they got like this...

Q: Like an afro?

A: Right but it's like detailed real nice.

Q: Like a fade?

A: Yeah but it's not like sticking up anywhere it's like that. It's...

MG: Any tattoos?

A: I don't know 'cause every time I seen him he was wearing jeans.

MG: Okay. Any facial hair?

A: I couldn't tell.

MG: Any pock marks like acne scars?

A: He might've had a mustache.

MG: Any...any gold teeth or anything?

A: Mm mm.

Q: How about his eyes?

A: Brown.

MG: Were they normal, cross-eyed?

A: Maybe drinking stoned I'm not sure.

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Q: How old was this guy?

A: Um, he looked like he was in his 20's. Like make 26.

Q: What's he go by on the street?

A: I don't know.

Q: Who would know? Who here would know?

A: I'm not...I'm not sure.

Q: Jamie...Jamie...Jamie's dead okay? We're trying to figure out...

A: I'm not sure.

Q: 'Cause if this guy's the one that killed him we need to find him.

A: I'm not sure.

Q: Okay but everyone here would probably know him right? Know this guy?

A: Maybe. I'm not sure for real.

Q: What's a nickname?

A: Jamie's?

Q: No for uh, this other guy?

A: I have no idea who this guy is, what's his name, what he looks like but he knows my name.

MG: Is Jamie a banger? Does he uh, gang bang?

A: No he's a dad.

Q: What's Jamie go by on the street?

A: Jamie.

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Q: Just Jamie?

A: Yeah he's a dad. But someone had hurt his brother like uh, two weeks ago over money. But Jamie only owed \$5 to this guy right here.

MG: When Jamie...Jamie was owing \$5...

A: 'Cause he said it through the door.

MG: When Jamie was owing the guy \$5 is this about a girl?

A: I don't know.

MG: The \$5?

A: I don't know. I have no i...I have no clue. I know Jamie sometimes he smoked uh, a little bit of weed...a little bit of weed and I know he drinks. And on...

Q: What about rock? Does he let anybody...

A: Once in awhile...

Q: Does...does do rock?

A: No. He smokes a cigarette and I was like freaked out because I had never...I never seen him smoke a cigarette.

Q: Does he let people come in his apartment and sling dope?

A: Not that I know of.

Q: Hm.

A: Not that I know of.

Q: How long has Jamie been living here? Do you know?

A: Um, probably like two years.

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MG: Is the baby mama in the picture at all?

A: I've never seen her.

MG: Does she have a boyfriend?

A: I've never seen her or any...I've never seen her or her boyfriend anything...I just seen...

Q: So they won't know...they wouldn't know your name.

A: Jamie and the baby...

Q: They...they wouldn't have known your name right?

A: The dude? Oh the mother?

Q: Well, his Jamie's girlfriend or...

A: No. I just seen Jamie, the baby and his brother and then some work...work uncle...maybe his uncle. 'Cause I gave him food and stuff but I brought cereal over, milk over, food over, uh, juice over uh, color books all sorts of stuff for the baby.

Q: Does Jamie have lots of black friends or does he mostly stick to Hispanic, white, what?

A: Uh, I've only seen one...I've seen two brown people and the rest Hispanic...Spanish people.

Q: So two...two African Americans right?

A: Yeah.

Q: And do you know those two guys' names?

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- A: Neither one.
- Q: Okay. Do...is e...either one of these guys the same guy that you just described?
- A: Yeah the one I was telling you about that...
- Q: So...
- A: That called my name out two times. He called my name out two times and I've never seen him.
- Q: But that's the same guy that you've seen...
- A: I think that's the same guy that hurt him just now.
- Q: Okay.
- A: That he owes \$5 to.
- Q: But he...he...he'd been in Jamie's apartment before then?
- A: Must've been several times because I don't always go to...I don't always go over there to visit him 'cause I stay home. I...I have a puppy so I'm...I'm with the...
- Q: Who's Jamie's friend in the apartment complex...
- A: Me.
- Q: ...that would know more than you? Anybody else?
- A: Uh, them...they might know.
- Q: They might know?
- A: Yeah.
- Q: They might help out. Was Jamie liked or was he a not nice guy?
- A: No Jamie's a...Jamie has an attitude. He...he does...I mean he's protective about

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his kid...his child.

Q: Mm hmm. But his kid's not there tonight right?

A: No thank God. But he's there every day...every day...every...Jamie raises his baby. Ever since I've lived there he's always been with his dad.

Q: Okay.

A: So I'm not sure.

MG: No more questions.

Q: All right um, operator this concludes...

A: But we were...we were messin' around.

Q: I heard that the first time.

A: And they never fingerprinted or nothing.

Q: All right. Operator this concludes this taped voluntary statement. Again, today's date is uh, 6-18-2012 at approximately 0110 hours.

**THIS VOLUNTARY STATEMENT WAS COMPLETED IN FRONT OF 1416 F STREET
ON THE 18th DAY OF JUNE 2012 AT 0110 HOURS.**

**TI:MG:(NET TRANSCRIPTS)
12V0698**

1133	7027679802	* T.k	06/14/12 20:59:19 (GMT-7)		Read	Inbox	Phone	Incoming	If you would have cum theru the other day i was going to say i need a 3th to day but you dont hit a nigga back whats up with that
1134	7027679802	* T.k	06/14/12 21:04:32 (GMT-7)		Sent	Sent	Phone	Outgoing	My bad bro...my phn died
1135	7027679802	* T.k	06/14/12 21:05:35 (GMT-7)		Sent	Sent	Phone	Outgoing	Nd i didnt have gas 2mk it all da way 2 trop. bro....
1136	7028240579	* Biggz	06/14/12 21:06:41 (GMT-7)		Sent	Sent	Phone	Outgoing	Sup wit it bro...
1137	7028240579	* Biggz	06/14/12 21:10:25 (GMT-7)		Read	Inbox	Phone	Incoming	Who is this
1138	7028240579	* Biggz	06/14/12 21:10:42 (GMT-7)		Sent	Sent	Phone	Outgoing	Jay bro....
1139	7028240579	* Biggz	06/14/12 21:14:42 (GMT-7)		Sent	Sent	Phone	Outgoing	Sup wit da doc fam....
1140	7027710780	* J.r	06/14/12 21:15:52 (GMT-7)		Sent	Sent	Phone	Outgoing	U still got dat 380 bro....
1141	7028240579	* Biggz	06/14/12 21:16:15 (GMT-7)		Read	Inbox	Phone	Incoming	What up
1142	7027710780	* J.r	06/14/12 21:16:25 (GMT-7)		Read	Inbox	Phone	Incoming	Ya i do & i got a 22 fur i need 125 for tho i
1143	7027710780	* J.r	06/14/12 21:17:59 (GMT-7)		Sent	Sent	Phone	Outgoing	U want a buc' nd a quarter for a 22 bro.....man nd wat kind of 22...a revolver???
1144	7028240579	* Biggz	06/14/12 21:18:37 (GMT-7)		Sent	Sent	Phone	Outgoing	Sup wit ya fam....
1145	7027710780	* J.r	06/14/12 21:20:10 (GMT-7)		Read	Inbox	Phone	Incoming	Yea a dillenger there HARD to come across that's we not trippin if noone wants it lol
1146	7027710780	* J.r	06/14/12 21:21:14 (GMT-7)		Sent	Sent	Phone	Outgoing	Send me a pic of da 380 nd da 22....
1147	7027710780	* J.r	06/14/12 21:22:28 (GMT-7)		Read	Inbox	Phone	Incoming	I don't send pics of hammers
1148	7027710780	* J.r	06/14/12 21:25:48 (GMT-7)		Sent	Sent	Phone	Outgoing	Wy@ bro...
			06/14/12						