

CLERK OF THE COURT
Electronically Filed
Oct 15 2013 11:41 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

NOTC
Ross C. Goodman, Esq.
Nevada Bar No. 7722
GOODMAN LAW GROUP
A Professional Corporation
520 S. Fourth Street, Second Floor
Las Vegas, Nevada 89101
Telephone: (702) 383-5088
Facsimile: (702) 385-5088

Attorneys for Defendant
Evaristo Jonathan Garcia

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

EVARISTO JONATHAN GARCIA,

Defendant.

Case No: C262966

Dept. No.: XV

NOTICE OF APPEAL

NOTICE is hereby given that Defendant EVARISTO JONATHAN GARCIA, hereby
appeals to the Supreme Court of the State of Nevada from his sentence on August 15, 2013. The
Judgment of Conviction having been entered on September 11, 2013.

Dated this 11th day of October, 2013.

GOODMAN LAW GROUP,
A PROFESSIONAL CORPORATION

/s/ Ross C. Goodman, Esq.
Ross C. Goodman, Esq.
Nevada Bar No. 7722
Attorney for Defendant Evaristo Garcia

CERTIFICATE OF SERVICE

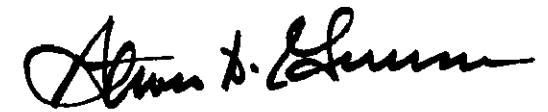
I hereby certify that I am an employee of the GOODMAN LAW GROUP, P.C. and that on the 11th day of October, 2013, I served a true and correct copy of the following **NOTICE OF APPEAL** by:

- ☒ Mail on all parties in said action, by placing a true copy thereof enclosed in a sealed envelope in a designated area for outgoing mail, addressed as set forth below.
- ☐ Personal delivery by causing a true copy thereof to be hand delivered this date to the address(es) at the address(es) set forth below.
- ☐ Courtesy copy by facsimile on the parties in said action by causing a true copy thereof to be telecopied to the number indicated after the address(es) noted below.
- ☐ Federal Express or other overnight delivery

Steven B. Wolfson, Esq.
Clark County District Attorney
Office of the District Attorney
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89101

Evaristo Garcia
#1108072
High Desert State Prison
P.O. Box 650
Indian Springs, Nevada 89070

/s/: Tiffanie Johannes
Employee of Goodman Law Group,
A Professional Corporation



CLERK OF THE COURT

CASA
Ross C. Goodman, Esq.
Nevada Bar No. 7722
GOODMAN LAW GROUP
520 S. Fourth Street, Second Floor
Las Vegas, Nevada 89101
Telephone: (702) 383-5088
Facsimile: (702) 385-5088

Attorneys for Defendant
Evaristo Jonathan Garcia

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

EVARISTO JONATHAN GARCIA,

Defendant.

Case No: C262966

Dept. No.: XV

CASE APPEAL STATEMENT

CASE APPEAL STATEMENT

- | | | |
|------------------------------|---|--|
| 1. Appellant | : | Evaristo Jonathan Garcia |
| 2. Judge | : | Honorable Abbi Silver |
| 3. Parties in District Court | : | <u>State of Nevada v. Evaristo Jonathan Garcia</u> |
| 4. Parties in Appeal | : | <u>Evaristo Jonathan Garcia v. State of Nevada</u> |
| 5. Counsel on Appeal | : | Ross C. Goodman, Esq.
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 383-5088

Steven B. Wolfson, Esq.
District Attorney
200 Lewis Avenue
Las Vegas, Nevada 89101 |

GOODMAN LAW GROUP
A Professional Corporation
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 383-5088

- 1 6. Appellant was represented by Ross C. Goodman, Esq. and Dayvid Figler, Esq. in the
2 District Court.
3
4 7. Appellant is currently represented by Ross C. Goodman, Esq. on appeal.
5
6 8. On August 15, 2013, Defendant Evaristo Jonathan Garcia was sentenced by Honorable
7 Abby Silver. The Judgment of Conviction was entered on September 11, 2013.
8
9 Dated this 11th day of October, 2013.

10
11 GOODMAN LAW GROUP,
12 A PROFESSIONAL CORPORATION

13 /s/: Ross C. Goodman, Esq.
14 Ross C. Goodman, Esq.
15 Nevada Bar No. 7722
16 *Attorney for Defendant Evaristo Garcia*
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CERTIFICATE OF SERVICE

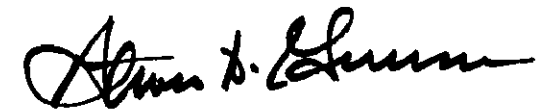
I hereby certify that I am an employee of the GOODMAN LAW GROUP, A Professional Corporation and that on the 11th day of October, 2013, I served a true and correct copy of the following **CASE APPEAL STATEMENT** by:

- ☒ Mail on all parties in said action, by placing a true copy thereof enclosed in a sealed envelope in a designated area for outgoing mail, addressed as set forth below.
- ☐ Personal delivery by causing a true copy thereof to be hand delivered this date to the address(es) at the address(es) set forth below.
- ☐ Courtesy copy by facsimile on the parties in said action by causing a true copy thereof to be telecopied to the number indicated after the address(es) noted below.
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Steven B. Wolfson, Esq.
Clark County District Attorney
Office of the District Attorney
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89101

Evaristo Garcia
#1108072
High Desert State Prison
P.O. Box 650
Indian Springs, Nevada 89070

/s/ Tiffanie Johannes
Employee of Goodman Law Group,
A Professional Corporation



CLERK OF THE COURT

RQST
Ross C. Goodman, Esq.
Nevada Bar No. 7722
GOODMAN LAW GROUP
520 S. Fourth Street, Second Floor
Las Vegas, Nevada 89101
Telephone: (702) 383-5088
Facsimile: (702) 385-5088

Attorneys for Defendant
Evaristo Jonathan Garcia

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

EVARISTO JONATHAN GARCIA,

Defendant.

Case No: C262966

Dept. No.: XV

**REQUEST FOR ROUGH DRAFT
TRANSCRIPT**

TO: Dept. XV Court Reporter; Eighth Judicial District Court

Defendant, EVARISTO JONATHAN GARCIA, hereby requests preparation of rough draft transcript(s) of the court proceedings before this Honorable Court, as follows:

Date(s) of proceeding: September 21, 2010; October 30, 2012, July 8, 2013; July 9, 2013; July 10, 2013; July 11, 2013; July 12, 2013; July 15, 2013; July 16, 2013; August 1, 2013; and August 29, 2013.

Portion(s) of the transcript requested: all portions of the proceedings.

This notice requests rough draft transcript(s) of only those portions of the district court proceedings which counsel reasonably, and in good faith, believes are necessary to determine whether appellate issues are present. Counsel recognizes that a copy of this form must be served upon the above-named court reporter and opposing counsel.

1 That the above named court reporter shall have twenty (20) days from the date of this
2 notice to prepare and submit to the District Court the rough draft transcripts requested herein and
3 supply counsel with a complete copy of the same, at the expense of the State.

4 Dated this 11th day of October, 2013.

5
6
7 GOODMAN LAW GROUP,
A PROFESSIONAL CORPORATION

8
9 /s/: Ross C. Goodman, Esq.
10 Ross C. Goodman, Esq.
Nevada Bar No. 7722
11 *Attorney for Defendant Evaristo Garcia*
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the GOODMAN LAW GROUP, A Professional Corporation, and that on the 11th day of October, 2013, I served a true and correct copy of the following **REQUEST FOR ROUGH DRAFT TRANSCRIPT** by:

- ☒ Mail on all parties in said action, by placing a true copy thereof enclosed in a sealed envelope in a designated area for outgoing mail, addressed as set forth below.
- ☐ Personal delivery by causing a true copy thereof to be hand delivered this date to the address(es) at the address(es) set forth below.
- ☐ Courtesy copy by facsimile on the parties in said action by causing a true copy thereof to be telecopied to the number indicated after the address(es) noted below.
- ☐ Federal Express or other overnight delivery

Dept. XV Court Reporter
Eighth Judicial District Court
200 Lewis Avenue, 11th Floor
Las Vegas, Nevada 89101

/s/: Tiffanie Johannes
Employee of Goodman Law Group,
A Professional Corporation

I further certify that a copy of the same was delivered on the same date to opposing counsel and the Defendant as follows:

Steven B. Wolfson, Esq.
Clark County District Attorney
Office of the District Attorney
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89101

Evaristo Garcia
#1108072
High Desert State Prison
P.O. Box 650
Indian Springs, Nevada 89070

/s/: Tiffanie Johannes
Employee of Goodman Law Group,
A Professional Corporation

DEPARTMENT 15
CASE SUMMARY
CASE NO. 10C262966-1

The State of Nevada vs Evaristo J Garcia

§ Location: **Department 15**
§ Judicial Officer: **Silver, Abbi**
§ Filed on: **03/19/2010**
§ Case Number History:
§ Cross-Reference Case **C262966**
§ Number:
§ Defendant's Scope ID #: **2685822**
§ **1994518**
Lower Court Case Number: **09GJ00047**

CASE INFORMATION

Offense	Deg	Date	Case Type: Felony/Gross Misdemeanor
1. CONSPIRACY TO COMMIT A CRIME	F	01/01/1900	Case Flags: Appealed to Supreme Court
1. CONSPIRACY TO COMMIT MURDER	F	01/01/1900	Custody Status - Nevada
<i>Filed As:</i> MURDER.	F	03/19/2010	Department of Corrections
1. DEGREES OF MURDER	F	01/01/1900	Charge Description Updated
1. FELONY COMMITTED TO PROMOTE ACTIVITIES OF CRIMINAL GANG	F	01/01/1900	
1. FURTHER OR ASSIST A CRIMINAL GANG	F	01/01/1900	
2. MURDER.	F	01/01/1900	
2. DEGREES OF MURDER	F	01/01/1900	
2. FURTHER OR ASSIST A CRIMINAL GANG	F	01/01/1900	
2. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.	F	01/01/1900	
2. FELONY COMMITTED TO PROMOTE ACTIVITIES OF CRIMINAL GANG	F	01/01/1900	
2. CHALLENGES TO FIGHT; FIGHTING OR ACTING AS SECOND WHEN DEATH ENSUES.	F	01/01/1900	
2. SECOND DEGREE MURDER WITH US OF A DEADLY WEAPON	F	02/02/2006	
<i>Filed As:</i> MURDER WITH USE OF A DEADLY WEAPON WITH THE INTENT TO PROMOTE, FURTHER OR ASSIST A CRIMINAL GANG	F	07/08/2013	

Related Cases

10C262966-2 (Multi-Defendant Case)

Statistical Closures

09/09/2013 Jury Trial - Conviction - Criminal

Warrants

Bench Warrant - Garcia, Evaristo J (Judicial Officer: Silver, Abbi)

03/19/2020 Issued

03/26/2010 Quashed

Fine: \$0 Bond: \$0

DATE

CASE ASSIGNMENT

Current Case Assignment




Case Number	10C262966-1
Court	Department 15
Date Assigned	05/03/2011

DEPARTMENT 15
CASE SUMMARY
CASE NO. 10C262966-1
Silver, Abbi

Judicial Officer









PARTY INFORMATION

Defendant	Garcia, Evaristo J	<i>Lead Attorneys</i> Goodman, Ross C. <i>Retained</i> 7023845563(W)
Plaintiff	State of Nevada	Wolfson, Steven B 702-671-2700(W)
Material Witness	Calvillo, Edshel	
Other	Lopez, Manuel A	Maningo, Lance A. <i>Retained</i> 702-734-0400(W)









DATE	EVENTS & ORDERS OF THE COURT	INDEX
03/19/2010	Grand Jury Indictment (11:45 AM) <i>GRAND JURY INDICTMENT Relief Clerk: Shelly Landwehr Reporter/Recorder: Maggie Lambrose Heard By: ELISSA CADISH</i>	
03/19/2010	 Indictment <i>(GRAND JURY) INDICTMENT Fee \$0.00</i>	10C262966-10001.tif pages
03/19/2010	Hearing <i>GRAND JURY INDICTMENT</i>	10C262966-10002.tif pages
03/19/2010	Hearing <i>INITIAL ARRAIGNMENT</i>	10C262966-10003.tif pages
03/19/2010	Bench Warrant <i>NO BAIL BENCH WARRANT ISSUED</i>	10C262966-10004.tif pages
03/19/2010	Order <i>ORDER OF INTENT TO FORFEIT</i>	10C262966-10005.tif pages
03/19/2010	Bench Warrant <i>NO BAIL BENCH WARRANT ISSUED</i>	10C262966-10006.tif pages
03/19/2010	Order <i>ORDER OF INTENT TO FORFEIT</i>	10C262966-10007.tif pages
03/19/2010	 Conversion Case Event Type <i>INDICTMENT WARRANT</i>	10C262966-10008.tif pages
03/19/2010	 Conversion Case Event Type <i>INDICTMENT WARRANT</i>	10C262966-10009.tif pages
03/25/2010	Initial Arraignment (9:00 AM) Events: 03/19/2010 Hearing	

DEPARTMENT 15
CASE SUMMARY
CASE No. 10C262966-1

*INITIAL ARRAIGNMENT Court Clerk: Jennifer Kimmel Reporter/Recorder: JoAnn Orduna
Heard By: Abbi Silver*

03/25/2010	Hearing <i>STATUS CHECK: WRITS (IF ANY)</i>	10C262966- 10010.tif pages
03/25/2010	Plea (Judicial Officer: Silver, Abbi) 1. CONSPIRACY TO COMMIT A CRIME Not Guilty	
03/30/2010	 Motion <i>DEFT'S O.R. RELEASE/BAIL REDUCTION /010</i>	10C262966- 10014.tif pages
04/01/2010	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - GRAND JURY VOLUME 1 HEARING 3/04/10</i>	10C262966- 10015.tif pages
04/01/2010	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - GRAND JURY VOLUME 2 HEARING 3/18/10</i>	10C262966- 10016.tif pages
04/05/2010	 Opposition <i>STATES OPPOSITION TO DEFTS MTN FOR OWN RECOGNIZANCE RELEASE OR IN THE ALTERNATIVE FOR BAIL REDUCTION ALTERNATIVE FOR BAIL REDUCTION</i>	10C262966- 10018.tif pages
04/06/2010	Motion for Own Recognizance Release/Setting Reasonable Bail (9:00 AM) Events: 03/30/2010 Motion <i>DEFT'S O.R. RELEASE/BAIL REDUCTION /010 Court Clerk: Jennifer Kimmel Reporter/Recorder: JoAnn Orduna Heard By: Abbi Silver</i>	
04/06/2010	 Receipt <i>RECEIPT FOR GRAND JURY TRANSCRIPTS - VOLUMES 1-2</i>	10C262966- 10019.tif pages
04/14/2010	 Order <i>ORDER DENYING IN PART AND GRANTING IN PART DEFTS MTN FOR OWN RECOGNIZANCE RELEASE OR IN THE ALTERNATIVE FOR BAIL REDUCTION RELEASE OR IN THE ALTERNATIVE FOR BAIL REDUCTION</i>	10C262966- 10020.tif pages
04/28/2010	 Receipt <i>RECEIPT FOR GRAND JURY TRANSCRIPTS - VOLUMES 1-2</i>	10C262966- 10022.tif pages
04/30/2010	 Petition <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /011</i>	10C262966- 10021.tif pages
05/04/2010	 Motion <i>DEFT'S MTN TO SEVER TRIALS/012</i>	10C262966- 10023.tif pages
05/04/2010	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 10C262966_0001</i>	10C262966- 10024.tif pages
05/04/2010		10C262966-

DEPARTMENT 15
CASE SUMMARY
CASE NO. 10C262966-1

	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 10C262966_0001</i>	<i>10025.tif pages</i>
05/14/2010	 Order <i>ORDER - RELATED PARTYID: 10C262966_0001</i>	<i>10C262966-10026.tif pages</i>
05/18/2010	 Writ <i>WRIT OF HABEAS CORPUS - RELATED PARTYID: 10C262966_0001</i>	<i>10C262966-10027.tif pages</i>
05/18/2010	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 10C262966_0001</i>	<i>10C262966-10028.tif pages</i>
05/18/2010	 Writ <i>RETURN TO WRIT OF HABEAS CORPUS</i>	<i>10C262966-10029.tif pages</i>
05/18/2010	 Opposition <i>STATES OPPOSITION TO DEFTS MTN TO SEVER TRIALS</i>	<i>10C262966-10030.tif pages</i>
05/25/2010	Status Check (9:00 AM) Events: 03/25/2010 Hearing <i>STATUS CHECK: WRITS (IF ANY)</i>	
05/25/2010	Petition for Writ of Habeas Corpus (9:00 AM) Events: 04/30/2010 Petition <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /011</i>	
05/25/2010	Motion to Sever (9:00 AM) Events: 05/04/2010 Motion <i>DEFT'S MTN TO SEVER TRIALS/012 Heard By: Abbi Silver</i>	
05/25/2010	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS - 5/25/10 Court Clerk: Jennifer Kimmel Reporter/Recorder: Renee Silvaggio Heard By: Abbi Silver</i>	
05/25/2010	Motion <i>ALL PENDING MOTIONS - 5/25/10</i>	<i>10C262966-10031.tif pages</i>
05/25/2010	Motion <i>DEFT'S MTN TO SEVER TRIALS/012</i>	<i>10C262966-10032.tif pages</i>
05/28/2010	 Certificate <i>CERTIFICATE OF MAILING - RELATED PARTYID: 10C262966_0001</i>	<i>10C262966-10033.tif pages</i>
06/02/2010	 Order <i>ORDER DENYING DEFTS PETITION FOR WRIT OF HABEAS CORPUS</i>	<i>10C262966-10034.tif pages</i>
06/04/2010	 Petition <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /015</i>	<i>10C262966-10035.tif pages</i>
06/16/2010	 Writ	<i>10C262966-10036.tif pages</i>

DEPARTMENT 15
CASE SUMMARY
CASE NO. 10C262966-1






RETURN TO WRIT OF HABEAS CORPUS

06/22/2010	Petition for Writ of Habeas Corpus (9:00 AM) Events: 06/04/2010 Petition <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /015 Court Clerk: Jennifer Kimmel Reporter/Recorder: Renee Silvaggio Heard By: Abbi Silver</i>
08/25/2010	 Motion in Limine Filed By: Defendant Garcia, Evaristo J <i>Motion in Limine to Preclude Admission of Photographs</i>
08/25/2010	 Motion for Discovery Filed By: Defendant Garcia, Evaristo J
08/25/2010	 Motion to Compel Filed By: Defendant Garcia, Evaristo J <i>Motion to Compel Disclosure of Existence and Substance of Expectations, Or Actual Receipt of Benefits or Preferential Treatment for Co-operation With Prosecution</i>
08/25/2010	 Motion Filed By: Defendant Garcia, Evaristo J <i>Motion to Federalize All Motions, Objections, Requests and Other Applications</i>
08/25/2010	 Motion Filed By: Defendant Garcia, Evaristo J <i>Motion to Exlude Other Bad Acts, Character Evidence, and Irrelevant Prior Criminal Activity</i>
08/25/2010	 Motion Filed By: Defendant Garcia, Evaristo J <i>Motion to Allow Jury Questionnaire</i>
08/25/2010	 Motion Filed By: Defendant Garcia, Evaristo J <i>Motion to Bar Improper Prosecutorial Argument</i>
08/25/2010	 Motion Filed By: Defendant Garcia, Evaristo J <i>Motion to Allow Defendant's IQ Assessment To Be Utilized At Time Of Trial</i>
08/27/2010	 Receipt of Copy Filed by: Defendant Garcia, Evaristo J
08/30/2010	 Opposition Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Motion to Exclude other Bad Acts, Character Evidence, and Irrelevant Prior Criminal Activity</i>
08/30/2010	 Opposition Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Motion in Limine to Preclude Admission of Photographs</i>
08/30/2010	 Opposition Filed By: Plaintiff State of Nevada <i>State's Opposition to Motion to Bar Improper Prosecutorial</i>












DEPARTMENT 15
CASE SUMMARY
CASE NO. 10C262966-1

08/30/2010	 Opposition Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Motion Federalize all Motions, Objections, Requests and Other Application</i>
08/30/2010	 Response Filed by: Plaintiff State of Nevada <i>State's Response to Defendant's Motion to Allow Jury Questionnaire</i>
08/30/2010	 Response Filed by: Plaintiff State of Nevada <i>State's Response to Defendant's Motion to Allow Defendant's IQ Assessment to be Utilized at Time of Trial</i>
08/30/2010	 Response Filed by: Plaintiff State of Nevada <i>State's Response to Defendant's Motion for Discovery and Motion to Compel Disclosure of Existence and Substance of Expectations, or Actual Receipt of Benefits or Preferential Treatment for Cooperation with Prosecution</i>
08/30/2010	 Motion Filed By: Plaintiff State of Nevada <i>Notice of Motion and Motion for Reciprocal Discovery</i>
08/31/2010	CANCELED Motion to Sever (9:00 AM) <i>Vacated - per Clerk</i> <i>CASE DISMISSED 5/25/10</i>
08/31/2010	 All Pending Motions (9:00 AM) (Judicial Officer: Silver, Abbi) <i>Deft. Garcia's Motion to Sever Trials...Deft. Garcia's Motion in Limine to Preclude Admission of Photographs...Deft. Garcia's Motion for Discovery...Motion to Compel Disclosure of Existence and Substance of Expectations, Or Actual Receipt of Benefits or Preferential Treatment for Co-operation With Prosecution...Motion to Federalize All Motions, Objections, Requests and Other Applications...Motion to Exclude Other Bad Acts, Character Evidence, and Irrelevant Prior Criminal Activity...Motion to Allow Jury Questionnaire...Motion to Bar Improper Prosecutorial Argument...Motion to Allow Defendant's IQ Assessment To Be Utilized At Time Of Trial</i>
09/21/2010	Motion to Sever (9:00 AM) (Judicial Officer: Silver, Abbi) <i>Motion to Sever (Motion set per minutes of 5/25/10)</i>
09/21/2010	Motion in Limine (9:00 AM) (Judicial Officer: Silver, Abbi) Events: 08/25/2010 Motion in Limine <i>Motion in Limine to Preclude Admission of Photographs</i>
09/21/2010	Motion for Discovery (9:00 AM) (Judicial Officer: Silver, Abbi) Events: 08/25/2010 Motion for Discovery
09/21/2010	Motion to Compel (9:00 AM) (Judicial Officer: Silver, Abbi) Events: 08/25/2010 Motion to Compel <i>Motion to Compel Disclosure of Existence and Substance of Expectations, Or Actual Receipt of Benefits or Preferential Treatment for Co-operation With Prosecution</i>
09/21/2010	Motion (9:00 AM) (Judicial Officer: Silver, Abbi) Events: 08/25/2010 Motion <i>Motion to Federalize All Motions, Objections, Requests and Other Applications</i>
09/21/2010	Motion (9:00 AM) (Judicial Officer: Silver, Abbi) Events: 08/25/2010 Motion

DEPARTMENT 15
CASE SUMMARY
CASE NO. 10C262966-1

	<i>Motion to Exclude Other Bad Acts, Character Evidence, and Irrelevant Prior Criminal Activity</i>
09/21/2010	Motion (9:00 AM) (Judicial Officer: Silver, Abbi) Events: 08/25/2010 Motion <i>Motion to Allow Jury Questionnaire</i>
09/21/2010	Motion (9:00 AM) (Judicial Officer: Silver, Abbi) Events: 08/25/2010 Motion <i>Motion to Bar Improper Prosecutorial Argument</i>
09/21/2010	Motion (9:00 AM) (Judicial Officer: Silver, Abbi) Events: 08/25/2010 Motion <i>Motion to Allow Defendant's IQ Assessment To Be Utilized At Time Of Trial</i>
09/21/2010	Motion (9:00 AM) (Judicial Officer: Silver, Abbi) Events: 08/30/2010 Motion <i>Notice of Motion and Motion for Reciprocal Discovery</i>
09/21/2010	 All Pending Motions (9:00 AM) (Judicial Officer: Silver, Abbi) <i>Motion to Sever (Motion set per minutes of 5/25/10), Motion in Limine to Preclude Admission of Photographs, Deft's Motion for Discovery, Motion to Compel Disclosure of Existence and Substance of Expectations, Or Actual Receipt of Benefits or Preferential Treatment for Cooperation With Prosecution, Motion to Federalize All Motions, Objections, Requests and Other Applications, Motion to Exclude Other Bad Acts, Character Evidence, and Irrelevant Prior Criminal Activity, Motion to Allow Jury Questionnaire, Motion to Bar Improper Prosecutorial Argument, Motion to Allow Defendant's IQ Assessment To Be Utilized At Time Of Trial and Notice of Motion and Motion for Reciprocal Discovery</i>
10/12/2010	 Status Check (9:00 AM) (Judicial Officer: Silver, Abbi) 10/12/2010, 02/10/2011, 02/17/2011, 02/24/2011 <i>Status Check: Jury Questionnaire</i>
10/18/2010	 Reporters Transcript Filed By: Plaintiff State of Nevada <i>of Proceedings - September 21, 2010</i>
11/04/2010	CANCELED Calendar Call (9:00 AM) <i>Vacated - per Judge</i> RESET
11/04/2010	CANCELED Calendar Call (9:00 AM) (Judicial Officer: Silver, Abbi) <i>Vacated - per Judge</i> RESET
11/08/2010	CANCELED Jury Trial (10:00 AM) (Judicial Officer: Silver, Abbi) <i>Vacated - per Clerk</i> RESET
11/08/2010	CANCELED Jury Trial (10:00 AM) (Judicial Officer: Silver, Abbi) <i>Vacated - per Judge</i> RESET
01/05/2011	 Motion Filed By: Defendant Garcia, Evaristo J <i>Motion for Reasonable Bail</i>
01/07/2011	 Opposition <i>State's Opposition to Defendant's Motion for Reasonable Bail</i>

DEPARTMENT 15
CASE SUMMARY
CASE NO. 10C262966-1

01/11/2011	CANCELED Status Check (9:00 AM) (Judicial Officer: Silver, Abbi) <i>Vacated - On in Error</i>
01/11/2011	 Motion (9:00 AM) (Judicial Officer: Silver, Abbi) <i>Motion for Reasonable Bail</i>
02/10/2011	 All Pending Motions (9:00 AM) (Judicial Officer: Bare, Rob) <i>Status Check: Jury Questionnaire (Both Defts.)</i>
02/24/2011	 Notice of Witnesses and/or Expert Witnesses <i>Notice of Expert Witnesses</i>
02/24/2011	 Notice of Witnesses and/or Expert Witnesses <i>Notice of Witnesses</i>
02/25/2011	 Notice of Expert Witnesses <i>Notice of Defendant's Expert Witnesses</i>
03/03/2011	 Status Check (9:00 AM) (Judicial Officer: Silver, Abbi) <i>Status Check: Negotiations</i>
03/03/2011	 Stipulation and Order <i>Stipulation and Order Waiving Separate Penalty Hearing</i>
03/16/2011	 Notice of Witnesses and/or Expert Witnesses <i>Amended Notice of Expert Witness</i>
03/16/2011	 Notice of Witnesses and/or Expert Witnesses <i>Notice of Witnesses</i>
03/17/2011	 Calendar Call (9:00 AM) (Judicial Officer: Silver, Abbi)
03/17/2011	 Amended Indictment
03/17/2011	Guilty Plea Agreement
03/17/2011	Disposition (Judicial Officer: Silver, Abbi) 1. CONSPIRACY TO COMMIT A CRIME Charges Amended/Dropped 1. DEGREES OF MURDER Charges Amended/Dropped 1. FELONY COMMITTED TO PROMOTE ACTIVITIES OF CRIMINAL GANG Charges Amended/Dropped 1. FURTHER OR ASSIST A CRIMINAL GANG Charges Amended/Dropped 2. MURDER. Charges Amended/Dropped 2. DEGREES OF MURDER Charges Amended/Dropped 2. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Charges Amended/Dropped 2. FELONY COMMITTED TO PROMOTE ACTIVITIES OF CRIMINAL GANG Charges Amended/Dropped 2. FURTHER OR ASSIST A CRIMINAL GANG Charges Amended/Dropped

DEPARTMENT 15
CASE SUMMARY
CASE NO. 10C262966-1

	2. CHALLENGES TO FIGHT; FIGHTING OR ACTING AS SECOND WHEN DEATH ENSUES. Charges Amended/Dropped
03/17/2011	Plea (Judicial Officer: Silver, Abbi) 1. CONSPIRACY TO COMMIT MURDER Not Guilty 2. SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON Not Guilty
03/21/2011	CANCELED Jury Trial (10:00 AM) (Judicial Officer: Silver, Abbi) <i>Vacated - per Judge</i>
03/21/2011	CANCELED Jury Trial (1:00 PM) (Judicial Officer: Silver, Abbi) <i>Vacated - per Judge</i>
04/21/2011	 Notice <i>Notice of Special Appearance on Behalf of Defendant Evaristo Jonathan Garcia</i>
04/22/2011	 Motion to Withdraw Plea Filed By: Defendant Garcia, Evaristo J
04/26/2011	 Receipt of Copy <i>Receipt of Copy</i>
05/03/2011	 Motion to Withdraw Plea (9:00 AM) (Judicial Officer: Silver, Abbi) 05/03/2011, 05/12/2011 Events: 04/22/2011 Motion to Withdraw Plea <i>Presentence Motion to Withdraw Guilty Plea</i>
05/04/2011	 PSI <i>PSI Dated 05/04/11; with notes</i>
05/12/2011	Sentencing (9:00 AM) (Judicial Officer: Silver, Abbi)
05/12/2011	Status Check (9:00 AM) (Judicial Officer: Silver, Abbi) <i>Status Check: Reset Sentencing</i>
05/12/2011	 All Pending Motions (9:00 AM) (Judicial Officer: Silver, Abbi) <i>Sentencing, Status Check: Reset Sentencing and Deft's Presentence Motion to Withdraw Guilty Plea</i>
05/19/2011	 Status Check (9:00 AM) (Judicial Officer: Silver, Abbi) <i>Status Check: Reset Trial</i>
05/24/2011	 Opposition to Motion <i>State's Opposition to Defendant's Presentence Motion to Withdraw Guilty Plea</i>
02/21/2012	 Status Check (9:00 AM) (Judicial Officer: Bare, Rob) <i>Status Check: Reset Calendar Call</i>
02/23/2012	 Substitution of Attorney <i>Substitution of Counsel</i>
03/05/2012	 Ex Parte

DEPARTMENT 15
CASE SUMMARY
CASE NO. 10C262966-1

Ex Parte Motion for Appointment of Expert Services and For Payment of Fees Incurred Herein

03/15/2012	 Motion for Appointment <i>Motion for Appointment of Expert Services and for Payment of Fees on Order Shortening Time</i>
03/19/2012	 Motion for Appointment <i>Motion for Appointment of an Investigator and for Payment of Fees on Order Shortening Time</i>
03/22/2012	 Certificate of Mailing <i>Ex-Parte Motion for Appointment of Expert Services and for Payment of Fees Incurred Herein</i>
03/22/2012	 Certificate of Mailing <i>Certificarte of Service</i>
03/22/2012	 Certificate of Mailing <i>Certificate of Service</i>
03/27/2012	Motion (9:00 AM) (Judicial Officer: Silver, Abbi) <i>Motion for Appointment of Expert Services and for Payment of Fees on Order Shortening Time</i>
03/27/2012	Motion for Appointment (9:00 AM) (Judicial Officer: Silver, Abbi)
03/27/2012	 All Pending Motions (9:00 AM) (Judicial Officer: Silver, Abbi)
03/29/2012	 Notice of Entry of Order <i>Notice of Entry of Order</i>
03/30/2012	 Order <i>Order Granting Motion for Appointment of an Investigator and for Payment of Fees on Order Shortening Time</i>
04/02/2012	 Notice of Entry of Order <i>Notice of Entry of Order</i>
04/04/2012	 Order <i>Order Granting Motion for Appointment of Expert Services and for Payment of Fees on Order Shortening Time</i>
04/05/2012	 Notice of Entry of Order <i>Notice of Entry of Order</i>
04/26/2012	 Calendar Call (9:00 AM) (Judicial Officer: Silver, Abbi)
05/07/2012	CANCELED Jury Trial (1:00 PM) (Judicial Officer: Silver, Abbi) <i>Vacated - per Judge</i> <i>Reset</i>
06/22/2012	 Motion to Compel <i>Motion to Compel Fingerprint Evidence Pursuant to NRS 174.235</i>
06/25/2012	 Certificate of Service <i>Certificate of Service</i>

















DEPARTMENT 15
CASE SUMMARY
CASE NO. 10C262966-1

07/05/2012	 Motion for Appointment <i>Motion for Appointment of an Investigator and for Payment of Fees on Order Shortening Time</i>
07/05/2012	 Receipt of Copy <i>Receipt of Copy</i>
07/10/2012	 Motion to Compel (9:00 AM) (Judicial Officer: Silver, Abbi) <i>Motion to Compel Fingerprint Evidence Pursuant to NRS 174.235</i>
07/10/2012	Motion for Appointment (9:00 AM) (Judicial Officer: Silver, Abbi)
07/10/2012	 Stipulation and Order Filed by: Defendant Garcia, Evaristo J <i>Stipulation and Order for Release of Fingerprint Evidence</i>
07/13/2012	 Notice of Entry <i>Notice of Entry of Stipulation and Order for Release of Fingerprint Evidence</i>
07/17/2012	 Notice of Entry of Order <i>Notice of Entry of Order Granting Motion for Appointment of an Investigator and for Payment of Fees on Order Shortening Time</i>
07/17/2012	 Order Granting <i>Order Granting Motion for Appointment of an Investigator and for Payment of Fees on Order Shortening Time</i>
09/11/2012	 Motion to Continue <i>Defendant's Motion to Continue Trial on Order Shortening Time</i>
09/11/2012	 Receipt of Copy <i>Receipt of Copy</i>
09/13/2012	Calendar Call (9:00 AM) (Judicial Officer: Silver, Abbi)
09/13/2012	Motion to Continue Trial (9:00 AM) (Judicial Officer: Silver, Abbi) <i>Defendant's Motion to Continue Trial on Order Shortening Time</i>
09/13/2012	 All Pending Motions (9:00 AM) (Judicial Officer: Silver, Abbi) <i>Defendant's Motion to Continue Trial on Order Shortening Time and Calendar Call</i>
09/17/2012	CANCELED Jury Trial (1:00 PM) (Judicial Officer: Silver, Abbi) <i>Vacated - per Judge</i>
09/25/2012	 Motion to Suppress <i>Motion to Suppress In-Court Identification Pursuant to NRS 174.125(1)</i>
09/27/2012	 Motion <i>Motion for Evidentiary Hearing to Determine Competency of State's Primary Witness and Order Compelling Production of Medical Records and Psychological Examination and Testing to Determine Extent of Memory Loss</i>
09/28/2012	 Receipt of Copy <i>Receipt of Copy</i>










DEPARTMENT 15
CASE SUMMARY
CASE NO. 10C262966-1

10/02/2012	 Receipt of Copy <i>Receipt of Copy</i>
10/04/2012	 Opposition <i>State's Opposition to Defendant's Motion to Suppress In-Court Identification Pursuant to NRS 174.215(1)</i>
10/08/2012	 Reply <i>Reply in Support of Motion to Suppress In-Court Identification Pursuant to NRS 174.125(1)</i>
10/23/2012	 Opposition Filed By: Plaintiff State of Nevada <i>Opposition to Defendant's Motion For Evidentiary Hearing To Determine Competency Of State's Primary Witness And Order Compelling Medical Records And Psychological Examination And Testing To Determine Memory Loss</i>
10/30/2012	Motion to Suppress (9:00 AM) (Judicial Officer: Silver, Abbi) Events: 09/25/2012 Motion to Suppress <i>Motion to Suppress In-Court Identification Pursuant to NRS 174.125(1)</i>
10/30/2012	Motion (9:00 AM) (Judicial Officer: Silver, Abbi) <i>Motion for Evidentiary Hearing to Determine Competency of State's Primary Witness and Order Compelling Production of Medical Records and Psychological Examination and Testing to Determine Extent of Memory Loss</i>
10/30/2012	 All Pending Motions (9:00 AM) (Judicial Officer: Silver, Abbi) <i>Motion for Evidentiary Hearing to Determine Competency of State's Primary Witness and Order Compelling Production of Medical Records and Psychological Examination and Testing to Determine Extent of Memory Loss and Motion to Suppress In-Court Identification Pursuant to NRS 174.125(1)</i>
11/21/2012	 Ex Parte Order Filed By: Plaintiff State of Nevada <i>Ex Parte Motion and Order Releasing All Medical Records</i>
11/21/2012	 Ex Parte Order Filed By: Plaintiff State of Nevada <i>Ex Parte Motion and Order Releasing all Medical Records</i>
12/12/2012	 Ex Parte Motion <i>Ex Parte Motion for Payment of Transcript</i>
12/12/2012	 Order Granting Motion Filed By: Defendant Garcia, Evaristo J <i>Order Granting Ex Parte Motion for Payment of Transcript</i>
12/13/2012	 Certificate of Service <i>Certificate of Service</i>
12/13/2012	 Notice of Entry of Order <i>Notice of Entry of Order Granting Ex Parte Motion for Payment of Transcript</i>
12/26/2012	 Recorders Transcript of Hearing <i>Reporter's Transcript of Proceedings October 30, 2012</i>










DEPARTMENT 15
CASE SUMMARY
CASE NO. 10C262966-1

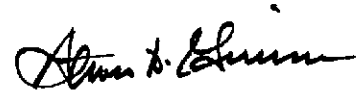
02/25/2013	 Motion for Appointment <i>Motion for Appointment of Expert Services and for Payment of Fees on Order Shortening Time</i>
02/26/2013	 Receipt of Copy <i>Receipt of Copy</i>
03/05/2013	 Motion for Appointment (9:00 AM) (Judicial Officer: Silver, Abbi) <i>Motion for Appointment of Expert Services and for Payment of Fees on Order Shortening Time</i>
06/14/2013	 Notice of Witnesses and/or Expert Witnesses <i>Supplemental Notice of Expert Witnesses</i>
06/25/2013	 Notice of Witnesses and/or Expert Witnesses <i>Notice of Witnesses [NRS 174.234(2)]</i>
06/25/2013	 Notice of Witnesses and/or Expert Witnesses <i>Notice of Expert Witnesses [NRS 174.234(2)]</i>
06/26/2013	 Certificate of Service <i>Certificate of Service</i>
06/27/2013	 Calendar Call (9:00 AM) (Judicial Officer: Silver, Abbi)
07/03/2013	 Notice of Witnesses and/or Expert Witnesses <i>Supplemental Notice of Witnesses</i>
07/08/2013	 Jury Trial - FIRM (9:30 AM) (Judicial Officer: Silver, Abbi) 07/08/2013-07/12/2013, 07/15/2013-07/16/2013
07/08/2013	CANCELED Jury Trial (1:00 PM) (Judicial Officer: Silver, Abbi) <i>Vacated - per Clerk</i>
07/08/2013	 Order Filed By: Plaintiff State of Nevada <i>Order Requiring Material Witness to Post Bail or Be Committed to Custody</i>
07/08/2013	 Amended Indictment <i>2nd Amended Indictment</i>
07/08/2013	 Jury List
07/09/2013	 Amended Information <i>3rd Amended Information</i>
07/10/2013	 Recorders Transcript of Hearing <i>Jury Trial Excerpt Transcript Testimony of Daniel Proietto July 9, 2013</i>
07/10/2013	 Order Filed By: Plaintiff State of Nevada <i>Order For Transcript</i>

DEPARTMENT 15
CASE SUMMARY
CASE NO. 10C262966-1

07/12/2013	 Recorders Transcript of Hearing <i>Jury Trial Excerpt Transcript Testimony of Ken Hardy heard July 11, 2013</i>
07/12/2013	 Reporters Transcript <i>Jury Trial Excerpt Transcript heard July 11, 2013</i>
07/12/2013	 Order Filed By: Plaintiff State of Nevada <i>Order For Transcript</i>
07/15/2013	 Media Request and Order Party: Plaintiff State of Nevada <i>Media Request and Order allowing camera access to court proceedings</i>
07/15/2013	 Opposition <i>State's Opposition and Written Record in Response to Defendant's Oral Motion for Mistrial</i>
07/15/2013	Disposition (Judicial Officer: Silver, Abbi) 1. CONSPIRACY TO COMMIT MURDER Not Guilty 2. SECOND DEGREE MURDER WITH US OF A DEADLY WEAPON Guilty
07/16/2013	CANCELED Bench Warrant Return (9:00 AM) (Judicial Officer: Silver, Abbi) <i>Vacated - per Clerk</i>
07/16/2013	 Verdict
07/16/2013	 Instructions to the Jury <i>Instuctions to the Jury (Instruction No. 1) Members of the Jury:</i>
07/16/2013	 Amended Indictment <i>Fourth Amended Indictment</i>
07/22/2013	 Motion Filed By: Defendant Garcia, Evaristo J <i>Motion for Acquittal or in the Alternative, Motion for New Trial</i>
07/29/2013	 Opposition Filed By: Plaintiff State of Nevada <i>State's Opposition To Defendant's Motion For Acquittal or in the Alternative, Motion For New Trial</i>
08/01/2013	 Motion (9:00 AM) (Judicial Officer: Silver, Abbi) <i>Motion for Acquittal or in the Alternative, Motion for New Trial</i>
08/14/2013	 Memorandum Filed By: Defendant Garcia, Evaristo J <i>Sentencing Memo</i>
08/15/2013	 Sentencing (10:30 AM) (Judicial Officer: Silver, Abbi) 08/15/2013, 08/29/2013
08/29/2013	

DEPARTMENT 15
CASE SUMMARY
CASE No. 10C262966-1

DATE	FINANCIAL INFORMATION				
08/29/2013	<p> Order <i>Order Granting Motion for Appointment of Expert Services and for Payment of Fees on Order Shortening Time</i></p> <p>Sentence (Judicial Officer: Silver, Abbi) 2. SECOND DEGREE MURDER WITH US OF A DEADLY WEAPON Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Life with the possibility of parole after: 10 Years Consecutive Enhancement: Life with the possibility of parole after: 10 Years Credit for Time Served: 1959 Days Other Fees 1. , \$38,000.00 Fee Totals:</p> <table> <tr> <td>ADMINISTRATIV ASSESSMENT FEE --- Crim fee sch DNA ANALYSIS FEE --- Crim fee sch - \$150</td> <td>25.00 150.00</td> </tr> <tr> <td>Fee Totals \$</td> <td>175.00</td> </tr> </table>	ADMINISTRATIV ASSESSMENT FEE --- Crim fee sch DNA ANALYSIS FEE --- Crim fee sch - \$150	25.00 150.00	Fee Totals \$	175.00
ADMINISTRATIV ASSESSMENT FEE --- Crim fee sch DNA ANALYSIS FEE --- Crim fee sch - \$150	25.00 150.00				
Fee Totals \$	175.00				
08/30/2013	<p> Order <i>Order for Appointment of Counsel Pursuant to NRS 34.750(1)</i></p>				
09/09/2013	<p> Criminal Order to Statistically Close Case <i>Criminal Order To Statistically Close Case</i></p>				
09/10/2013	<p> Notice of Entry of Order <i>Notice of Entry of Order for Appointment of Counsel Pursuant to NRS 34.750(1)</i></p>				
09/10/2013	<p> Notice of Entry of Order <i>Notice of Entry of Order Granting Motion for Appointment of Expert Services and for Payment of Fees on Order Shortening Time</i></p>				
09/11/2013	<p> Judgment of Conviction Party: Plaintiff State of Nevada <i>Judgment of Conviction (Jury Trial)</i></p>				
10/11/2013	<p> Notice of Appeal (criminal) <i>Notice of Appeal</i></p>				
10/11/2013	<p> Case Appeal Statement <i>Case Appeal Statement</i></p>				
10/11/2013	<p> Request <i>Request for Rough Draft Transcript</i></p>				
Defendant Garcia, Evaristo J					
Total Charges	175.00				
Total Payments and Credits	0.00				
Balance Due as of 10/14/2013	175.00				



CLERK OF THE COURT

JOC

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

EVARISTO JONATHAN GARCIA
#2685822

Defendant.

CASE NO. C262966-1

DEPT. NO. XV

JUDGMENT OF CONVICTION

(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1 - CONSPIRACY TO COMMIT MURDER (Category B Felony), in violation of NRS 200.010, 200.030, 199.480; and COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON (Category A Felony), in violation of NRS 200.010, 200.030, 193.165; and the matter having been tried before a jury and the Defendant having been found guilty of the crime of COUNT 2 - SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON (Category A Felony), in violation of NRS 200.010, 200.030, 193.165; thereafter, on the 29TH day of August, 2013, the Defendant was present in court for sentencing with his counsels, ROSS GOODMAN, ESQ. and, DAYVID FIGLER, ESQ., and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said crime as set forth in

1 the jury's verdict and, in addition to the \$25.00 Administrative Assessment Fee,
2 \$150.00 DNA Analysis Fee including testing to determine genetic markers, and to PAY
3 \$38,000.00 RESTITUTION, the Defendant is SENTENCED to the Nevada Department
4 of Corrections (NDC) as follows: COUNT 2 - LIFE with a MINIMUM Parole Eligibility of
5 TEN (10) YEARS plus an EQUAL and CONSECUTIVE term of LIFE with TEN (10)
6 YEARS MINIMUM for Use of a Deadly Weapon; with ONE THOUSAND NINE
7 HUNDRED FIFTY-NINE (1,959) DAYS Credit for Time Served. Defendant found NOT
8 GUILTY as to COUNT 1.

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12 DATED this 9 day of September, 2013

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16 ABBI SILVER
17 DISTRICT JUDGE
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DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

March 19, 2010

10C262966-1

The State of Nevada vs Evaristo J Garcia

March 19, 2010

11:45 AM

Grand Jury Indictment

GRAND JURY
INDICTMENT
Relief Clerk: Shelly
Landwehr
Reporter/Recorder:
Maggie Lambrose
Heard By: ELISSA
CADISH

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Jimenez, Sonia V.
Mitchell, Scott S.

Attorney
Attorney

JOURNAL ENTRIES

- As to Defts' GARCIA AND LOPEZ: Pamela Young, Grand Jury Foreperson, stated to the Court that at least twelve members had concurred in the return of the true bill during deliberation, but had been excused for presentation to the Court. The State presented Grand Jury case number 09BGJ047A-B to the Court. COURT ORDERED, the Indictment may be filed and is assigned case number C262965, Department 15. Exhibits 1-40 lodged with Clerk of District Court. Ms. Jimenez requested a bench warrant. COURT ORDERED, BENCH WARRANT WILL ISSUE, NO BAIL. Mr. Jimenez requested arraignment be set on the same day as another co-defendant, in Dept. 15.

CUSTODY (BOTH)

03/25/10 09:00 AM INITIAL ARRAIGNMENT (BOTH) DEPT. 15

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 25, 2010**

10C262966-1

The State of Nevada vs Evaristo J Garcia

March 25, 2010**9:00 AM****Initial Arraignment**

**INITIAL
ARRAIGNMENT
Court Clerk: Jennifer
Kimmel
Reporter/Recorder:
JoAnn Orduna
Heard By: Abbi
Silver**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Bindrup, Scott L.
Garcia, Evaristo J
Jimenez, Sonia V.
Momot, Jr., John J.
Nyikos, Noreen

Attorney
Defendant
Attorney
Attorney
Attorney

JOURNAL ENTRIES

- DEFENDANT LOPEZ: Case was called without the co-deft. being present. Ms. McNeill appearing for Mr. Jeff Maningo. DEFT. LOPEZ ARRAIGNED, PLED NOT GUILTY and WAIVED THE 60-DAY RULE. COURT ORDERED, matter set for trial. COURT noted, counsel anticipate 1 to 1.5 weeks for Trial. Ms. McNeill requested 21 days from the filing of the preliminary hearing transcript to file a Writ. There being no opposition, COURT SO ORDERED.

DEFENDANT GARCIA: Case was called without the co-deft. being present. DEFT. GARCIA ARRAIGNED, PLED NOT GUILTY and WAIVED THE 60-DAY RULE. COURT ORDERED, matter set for Trial. Mr. Bindrup requested 21 days from the filing of the preliminary hearing transcript to

file a Writ. There being no opposition, COURT SO ORDERED. COURT FURTHER ORDERED, Motions and Petitions for Writs shall be due 4/30/10 and set for hearing on 5/25/10. Discussion regarding the Pending Motions set to be heard in C226218, see minutes same date.

CUSTODY (BOTH)

11/4/10 9:00 A.M. CALENDAR CALL

11/8/10 10:30 A.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 06, 2010**

10C262966-1

The State of Nevada vs Evaristo J Garcia

April 06, 2010**9:00 AM**

**Motion for Own
Recognizance
Release/Setting Reasonable
Bail**

**DEFT'S O.R.
RELEASE/BAIL
REDUCTION /010
Court Clerk: Jennifer
Kimmel
Reporter/Recorder:
JoAnn Orduna
Heard By: Abbi
Silver**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Jimenez, Sonia V.

Attorney

JOURNAL ENTRIES

- Ms. McNeill appearing for Mr. Maningo. Matter argued and submitted. COURT FINDS, the reasonable bail for Count 1 - is \$100,000.00 and Count 2 - is \$100,000.00 given the nature of the charges. Accordingly COURT ORDERED, bail is set on Count 1 - at \$100,000.00 and Count 2 - at \$100,000.00 for total amount of \$200,000.00. COURT FURTHER ORDERED, the Defendant's request for Own Recognizance (O.R.) release is DENIED. Court directed the State to prepare the Order. CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 25, 2010**

10C262966-1

The State of Nevada vs Evaristo J Garcia

May 25, 2010**9:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS - 5/25/10
Court Clerk: Jennifer
Kimmel
Reporter/Recorder:
Renee Silvaggio
Heard By: Abbi
Silver**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Bindrup, Scott L.
Garcia, Evaristo J
Jimenez, Sonia V.
Momot, Jr., John J.
Nyikos, Noreen

Attorney
Defendant
Attorney
Attorney
Attorney

JOURNAL ENTRIES

- DEFENDANT GARCIA'S PETITION FOR WRIT OF HABEAS CORPUS...STATUS CHECK: WRITS IF ANY...DEFENDANT GARCIA'S MOTION TO SEVER TRIALS

DEFENDANT GARCIA: Also present Yilin Zheng on behalf of the Deft. Argument by counsel. COURT FINDS, Defendant was identified by Jonathan Harper as the shooter, and his palm and fingerprints were identified on the gun. COURT FINDS, Deft's fingerprints are sufficient to establish probable cause and there is a mountain of evidence that indicates Garcia shot the victim. Accordingly, COURT ORDERED, Writ is DENIED. Discussion regarding Deft's Motion to Sever trials. COURT FURTHER ORDERED, Motion to Sever is CONTINUED. Ms. Jimenez moved to

dismiss C226218 and refile the Motions in Limine in this case. There being no opposition, COURT SO ORDERED.

DEFENDANT LOPEZ: Mr. Manningo advised the transcripts from the preliminary hearing were sent to his brother in error. Mr. Maningo requested additional time to file the writ. COURT ORDERED, counsel to file the Writ forthwith.

CUSTODY

8/31/10 9:00 A.M. DEFENDANT GARCIA'S MOTION TO SEVER TRIALS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 22, 2010**

10C262966-1

The State of Nevada vs Evaristo J Garcia

June 22, 2010**9:00 AM****Petition for Writ of Habeas
Corpus**

**DEFT'S PTN FOR
WRIT OF HABEAS
CORPUS /015
Court Clerk: Jennifer
Kimmel
Reporter/Recorder:
Renee Silvaggio
Heard By: Abbi
Silver**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Nyikos, Noreen

Attorney

JOURNAL ENTRIES

- Matter argued and submitted. COURT ORDERED, Deft's Petition for Writ of Habeas Corpus is DENIED. COURT FINDS, under NRS 34.700 challenges based on alleged lack of probable cause must be raised in a pre-trial petition for Writ of Habeas Corpus within twenty one days after the Deft's first appearance. The arraignment date has been held to be the first appearance contemplated under the statute. In Palmer vs. Sheriff, 93 Nev. 648, 572 P.2d 218 (1977). Pursuant to Sheriff vs. Jensen, failure to file such a petition in a timely manner makes the petition not cognizable for the District Court and not reviewable by the Supreme Court, 95 Nev. 595, 596 (1979). Under NRS 34.710, the District Court shall not consider any pretrial petition for Habeas Corpus that fails to comply with the timely filing requirements of NRS 34.700. Under NRS 34.700 and NRS 34.710, the twenty one day filing period is jurisdictional. The Deft's failure to file a timely petition for Writ of Habeas Corpus prevents the Court from taking jurisdiction to hear the Deft's motion. In this matter, the Deft. was arraigned on 3/25/10.

The Court granted an extension until 4/30/10 for the Deft. to file any pre-trial motion. Deft. Lopez filed his Petition for Writ of Habeas Corpus on 6/4/10. As such, this Court lacks jurisdiction to hear this instant motion. Notwithstanding the untimely petition, this COURT FINDS that the State did meet its burden. Specifically, the State presented evidence that the Deft. 1 - knew he was going to get into a fight with a rival gang; 2 - the Puros Locos could enhance its reputation by fighting Brown Pride Locotes; 3 - a fellow gang member, Giovanny Garcia, requested Deft's assistance in the fight. Moreover, the trier of fact determines if a crime was committed and whether or not the enhancement should be applied; and 4 - Deft. has a large tattoo of Puros Locos on his abdomen.

Court directed the State to prepare the Order.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 31, 2010**

10C262966-1

The State of Nevada vs Evaristo J Garcia

August 31, 2010**9:00 AM****All Pending Motions****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 14B**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** Renee Silvaggio**PARTIES**

PRESENT:	Bindrup, Scott L.	Attorney
	Garcia, Evaristo J	Defendant
	Jimenez, Sonia V.	Attorney
	Nyikos, Noreen	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFT. GARCIA'S MOTION TO SEVER TRIALS...DEFT. GARCIA'S MOTION IN LIMINE TO PRECLUDE ADMISSION OF PHOTOGRAPHS...DEFT. GARCIA'S MOTION FOR DISCOVERY...DEFT. GARCIA'S MOTION TO COMPEL DISCLOSURE OF EXISTENCE AND SUBSTANCE OF EXPECTATIONS, OR ACTUAL RECEIPT OF BENEFITS OR PREFERENTIAL TREATMENT FOR CO-OPERATION WITH PROSECUTION...DEFT. GARCIA'S MOTION TO FEDERALIZE ALL MOTIONS, OBJECTIONS, REQUESTS AND OTHER APPLICATIONS...DEFT. GARCIA'S MOTION TO EXCLUDE OTHER BAD ACTS, CHARACTER EVIDENCE, AND IRRELEVANT PRIOR CRIMINAL ACTIVITY...DEFT. GARCIA'S MOTION TO ALLOW JURY QUESTIONNAIRE...DEFT. GARCIA'S MOTION TO BAR IMPROPER PROSECUTORIAL ARGUMENT...DEFT. GARCIA'S MOTION TO ALLOW DEFENDANT'S IQ ASSESSMENT TO BE UTILIZED AT TIME OF TRIAL

Mr. Lance Maningo, present on behalf of the Co-Deft. Manuel Lopez and advised he has filed a joinder to Deft. Garcia's Motions. COURT advised it just received the State's Opposition and has not reviewed this document. Accordingly, COURT ORDERED, matters are CONTINUED and Deft.

Lopez is joined in these Motions. Court directed counsel to send courtesy copies to the Court, through e-mail if possible.

CUSTODY

CONTINUED TO: 9/21/10 9:00 A.M.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 21, 2010**

10C262966-1

The State of Nevada vs Evaristo J Garcia

September 21, 2010 9:00 AM**All Pending Motions****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 14B**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** JoAnn Melendez**PARTIES****PRESENT:**

Bindrup, Scott L.
Garcia, Evaristo J
Momot, Jr., John J.

Attorney
Defendant
Attorney

JOURNAL ENTRIES

- MOTION TO SEVER (MOTION SET PER MINUTES OF 5/25/10)...MOTION IN LIMINE TO PRECLUDE ADMISSION OF PHOTOGRAPHS...DEFT'S MOTION FOR DISCOVERY...MOTION TO COMPEL DISCLOSURE OF EXISTENCE AND SUBSTANCE OF EXPECTATIONS, OR ACTUAL RECEIPT OF BENEFITS OR PREFERENTIAL TREATMENT FOR CO-OPERATION WITH PROSECUTION... MOTION TO FEDERALIZE ALL MOTIONS, OBJECTIONS, REQUESTS AND OTHER APPLICATIONS...MOTION TO EXCLUDE OTHER BAD ACTS, CHARACTER EVIDENCE, AND IRRELEVANT PRIOR CRIMINAL ACTIVITY...MOTION TO ALLOW JURY QUESTIONNAIRE...MOTION TO BAR IMPROPER PROSECUTORIAL ARGUMENT...MOTION TO ALLOW DEFENDANT'S IQ ASSESSMENT TO BE UTILIZED AT TIME OF TRIAL...STATE'S NOTICE OF MOTION AND MOTION FOR RECIPROCAL DISCOVERY

Ms. Sonia Jimenez, Esq. and Noreen Nyikos, Esq. present on behalf of the State of Nevada. Mr. Lance Maningo, Esq. present on behalf of Deft. Lopez.

Argument by counsel regarding Deft's Motion to Sever Trials. COURT stated its findings and ORDERED, Motion is DENIED.

Argument by counsel regarding Deft's Motion in Limine to Preclude Admission of Photographs. COURT stated additional findings and FURTHER ORDERED, Motion is DENIED WITHOUT PREJUDICE as premature but Deft. may renew at time of Trial.

Argument by counsel regarding Deft's Motion to Compel Disclosure of Existence and Substance of Expectations, or Actual Receipt of Benefits or Preferential Treatment for Co-Operation with Prosecution. COURT FURTHER ORDERED, Motion is GRANTED as to the 1st request as to written and recorded statement(s) and the Court noted the State appears to have complied. Regarding the, 2nd request in this Motion as to Defts. substantive statements made by the Deft. which the State intends to use as evidence including jail house conversations is GRANTED and it appears as if the State has complied. Regarding the Deft's 6th as to witnesses may be motivated in providing information and testimony by the expectation or receipt of benefits of some type from the State and to the extent that this is within the control of the State it is granted and if it is not within the control of the State then it would be DENIED. FURTHER and regarding the 7b request, relating to the criminal records of the State's witness(es), is DENIED in PART and GRANTED in PART pursuant to NRS 50.095. The State certainly has a duty to provide the Defense with that type of impeachment evidence, however as far as the request for NCIC, handing over NCIC and/or disseminating an NCIC is not proper therefore this is DENIED in PART as to that. FURTHER and regarding request 7c relating to promises and benefits and cooperation this is GRANTED and all impeachment evidence shall be turned over to the Defense. Additionally the COURT noted the State's paperwork reflects they have complied with this request.

Argument by counsel regarding Motion to Federalize All Motions, Objections, Requests and Other Applications. COURT FURTHER ORDERED, under Ward vs. State, motion is DENIED WITHOUT PREJUDICE as premature and counsel should object at the proper time during Trial.

Argument by counsel regarding Motion to Exclude Other Bad Acts, Character Evidence and Irrelevant Prior Criminal Activity. COURT DEEMED Deft's flight to Mexico to be relevant to the crime and not a bad act as long as it stays within the parameter of being not overly prejudicial, therefore FURTHER ORDERED, Motion is DENIED. Discussion ensued regarding a Sexual Assault case that the Deft. may have been picked up on in Mexico. COURT DEEMED this other Sexual Assault case is overly prejudicial to the Defts. therefore it will not be brought up. COURT, should this be brought up at time of Trial, the Court will address ask counsel to address same outside the presence of the jury.

Regarding Deft's Motion to Allow the Jury Questionnaire, COURT noted no opposition, therefore FURTHER ORDERED, Motion is GRANTED and matter is set for Status Check. Counsel are to get together and work out agreed upon questions and anything not agreed upon the Court will address at the Status Check.

Argument by counsel regarding Deft's Motion to Bar Improper Prosecutorial Argument. COURT FURTHER ORDERED, Motion is DENIED WITHOUT PREJUDICE as premature over Mr. Momot's objection.

Argument by counsel regarding Deft's Motion to Allow Deft's IQ Assessment to be Utilized at Time of Trial. COURT FURTHER ORDERED, Motion is GRANTED WITH LIMITATIONS that the only mention shall be that Deft. Garcia has a lower I.Q. and the State is free to get their own evaluation for Deft. Garcia. Deft. will not be permitted to go into "Diminished Capacity". COURT noted, this Motion is not regarding Deft. Lopez. COURT stated, Dr. Paglini's testimony would go towards intent and pre-meditation therefore the Court sees him as a Penalty hearing witness.

Argument by counsel regarding State's Motion for Reciprocal Discovery. COURT FURTHER ORDERED, and there being no opposition by the Defense, this is GRANTED and the "raw data" used in forming Dr. Paglini's IQ assessment decision and supporting documentation is to be provided to the State pursuant to Floyd vs. State and NRS 50.305

CUSTODY

10/12/10 9:00 A.M. STATUS CHECK: JURY QUESTIONNAIRE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 12, 2010**

10C262966-1

The State of Nevada vs Evaristo J Garcia

October 12, 2010**9:00 AM****Status Check****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 14B**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** Renee Silvaggio**PARTIES****PRESENT:**Bindrup, Scott L.
Garcia, Evaristo J
Jimenez, Sonia V.
State of NevadaAttorney
Defendant
Attorney
Plaintiff**JOURNAL ENTRIES**

- Mr. Bindrup requested the Trial be RESET. Mr. Maningo, present on behalf of the Co-Def. agreed. There being no opposition, COURT ORDERED, Status Check is CONTINUED and the upcoming Calendar Call and Trial dates are RESET.

CUSTODY

CONTINUED TO: 2/10/11 9:00 A.M.

3/17/11 9:00 A.M. CALENDAR CALL

3/21/11 10:00 A.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 11, 2011**

10C262966-1

The State of Nevada vs Evaristo J Garcia

January 11, 2011**9:00 AM****Motion****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** JoAnn Melendez**PARTIES****PRESENT:**Bindrup, Scott L.
Garcia, Evaristo J
Jimenez, Sonia V.
Momot, Jr., John J.
State of NevadaAttorney
Defendant
Attorney
Attorney
Plaintiff**JOURNAL ENTRIES**

- Matter argued and submitted. COURT FINDS, the State of Nevada had to go through the international extradition process to have this Deft. brought to Nevada on this matter. Accordingly, bail is not appropriate for this Deft. and ORDERED, Motion is DENIED.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

10C262966-1

The State of Nevada vs Evaristo J Garcia

February 10, 2011**9:00 AM****All Pending Motions****Status Check: Jury
Questionnaire (Both
Defts.)****HEARD BY:** Bare, Rob**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Lorraine Williams**RECORDER:****REPORTER:** JoAnn Melendez**PARTIES****PRESENT:**

Bindrup, Scott L.
Garcia, Evaristo J
Lopez, Manuel A
Maningo, Lance A.
Nyikos, Noreen
State of Nevada

Attorney
Defendant
Other
Attorney
Attorney
Plaintiff

JOURNAL ENTRIES

- Counsel requested one additional week to complete the Jury Questionnaire; COURT SO ORDERED.

CUSTODY (BOTH)**CONTINUED TO:** 2/17/11 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 17, 2011**

10C262966-1

The State of Nevada vs Evaristo J Garcia

February 17, 2011 9:00 AM Status Check**HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** Robert Cangemi**PARTIES**

PRESENT:	Bindrup, Scott L.	Attorney
	Garcia, Evaristo J	Defendant
	Jimenez, Sonia V.	Attorney
	Momot, Jr., John J.	Attorney
	Nyikos, Noreen	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Bindrup requested more time to review the Jury Questionnaire and discuss possible negotiations. COURT stated, the Court will be conducting a Medical Malpractice trial the week prior to the current trial stack this matter is set on, therefore the likelihood of this being bumped or going into the following week is possible. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 2/24/11 9:00 A.M.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 24, 2011**

10C262966-1

The State of Nevada vs Evaristo J Garcia

February 24, 2011**9:00 AM****Status Check****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** JoAnn Melendez**PARTIES****PRESENT:**

Bindrup, Scott L.	Attorney
Garcia, Evaristo J	Defendant
Jimenez, Sonia V.	Attorney
Momot, Jr., John J.	Attorney
Nyikos, Noreen	Attorney
State of Nevada	Plaintiff
Zheng, Yi Len	Attorney

JOURNAL ENTRIES

- Defendant Garcia's Submission of Additional Proposed Juror Questions FILED IN OPEN COURT. Court reviewed same. COURT directed the State to redact Co-Deft. Lopez from the Questionnaire. Argument by counsel. COURT ORDERED, Deft's Submission of Additional Proposed Juror Questions is DENIED. Court advised there is another way of phrasing these questions and encouraged counsel to attempt to rephrase the language wherein it complies with EDCR. Court advised it will give some latitude to the Defense in questioning the Jury however this Deft. is not facing the death penalty. Mr. Bindrup requested matter be set for Status Check regarding potential negotiations as the State has made an offer. COURT ORDERED, matter set for Status Check.

CUSTODY

3/3/11 9:00 A.M. STATUS CHECK: NEGOTIATIONS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 03, 2011**

10C262966-1

The State of Nevada vs Evaristo J Garcia

March 03, 2011**9:00 AM****Status Check****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** Renee Silvaggio**PARTIES****PRESENT:**

Bindrup, Scott L.

Attorney

Garcia, Evaristo J

Defendant

Jimenez, Sonia V.

Attorney

Momot, Jr., John J.

Attorney

Nyikos, Noreen

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Stipulation and Order Waiving Separate Penalty Hearing was signed and FILED IN OPEN COURT.
Counsel advised the Jury Questionnaire is finished and they have an agreed upon questionnaire.
COURT ORDERED, Calendar Call and Trial dates STAND.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 17, 2011**

10C262966-1

The State of Nevada vs Evaristo J Garcia

March 17, 2011**9:00 AM****Calendar Call****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Susan Jovanovich**RECORDER:****REPORTER:** Renee Silvaggio**PARTIES**

PRESENT:	Bindrup, Scott L.	Attorney
	Garcia, Evaristo J	Defendant
	Jimenez, Sonia V.	Attorney
	Momot, Jr., John J.	Attorney
	Nyikos, Noreen	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- State announced being ready for trial. Mr. Momot requested a continuance for further investigation to be done, and for pending negotiations. COURT ORDERED, Deft's oral motion to continue trial DENIED. Court stated findings including that this matter needs to proceed forward for trial, there was additional time, previously, to go forward with the case, and questionnaires have already been sent to Jury Services. Colloquy regarding history of case, including original dates of preliminary hearing and arraignment. COURT FURTHER ORDERED, trial to begin March 21, 2011 at 1:00 p.m. Further colloquy as to trial schedule for next week, availability, and current prospective jury panel. Statements by Ms. Jimenez and by the Court. Mr. Momot requested this matter be traileed to speak further with Deft. regarding negotiations. COURT ORDERED, matter TRAILED. RECALLED at 11:21 a.m. CONFERENCE AT BENCH. Court TRAILED matter for further discussions between Deft. and counsel. RECALLED AT 1:00 p.m., with all parties present from before. Statements by Mr. Momot and Deft. Matter resolved. Amended Indictment FILED IN OPEN COURT. NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED IN OPEN COURT. DEFT. GARCIA ARRAIGNED AND PLED GUILTY PURSUANT TO THE ALFORD DECISION TO SECOND

10C262966-1

DEGREE MURDER WITH USE OF A DEADLY WEAPON (F). State made offer of proof. Court ACCEPTED plea, and ORDERED, matter referred to the Division of Parole and Probation (P&P) and SET for sentencing; trial date VACATED.

CUSTODY

5/12/11 9:00 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 03, 2011**

10C262966-1

The State of Nevada vs Evaristo J Garcia

May 03, 2011**9:00 AM****Motion to Withdraw Plea****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** JoAnn Melendez**PARTIES****PRESENT:**

Garcia, Evaristo J
Goodman, Ross C.
Jimenez, Sonia V.
State of Nevada

Defendant
Attorney
Attorney
Plaintiff

JOURNAL ENTRIES

- Mr. Goodman, Esq. making a special appearance on behalf of Deft. Garcia. COURT noted the transcript had been prepared. Ms. Jimenez advised the State just received the transcript and needs time to respond to this Motion. COURT ORDERED, matter CONTINUED and the Court will RESET sentencing, next date if applicable.

CUSTODY**CONTINUED TO:** 5/12/11 9:00 A.M.//STATUS CHECK: RESET SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 12, 2011**

10C262966-1

The State of Nevada vs Evaristo J Garcia

May 12, 2011**9:00 AM****All Pending Motions****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** Renee Silvaggio**PARTIES****PRESENT:**

Bindrup, Scott L.

Attorney

Garcia, Evaristo J

Defendant

Goodman, Ross C.

Attorney

Jimenez, Sonia V.

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- SENTENCING...STATUS CHECK: RESET SENTENCING...DEFT'S PRESENTENCE MOTION TO WITHDRAW GUILTY PLEA

Mr. Ross Goodman, Esq. making a special appearance on behalf of the Deft. BENCH CONFERENCE. Matter argued and submitted. COURT ORDERED, Deft's Motion to Withdraw the Guilty Plea is GRANTED pursuant to Woods vs. State and Molina vs. State. COURT noted, given the total record it is clear the Supreme Court of Nevada would likely reverse this case should the Court proceed with sentencing this date. COURT stated, the trial will likely go forward this September.

Mr. Bindrup made a verbal request to withdraw for the Special Public Defender and also for Mr. Momot, stating they have been put in an adversarial position given the Deft's contention that they pressured him into taking the plea. COURT FURTHER ORDERED, request is DENIED. COURT noted, Mr. Bindrup left after talking to the Deft. and understanding his desire to go forward with trial therefore there would be no conflict with the Special Public Defender. COURT stated, it is the Deft's decision regarding Mr. Momot given he was retained, therefore the Deft. may elect to replace him or

10C262966-1

not to replace him, but that decision is the Defts.

COURT FURTHER ORDERED, matter is set for Status Check, Sentencing is OFF CALENDAR.

CUSTODY

5/19/11 9:00 A.M. STATUS CHECK: RESET TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 19, 2011**

10C262966-1

The State of Nevada vs Evaristo J Garcia

May 19, 2011**9:00 AM****Status Check****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** JoAnn Melendez**PARTIES****PRESENT:**Bindrup, Scott L.
Garcia, Evaristo J
Nyikos, Noreen
State of NevadaAttorney
Defendant
Attorney
Plaintiff**JOURNAL ENTRIES**

- Mr. Jay Ramen, Esq. present on behalf of the State of Nevada. Case trailed to await Ms. DiGiacomo, case was recalled upon her appearance. Mr. Bindrup advised Mr. Momot desires to WITHDRAW. COURT SO ORDERED. Ms. DiGiacomo stated she thinks Ms. Jimenez wanted this matter set on a faster setting. Court advised counsel can put matter on calendar if there is a problem with the Trial date. COURT ORDERED, trial date set. CASE was RECALLED upon Ms. Nyikos' arrival, who was advised of the trial date. COURT further stated, the new trial setting is during spring break so this matter could be heard by a senior judge.

CUSTODY

5/3/12 9:00 A.M. CALENDAR CALL

5/7/12 1:00 P.M. JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 21, 2012

10C262966-1

The State of Nevada vs Evaristo J Garcia

February 21, 2012

9:00 AM

Status Check

HEARD BY: Bare, Rob

COURTROOM: RJC Courtroom 11D

COURT CLERK: Jennifer Kimmel

RECORDER:

REPORTER: JoAnn Melendez

PARTIES

PRESENT:

Bindrup, Scott L.
Garcia, Evaristo J
Jimenez, Sonia V.
State of Nevada

Attorney
Defendant
Attorney
Plaintiff

JOURNAL ENTRIES

- COURT advised this matter was set on calendar to reset the Calendar Call due to the Court's schedule. COURT ORDERED, Calendar Call is RESET.

CUSTODY

4/26/12 9:00 A.M. CALENDAR CALL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 27, 2012**

10C262966-1

The State of Nevada vs Evaristo J Garcia

March 27, 2012**9:00 AM****All Pending Motions****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** JoAnn Melendez**PARTIES****PRESENT:**

Garcia, Evaristo J
Goodman, Ross C.
Jimenez, Sonia V.
State of Nevada

Defendant
Attorney
Attorney
Plaintiff

JOURNAL ENTRIES

- DEFT'S MOTION FOR APPOINTMENT OF EXPERT SERVICES AND FOR PAYMENT OF FEES ON ORDER SHORTENING TIME...MOTION FOR APPOINTMENT OF AN INVESTIGATOR AND FOR PAYMENT OF FEES ON ORDER SHORTENING TIME

Mr. Goodman confirming as new counsel. Argument by counsel. COURT noted, Deft. retained counsel through a third party. COURT DECLARES Deft. to be INDIGENT. COURT ORDERED, pursuant to EDCR 2.23 (c, d) Deft's Motion for Appointment of an Investigator and for Payment of Fees on Order Shortening Time, set for 3/29/12, is ADVANCED and GRANTED.

COURT FURTHER ORDERED, Deft's Motion for Appointment of Expert Services and Payment of Fees is GRANTED.

COURT directed Mr. Goodman to provide the State with a copy of these reports as soon as they are available.

Discussion ensued regarding resetting of Trial. COURT clarified this is the oldest criminal case this

Court has and therefore the Trial, if delayed, will be put on calendar each and every month until the Trial is completed.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 26, 2012**

10C262966-1

The State of Nevada vs Evaristo J Garcia

April 26, 2012**9:00 AM****Calendar Call****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** JoAnn Melendez**PARTIES****PRESENT:**

Demonte, Noreen

Attorney

Garcia, Evaristo J

Defendant

Goodman, Ross C.

Attorney

Jimenez, Sonia V.

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Mr. Goodman moved for Trial to be reset as he has just been granted leave to retain a specialist who needs to conduct his investigation. COURT noted, counsel anticipate this matter taking about 1 to 1 & 1/2 weeks for trial. State announced ready and in opposition to trial being continued. COURT SO NOTED. COURT ORDERED, the Court's is not available as it is presently in trial and at the Defts. request Calendar Call and Trial dates are RESET.

CUSTODY

9/13/12 9:00 A.M. CALENDAR CALL

9/17/12 1:00 P.M. JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 10, 2012**

10C262966-1

The State of Nevada vs Evaristo J Garcia

July 10, 2012**9:00 AM****Motion to Compel****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Phyllis Irby**RECORDER:****REPORTER:** Renee Silvaggio**PARTIES****PRESENT:**

Garcia, Evaristo J

Defendant

Goodman, Ross C.

Attorney

Ponticello, Frank M.

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Mr. Goodman FILED IN OPEN COURT Stipulation and Order regarding Deft's Motion to Compel Finger Print Evidence. COURT ORDERED, MOTION IS MOOT. Mr. Ponticello advised Ms. Jimenez requested a continuance. FURTHER ORDERED, Deft is indigent, will get investigation fees. Mr. Goodman to provide to the Court the Curriculum Vitae of the expert and what they charge.

CUSTODY

9-13-12 9:00 AM CALENDAR CALL (DEPT. XV)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 13, 2012**

10C262966-1

The State of Nevada vs Evaristo J Garcia

September 13, 2012 9:00 AM**All Pending Motions****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** JoAnn Melendez**PARTIES****PRESENT:**

Demonte, Noreen

Attorney

Garcia, Evaristo J

Defendant

Goodman, Ross C.

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- DEFENDANT'S MOTION TO CONTINUE TRIAL ON ORDER SHORTENING TIME...CALENDAR CALL

Mr. Jeff Rogan, Esq. also present on behalf of the State of Nevada. State announced ready for trial having 5 - 20 witnesses and needing 7 days for trial. COURT noted, the trial will last two (2) weeks, for both sides. Additionally the State intends to file Motions in Limine. Mr. Goodman advised he just received the ballistics report and will need to retain a ballistics expert. COURT ORDERED, Deft's Motion to Continue the Trial on an Order Shortening Time is GRANTED and Calendar Call and Jury Trial are RESET.

CUSTODY

6/27/13 9:00 A.M. CALENDAR CALL

7/8/13 1:00 P.M. JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 30, 2012**

10C262966-1

The State of Nevada vs Evaristo J Garcia

October 30, 2012**9:00 AM****All Pending Motions****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** Renee Silvaggio**PARTIES****PRESENT:**

Demonte, Noreen

Attorney

Garcia, Evaristo J

Defendant

Goodman, Ross C.

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- MOTION FOR EVIDENTIARY HEARING TO DETERMINE COMPETENCY OF STATE'S PRIMARY WITNESS AND ORDER COMPELLING PRODUCTION OF MEDICAL RECORDS AND PSYCHOLOGICAL EXAMINATION AND TESTING TO DETERMINE EXTENT OF MEMORY LOSS...MOTION TO SUPPRESS IN-COURT IDENTIFICATION PURSUANT TO NRS 174.125(1)

Argument by counsel Regarding Deft's Motion to Suppress In-Court Identification Pursuant to NRS 174.125(1). COURT ORDERED, Motion is DENIED. COURT FINDS, the reason that an in court identification is not subject to the same considerations as a street show-up or a photo-lineup is because in a preliminary hearing, the witness identification can be tested by the Defendant s counsel through cross-examination, thus curing the need for the constitutional safeguard of suppression of the identification. Additionally, in Johnson v. Sublett, the Ninth Circuit Court reaffirmed the Nevada Court's decision in Baker v. State, by holding that the suggestive character of courtroom logistics was not unnecessarily suggestive. In Hicks v. State, the Nevada Court again distinguished in-court identifications (at preliminary hearing or trial) from out-of-court identifications which may have been suggestive. Therefore, in accordance with the court in Johnson v. Sublett, in balancing the state s strong interest in conducting the court procedure against the

dangers of misidentification, which will be mitigated by cross-examination, the COURT FINDS that the suggestive character of courtroom logistics is not unnecessarily suggestive. Accordingly, and for the reasons set forth in the State's Opposition, Defendant's Motion is DENIED, WITHOUT PREJUDICE.

Argument by counsel regarding Motion for Evidentiary Hearing to Determine Competency of State's Primary Witness and Order Compelling Production of Medical Records and Psychological Examination and Testing to Determine Extent of Memory Loss.

COURT ORDERED, Deft s Motion for Evidentiary Hearing to Determine Competency of State's Primary Witness and Order Compelling Production of Medical Records and Psychological Examination and Testing to Determine Extent of Memory Loss is GRANTED IN PART and DENIED IN PART.

Court stated its findings and FURTHER ORDERED, request for Evidentiary Hearing to Determine Competency of State s Primary Witness (Harper) is DENIED.

COURT FURTHER ORDERED, the request for an Order Compelling Production of Medical Records is GRANTED.

COURT FURTHER ORDERED, the request to Determine the Extent of Memory Loss is DENIED.

COURT directed the State to prepare the Order within two weeks and have the medical records turned over to the Defense within sixty days.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 05, 2013**

10C262966-1

The State of Nevada vs Evaristo J Garcia

March 05, 2013**9:00 AM****Motion for Appointment****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** Renee Silvaggio**PARTIES****PRESENT:**

Demonte, Noreen

Attorney

Garcia, Evaristo J

Defendant

Goodman, Ross C.

Attorney

Pandukht, Taleen R

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Matter argued and submitted. COURT ORDERED, Deft's Motion is GRANTED IN PART. COURT conditioned the payment of Expert Fees to Dr. Roitman as long as these fees are the standard expert fee paid by the State or \$350.00 per hour. COURT FURTHER ORDERED, no witness can talk about the reliability of testimony.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 27, 2013**

10C262966-1

The State of Nevada vs Evaristo J Garcia

June 27, 2013**9:00 AM****Calendar Call****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** Renee Silvaggio**PARTIES**

PRESENT:	Figler, Dayvid J	Attorney
	Garcia, Evaristo J	Defendant
	Goodman, Ross C.	Attorney
	Pandukht, Taleen R	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Goodman, Esq. announced ready for trial and needing 10 days to 2 weeks. Ms. Pandukht, Esq. agreed and stated Noreen DeMonte will be assisting with the Trial. Final trial preparation was made, including verification of length of trial, how the Court excuses jurors, voir dire procedures with both sides proposed questions due 7/3/13 by 5:00 P.M., and jury instructions which are due to first day of Trial and counsel should bring one set with cites and another without. COURT stated, counsel to provide the Court with courtesy copies of their respective paperwork.

Mr. Goodman advised he will be filing a trial brief.

COURT ORDERED, State is directed to file the offer of negotiations made to the Defendant and rejected, on the first day of Trial and Trial dates FIRM.

CUSTODY

7/8/13 9:00 A.M. JURY TRIAL - TWO WEEKS FIRM

PRINT DATE: 10/14/2013

Page 35 of 51

Minutes Date:

March 19, 2010

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 08, 2013**

10C262966-1

The State of Nevada vs Evaristo J Garcia

July 08, 2013**9:30 AM****Jury Trial - FIRM****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** JoAnn Melendez**PARTIES**

PRESENT:	Demonte, Noreen	Attorney
	Figler, Dayvid J	Attorney
	Garcia, Evaristo J	Defendant
	Goodman, Ross C.	Attorney
	Pandukht, Taleen R	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS: Discussion regarding Voir Dire procedures and scheduling.

PROSPECTIVE JURY PANEL PRESENT: introductions by Ms. Demonte and Mr. Goodman, who each named their witnesses. Voir Dire Oath administered. Voir Dire conducted. Court queried regarding challenge of panel as a whole. COURT NOTED, counsel had no challenges. Court admonished and excused jurors for morning recess.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Mr. Goodman clarified the Deft. minimum jail time would be 40 years, not 20 years. Court and counsel discussed scheduling.

PROSPECTIVE JURY PANEL PRESENT: Voir Dire resumed. Twelve Jurors and two alternates selected and sworn. Court read admonishment to Jury. Information read in open court. Court admonished and excused jurors for evening recess.

OUTSIDE THE PRESENCE OF THE JURY: Court gave explanation regarding excusing Juror #163 and #091. Discussion ensued regarding Saul Garcia, who was found guilty in another case. Mr. Figler advised Saul made a phone call and originally stated this incident appeared to be an attempt at suicide. Additional discussion regarding, the Co-Deft. Manuel Lopez, who stated the injury was self inflicted.

State advised it has a limiting instruction that the Defts. would like read before anyone who is in a gang testifies. COURT ORDERED, no limiting instruction will be given unless the State can provide case law that would warrant giving same. Court stated it will rely on the expertise of both sides, to address this issue in the instructions.

Mr. Figler advised the second issue to be the alleged extradition of the Deft. from Mexico. Lengthy argument ensued. COURT FURTHER ORDERED, this issue was not addressed properly in a Motion in Limine prior to trial and therefore it will be permitted and the State may mention the Deft's flight to Mexico.

Additional discussion regarding Jonathan Harper, which was addressed in a Motion in Limine prior trial beginning. COURT advised it will review the transcripts concerning it's prior ruling.

COURT ORDERED, matter CONTINUED.

CONTINUED TO: 7/8/13 9:00 A.M.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 09, 2013**

10C262966-1

The State of Nevada vs Evaristo J Garcia

July 09, 2013**1:00 PM****Jury Trial - FIRM****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** Renee Silvaggio**PARTIES**

PRESENT:	Demonte, Noreen	Attorney
	Figler, Dayvid J	Attorney
	Garcia, Evaristo J	Defendant
	Goodman, Ross C.	Attorney
	Pandukht, Taleen R	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- JURY PRESENT: State INVOKED the EXCLUSIONARY RULE. Opening statements by Ms. Pandukht and Mr. Goodman. Testimony and exhibits presented (See worksheets.) Court admonished and excused Jury for lunch recess.

OUTSIDE THE PRESENCE OF THE JURY: Court made record of questions submitted by the Jury to a witness and not asked.

JURY PRESENT: Testimony and exhibitis resumed (See worksheets.) Court admonished and excused Jury for evening recess.

OUTSIDE THE PRESENCE OF THE JURY: Mr. Goodman requested to interview Edshel Calvillo. COURT ORDERED, request GRANTED and special arrangements were made for Defense to interview Mr. Calvillo. Mr. Figler advised that witness Calvillo should have an attorney appointed to him. COURT stated, in one scenario, that witness may have conceded to being an Accessory to

Murder, to which the statute of limitations has run. Additionally Mr. Calvillo, if charged of Conspiracy to Commit Murder, his statute of limitations would have run 2/6/09. COURT FINDS, even in the worse case scenario the statute of limitations would have run on Mr. Calvillo, therefore and for these reasons, COURT FURTHER ORDERED, request DENIED. COURT reviewed the profile of the Jury.

State clarified the offer to the Deft. prior to trial was for SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON (F), which holds a 10 years to Life plus a consecutive 10 to Life for use of a deadly weapon and giving him 5 years of credit for time served. Additionally another offer was for FIRST DEGREE MURDER which holds a 20 years to Life with the same credit for time served.

Mr. Figler stated, the State's investigator made promises to the Defense that they would be able to interview Mr. Calvillo and he was just made available this date. COURT explained it signed a Material Witness Warrant to bring Edshel Calvillo to Court and he was just found. Additionally, Mr. Figler advised Edshel perjured himself during testimony. Court queried regarding Mr. Calvillo's having a conviction for perjury. Mr. Figler advised his testimony in the prior trial he indicated that Mr. Harper shot himself. Lengthy discussion ensued regarding discussions with what occurred in the other trial being used in this trial. COURT stated it will not let either side pick a portion of the other trial to use in this trial, by having the Court lets some come in, and not allow other parts to come in.

COURT directed counsel to arrive at 8:00 tomorrow morning to review the transcripts that address extradition. Additionally, the Court will review these and it's Order concerning the specifics around the other shooting.

COURT FURTHER ORDERED, matter CONTINUED.

CONTINUED TO: 7/10/13 9:00 A.M.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 10, 2013**

10C262966-1

The State of Nevada vs Evaristo J Garcia

July 10, 2013**9:00 AM****Jury Trial - FIRM****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** Renee Silvaggio**PARTIES**

PRESENT:	Demonte, Noreen	Attorney
	Figler, Dayvid J	Attorney
	Garcia, Evaristo J	Defendant
	Goodman, Ross C.	Attorney
	Pandukht, Taleen R	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- JURY PRESENT: Testimony presented. (See worksheets) Court admonished and excused the Jury for evening recess and ORDERED, matter CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY: COURT FURTHER ORDERED, Material Witness Warrant is QUASHED and Mr. Calvillo is given an Own Recognizance (O.R.) this date and told his presence tomorrow is not required.

Court queried Deft's counsel regarding having sufficient time to question him and was advised their time was sufficient.

CONTINUED TO: 7/11/13 10:30 A.M.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 11, 2013**

10C262966-1

The State of Nevada vs Evaristo J Garcia

July 11, 2013**10:30 AM****Jury Trial - FIRM****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** Renee Silvaggio**PARTIES**

PRESENT:	Demonte, Noreen	Attorney
	Figler, Dayvid J	Attorney
	Garcia, Evaristo J	Defendant
	Goodman, Ross C.	Attorney
	Pandukht, Taleen R	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Counsel attempted to negotiate this matter.

JURY PRESENT: Testimony and exhibits presented. (See worksheets) COURT admonished and excused the Jury for afternoon recess.

OUTSIDE THE PRESENCE OF THE JURY: Mr. Figler objected to the State's Powerpoint Opening and State's expert. Mr. Figler stated the fight was not in furtherance to promote a gang and moved for a Directed Verdict regarding the Gang enhancement. COURT stated it's inclination to grant the Defense request for a Directed Verdict, however prefers to have the State brief this issue. COURT FINDS, the State has not acted in bad faith. COURT ORDERED, it will not allow the State's Expert to testify about gangs. COURT FURTHER FINDS the State's Powerpoint opening is overly prejudicial and shall not be used. COURT stated, it does not believe the State has shown evidence to support "Puros Locos" being a gang. COURT directed the State to brief this issue.

JURY PRESENT: Testimony and exhibits resumed. (See worksheets) COURT admonished and excused Jury for evening recess and ORDERED, matter CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY: Mr. Figler moved to dismiss based upon the testimony of Hardy and that evidence was destroyed. State responded there was no destruction of evidence it was tested and found negative for blood. COURT stated, issue is deferred and counsel are to wait until the outcome of the Jury's verdict before addressing this issue as it may not be an issue at all. Mr. Figler moved for MISTRIAL. COURT FURTHER ORDERED, issue is DEFERRED and the State shall prepare a brief over the weekend. Transcript shall be prepared as soon as possible.

Additional discussion regarding Jury Instructions.

CONTINUED TO: 7/12/13 9:00 A.M.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 12, 2013**

10C262966-1

The State of Nevada vs Evaristo J Garcia

July 12, 2013**9:00 AM****Jury Trial - FIRM****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** JoAnn Melendez**PARTIES**

PRESENT:	Demonte, Noreen	Attorney
	Figler, Dayvid J	Attorney
	Garcia, Evaristo J	Defendant
	Goodman, Ross C.	Attorney
	Pandukht, Taleen R	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Mr. Goodman objected to seeing a Juror in the hallway and their reaction to seeing him. COURT stated, the Marshall has moved the Jury into the Jury deliberation room due to crowded conditions in the hallways. Both sides requested to question the Court's Marshall. Court's Marshall was questioned and the COURT ORDERED, each Juror shall be brought into Court outside the presence of the other jurors and questioned.

Subsequently Jurors 1 - 12 were brought into Court and discussed their experiences in the hallway outside the Courtroom. COURT FURTHER ORDERED, Juror Numbers shall be used, instead of their names. Additionally, the Court's Marshall shall escort them to and from Court from the Jury Commissioner room every day.

JURY PRESENT: Testimony and exhibits continued. (See worksheets) COURT admonished and excused the Jury for lunch recess.

OUTSIDE THE PRESENCE OF THE JURY: Court and counsel discussed Jury Instructions. Fourth Amended Information was FILED IN OPEN COURT.

JURY PRESENT: Testimony and exhibits resumed. (See worksheets). State RESTED. Court admonished and excused the Jury for afternoon recess.

OUTSIDE THE PRESENCE OF THE JURY: Court and counsel discussed Jury Instructions. Deft. was advised of his right to testify or not testify. Mr. Figler stated they will STIPULATE that should the Deft. be found guilty of first degree murder, the Court will sentence him. COURT directed Mr. Figler to place this STIPULATION in writing and file same with the Court.

JURY PRESENT: Testimony presented. (See worksheets). Deft. RESTED. Court admonished and excused the Jury for short recess.

OUTSIDE THE PRESENCE OF THE JURY: State moved for rebuttal witness. Argument ensued. COURT FURTHER ORDERED, request is DENIED.

JURY PRESENT: Court admonished and excused the Jury for evening/weekend recess. COURT FURTHER ORDERED, matter CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY: Deft. was not present, COURT and counsel finalized Jury Instructions.

CONTINUED TO: 7/15/13 9:00 A.M.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 15, 2013**

10C262966-1

The State of Nevada vs Evaristo J Garcia

July 15, 2013**9:00 AM****Jury Trial - FIRM****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** Renee Silvaggio**PARTIES**

PRESENT:	Demonte, Noreen	Attorney
	Figler, Dayvid J	Attorney
	Garcia, Evaristo J	Defendant
	Goodman, Ross C.	Attorney
	Pandukht, Taleen R	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- JURY PRESENT: Closing arguments by Ms. Demonte, Ms. Pandukht and Mr. Goodman. Court instructed the Jury. At the hour of 12:30 P.M. the Jury began its Deliberations.

OUTSIDE THE PRESENCE OF THE JURY: State's Opposition and Written Record in Response to Deft's Oral Motion for Mistrial FILED IN OPEN COURT.

JURY DELIBERATING

OUTSIDE THE PRESENCE OF THE JURY: Deft. not present, Court advised a note was received from the deliberating Jury indicating there was an error on the verdict form. Court and counsel discussed same and a new Verdict was prepared and provided to the Jury.

At the hour of 3:45 PM, the jury returned with verdicts of NOT GUILTY to COUNT 1 - CONSPIRACY TO COMMIT MURDER and GUILTY of SECOND DEGREE MURDER WITH USE OF

A DEADLY WEAPON. Jury polled at Defense Counsel's request. Verdict and Jury Instructions FILED IN OPEN COURT. Court thanked and excused jury. COURT ORDERED, matter referred to the Division of Parole and Probation for a Pre-Sentence Report and set for Sentencing. COURT FURTHER ORDERED, Deft. REMANDED into custody, NO BAIL.

CUSTODY

9/12/13 9:00 A.M. SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 16, 2013

10C262966-1

The State of Nevada vs Evaristo J Garcia

July 16, 2013

10:30 AM

Jury Trial - FIRM

HEARD BY: Silver, Abbi

COURTROOM: RJC Courtroom 11D

COURT CLERK: Jennifer Kimmel

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- This case reached a verdict after final calendar had been run. COURT ORDERED, matter OFF CALENDAR.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 01, 2013**

10C262966-1

The State of Nevada vs Evaristo J Garcia

August 01, 2013**9:00 AM****Motion****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** JoAnn Melendez**PARTIES**

PRESENT:	Demonte, Noreen	Attorney
	Figler, Dayvid J	Attorney
	Garcia, Evaristo J	Defendant
	Goodman, Ross C.	Attorney
	Pandukht, Taleen R	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Argument by counsel. COURT ORDERED, for the reasons set forth in the State's Opposition to the Deft's Motion, Motion is DENIED. Court directed the State to prepare the Order and submit same to opposing counsel for their review and signature prior to submitting to the Court. Discussion regarding present sentencing date. COURT FURTHER ORDERED, sentencing date is RESET as they already have a Pre Sentence Investigative (PSI) report.

CUSTODY

8/15/13 10:30 A.M. SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 15, 2013

10C262966-1

The State of Nevada vs Evaristo J Garcia

August 15, 2013

10:30 AM

Sentencing

HEARD BY: Silver, Abbi

COURTROOM: RJC Courtroom 11D

COURT CLERK: Phyllis Irby

RECORDER:

REPORTER: JoAnn Melendez

PARTIES

PRESENT:

Figler, Dayvid J

Attorney

Garcia, Evaristo J

Defendant

Goodman, Ross C.

Attorney

Pandukht, Taleen R

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Ms. Pandukht requested a continuance; advised the Deft's family could not be present. Mr. Figler has no opposition. COURT ORDERED, MATTER CONTINUED.

CUSTODY

8-29-13 10:30 AM SENTENCING (DEPT. XV)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 29, 2013**

10C262966-1

The State of Nevada vs Evaristo J Garcia

August 29, 2013**10:30 AM****Sentencing****HEARD BY:** Silver, Abbi**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Jennifer Kimmel**RECORDER:****REPORTER:** JoAnn Melendez**PARTIES****PRESENT:**

Demonte, Noreen

Attorney

Figler, Dayvid J

Attorney

Garcia, Evaristo J

Defendant

Goodman, Ross C.

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- DEFT GARCIA ADJUDGED GUILTY by way of the Jury's verdict of SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON (F). BENCH CONFERENCE. Statement by Deft., victim witnesses Maria Oyervillez and Melissa Maria Gamboa sworn and testified. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, RESTITUTION in the amount of \$38,000.00 and a \$150.00 DNA Analysis fee including testing to determine genetic markers, Deft. SENTENCED to a MAXIMUM of LIFE with a MINIMUM parole eligibility after TEN (10) YEARS in the Nevada Department of Corrections (NDC), plus an EQUAL and CONSECUTIVE MAXIMUM of LIFE with a MINIMUM parole eligibility after TEN (10) YEARS in the Nevada Department of Corrections for the use of a Deadly Weapon and with ONE THOUSAND, NINE HUNDRED FIFTY NINE (1,959) DAYS CREDIT FOR TIME SERVED. COURT FURTHER ORDERED, Mr. Goodman, Esq. is APPOINTED for the purposes of appeal.

BOND, if any, EXONERATED and CASE CLOSED.

Exhibit List

Case: 10C262966-1 Party: Sort Order: **Status** Defendant Name: **Garcia, Evaristo** **J** **DOB**

Exhibit ID	On Behalf Of	Status/Date	Return/Destroy Date	Type and Description	Exhibit Flag	Source	In Custody Of	Location
PG	Plaintiff			GRAND JURY EXHIBITS 40		State of Nevada	District Court Criminal/Civil 03/29/2010	Evidence Vault
Comment: ExhibitID : 188943								
1	Plaintiff	Admitted 07/09/2013	Destroy 07/17/2016	Photograph		Wolfson, Steven B		

Comment: see complete list in events tab

~~00~~ STATE'S EXHIBITS

CASE NO. C262966

	Date Offered	Objection	Date Admitted
1 - Aerial map	7-9-13	NO	7-9-13
2 - Aerial map zoom	"	"	"
3 - Crime scene diagram	"	"	"
4 Photo	"	"	"
5			
6			
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23			

STATE'S

EXHIBITS

CASE NO. C262966

	Date Offered	Objection	Date Admitted
24 Photo	7-9-13	no	7-9-13
25			
26			
27			
28			
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STATE'S

EXHIBITS

CASE NO. C262966

	Date Offered	Objection	Date Admitted
47 Photo	7.9.13	NO	7.9.13
48	"	"	"
49	"	"	"
50	7.9.13	NO	7.9.13
51	"	Obj. OR	"
52			
53			
54	7.9.13	Obj. OR	7.9.13
55			
56			
57			
58	7.9.13	NO	7.9.13
59			
60			
61			
62			
63	7.9.13	NO	7.9.13
64	7.11.13	NO	7.11.13
65	"	"	"
66	"	"	"
67	"	"	"
68	"	"	"
69 ↓	"	"	"

STATE'S EXHIBITS

CASE NO. 0262966

		Date Offered	Objection	Date Admitted
70	photo	7-11-13	NO	7/11/13
71		"	"	"
72		"	"	"
73		"	"	"
74		"	"	"
75		"	"	"
76		7-11-13	NO	7-11-13
77		"	"	"
78		"	"	"
79		"	"	"
80		"	"	"
81		"	"	"
82		"	"	"
83		"	"	"
84		"	"	"
85		7-9-13	NO	7-9-13
86	Puppet's Girl/Friend	"	Obj. OR	"
87				
88				
89				
90		7-11-13	NO	7-11-13
91		"	"	"
92	✓	"	"	"

STATE'S

EXHIBITS

CASE NO. C762964

	Date Offered	Objection	Date Admitted
93 Photo	7-11-13	NO	7-11-13
94	"	"	"
95	"	"	"
96	7-12-13	NO	7-12-13
97	"	"	"
98 @ Photo	"	"	"
99 evidence bag (bullets + casing)	7-9-13	NO	7-9-13
99.1 Apparent bullet	"	"	"
99.2 " "	"	"	"
99.3 Cartridge Case	"	"	"
99.4 " "	"	"	"
99.5 " "	"	"	"
99.6 Apparent Bullet	"	"	"
99.7 Cartridge Case	"	"	"
99.8 " "	"	"	"
99.9 Apparent Bullet	"	"	"
99.11 " "	"	"	"
100- evidence box (gun)	7/9/13	obj 505	7-11-13
100A Bag contents	7/11/13	No obj.	
100B Apparent bullet			
101 A - buccal swab Giovanni C. buccal - vic			
101 B buccal swab Manuel d buccal - Δ			
102- evidence bag (V clothes)	7-11-13	NO	7-11-13
103 - latent print (bullet)	Returned To Counsel		
104 latent print cards (gun)			
105- known prints - Δ			

STATE'S EXHIBITS

CASE NO. C2629164

[illegible]

Deft's

EXHIBITS

CASE NO. C262966

[illegible]

Court's Exhibit List

CASE # C262966

		OFFERED		ADMITTED	
		DATE	OBJ	DATE	
1.	Question from Juror # 6 : directed to: CSA Proietto: Asked	7/9	<input checked="" type="checkbox"/>	NO	<input checked="" type="checkbox"/> 7/9
2.	" " " # 7: " " " " : Asked	"	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> "
3.	" " " # 5: " " " " : NOT Asked	"	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> "
4.	" " " # 5: " " " " : NOT Asked	"	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> "
5.	" " " # 14: " " " " : NOT Asked	"	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> "
6.	" " " # 4 : " " :Dan Eichelberger : Asked	7/10	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> 7/10
7.	" " " # 1 : " " :Dan Eichelberger : Asked	"	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> "
8.	" " " # 1 : " " :Betty Graves : Asked	"	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> "
9.	" " " # 7 : " " :Betty Graves : Asked	"	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> "
10.	" " " # 8 : " " :Betty Graves : Asked	"	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> "
11.	" " " # 7 : " " :The Court : NOT Asked	"	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> "
12.	State's Proposed Opening Powerpoint presentation on paper (not used)	7/11	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> 7/11
13.	Question from Juror # 7 : directed to : Ken Hardy: BOTH Asked	"	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> "
14.	" " " # 6: " " " " : Asked	"	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> "
15.	" " " # 8: " " " " : Asked	"	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> "
16.	" " " # 7: " " : Cliff Mogg : Asked	7/12	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> 7/12
17.	" " " # 7: " " : Alice Maceo : Asked	"	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> "
18.	" " " # 5: " " " " : Asked	"	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> "
19.	" " " #10: " " " " : Asked	"	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> "
20.	" " " #1 : " " " " : Asked	"	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> "
21.	" " " #3 : " " :Dr. Roitman : Asked	"	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> "
22.	" " " #13: " " " " : Asked	"	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> "
23.	" " " # 8 : " " " " : Asked	"	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> "
24.	Deft's proposed Jury Instruction Not Given - Credibility Instruction	"	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> "
25.	Deft's proposed Jury Instruction: Withdrawn by Deft.	"	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> "
26.	State's Closing Powerpoint presentation on paper	7/15	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> 7/15
27.	Verdict Form with typo	"	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/> "

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; REQUEST FOR
ROUGH DRAFT TRANSCRIPT; DISTRICT COURT DOCKET ENTRIES; JUDGMENT OF
CONVICTION (JURY TRIAL); DISTRICT COURT MINUTES; EXHIBITS LIST

STATE OF NEVADA,

Plaintiff(s),

vs.

EVARISTO J. GARCIA,

Defendant(s).

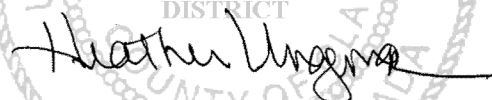
Case No: C262966-1

Dept No: XV

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 14 day of October 2013.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

