

1 18. That your affiant spoke to witness Charla Severs on September 28, 1999, and learned
2 that Charla Severs left the jurisdiction after being threatened by Dwayne Anderson, aka Skill.
3 Charla Severs was threatened because she did not want to cooperate with Donte Johnson and
4 continue to lie on his behalf.

5 19. That Charla Severs believed the threats were serious because she personally knows
6 the persons involved and their deadly capacity.

7 20. That your affiant knows Dwayne Anderson to be closely associated with Donte
8 Johnson. Your affiant knows of a prior homicide that Dwayne Anderson and Donte Johnson
9 participated in together.

10 21. That the purpose of the instant motion is to record, preserve and perpetuate the
11 testimony of Charla Severs in the event that her attendance can not be obtained for the jury trial
12 and/or penalty phase of said trial, if the same is deemed necessary. Defense counsel Dayvid
13 Figler has previously indicated an interest in having Charla Severs testify in the above case and
14 the taping of a deposition of Charla Severs will give the defense an opportunity to interview her
15 prior to trial and to preserve her testimony.

16 22. That NRS 174.228(2) provides that a videotaped deposition may be allowed by a
17 court in all cases.

18 23. That there is no reason why a videotaped deposition is not an appropriate remedy
19 to preserve the testimony of Charla Severs. The Defense has previously expressed an interest
20 in having Charla Severs testify. Witness Charla Severs has demonstrated by her actions that she
21 is unwilling to testify and that she may be unable to testify if the threats made against her are
22 carried out.

23 I declare under penalty of perjury that the foregoing is true and correct.

24
25
26 
27 GARY L. GUYMON
28

1 EXPT
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 435-4711
8 Attorney for Plaintiff

FILED

APR 30 9 28 AM '99

Shirley B. Rungius
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 DONTE JOHNSON
12 #1586283

13 Defendant.

Case No. C153154
Dept No. V
Docket H

14
15 EX PARTE APPLICATION FOR ORDER REQUIRING
16 MATERIAL WITNESS TO POST BAIL

17 COMES NOW, STEWART L. BELL, Clark County District Attorney, by and through
18 GARY L. GUYMON, Chief Deputy District Attorney, and makes application to the above-
19 entitled Court that an Order be entered herein requiring CHARLA SEVERS be taken into
20 immediate custody as a material witness for the purpose of posting bail for her appearance in
21 the jury trial of the above-entitled matter for the said reason of attempting to avoid testifying
22 before the Eighth Judicial District Court.

23 Further application is made that the Court set bail in the amount of \$10,000.00 and if the
24 said witness fails to post bail in the amount of \$10,000.00 for her appearance as a witness in this
25 matter that the Court further direct and order that said witness be delivered into the custody of
26 the Sheriff of Clark County, pending final disposition of the jury trial in the above entitled
27 matter on or until further Order of this Court.

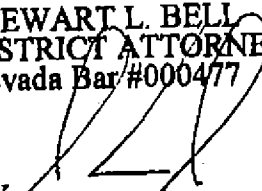
28 //

EXHIBIT "1"

1 This application is made pursuant to the provision of NRS 178.494 and is based upon
2 Affidavits attached hereto which are incorporated herein by this reference.

3 DATED this 22 day of April, 1999.

4 STEWART L. BELL
5 DISTRICT ATTORNEY
6 Nevada Bar #000477

7 BY 
8 GARY L. GUYMON
9 Chief Deputy District Attorney
10 Nevada Bar #003726
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AFFIDAVIT

STATE OF NEVADA }
COUNTY OF CLARK } ss:

GARY L. GUYMON, being first duly sworn deposes and says:

That he is employed in the Office of the Clark County District Attorney, State of Nevada and is engaged in the prosecution of criminal matters and has been so employed for the period of nine (9) years.

This matter has been set for jury trial, said hearing to commence at or about 9:00 a.m. on the 5th day of July, 1999 in said Court.

Your affiant will advise the Court that one CHARLA SEVERS, ID#1421158 of Las Vegas, Clark County, Nevada, is in fact a material witness in the above-captioned matter.

Your affiant will further advise the Court on information and belief that said witness is avoiding testifying before the Eighth Judicial District Court in which she is a material and essential witness.

On August 18, 1998, Charla Severs was interviewed by Detective Thowsen, with the Las Vegas Metropolitan Police Department, Homicide Division, at which time she provided a series of false information to Det. Thowsen in order to avoid Donte Johnson, Terrell Young and Sikia Smith, in being arrested.

On or about September 1, 1998, Charla Severs testified before the Grand Jury and provided false on defendants Donte Johnson, Terrell Young and Sikia Smith's behalf in the quadruple homicide.

On or about September 3, 1998, Charla subsequently again interviewed with Det. Thowsen wherein she provided truthful information which included the fact that she had personal knowledge that the homicide had been done by the above named individuals.

On or about September 15, 1998, Charla Severs testified before the Grand Jury under oath and provided information in which incriminated defendants Donte Johnson, Terrell Young and Sikia Smith in the quadruple homicide.

On or about September 27, 1998, Charla Severs attempted to recant her previous testimony which incriminated the above individuals.

1 Investigator Alexia Conger, with the Clark County District Attorney's Office determined that Ms.
2 Severs has been declared missing by her mother, Vernell Dyess. A missing persons report was filed with
3 the Las Vegas Metropolitan Police Department on April 12, 1999. Prior to this date efforts to locate Ms.
4 Severs have included telephone number and address verification which have met with negative results.
5 Prior residences have been checked and are negative as well. Ms. Severs has not been arrested and is not
6 in custody at this time. Ms. Severs family members have been interviewed and are concerned that she
7 is not willing to come to Court. Further attempts to locate Ms. Severs include verification of employment
8 and credit history. Several weekly/daily rental motels in the downtown area have been checked as well
9 with negative results.

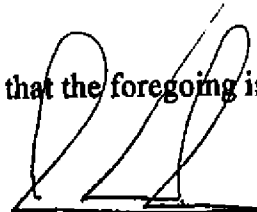
10 Charla Severs has been to the jail on numerous occasions to visit Donte Johnson. Charla Severs
11 has previously indicated that she is the girlfriend of said Donte Johnson, and more importantly has
12 testified to the same.

13 Based on the facts we believe her to be an adverse witness who is attempting to avoid service of
14 process.

15 THEREFORE, your affiant would respectfully pray that this Honorable Court under the
16 authority of NRS 178.494 issue an Order directing that any police officer of this State shall
17 forthwith take the said CHARLA SEVERS, ID#1421158 into custody and forthwith convey her
18 to the jail of the County of Clark, State of Nevada, for incarceration to insure her presence
19 before the Eighth Judicial District Court.

20 I declare under penalty of perjury that the foregoing is true and correct.

21
22 Executed on 4.22.99
(Date)

23
24
25
26
27
28

(Signature)

1 **ORDR**
2 **STEWART L. BELL**
3 **DISTRICT ATTORNEY**
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

FILED

APR 30 9 28 AM '99

Shirley B. Longjumeau

CLERK
DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 DONTÉ JOHNSON,
12 #1586283

13 Defendant.

Case No. C153154
Dept. No. V
Docket H

14
15 **ORDER REQUIRING MATERIAL WITNESS TO POST**
16 **BAIL OR BE COMMITTED TO CUSTODY**

17 STATE OF NEVADA }
18 COUNTY OF CLARK } ss:

19 TO: Any Sheriff, Constable, Marshal,
20 Policeman or Peace Officer in
the State of Nevada

21 An ex parte application upon sworn affidavit having been presented to this Court pursuant
22 to NRS 178.494, wherein it appears that the testimony of CHARLA SEVERS, ID#1421158 is
23 material to the jury trial in the above-entitled matter, and it further appearing to the Court by the
24 way of affidavit that the attendance of said witness in the jury trial of this matter by subpoena
25 is impracticable;

26 YOU ARE THEREFORE commanded forthwith to place said witness in your immediate
27 custody for the purpose of said witness posting bail with the above entitled court in the amount
28 of \$10,000.00 in order to secure the attendance of said witness CHARLA SEVERS, ID#1421158

1 before the Court on the 5th day of July, 1999, at 9:00 a.m., in the jury trial of the above entitled
2 matter.

3 IT IS FURTHER ORDERED and directed that if said witness CHARLA SEVERs,
4 ID#1421158 fails to post bail in the sum of \$10,000.00 to secure her attendance as a witness in
5 the jury trial in the above-stated matter as above provided, then you are further commanded to
6 deliver said witness into the custody of the Sheriff of Clark County pending final disposition of
7 the jury trial in the above-entitled matter or until further Order of this Court.

8 YOU ARE FURTHER ORDERED to direct the Sheriff of the County of Clark, State of
9 Nevada, to make the said CHARLA SEVERs, ID#1421158 available in custody in the Eighth
10 Judicial District Court of the State of Nevada, in and for the County of Clark at 9:00 a.m. on the
11 5th day of July, 1999, for the testimony in the captioned matter and further disposition by this
12 Court.

13 The arresting officer is further authorized, in the event that further communication
14 indicates that the said CHARLA SEVERs, ID#1421158 will appear at the jury trial at the time
15 above stated without the necessity of incarceration in the Clark County Jail or the posting of the
16 bond above described, to make arrangements for food and lodging for the said CHARLA
17 SEVERs for the night of the 4th day of July, 1999.

18 DATED this 29th day of April, 1999.

19
20 
21 DISTRICT JUDGE
22
23
24
25
26
27
28

MAY 3 2 20 PM '99

THE STATE OF NEVADA,

Plaintiff,

-VS-

DONTE JOHNSON,
#1586283

Defendant.

Case No. C153154
Dept. No. V
Docket H

WARRANT OF ARREST

FOR MATERIAL WITNESS CHARLA SEVERS, ID#1421158

THE STATE OF NEVADA,

To: Any Sheriff, Constable, Marshall, Policeman, or Peace Officer in This State:

An affidavit upon oath has been this day laid before me by GARY L. GUYMON accusing CHARLA SEVERS, ID#1421158 thereof of being a Material Witness;

YOU ARE THEREFORE COMMANDED forthwith to arrest the above named CHARLA SEVERS, ID#1421158 and bring her before the Eighth Judicial District Court of the State of Nevada, in and for the County of Clark after it is determined that the said CHARLA SEVERS, ID#1421158, is in the custody of the Sheriff of Clark County, State of Nevada, or in case of my absence or inability to act, before the nearest and most accessible Magistrate in this County.

WITNESS my hand this 27th day of April, A.D. 1999.

And I direct that this Warrant may be served at any hour of the day or night.

DISTRICT COURT JUDGE

SHERIFF'S RETURN

I hereby certify that I received the above and foregoing Warrant on the 27 day of Sept, 1999, and served the same by arresting the within named Defendant, Charla Severs, and bringing Charla Severs into Court his 27 day of Sept, 1999.

JERRY KELLER, Sheriff, Clark County, Nevada

BY [Signature] P-122
Deputy

DA#C153154/sbs
LVMPD EV#9808141600
CONSP;RWDW;KDNPWDW;MWDW - F
070978; BFA; 530267749
(TK4)

PAWPDOCS\ORDR\FORDR\811181183001.WPD

La J'a

To Whom It May Concern: 09-27-98

Thanks a whole lot! I did exactly what B-Loduce told me even though it tore me apart. But I did not want to come up missing in action ^(CIA). I

wish I would of never did that shit. I should of hit him fuck me off! Instead of lying on Deko like that. They all hate him and I did this shit like I hate him too. I cant even face him, because I feel like I betrayed him, now could I tell him he is going to be fucked because I was scared B-lo was going to do me in. My Baby still dont know I said anything. I just wish shit would of went differently. Now I have to hideout from this punk bitch! So if you find me I hope I aint looking like those 4 white boys you all found. I hope you all find him too so now I guess you could perjure me because I lied about some other shit too. But Im not a liar, just scared!

EXHIBIT "2"

CHARLA SEVERS
DETENTION CENTER
City of North Las Vegas
2222 Constitution Way
North Las Vegas, Nevada 89030



CHANNEL 8 NEWS
3228 Channel 8 Dr.
Las Vegas, NV 89015

89109/9087



EXHIBIT "3"

12-02-98

Hello my name is Charla
and I have a story for you the
only reason I did not call
you is because I am in jail
at North Las Vegas Detention Ctr.
Well what I wanted to tell you
all is that my boyfriend is in
jail for that quadruple homicide,
you remember the one you had
on the news not too long ago?
Donte Johnson. Well he didn't have
anything to do w/ that. Terrell
Young and Sikia Smith testified against
him as well as myself because I
was scared. Donte was not there
just Terrell, Sikia and myself but
nobody knows I was there. Donte was
gone the night Terrell, Sikia came
over they was looking for Donte
so they could go do that but he
took to long to come so instead
they made me go. I couldn't say no!
When we got back home Donte was there
and he was upset at me because he
wanted to know where I had been.
~~LATE~~ HE DIDN'T KNOW ANYTHING ABOUT
IT AND HE STILL DOESN'T, HE IS JUST
TRYING TO PROTECT ME. WHEN THE
D.A. CALLED ME TO THEIR OFFICE THE
DAY AFTER I TESTIFIED THAT
DONTE WAS WITH ME AND WE DIDN'T

KNOW ANYTHING ABOUT IT. AND I
REALLY DIDNT REMEMBER HOW
IT HAD HAPPENED UNTIL THE
DISTRICT ATTORNEY PLAYED TERRELL'S
STATEMENT FOR ME AND THE WHOLE
THING CAME BACK TO ME AND THAT'S
WHEN I GOT SCARED AND INSTEAD
OF CONFESSING I PUT IT ON DONTÉ.
I REALLY DONT WANT TO SEE HIM GO
DOWN FOR SOMETHING HE WASNT
EVEN AROUND AND DIDNT KNOW NOTHING
ABOUT. I WONT LET HIM PROTECT
ME ANY LONGER!

Sincerely,
C. C. S.

APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

Alexia Conger, being first duly sworn deposes and states that she is the affiant herein and is an Investigator with the Clark County District Attorney's Office (hereinafter referred to as CCDA) presently assigned to the Criminal Division. That I have been employed with the CCDA for the past 3 years, 10 months and have been assigned to the Criminal Division for the past 3 years, 10 months.

There is probable cause to believe that certain property hereinafter described will be found at the following described premises, to-wit:

Clark County Detention Center
330 South Casino Center
Las Vegas, Nevada 89101
Current Housing Units for Inmate Donte Johnson ID# 1586283; Inmate Terrell Young ID # 1509343 and Inmate Sikia Smith ID# 1594788, Inmate Property Holding for the above names inmates, and Gang Intelligence Office.

The property referred to and sought to be seized consists of the following:

Correspondence, letters, papers, envelopes and notes, which have been written to and/or from Inmates Donte Johnson (ID# 1586283); to and/ or from Terrell Cochise Young (ID# 1509343) to and/or from Sikia Lafayette Smith (ID# 1594788) and tend to incriminate themselves in the crimes of Murder, Conspiracy to Commit Murder, First Degree Kidnaping, Robbery with Use of Deadly Weapon and Burglary, and/or Threats, directed at known or unknown individuals.

The property hereinbefore described constitutes evidence which tends to

EXHIBIT "4"

demonstrate that the criminal offenses of, Murder, Conspiracy to Commit Murder, First Degree Kidnaping, Robbery With Use of a Deadly Weapon, and Burglary have been committed.

That on August 14, 1998, Jeff Biddle, Tracy Gorringer, Matt Mowen and Peter Talamantez were executed at 4825 Terra Linda, Las Vegas, Clark County, Nevada. Defendant's Donte Johnson, Terrell Young and Sikia Smith were subsequently arrested for the crimes of Burglary, Conspiracy to Commit Murder, Robbery with use of Deadly Weapon, Kidnaping with use of Deadly Weapon and Murder with use of Deadly Weapon. Defendant's Young and Smith have been convicted of the above offenses while Johnson still awaits trial.

In support of your affiant's assertion to constitute the existence of probable cause, the following facts are offered:

That on June 15, 1999, Investigator Conger was contacted by Officer Dante Tromba with the Clark County Detention Center. Officer Tromba is assigned to the Gang Intelligence Section at the Detention Center. Officer Tromba advised that pursuant to the Clark County Detention Center's Policy and Procedures regarding inmate safety, he had confiscated letters written to inmate Donte Johnson. These letters were determined to be contraband in nature, in that there were reference's made to gang association and gang activity. Officer Tromba advised that inmates are prohibited from having any written materials that are gang related and those items are confiscated for the safety and

security of the Clark County Detention Center.

--That on September 15, 1999, Officer Tromba again contacted the Clark County District Attorney's office, and advised Investigator Pete Baldonado, that additional correspondence was discovered in the cell of Inmate Terrell Young, and due to the safety concerns of the jail facility, the correspondence to Inmate Terrell Young had been confiscated and is being held at the Clark County Detention Center, in Tromba's office. Investigator Baldonado advised Investigator Conger of the above facts on that same day.

That on September 16, 1999 Investigator Conger observed the letters confiscated by the Clark County Detention Center Corrections Officer, and found that they contain further threats of harm and violence related to the August 14th 1998 Homicide at 4825 Terra Linda, under Event # 9808141600.

The letters contain references to membership in the Brim's Gang (Black Revolutionary Independent Mafia); retaliation to any witnesses who come forward; retaliation if "snitch" jackets are placed on witnesses; one letter by Johnson stated that if he wanted Inmate Terrell Young, he would pull Young's adam's apple out himself.

That Johnson also states that he and Young don't have to worry about the "three little white boys, we ain't got to worry about them or they testimony, I took care of that."

That your affiant is aware that three white male adults (Todd Armstrong, Brian Johnson and Ace Hart) implicated Donte Johnson and Terrell Young in the Homicide at Terra Linda.

That Johnson also refers to an individual he describes as working for the police. He tells Young not to worry, because Johnson has paperwork on him and he is as good as "dropped off".

To further evidence the existence of correspondence between Donte Johnson and Terrell Young, your affiant learned that on September 16, 1999 and September 17, 1999. Terrell Young advised the Honorable Judge Pavlikowski, that Corrections officers with the Clark County Detention Center had recently seized personal property which he received from Donte Johnson.

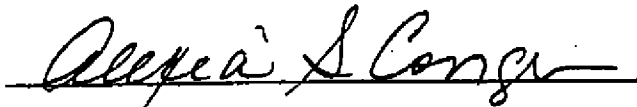
That on 9/15/99, Investigator Conger learned that the Clark County Detention Center, provides inmates detained at the Clark County Detention Center receive with an Inmate Handbook, or they view a video, which details the rules and regulations which are necessary for the safety and security of the inmates and employees of the Clark County Detention Center.

That the Inmate Handbook states on page 7, paragraph 4, "your person and property are subject to search while in the Clark County Detention Facility. This includes but is not limited to pat searches and unclothed searches at any give time during your incarceration." Furthermore, the handbook states on page 10 that "all incoming mail will be opened and searched for contraband prior to delivery".

That the Inmate Handbook state Formal Rule Infractions include F51 "Participation in or encouraging gang-related activities."

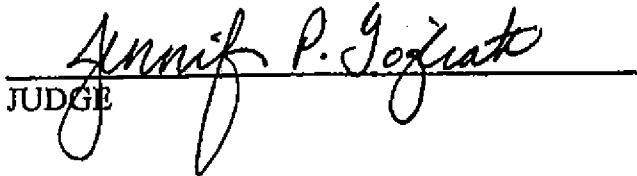
That the search warrant is necessary to ensure that the above correspondence is not destroyed and to seize the same, to be used as evidence in the prosecution's of Donte Johnson, and /or Terrell Young, and/or Sikia Smith.

WHEREFORE, affiant requests that a Search Warrant issue directing a search for and seizure of the aforementioned items at the location set forth herein between the hours of 7:00 a.m. and 7:00 p.m.



Alexia S. Conger

SUBSCRIBED and SWORN to before me this 17th day of September, 1999.


JUDGE

STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477

BY 

Gary L. Guymon
Chief Deputy District Attorney
Nevada Bar #003726

102

ORIG

DISTRICT COURT

FILED IN OPEN COURT

OCT 11 19
SHIRLEY B. PARRAGUIRRE, CLERK
BY Alona Candito
DEPUTY

THE STATE OF ARIZONA

ALONA CANDITO

PLAINT

Vs.

CASE NO. 15314
DEPT NO. V
BUCKET H

DOUGLAS J. JOHNSON, AKA

JOHN WHITE, # 1386283

DEFENDANT

NOTICE OF MOTION AND MOTION TO VACATE
THE DEPOSITION OF MYSELF CHARLES STONE

NOTICE OF MOTION AND PETITION TO VIDEOTAPE THE
DEPOSITION OF CHARLA SEVER

COMES NOW, THAT I, CHARLA SEVER, A TRULY
PERSON, AM FILING THIS NOTICE OF MOTION AND
PETITION TO VIDEOTAPE THE DEPOSITION OF MYSELF.
THIS MOTION IS MADE AND EXERCISED WHEN ALL THE
FACTS AND CIRCUMSTANCES OF THE CASE (AND THE MOTION)
THE ATTACHED EXHIBITS AND AFFIDAVITS, AND ORAL
ARGUMENTS AT THE TIME OF THE HEARING, BE CONSID-
ERED NECESSARY BY THIS HONORABLE COURT.

NOTICE OF HEARING

YOU, AND EACH AND EVERYONE OF YOU IF YOU WILL,
PLEASE TAKE NOTICE THAT THE UNDERSIGNED
WILL BRING FORTH THE MOTION BY SETTING BEFORE
THE ABOVE ENTITLED COURT, IN DEPARTMENT V
THEREOF ON MONDAY, THE 11TH DAY OF OCTOBER,
1999, AT THE HOUR OF 9:00 O'CLOCK A.M., AT
AS SET AS FORTH BY THE COURT. DATED
THIS 6TH DAY OF OCTOBER, 1999.

BY Charla Severs

CHARLA SEVERS

IN PERSON

RULES AND AUTHORITY

NRS 174.175(2) STATES:

IF A WITNESS IS COMMITTED FAILURE TO GIVE BAIL
TO APPEAR TO TESTIFY AT A TRIAL OR HEARING, THE
COURT ON A WRITTEN MOTION OF THE WITNESS
AND UPON NOTICE TO THE PARTIES MAY DIRECT
THAT HIS/HER DEPOSITION BE TAKEN. AFTER THE
DEPOSITION HAS BEEN SUBSCRIBED MAY DISCHARGE
THE WITNESS.

IN PLAIN LANGUAGE OF SUBSECTION 2 IT INDICATES
THAT IF I CHARLA SEEVERS IS COMMITTED TO JAIL
FOR FAILURE TO APPEAR TO GIVE BAIL, THE I
CONTINUALLY THE COURT ON A MOTION. ONCE
I HAVE DONE THE DEPOSITION, I MAY BE
RELEASED AS A WITNESS.

CONCLUSION

WHEREFORE IT IS REQUESTED, REQUESTED THAT
THIS COURT GRANT ME, CHARLA SEEVERS, PROPER
MOTION FOR A DEPOSITION TO BE TAKEN AND
THAT SHD DEPOSITION BE TAKEN IN THE COURT
ROOM WITH THE HONORABLE JUDGE SOREL
PRESIDING DATED THIS 20th DAY OF OCTOBER, 1991.

By Charla Seever

CHARLA SEEVERS

IN PROPER PERSON

• Affidavit •

State of Nevada

CS:

County of Clark

I CHARLA SEVERIS, BEING FIRST DULY SWORN, DEPOSES AND SAYS:

1. I Charla Severis, am currently incarcerated in the Clark County Detention Center as a result of a material witness warrant that this court signed in the case of State of Nevada v. Donnie Johnson AKA JOHN WHITE, DEFENDANT, CASE NO. CF31454.

2. That a trial date for Donnie Johnson is set for January 10, 2000.

3. I Charla Severis, was recently brought back to the State of Nevada from Manhattan, New York, by investigators with the Clark County District Attorney's office as a result of this court's issuance of a material witness warrant.

4. My bail on the material witness warrant is \$10,000.00

5 I am w/o financial means to post the \$10,000.00 bail to be released from CCDC.

6 I have contacted my family members and friends and they will not be able to provide the necessary funds so that I could post my \$10,000.00 bail.

7. I do intend to remain in custody over the next 30 days as I am awaiting trial set for January 10, 2000.

8 my hope is that if I do a deposition with the State's Attorneys, Donnie Johnson's Attorney, and the Honorable Judge S. that I can be released from jail.

I declare under the penalty of perjury that this is true.

Charla Severis
CHARLA SEVERIS

106p
ORIGINAL

FILED

Oct 12 4 23 PM '99

Shirley B. Ruggione
CLERK

1 RPLY
2 PHILIP J. KOHN
3 SPECIAL PUBLIC DEFENDER
4 State Bar No. 00556
5 JOSEPH S. SCISCENTO
6 State Bar No. 4380
7 DAYVID J. FIGLER
8 State Bar No. 004264
9 309 S. Third Street 4th Floor
10 Las Vegas, NV. 89101
11 (702) 455-6265
12 Attorney for Defendant

13
14 DISTRICT COURT
15 CLARK COUNTY, NEVADA

16 * * *

17 THE STATE OF NEVADA

18 VS.

19 DONTE JOHNSON, aka
20 JOHN WHITE

21 ID# 1586283

22 CASE NO: C153154
23 DEPT NO: V
24 DKT NO: H

25 TIME OF HEARING: 9:00 a.m.
26 DATE OF HEARING: 10/14/99

27 **DEFENDANT'S OPPOSITION TO WITNESS SEVER'S MOTION**
28 **TO VIDEOTAPE THE DEPOSITION OF CHARLA SEVERS**

29 COMES NOW, the Defendant, DONTE JOHNSON, aka JOHN WHITE, by and
30 through his attorneys of record, PHILIP J. KOHN, Special Public Defender, JOSEPH S.
31 SCISCENTO, Deputy Special Public Defender, and DAYVID J. FIGLER, Deputy Special
32 Public Defender, and hereby submits this Opposition to Witness Severs Motion to
33 Videotape the Deposition of Charla Severs.

34 ...

35 ...

36 ...

37 ...

38 ...

01531

COUNTY CLERK

OCT 17 1999

RECEIVED

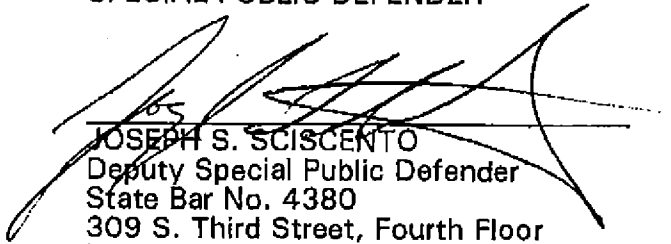
SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

1 Said Opposition is based on the following Points and Authorities, all papers and
2 pleadings on file herein, and argument, if any, at the time of hearing:

3 DATED this 12 day of October, 1999.

4 PHILIP J. KOHN
5 SPECIAL PUBLIC DEFENDER

6
7 
8 JOSEPH S. SCISCENTO
9 Deputy Special Public Defender
10 State Bar No. 4380
11 309 S. Third Street, Fourth Floor
12 Las Vegas, NV 89101
13 Attorney for Defendant

14 **POINTS AND AUTHORITIES**

15 **FACTS**

16 Charla Severs is currently in custody under a Material Witness bond. She was
17 arrested in New York under a Material Witness Warrant, in the case of Donte Johnson.
18 She is currently in custody under the material witness bond in the case of Donte Johnson.
19 The Witness Severs has filed a motion to Videotape the Deposition of Charla Severs.

20 **LEGAL ARGUMENT**

21 Under NRS 174.175 a witness who is in custody under a Material Witness Bond,
22 may move the Court to allow her to provide a video deposition. NRS 174-175 reads as
23 follows:.

24 "If it appears that a prospective witness may be unable to attend or
25 prevented from attending a trial or hearing, that his testimony is material and
26 that it is necessary to take his deposition in order to prevent a failure of
27 justice, the court at any time after the filing of an indictment, information or
28 complaint may upon motion of a defendant or of the state and notice to the
29 parties order that his testimony be taken by deposition and that any
30 designated books, papers, documents or tangible objects, not privileged, be
31 produced at the same time and place. If the deposition is taken upon notice
32 of the state, the court shall order it be taken under such conditions as will
33 afford each defendant the opportunity to confront the witnesses against
34 him.

35 2. If a witness is committed for failure to give bail to appear to testify at
36 a trial or hearing, the court on written motion of the witness and upon notice
37 to the parties may direct that his deposition be taken. After the deposition

1 has been subscribed the court may discharge the witness.

2 3. This section does not apply to the prosecutor, or to an accomplice in
3 the commission of the offense charged."

4 Charla Severs has given a statement that implicates her in the quadruple slaying
5 in this case (A copy of Ms. Severs' statement is attached hereto as Exhibit "1" and
6 incorporated by reference). Ms. Severs is a possible accomplice to this crime and NRS
7 174.175 does not apply to Ms. Severs.

8 **MS. SEVERS MUST BE SHOWN THAT SHE WILL NOT APPEAR FOR THE TRIAL IN**
9 **WHICH SHE IS BEING HELD UNDER ON THE MATERIAL WITNESS BOND**

10 There is no statement from Ms. Severs that she will not appear for the trial of
11 Donte Johnson; there is no affidavit of Ms. Severs that she has been threatened. Further,
12 there is no indication, other than by the District Attorney, that Ms. Severs is not going to
13 show up at the trial. There is no statement that Ms. Severs was ever served with a
14 subpoena to testify at the Johnson trial. There is nothing to show that Ms. Severs will not
15 be available for the trial.

16 Further there is no allegation in the Affidavit that Ms. Severs was ever served with
17 a Subpoena to testify at the Johnson trial, nor is there any statement that Ms. Severs
18 was ever told to show up at trial. The State can not make conclusionary statements
19 about whether Ms. Severs will not show up to the trial. The State failed to show that
20 they could not have subpoenaed Ms. Severs and by court order, force her to testify at the
21 trial. And further the State could subpoena Ms. Severs for the trial.

22 "A witness is unavailable for the Confrontation Clause purpose if the
23 "Prosecutorial Authorities have made a good-faith effort to obtain his
presence at trial"". Ohio v. Roberts, 448 U.S. 56 (1980).

24 "The decision to grant or deny a motion to take the deposition of a proposed
25 witness for use at a criminal trial is committed to the discretion of the of the
26 court. We have held that this discretion is not broad, and should be
exercised carefully. " United States v. Mann, 590 F.2d 361 (1st Cir. 1978).

27 The Defendant has a Sixth Amendment right to confrontation of witness against
28 him.

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

1 " In all criminal prosecutions, the accused shall enjoy the right . . . to be
2 confronted with the witness against him. "The Supreme Court explained in
3 Ohio v. Roberts 448 U.S. 56 (1980) that confrontation clause envisions: [A]
4 personal examination and cross examination of the witness, in which the
5 accused has an opportunity, not only of testing the recollection and sifting
6 the conscience of the witness, but compelling him to stand face to face with
7 the jury in order that they may look at him, and judge his demeanor upon the
8 stand and the manner in which he gives his testimony whether he is worthy
9 of belief. Id at 63-64 (quoting Mattox v. United States, 156 U.S. 237
10 (1895)). " U.S. v. Allie, 978 F.2d 1401 (5th Cir. 1992).

11 The Supreme Court has determined that the confrontation of the witness is
12 important to the jury and for the trial of the Defendant. The State is trying to avoid the
13 confrontation clause by making bold allegations that the witness will not be present, and
14 therefore the need to take her deposition is needed.

15 This Court should take great pains to force the State to prove that the witness can
16 not appear at the trial.

17 If this Court is considering allowing the State to take the video deposition of the
18 Witness Severs, the Defense would request an evidentiary hearing prior to granting the
19 Motion, so the Defense can cross examine the witness as to her being threatened, as to
20 whether or not she will show up, whether she was ever given notice that she had to
21 appear at the trial of Terrell Young, and if she is going to show up at the trial of Donte
22 Johnson.

23 CONCLUSION

24 For the above stated reasons the Defense is requesting that this Court deny Ms.

25 ...

26 ...

27 ...

28 ...

...

...

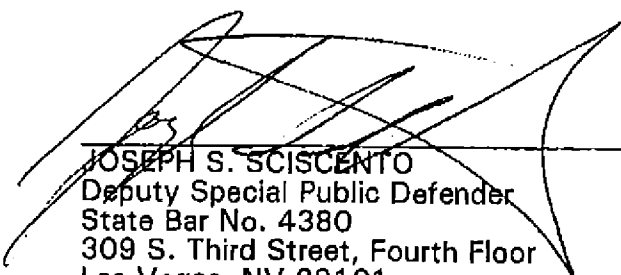
...

28

1 Severs' Motion or in the alternative that prior to allowing the Motion, to grant an
2 evidentiary hearing on the issue of whether Ms. Severs will be unavailable for the trial.


3 DATED this 12 day October, 1999


4 PHILIP J. KOHN
5 SPECIAL PUBLIC DEFENDER

6
7
8 
9 JOSEPH S. SCISCENTO
10 Deputy Special Public Defender
11 State Bar No. 4380
12 309 S. Third Street, Fourth Floor
13 Las Vegas, NV 89101
14 Attorney for Defendant

15 **RECEIPT OF COPY**

16 RECEIPT OF COPY, of the above and foregoing **DEFENDANT'S OPPOSITION TO**
17 **WITNESS SEVER'S MOTION TO VIDEOTAPE THE DEPOSITION OF CHARLA SEVERS** is
18 hereby acknowledged this 12 day of October, 1999.

19 
20 STEWART L. BELL
21 DISTRICT ATTORNEY
22 200 S. Third Street
23 Las Vegas, NV 89101
24 Attorney for Plaintiff

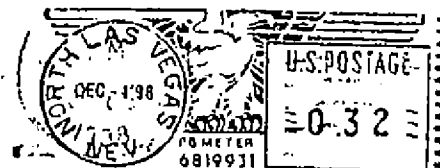
25 
26 JAY L. "CHIP" SIEGEL
27 State Bar No. 004748
28 302 E. Carson Avenue, #400
Las Vegas, NV 89101
Attorney for Charla Severs

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

EXHIBIT "1"

CHARLA SEVERS
DETENTION CENTER
City of North Las Vegas
2222 Constitution Way
North Las Vegas, Nevada 89030



CHANNEL 8 NEWS
3228 Channel 8 Dr.
Las Vegas, NV 89015

83109/9037



12-02-98

Hello my name is Charla
and I have a story for you the
only reason I did not call
you is because I am in jail
at North Las Vegas Detention Ctr.
Well what I wanted to tell you
all is that my boyfriend is in
jail for that quadruple homicide,
you remember the one you had
on the news not too long ago?
Donte Johnson. Well he didn't have
anything to do w/ that. Terrell
Young and Sikia Smith testified against
him as well as myself because I
was scared. Donte was not there
just Terrell, Sikia and myself but
noone knows I was there. Donte was
gone the night Terrell & Sikia came
over they was looking for Donte
so THEY COULD GO DO THAT BUT HE
TOOK TO LONG TO COME SO INSTEAD
THEY MADE ME GO. I COULDN'T SAY NO!
WHEN WE GOT BACK HOME DONTE WAS THERE
AND HE WAS UPSET AT ME BECAUSE HE
WANTED TO KNOW WHERE I HAD BEEN.
~~LATE~~ HE DIDN'T KNOW ANYTHING ABOUT
IT AND HE STILL DOESN'T, HE IS JUST
TRYING TO PROTECT ME. WHEN THE
D.A. CALLED ME TO THEIR OFFICE THE
DAY AFTER I TESTIFIED THAT
DONTE WAS WITH ME AND WE DIDN'T

KNOW ANYTHING ABOUT IT. AND I
REALLY DIDNT REMEMBER HOW
IT HAD HAPPENED UNTIL THE
DISTRICT ATTORNEY PLAYED TERRELL'S
STATEMENT FOR ME AND THE WHOLE
THING CAME BACK TO ME AND THAT'S
WHEN I GOT SCARED AND INSTEAD
OF CONFESSING I PUT IT ON DONTÉ.
I REALLY DONT WANT TO SEE HIM GO
DOWN FOR SOMETHING HE WASNT
EVEN AROUND AND DIDNT KNOW NOTHING
ABOUT. I WONT LET HIM PROTECT
ME ANY LONGER!

Sincerely,
C. C. S.

ORIGINAL

FILED

OCT 14 9 53 AM '99
Clerk of Court
CLERK

1 SAA
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

-vs-

11 DONTE JOHNSON,
12 #1583283

13 Defendant.

Case No. C153154
Dept No. V
Docket H

14
15 STIPULATION AND ORDER

16 STIPULATION TO CHAIN OF CUSTODY OF EVIDENCE

17 IT IS HEREBY STIPULATED AND AGREED by and between Defendant DONTE
18 JOHNSON, represented by DAYVID FIGLER, Deputy Special Public Defender and JOSEPH
19 SCISCENTO, Deputy Special Public Defender, and the Plaintiff being represented by
20 STEWART L. BELL, Clark County District Attorney, through GARY L. GUYMON, Chief
21 Deputy District Attorney, as follows:

22 //

23 //

24 //

25 //

26 //

27 //

28 //

RECEIVED
OCT 14 1999
COUNTY CLERK

1583283

1 IT SHALL BE ORDERED the certain evidence under Las Vegas Metropolitan Police
2 Department Event No. 980814-1600, to-wit: a cigarette butt identified by Criminalist Thomas
3 Wahl as TAW 16 item 22, shall be transferred by:

4 THOMAS D. THOWSEN, P#1467, Detective and/or
5 JAMES J. BUCZEK, P#3702, Detective
6 Las Vegas Metropolitan Police Department; and/or
7 Designee from the Las Vegas Metropolitan Police Department Forensic Laboratory

8 to the following:

9 CELLMARK DIAGNOSTIC
10 20271 Goldenrod Lane
11 Germantown, Maryland 20874

12 for DNA extraction and independent testing and/or analysis to determine genetic markers and/or
13 secretor status through STR testing; whereby, the Parties above named have stipulated to the
14 chain of custody for delivery of said evidence. No other evidence, data or documentation
15 associated with this case shall be sent to CELLMARK DIAGNOSTIC without written court
16 order.

17 IT IS FURTHER STIPULATED by the Parties that CELLMARK DIAGNOSTIC is to
18 perform Short Tandem Repeat (STR) analysis on the DNA extracted from the said cigarette butt
19 and provide findings and a report to both the Prosecution and the Defense.

20 IT SHALL BE ORDERED that CELLMARK DIAGNOSTIC, will return said evidence
21 to THOMAS D. THOWSEN and/or JAMES J. BUCZEK, Detectives with the Las Vegas
22 Metropolitan Police Department, and/or a Las Vegas Metropolitan Police Department Forensic
23 Laboratory Designee, upon completion of said extraction and independent testing and/or
24 analysis; whereby, the Parties above named have stipulated to the chain of custody for the return
25 of said evidence.

26 IT SHALL BE ORDERED, for the purpose of meeting witness and evidence notice
27 requirements under Rule 250 of the Nevada Supreme Court Rules before the presently scheduled
28 trial date, the Parties and CELLMARK DIAGNOSTIC shall complete their respective

1 responsibilities consistent with the Order so the return of said evidence to the Las Vegas
2 Metropolitan Police Department evidence vault is completed on or before December, 1999.

3 IT SHALL BE ORDERED that the charges for the transfer of the evidence and the
4 extraction and independent testing and/or analysis are to be shared equally between the
5 prosecution:

6 Clark County District Attorney's Office
7 200 South Third Street, 7th Floor
Las Vegas, Nevada 89101

8 and the defense:

9 Special Public Defender's Office
10 309 South Third Street, Suite 400
Las Vegas, Nevada 89101

11

12 DATED this 6 day of October, 1999.

13

STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar#000477

14

15

16

BY [Signature]
GARY L. GUYMON
Chief Deputy District Attorney
Nevada Bar #003726

17

18

19

20 DATED this 8 day of October, 1999.

21

SPECIAL PUBLIC DEFENDER'S OFFICE
ATTORNEY FOR DEFENDANT

22

23

BY [Signature]
309 S. THIRD STREET, SUITE 400
Las Vegas, Nevada 89101

24

25

26

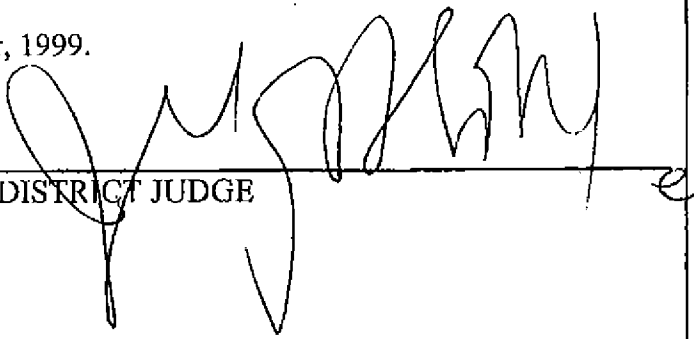
27

28

ORDER

IT IS HEREBY ORDERED that the Stipulation to Chain of Custody of Evidence is GRANTED.

DATED this 14 day of October, 1999.


DISTRICT JUDGE

98F11830X/sbs

ORIGINAL

FILED

OCT 18 4 00 PM '99

Shirley E. Pennington
CLERK

0071
PHILIP J. KOHN
Special Public Defender
Nevada Bar No: 0556
JOSEPH S. SCISCENTO
Deputy Special Public Defender
Nevada Bar No: 4380
DAYVID J. FIGLER
Deputy Special Public Defender
Nevada Bar No: 4264
309 South Third Street, Fourth Floor
Las Vegas, NV. 89155-2316
Attorney for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

DONTE JOHNSON aka
JOHN WHITE,

Defendant.

153154
CASE NO: C154293
DEPT NO: JH V
DOCK NO: W

**MOTION AND NOTICE OF MOTION IN LIMINE
TO PRECLUDE EVIDENCE OF OTHER CRIMES OR BAD ACTS**

COMES NOW, the Defendant DONTE JOHNSON, aka JOHN WHITE, by and through his counsel of record PHILIP J. KOHN, Special Public Defender, JOSEPH S. SCISCENTO, Deputy Special Public Defender and DAYVID J. FIGLER, Deputy Special Public Defender, and moves this Court for an order precluding the prosecution from presenting any evidence of other crimes not charged, through Witness CHARLA SEVERS.

...
...
...
...

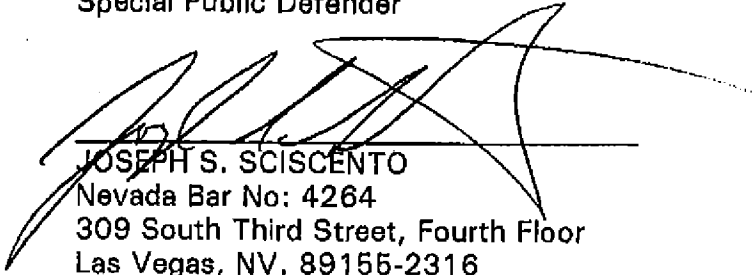
COUNTY CLERK
OCT 18 1999
RECEIVED
CMC
SPECIAL PUBLIC DEFENDER

CLARK COUNTY
NEVADA

1 This motion is based upon the attached Memorandum of Points and Authorities, the
2 file herein, and any argument that this court may hear is support of this motion

3 Dated this 18 day of October, 1999.

4 PHILIP J. KOHN
5 Special Public Defender

6
7 
8 JOSEPH S. SCISCENTO
9 Nevada Bar No: 4264
309 South Third Street, Fourth Floor
Las Vegas, NV. 89155-2316
Attorney for Defendant

10
11 **NOTICE OF MOTION**

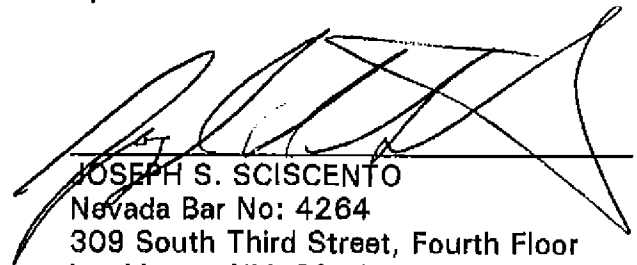
12 TO: STEWART L. BELL, District Attorney, Attorney for Plaintiff

13 TO: GARY GUYMON, Deputy District Attorney for Plaintiff

14 **YOU AND EACH OF YOU PLEASE TAKE NOTICE** that counsel for Defendant will
15 bring the above and foregoing **MOTION AND NOTICE OF MOTION IN LIMINE TO**
16 **PRECLUDE EVIDENCE OF OTHER CRIMES OR BAD ACTS** on for hearing before the
17 above-entitled court on the 21 day of October, 1999, at the hour of 9 a.m., or as
18 soon thereafter as counsel may be heard.

19 DATED this 18 day of October, 1999.

20 PHILIP J. KOHN
21 Special Public Defender

22
23 
24 JOSEPH S. SCISCENTO
25 Nevada Bar No: 4264
309 South Third Street, Fourth Floor
26 Las Vegas, NV. 89155-2316
Attorney for Defendant

27
28
SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

AFFIDAVIT OF JOSEPH S. SCISCENTO

STATE OF NEVADA)
):ss
COUNTY OF CLARK)

COMES NOW, JOSEPH S. SCISCENTO, and being duly sworn deposes and states
as follows:

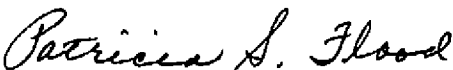
1. That he is a duly licensed attorney for and in the State of Nevada, County
of Clark, and he is the attorney of record of the above Defendant;

2. That he has read the foregoing motion and knows the contents therein and
believes the allegations to be true and correct and as to those matters based on
information and belief he believes them to be true.

FURTHER YOUR AFFIANT SAITH NAUGHT


JOSEPH S. SCISCENTO

Subscribed and Sworn to
before me this 18 day of
October, 1999


Notary Public



PATRICIA S. FLOOD
Notary Public - Nevada
My appl. exp. Sep. 1, 2000
No. 92-3783-1

MEMORANDUM OF POINTS AND AUTHORITIES

STATEMENT OF FACTS

Mr. Johnson is being charged by way of indictment with the following charges of
Murder, Robbery and Burglary. The alleged crimes took place on August 13th 1998. The
State is alleging that, on or about August 13, 1998, the Defendant, along with other Co-
Defendants, entered into a residence, with the intent to rob the occupants of the
residence. The State further alleges that on August 13th, 1998 Donte Johnson murdered

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

1 four individuals at the residence.

2 The State has moved this Court for an Order to take the Video Deposition of Charla
3 Severs. This Court has set a hearing on the Motion for October 21, 1999. Further, this
4 Court has scheduled a proposed date for taking the video deposition of Charla Severs for
5 October 26, 1999.

6 Ms. Severs has provided to the State, numerous statements regarding her knowledge
7 of the crime. On or about September 3, 1998, Ms. Severs provided a tape statement of
8 her knowledge of this case. In that taped statement Ms. Severs mentions that they were
9 going to rob someone. Further, Ms. Severs states that they, (the defendant) had done
10 this in the past like once or twice before.

11 **LEGAL ARGUMENT**

12 **UNCHARGED AND PRIOR BAD ACTS ARE**
13 **INADMISSABLE AS CHARACTER EVIDENCE**

14 A prosecutor may not use prior bad acts to show that the Defendant had a
15 propensity to commit the crime charged. NRS 48.045, reads as follows:

16 Evidence of a person's character or a trait of his character is not admissible
17 for the purpose of proving that he acted in conformity therewith on
particular occasion, except;

18 * * *

19 2. Evidence of other crimes, wrongs or acts is not admissible to prove
20 the character of a person in order to show that he acted in conformity
21 therewith. It may, however, be admissible for other purposes, such as proof
of motive, opportunity, intent, preparation, plan, knowledge, identity or
absence or mistake or accident.

22 NRS 48-045 is sometimes referred to as the prior bad acts statute.

23 In one of the four statements given by Ms. Severs, she indicates that they,
24 presumably Mr. Johnson, Mr. Young and Mr. Smith, had committed prior robberies, or
25 crimes. Ms. Severs is not specific on the number of prior occasions nor is she specific
26 as to the alleged crimes themselves. The reliability and veracity of the information is
27 suspect.

28

1 **THE STATEMENT IS INADMISSABLE BECAUSE ITS**
2 **PREJUDICIAL VALUE OUTWEIGHS ITS PROBATIVE VALUE**

3 NRS 48.035, reads in relevant part as follows:

4 "1. Although relevant, evidence is not admissible if its probative value is
5 substantially outweighed by the danger of unfair prejudice, of confusion of
6 the issues or of misleading the jury"

6 * * *

7 The Defendant does not concede the issue that the statement is inadmissible but,
8 in the alternative the Defendant argues that the statement is prejudicial.

9 The statement is highly prejudicial to Mr. Johnson. The statement that there may
10 have been prior crimes which will cause the jury to want to convict Mr. Johnson for those
11 crimes and not for the alleged crimes in which he is being charged.

12 It is error to admit evidence of uncharged and unsubstantiated crimes. See,
13 generally LaPierre v. State, 108 Nev. 528, 836 P.2d 56 (1992).

14 In the case of Beck v. State, 105 Nev. 910, 784 P.2d 983 (1989), the Nevada
15 Supreme Court overturned a conviction, and held that the District Court erred in allowing
16 testimony of a prior uncharged unreported incident. The court went on further to state
17 that the evidence's prejudicial value far outweighed it's probative value.

18 The Beck court went on to state:

19 "Second the State has failed to show, by plain, clear and convincing
20 evidence that the appellant committed the offense. Berner, 104 Nev. at
21 697, 765 P.2d at 1146 (1988). Espinoza's testimony was the only evidence
22 of the uncharged incident. There was no corroboration of the alleged prior
23 incident, because Espinoza never told anyone about it until he saw a
24 newspaper article about appellant's indictment. In addition, appellant
25 completely denied taking Espinoza to his house and committing any
26 misconduct." Beck at 912.

27 The issue in Beck is similar to the issue in the case at bar. Ms. Severs, in one of
28 her multiple statements, alleges that the defendants committed other crimes, yet there
29 is no specific information about this and nothing to corroborate this information.

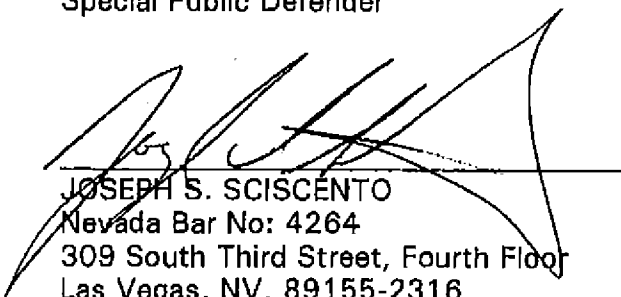
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CONCLUSION

Based on the above argument the Defendant hereby requests that this Court issue an Order In Limine preventing the State from bringing into evidence through Witness Severs any mention of prior bad acts, prior crimes, prior uncharged and charged acts.

Dated this 18 day of October, 1999.

PHILIP J. KOHN
Special Public Defender



JOSEPH S. SCISCENTO
Nevada Bar No: 4264
309 South Third Street, Fourth Floor
Las Vegas, NV. 89155-2316
Attorney for Defendant

ORIGINAL

FILED

OCT 18 2 10 PM '99

Shirley B. Rungius
CLERK

SUPP
WOLFSON & GLASS
Jay L. Siegel, Esq.
Nevada State Bar No. 4748
302 E. Carson Avenue, #400
(702) 385-7227
Las Vegas, Nevada 89101
Attorney for Charla Severs

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

DANTE JOHNSON, aka John White,
ID# 1586283,

Defendant.

Case No. :C153154

Dept. No. :V

SUPPLEMENTAL MOTION TO VIDEOTAPE DEPOSITION OF CHARLA SEVERS

STATEMENT OF FACTS

Witness Charla Severs finds herself jailed in Clark County on a material witness warrant. Specifically, the District Attorney's office has convinced this Court that she is an essential witness in the above entitled case. Because the District Attorney's office had great difficulty in locating Ms. Severs, they sought and received a material witness warrant. Ms. Severs respectfully requests this Court allow a videotape deposition pursuant to N.R.S. 174.175.

POINTS AND AUTHORITIES

N.R.S. 174.175 (2) states:

If a witness is committed for failure to give bail to appear to testify at a trial or hearing, the court on written motion of the witness and upon notice to the parties may direct that his deposition be taken. After the deposition has been subscribed the court may discharge the witness.

CE52

RECEIVED
OCT 18 1999
CMC
COUNTY CLERK

1 It is Ms. Severs contention that she falls within this statute. The Defendant, however, argues that
2 the appropriate statute should be N.R.S. 174.175 (3) which states:

3 This section does not apply to the prosecutor, or to an
4 accomplice in the commission of the offense charged. (Emphasis
added),

5 Consequently, the Defendant claims that Ms. Severs cannot avail herself of a deposition.

6 Arguments by the Prosecution in court indicate that Ms. Severs cannot be considered an
7 accomplice. These Prosecutors have handled the co-defendants' cases without Ms. Severs.
8 Further, these Prosecutors have stated in court that Ms. Severs is in no way considered an
9 accomplice. Further, Prosecutor Chief Deputy District Attorney Gary Guymon has specifically told
10 Counsel and put on the record that the State does not consider Ms. Severs an accomplice and will
11 not press charges against Ms. Severs.

12 Essentially, the State is convinced that Ms. Severs gave two (2) versions of events to the
13 Grand Jury in the instant case. It is the State's contention, according to the Prosecutors, that Ms.
14 Severs second testimony was truthful. The State, therefore, has discounted her original version.

15 The Defendant relies upon a letter written by Ms. Severs to Channel 8 News dated
16 December 2, 1998. (See Defendant's Opposition to Witness Severs' Motion to Videotape the
17 Deposition of Charla Severs, Exhibit "1"). Ms. Severs indicates that this was done out of fear of
18 retaliation from the Defendant. Ms. Severs had received a threat attributed to the Defendant
19 through one of the Defendant's family members. This caused great concern to Ms. Severs.
20 Accordingly, she tried to make amends to the Defendant. The Defendant does not cite any police
21 reports or transcriptions from the co-defendants' trials to buttress their allegation.

22 In light of the Prosecutor's statements and the paucity of evidence offered by the Defendant,
23 it appears that Ms. Severs should not be considered an accomplice. Because she is not an
24 accomplice, N.R.S. 174.175 (3) does not apply. Accordingly, statutes allow this Court the discretion
25 concerning the use of a videotaped deposition.

26 Moreover, the Defendant, the State, and this Court should recognize that just because a
27 videotape deposition is given this does not mean that the videotaped deposition must be used at
28

1 trial. N.R.S. 174.215 addresses the use of a deposition at a trial. This section states in pertinent
2 part:

3 1. At the trial or upon any hearing, a part or all of a
4 deposition, so far as otherwise admissible under the rules of
5 evidence, may be used if it appears:

6 (a) That the witness is dead;

7 (b) That the witness is out of the State of
8 Nevada, unless it appears that the absence of the
9 witness was procured by the party offering the
10 deposition;

11 (c) That the witness cannot attend or
12 testify because of sickness or infirmity;

13 (d) That the witness has become of
14 unsound mind; or

15 (e) That the party offering the deposition
16 could not procure the attendance of the witness by
17 subpoena.

18 Therefore, Ms. Severs feels that by testifying she will have less to fear. Certainly, if the Defendant
19 wants her to testify at the trial, then she cannot be dead. Alternatively, if the State wants to have
20 her videotaped testimony used at trial, the State will have the strong burden of demonstrating that
21 the State "could not procure the attendance of the witness by subpoena." Use of the videotape
22 deposition serves to protect Ms. Severs as well as provide an incentive to both parties to make sure
23 that Ms. Severs is available to testify. Respectfully, the incarcerated Ms. Severs asks this Court
24 to allow the videotape deposition of her testimony and, after such testimony, to be released from
25 incarceration.

26 DATED this 10 day of October, 1999.

27 WOLFSON & GLASS

28 By

JAY L. SIEGEL, ESQ.
Nevada State Bar No. 4748
302 E. Carson Avenue, Suite 400
Las Vegas, Nevada 89101
Attorney for Charla Severs

114
ORIGINAL

FILED

2

1 **ORDR**
2 PHILIP J. KOHN
3 Special Public Defender
4 Nevada Bar No. 000556
5 JOSEPH S. SCISCENTO
6 Deputy Special Public Defender
7 Nevada Bar No. 004380
8 DAYVID J. FIGLER
9 Nevada Bar No. 004264
10 309 S. Third Street, Fourth Floor
11 Las Vegas, Nevada 89155-2316
12 (702) 455-6265
13 Attorneys for Defendant

OCT 18 4 18 PM '99

Shirley E. Rungius
CLERK

14 **DISTRICT COURT**
15 **CLARK COUNTY, NEVADA**

13 THE STATE OF NEVADA,

14 Plaintiff,

15 vs.

16 DONTE JOHNSON,

17 Defendant.

CASE NO. C153154
DEPT NO. V
DOCKET H

19 **ORDER TO TRANSPORT**

20 TO: Clark County Detention Center
21 330 S. Casino Center
22 Las Vegas, Nevada 89101

23 This matter having come on by Ex Parte Application, the matter having been fully
24 reviewed, and good cause appearing therefor,

25 IT IS HEREBY ORDERED that the Clark County Detention Center transport
26 Defendant, DONTE JOHNSON, to the Offices of his court-appointed psychologist, Dr.
27 Louis Mortillaro, Ph.D, for purpose of continuing with the psychological exam ;
28 ...

COUNTY CLERK

OCT 18 1999

RECEIVED

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

CE52

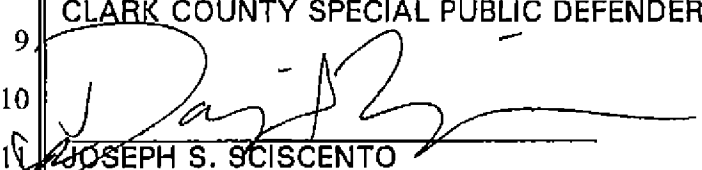
1 IT IS FURTHER ORDERED that the Defendant, DONTE JOHNSON be taken to Dr.
2 Louis Mortillaro's offices located at 501 S. Rancho, #F37, Las Vegas, NV 89106 on
3 October 26, 1999, 1999 at 1:30 p.m..

4 DATED this 5 day of October, 1999.

5
6 
DISTRICT COURT JUDGE

7 SUBMITTED BY:

8 CLARK COUNTY SPECIAL PUBLIC DEFENDER

9 
10
11 JOSEPH S. SCISCENTO
12 Deputy Special Public Defender
13 State Bar No. 004380
14 309 S. Third Street, Fourth Floor
15 Las Vegas, NV 89155
16 Attorney for Defendant
17
18
19
20
21
22
23
24
25
26
27
28

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

115

70

ORIGINAL

FILED

OCT 18 2 52 PM '99

Shirley A. Thompson
CLERK

ROC
WOLFSON & GLASS
Jay L. Siegel, Esq.
Nevada State Bar No. 4748
302 E. Carson Avenue, #400
(702) 385-7227
Las Vegas, Nevada 89101
Attorney for Charla Severs

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

DANTE JOHNSON, aka John White,
ID# 1586283,
Defendant.

Case No. :C153154
Dept. No. :V

RECEIPT OF COPY

RECEIPT OF A COPY of the foregoing **SUPPLEMENTAL MOTION TO VIDEOTAPE**
DEPOSITION OF CHARLA SEVERS, is hereby acknowledged this 18 day of
Oct, 1999.

Karen Miller
DISTRICT ATTORNEY

RECEIPT OF A COPY of the foregoing **SUPPLEMENTAL MOTION TO VIDEOTAPE**
DEPOSITION OF CHARLA SEVERS, is hereby acknowledged this 18th day of
Oct, 1999.

Loni Elliott
SPECIAL PUBLIC DEFENDER

COUNTY CLERK

OCT 1 - 1999

RECEIVED
25
26
27
28

CE52

ORIGINAL

FILED

OCT 10 4 05 PM '99

Shirley A. [unclear]
CLERK

1 ROC
2 PHILIP J. KOHN
3 Special Public Defender
4 Nevada Bar No: 0556
5 JOSEPH S. SCISCENTO
6 Deputy Special Public Defender
7 Nevada Bar No: 4380
8 DAYVID J. FIGLER
9 Deputy Special Public Defender
10 Nevada Bar No: 4264
11 309 South Third Street, Fourth Floor
12 Las Vegas, NV. 89155-2316
13 Attorney for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

11 THE STATE OF NEVADA,

12 Plaintiff,

13 vs.

14 DONTE JOHNSON aka
15 JOHN WHITE,

16 Defendant.
17

153184
CASE NO: C454293
DEPT NO: ~~HR~~ V
DOCK NO: W

18 RECEIPT OF COPY

19 RECEIPT OF COPY of the foregoing MOTION AND NOTICE OF MOTION IN LIMINE
20 TO PRECLUDE EVIDENCE OF OTHER CRIMES OR BAD ACTS, this 15 day of October
21 1999.

22 STEWART L. BELL
23 DISTRICT ATTORNEY

24 *Gary Guymon*
25 GARY GUYMON
26 Deputy District Attorney
27 Nevada Bar No. 003726
28 200 S. Third Street
Las Vegas, Nevada 89155
Attorney for Plaintiff

RECEIVED
CLERK
COUNTY CLERK

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

CE52

121

1 TRAN

FILED

OCT 18 8 33 AM '99

2
3 ORIGINAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Shirley B. Prawalsky
CLERK

5 STATE OF NEVADA,)

6)
7 PLAINTIFF,)

8 VS.)

CASE NO. C153154

9)
10 DEPT. V

11 DONTÉ JOHNSON, aka JOHN LEE)
12 WHITE)

13 DEFENDANT.)

Transcript of
Proceedings

14 BEFORE THE HONORABLE JEFFREY D. SOBEL, DISTRICT COURT JUDGE

15 STATE'S MOTION TO VIDEOTAPE THE DEPOSITION OF CHARLA SEVERS

16 MONDAY, OCTOBER 11, 1999, 8:30 A.M.

17 APPEARANCES:

18 FOR THE STATE:

GARY GUYMON, ESQ.
ROBERT DASKAS, ESQ.
DEPUTY DISTRICT ATTORNEYS

19 FOR DEFENDANT JOHNSON:

JOSEPH SCISCINTO, ESQ.
DEPUTY SPECIAL PUBLIC
DEFENDER

20 COURT RECORDER: SHIRLEE PRAWALSKY

COUNTY CLERK

21
22 RECEIVED
23 OCT 18 1999
24
25

26

27

28

CE12

1 LAS VEGAS, NEVADA, MONDAY, OCTOBER 11, 1999, 8:30 A.M.

2 THE COURT: Mr. Daskas, what do you have?

3 MR. DASKAS: Judge, we're here on the Donte Johnson matter.

4 THE COURT: Okay. That's on page 17.

5 Now, Mr. Sciscinto, you had filed an opposition.

6 MR. SCISCINTO: Yes, Your Honor.

7 THE COURT: Then I just got-gee, a few minutes ago--an Amended Notice
8 of Motion, a Motion to Videotape the Deposition of Charla Severs. Is this different,
9 Mr. Daskas, or Mr. Guymon?

10 MR. GUYMON: It's not, Judge. What had happened, quite honestly, is that
11 I had filed as exhibit 1 the material witness warrant in Terrell Young's case rather
12 than Donte Johnson. And I wanted to make sure the record was clear. And that
13 is that there is a material witness warrant that's outstanding on Donte Johnson's
14 case just like there was in Sikia Smith's case, just like there was in Terrell Young's
15 case.

16 THE COURT: And that's already been in court here like a week ago with that
17 witness, wasn't it?

18 MR. GUYMON: Yes, Charla Severs. I think she's here today.

19 THE COURT: All right.

20 MR. GUYMON: Yes, she is.

21 THE COURT: How long is it going to take you to file a reply to what Mr.
22 Sciscinto filed? I know we have hearings anyway in about 10 days, don't we?

23 MR. GUYMON: Do we?

24 THE COURT: I thought we had some kind of status check.

25 THE CLERK: October 21st.

26 THE COURT: Could you have it done a few days before that and I could rule
27 on it that day?

1 MR. GUYMON: You can, Judge. My honest feeling, though, is Judge, that
2 I don't have a lot to respond to, quite honestly. I mean, what I've said here stands.

3 THE COURT: You don't think he said anything that you might want to
4 answer?

5 MR. GUYMON: I can file a--sure, Judge, I'll respond to it.

6 THE COURT: Okay. Now, I take it that, in reading the second sub-section
7 of that statute that you cited, if she had her own lawyer, she could actually bring
8 this motion as a way of trying to get out, couldn't she?

9 MR. GUYMON: My understanding is she has a motion that she wants to file
10 today. I just spoke to her mother. And I'm advised that she has a motion that she
11 wants to--

12 THE COURT: Are we talking about a motion to invoke the second sub-
13 section?

14 MR. GUYMON: Yes.

15 THE COURT: Okay. Because that might, at least, give me the discretion to
16 do it regardless of any opposition.

17 MR. GUYMON: I understand that.

18 THE COURT: What motion are you going to file, Miss?

19 MS. SEVER: Oh, I have a motion to file to get out of jail.

20 MR. SCISCINTO: Your Honor, if I may, I think she does need to have counsel
21 appointed. I spoke with her; she informed me she has no counsel. And I think she
22 may need to invoke that right.

23 THE COURT: Does Chip Siegel have any relationship to this case as far as
24 you know?

25 MR. GUYMON: No, Your Honor, he doesn't.

26 THE COURT: Okay. I'll ask Chip if he will take it for the purposes of
27 discussing her rights with her. I wouldn't even have to make much of a ruling if that

28

1 was the request of the witness under the second sub-section of the statute you've
2 invoked.

3 Let's put it on Thursday for status check. Notify Mr. Siegel that there
4 is a material witness in custody and there is talk of her wanting to get out and
5 maybe ask for a deposition. And ask him if he'll take that appointment and whether
6 or not he can talk to her before Thursday at the status check date.

7 So, the status check will be on?

8 THE CLERK: October 14th, 9:00 a.m.

9 THE COURT: Thank you.

10 MR. GUYMON: Judge, I received a copy of the motion that she wants to file.
11 He's asked if he can have a copy, counsel has.

12 THE COURT: Sure.

13 MR. GUYMON: Can I take those and file them with the Court?

14 THE COURT: Yes.

15 MR. SCISCINTO: Also, Your Honor, if I can have a copy of the amended
16 showing the exhibit. I'm just asking Mr. Guymon.

17 THE COURT: I don't know if I have an extra. I assume they do. They don't
18 have their big files here, do they? Let's see if we have an extra.

19 MR. GUYMON: We sent it over on Thursday, Judge. I'll hand deliver it
20 myself.

21 THE COURT: You sent this over? Not mine, right?

22 MR. GUYMON: I thought. I instructed the secretary to provide you with a
23 courtesy copy on Thursday.

24 THE COURT: I wonder if this is--here, Gary. This was just sitting on my
25 desk.

26 MR. GUYMON: Judge, I can tell the Court honestly, I asked my secretary to
27 deliver one on Thursday. And we sent one over to the public defender's office.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THE COURT: Okay, thanks.

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed
the sound recording of the proceedings in the above case.

Shirlee Prawalsky
SHIRLEE PRAWALSKY, COURT RECORDER

122

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TRAN

FILED

ORIGINAL

OCT 18 8 32 AM '99

DISTRICT COURT *Shirley D. Prawalsky*
CLARK COUNTY, NEVADA CLERK

STATE OF NEVADA,)
)
 PLAINTIFF,)
VS.)
)
)
 DONTÉ JOHNSON, aka JOHN LEE)
WHITE)
)
 DEFENDANT.)

CASE NO. C153154
DEPT. V
Transcript of
Proceedings

BEFORE THE HONORABLE JEFFREY D. SOBEL, DISTRICT COURT JUDGE

STATE'S MOTION TO VIDEOTAPE THE DEPOSITION OF CHARLA SEVERS

THURSDAY, OCTOBER 14, 1999, 8:00 A.M.

APPEARANCES:

FOR THE STATE: GARY GUYMON, ESQ.
ROBERT DASKAS, ESQ.
DEPUTY DISTRICT ATTORNEYS

FOR DEFENDANT JOHNSON: JOSEPH SCISCINTO, ESQ.
DAYVID FIGLER, ESQ.
DEPUTY SPECIAL PUBLIC
DEFENDERS

FOR WITNESS CHARLA SEVERS: JAY SIEGEL, ESQ.

COURT RECORDER: SHIRLEE PRAWALSKY

RECEIVED
OCT 18 1999
COUNTY CLERK

CE12

1 LAS VEGAS, NEVADA, THURSDAY, OCTOBER 14, 1999, 8:00 A.M.

2 THE COURT: Okay, Donte Johnson on page 12. Chip, you're able to
3 confirm as counsel for the witness, Ms. Severs?

4 MR. SIEGEL: Yes, we've--this.

5 THE COURT: Okay. And has--are you going to file a separate motion, or?

6 MR. SIEGEL: Judge, I've reviewed the State's motion, Mr. Johnson's motion
7 for the defense, and also my client's motion. The law is pretty clear in the sense
8 of how it's laid out. If you want a supplement, I can. I don't--

9 THE COURT: Well, no, I mean, I haven't even seen that motion. I heard
10 about it and I saw that there were papers.

11 MR. SIEGEL: It was filed and that's why I didn't have it typed up.

12 THE COURT: Let's see if it's in here.

13 MR. SIEGEL: There's just a couple other things I can--

14 THE COURT: Hold on, let me see where it went to.

15 Okay, so you're joining now, as her counsel, in her request to videotape
16 her testimony?

17 MR. SIEGEL: Yes, Judge. We've spoken about it and we've discussed the
18 ramifications. She indicates that she would like to have her videotaped deposition
19 in an effort to get out of custody.

20 THE COURT: Okay. Now, I know you oppose the State's motion to
21 videotape. But what is being invoked is a second sub-section which appears to give
22 the witness the ability to file it and then leave it to my discretion whether or not
23 there should be a video tape. And I see no reason, given her circumstances, leaving
24 aside the State's motion, for the purposes of this decision, in granting it.

25 Does the defense have an additional problem given this new
26 development?

27 MR. SCISCENTO: Well, Your Honor, I don't know if this Court has received
28

1 my opposition to Witness Severs' motion. I filed that yesterday.

2 THE COURT: No, I haven't, no.

3 MR. SCISCENTO: Your Honor, in that under NRS 174.175 it specifically says
4 sub-section 3, "This section does not apply to the prosecutor or to an accomplice
5 in the commission of the offense charged." As an exhibit, we have put on a letter
6 by Ms. Charla Severs which indicates that she was, in fact, there at the time of the
7 murder. Now, whether or not this is true or not, she may, in fact, be an accomplice
8 to this crime. Therefore, this section does not apply to her.

9 Further, Your Honor, I don't know if this is Mr. Siegel's position or he
10 may be wanting to argue this, but I think also the reason that she's in needs to be
11 argued, whether or not she's improperly under the material witness bond. I think
12 the State needs some proof--

13 THE COURT: Well, I mean, that's not your business; that's his business,
14 mainly.

15 MR. SCISCENTO: I understand that.

16 THE COURT: Now, in terms of what Mr. Sciscento is saying, do you even
17 have an interest in this do you think, legally, or is it all Mr. Siegel's ball?

18 MR. GUYMON: Well, with regards to--I mean, certainly, I have an interest.
19 But with regards--

20 THE COURT: No, I mean but do you think you have a legal standing to join
21 in this argument, or is it mainly Mr. Siegel's problem?

22 MR. GUYMON: I would say it's mainly Mr. Siegel's. I mean, what the statute
23 requires Ms. Severs to do is to establish that she can't make bail and that she now
24 petition the Court by way of writing to, in fact, do a deposition. With regards--

25 THE COURT: Now, of course, you have a common interest in this. And here
26 the prosecutor has the most knowledge in terms of the factual representation do you
27 believe that she is somebody who falls within the exceptions of sub 3?

1 MR. GUYMON: No, Judge, she is not an accomplice. I will state that here
2 and now for the record that the State has no interest in prosecuting her for any
3 involvement in this case whatsoever. It is true that she wrote a letter to Channel 8
4 News wherein she indicated that, in an effort to protect her boyfriend, she was
5 exonerating him, saying, "He wasn't there and I was the one that was there. And
6 I went with the other two."

7 Judge, I will tell you that I have looked at all the evidence in its
8 entirety; that statement is absolutely inconsistent with the evidence in this case.
9 More importantly, I understand why she wrote that letter. There is a perfect--there's
10 a perfect explanation for it, a very plausible explanation. She is not an accomplice,
11 nor am I going to prosecute her as an accomplice.

12 MR. SIEGEL: And those are the magic words that I was going to ask for. And
13 Mr. Guymon and I have discussed this, that it's my understanding from what he's
14 saying here she would any immunity as to any participation in this crime which she
15 has indicated to me she has no participation. But that certainly sounds as if she had
16 any concerns and I, as her attorney, would have concerns just in case, that she
17 does have immunity here.

18 Further, it is my understanding that there has been statements made
19 by the prosecution to Ms. Severs that she need not worry about facing any
20 prosecution if somebody were to come in and argue later that her inconsistencies
21 between two grand jury testimonies could be perceived as perjurious. It's my
22 understanding she need not worry about that.

23 THE COURT: Okay. Let me do this. If this were just involving Count I,
24 Burglary While in Possession of a Firearm, I might decide this on a fairly informal
25 basis. Where several of the counts, at least four, as I recall, involve capital murder
26 allegations, I'd like to do it a little more formally.

27 You're answering anyway. You may be brief as you discussed when
28

1 you were here earlier in the week, but you're going to be filing a reply anyway.
2 Why don't you file a reply that addresses both of these issues, the earlier issue in
3 the week, plus this new one. How long would it take you—I hope just a few days—to
4 get a reply to what Mr. Sciscento has filed that I haven't seen yet?

5 MR. SIEGEL: Well, I can do that. But the real issue seems to be Mr. Sciscento
6 is suggesting that Ms. Severs could be an accomplice. I've got to tell you, Judge,
7 that number one: Mr. Guymon and Mr. Sciscento obviously know the facts of the
8 case much better than I do. I am not privy to the entire file. I do know what my
9 client has told me.

10 Secondly: if she had immunity, then certainly she has nothing to worry
11 about and that doesn't give me any cause to write a response. I will be happy to
12 do whatever the Court wants.

13 THE COURT: And did you say she has immunity, or you're just not going to
14 prosecute her?

15 MR. GUYMON: Judge, I have not given her immunity because there is no
16 need for the immunity. I am telling the Court that she is not an accomplice, nor am
17 I going to prosecute her as an accomplice.

18 There is one issue with regards to the testimony in front of the grand
19 jury. On the first occasion, she did not testify truthfully. She returned the very next
20 week and she testified truthfully. I have indicated to Mrs. Severs months ago that
21 I would not prosecute her for perjury. In fact, I told the grand jury that the second
22 time she appeared.

23 So, again, she does not have criminal liability in this case and thus,
24 there is no immunity. I can't give someone immunity when there's no criminal
25 conduct.

26 THE COURT: You couldn't?

27 MR. GUYMON: Well, I could, but--

1 THE COURT: I mean, you could if it made everybody more comfortable.
2 Let's do this--what were you going to say, Chip?

3 MR. SIEGEL: Well, just so I can address this small issue. Whether she is an
4 accomplice or not is really a matter of interpretation that would come: the State
5 saying one thing, the defense saying another and she's kind of in the middle. I can
6 tell you that it is her urge to give a videotape deposition. I can tell you that what's
7 been told to me by the prosecution as well as in here. It leads me to believe that
8 she has nothing to worry about as far as any perjury, or as far as any involvement
9 from the State's perspective on this crime.

10 I personally would feel more comfortable if I had something in writing
11 that says, "You don't need to worry about anything," in light of the conversations
12 I've had--

13 THE COURT: Like an immunity order?

14 MR. SIEGEL: Exactly. And I provided--

15 THE COURT: All right. Let's do this: you file--

16 MR. GUYMON: Didn't I provide that to you?

17 MR. SIEGEL: He's certainly given me a letter that gives me a comfort level and
18 I've disclosed it here on the record. He's disclosed--Mr. Guymon's disclosed things
19 here on the record that gives me the ability to do that. If an immunity order is
20 needed, that would be even better.

21 THE COURT: All right. Let's do this: you file whatever you're going to file
22 by Tuesday, let's say close of business with a courtesy copy to me that I can study
23 on Wednesday. Chip, you do the same.

24 Now, my inclination is I'm going to allow this deposition. But I'm not
25 making that a final order. I'm putting you on notice today that this is probably going
26 to happen. When, in terms of a time frame, would the prosecution be ready to take
27 this deposition?

28

1 MR. GUYMON: Judge, we are interested in doing it as soon as possible.
2 THE COURT: Okay. So it could be next week, as far as you're concerned?
3 MR. GUYMON: Absolutely.
4 MR. FIGLER: Your Honor, at that point, we would ask for--before that ultimate
5 decision is made, we would ask for specific findings of fact. And if Your Honor
6 would be interested in knowing what findings of fact we would want for the record,
7 we would like to be able to supplement with a supplemental opposition, perhaps, of
8 what specific--
9 THE COURT: Okay. You can file whatever you'd like to by the close of
10 business on Tuesday also in terms of specific findings. But I'm saying today is
11 Thursday, the 14th, I'm saying probably on the 21st my inclination is I'm going to
12 allow the videotape. Would you be ready now with about a week and a day's
13 notice to take this deposition a week from tomorrow?
14 MR. FIGLER: Your Honor, this is such a material proceeding. And I know Mr.
15 Sciscento is lead counsel on this, but I've been involved in it longer than he has.
16 I'm at a death penalty seminar all of next week in Sacramento, California. After
17 that, I would be available whenever the Court wants me to. I'm gone through the
18 25th. I'll be back on the 26th.
19 THE COURT: Who's got the Lucas/Hopkins murder case? Is that you, L.J.,
20 or you, Mr. Daskas? Lucas/Hopkins?
21 MR. HEHN: I do.
22 THE COURT: Oh, you have it, Bill? It's not one these special things? Do
23 you think it's going to go on that day?
24 MR. HEHN: No.
25 THE COURT: No?
26 MR. HEHN: No. Well, the defense attorney needs a continuance. He'll be out
27 of state.
28

1 THE COURT: Okay.

2 MR. HEHN: And I think I filed a motion, also.

3 THE COURT: Okay. All right. We will tentatively schedule, if this is good
4 for you guys schedule, the deposition, if it is going to be given, for Friday, October
5 the 29th at 8:00 a.m.

6 MR. GUYMON: Judge, can I ask this: I am at a DNA seminar out of state from
7 the 27th on. Could we do it on Monday, the 26th, Judge, to accommodate Mrs.
8 Severs?

9 MR. FIGLER: The 27th, then, Your Honor, because I'm still gone the 26th.

10 MR. GUYMON: I thought you said you were getting back on the--

11 MR. FIGLER: No, the 26th--I'm actually getting back the 26th about 2:30, 3:00.

12 MR. GUYMON: And do you need to be here, or can Mr. Sciscento handle it?

13 MR. FIGLER: Well, that's what I was hoping, to be here because this is so
14 important.

15 THE COURT: And when do you leave?

16 MR. GUYMON: I leave on the 27th, Judge. I believe it's the evening hours.
17 And, in fact, could we do it--

18 THE COURT: The 27th, then is a Wednesday--

19 MR. FIGLER: Tuesday.

20 MR. GUYMON: I think it's a Tuesday, Judge.

21 THE CLERK: The 27th is a Wednesday.

22 MR. FIGLER: Oh, you know, Your Honor, I'm back on the 25th, in the evening,
23 so the 26th is fine.

24 THE COURT: That's a Monday. So, the 26th?

25 MR. GUYMON: Can we do it on the morning of the 26th, Judge?

26 THE COURT: Yeah, that's fine.

27 MR. FIGLER: That's fine.

28

1 THE COURT: All right. Let's do it—we'll start our calendar early here. How
2 long do you think the direct will take?

3 MR. GUYMON: An hour, Judge.

4 THE COURT: Okay. We'll do it in open court. I don't think I have to be
5 present for depositions, but I think in terms of the procedure, the case will work
6 better if we treat it just as if it were trial testimony. And so, let's allow a couple of
7 hours for it and we'll do it that day. So, that's 10/26 and we'll make the final
8 decision next week when we have our status check on all the motions.

9 MR. SCISCENTO: Your Honor, if I can approach to give you a copy of the
10 defendant's opposition to—

11 THE COURT: Thanks. And make sure we get courtesy copies of all these
12 things delivered to Elana by close of business on Tuesday. I'm not going to be in
13 trial on Wednesday. I have a trial on Thursday and I will be reading all this stuff
14 Wednesday.

15 THE CLERK: That's December [sic] 21st at 9:00 a.m. for the Decision—

16 THE COURT: You said December. Do you mean October?

17 THE CLERK: Sorry, October.

18 MR. FIGLER: 9:30 on the 26th?

19 THE COURT: Yes.

20 THE CLERK: Right.

21 THE COURT: Okay, thanks.

22 MR. SCISCENTO: On the 21st, that was what time?

23 THE CLERK: Nine o'clock.

24 MR. SCISCENTO: Thank you.

25 ///

26 ///

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

MR. GUYMON: Judge, again, I apologize for not being here at eight. We weren't called.

THE COURT: That's all right. I don't know who she notified.

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the sound recording of the proceedings in the above case.

Shirlee Prawalsky
SHIRLEE PRAWALSKY, COURT RECORDER

ORIGINAL

FILED

OCT 13 2 20 PM '99

Philip J. Kohn
CLERK

0001
PHILIP J. KOHN
Special Public Defender
Nevada Bar No. 000556
JOSEPH S. SCISCENTO
Deputy Special Public Defender
Nevada Bar No. 004380
DAYVID J. FIGLER
Nevada Bar No. 004264
309 S. Third Street, Fourth Floor
Las Vegas, Nevada 89155-2316
(702) 455-6265
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

DONTE JOHNSON,

Defendant.

CASE NO. C153154
DEPT NO. V
DOCKET H

MOTION TO COMPEL THE PRODUCTION OF ANY AND
ALL STATEMENTS OF THE DEFENDANT

DATE OF HEARING: 10-21-99
TIME OF HEARING: 9:00 A.M.

COMES NOW the Defendant, DONTE JOHNSON, by and through his attorneys,
PHILIP J. KOHN, Special Public Defender, JOSEPH S. SCISCENTO, Deputy Special Public
Defender, and DAYVID J. FIGLER, Deputy Special Public Defender, and hereby moves this
Honorable Court for an Order compelling the District Attorney to produce any and all
statements of the defendant including those contained in other statements of other
witness and those procured through "attorney work-product." This Motion is based upon
the Memorandum of Points and Authorities, and argument of counsel at the time set for

RECEIVED
OCT 19 1999
SPECIAL PUBLIC
DEFENDER
CLARK COUNTY
NEVADA

MC

CE42

CE52

1 hearing on the Motion.

2 DATED this 19 day of October, 1999.

3

4

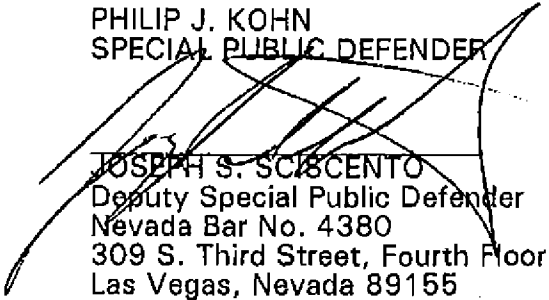
Respectfully submitted,

5

PHILIP J. KOHN
SPECIAL PUBLIC DEFENDER

6

7


JOSEPH S. SCISCENTO
Deputy Special Public Defender
Nevada Bar No. 4380
309 S. Third Street, Fourth Floor
Las Vegas, Nevada 89155
(702) 455-6265

8

9

10

11

NOTICE OF MOTION

12

TO: STEWART BELL, District Attorney

13

TO: GARY GUYMON, Chief Deputy District Attorney

14

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will

15

bring the foregoing Motion on for hearing before the above-entitled Court on the 21

16

day of Oct at 9:00 a.m.,

17

Department V, or as soon thereafter as counsel may be heard.

18

DATED this 19 day of October, 1999.

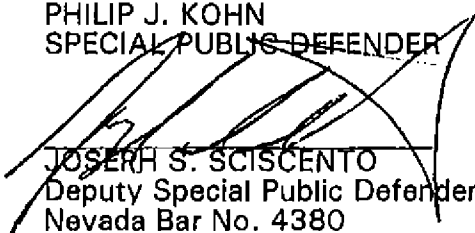
19

20

PHILIP J. KOHN
SPECIAL PUBLIC DEFENDER

21

22


JOSEPH S. SCISCENTO
Deputy Special Public Defender
Nevada Bar No. 4380
309 S. Third Street, Fourth Floor
Las Vegas, Nevada 89155
(702) 455-6265

23

24

25

26

27

28

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

2
3
4
5
6
7
8

9
0
1
2
3

4
5
6
7
8
9
0

- 1
- 2
- 3
- 4
- 5
- 6
- 7

8

1 disclosure any statements made by the Defendant to them. The Courts have long held
2 that the government is responsible for the conduct of such persons as though they were
3 themselves law enforcement personnel. See Sherman v. U.S., 356 U.S. 369, 373-74
4 (1958); See also U.S. v. Perl, 584 F.2d 1316, 1322 n.5 (4th Cir. 1978); U.S. v. Graves,
5 584 F.2d 1319 (5th Cir. 1977); U.S. v. Mosley, 496 F.2d 1012, 1016 n. 4 (5th Cir.
6 1974).

7 With respect to the Defendant's statements allegedly communicated to and
8 received by someone who was not a law enforcement agent or working in conjunction
9 with law enforcement at the time of the communication, courts have recognized that
10 there is "fundamental fairness" involved in "granting the accused equal access to his own
11 words, no matter how the Government came by them." U.S. v. Caldwell, 543 F.2d
12 1333, 1353 (D.D.C. 1974). It is difficult to see why a Defendant's statement to persons
13 not law enforcement agents should be discoverable as of right if they were tape-recorded,
14 but not if recorded in a witness's statement to a Government lawyer, District Attorney
15 or other investigator. See U.S. v. Gee, 695 F.2d 1165 (9th Cir. 1983).

16 **CONCLUSION**

17 For the above stated reasons it is respectfully requested that this Court enter an
18 Order requiring the prosecution to provide the following:

- 19 1. Any relevant written or recorded statements maybe by the Defendant, or
20 copies thereof, within the possession, custody, or control of the State, the
21 existence of which is known to the prosecution. The Defendant further
22 requests the substance of any oral statement allegedly made by him,
23 whether or not the State intends to offer the same into evidence at the trial,
24 and regardless of whether it intends to do so in its case-in-chief, on cross-
25 examination of the Defendant/defense witnesses, or so in rebuttal.
- 26 2. So as to insure that the Defendant has the benefit of the guarantee of the
27 Sixth Amendment to the Constitution of the United States of America that
28 he shall be provided with effective assistance of counsel, any materials
and/or information in the possession of the State that shall be used by the
State or shall act as the basis for the State seeking introduction of any of
the following at the trial of this case:
- (a) Any statement by the Defendant in his representative capacity as the
same is understood within the context of NRS § 51.035(3)(a);

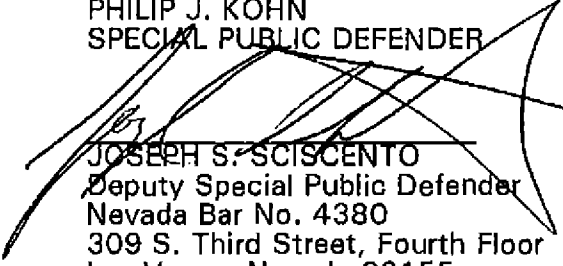
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- (b) Any statement to which the Defendant manifested his adoption or belief as to the truth as the same is included and understood within NRS § 51.035(3)(b);
 - © Any statements made by another which were purportedly authorized by the Defendant as the same is understood within the context of NRS § 51.035(3)(c);
 - (d) Any statement by an agent or servant of the Defendant concerning a matter within the scope of their agency or employment and made during the existence of such a relationship as the same is understood with NRS § 51.035(3)(d);
 - (e) Any statement of any person whom the State claims to be a co-conspirator with the Defendant which were made by said person during the course of and in furtherance of the alleged conspiracy as the same is understood within NRS § 51.035(3)(c).
3. Any oral statements allegedly made by the Defendant to any person who elicited the statements at the request of agents of the State. In this category, the Defendant includes any telephone conversations which he may have had with another person who consented to the recording of the conversation with or without the Defendant's knowledge. The Defendant also includes in this request any recorded telephone conversations between any person the State will maintain or contend was a co-conspirator, aider and abettor, accomplice, or joint venturer with the Defendant in some conduct relevant to the instant case tat trial, or an agent, servant, or employee of the Defendant at the time of the conversation, if the State will maintain that the conversation was made within the scope of the agency, employment, or servant relationship and in furtherance thereof.

Dated this 19 day of October, 1999.

Respectfully submitted,

PHILIP J. KOHN
SPECIAL PUBLIC DEFENDER


JOSEPH S. SCISCENTO
Deputy Special Public Defender
Nevada Bar No. 4380
309 S. Third Street, Fourth Floor
Las Vegas, Nevada 89155
(702) 455-6265

ORIGINAL

FILED

OCT 15 2 21 PM '99

CLERK

0001
 PHILIP J. KOHN
 Special Public Defender
 Nevada Bar No. 000556
 JOSEPH S. SCISCENTO
 Deputy Special Public Defender
 Nevada Bar No. 004380
 DAYVID J. FIGLER
 Nevada Bar No. 004264
 309 S. Third Street, Fourth Floor
 Las Vegas, Nevada 89155-2316
 (702) 455-6265
 Attorneys for Defendant

DISTRICT COURT
 CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

DONTE JOHNSON,

Defendant.

CASE NO. C153154
 DEPT NO. V
 DOCKET H

MOTION TO REVEAL THE IDENTITY OF INFORMANTS
 AND REVEAL ANY BENEFITS, DEALS, PROMISES OR INDUCEMENTS

DATE OF HEARING: 10.21.99
 TIME OF HEARING: 9:00 A.M.

COMES NOW the Defendant, DONTE JOHNSON, by and through his attorneys,
 PHILIP J. KOHN, Special Public Defender, JOSEPH S. SCISCENTO, Deputy Special Public
 Defender, and DAYVID J. FIGLER, Deputy Special Public Defender, and hereby moves this
 Honorable Court for an Order compelling the District Attorney to disclose the identity of
 any and all informants in this case and the nature of all benefit, deals, promises and/or

...
 ...

RECEIVED
 SPECIAL PUBLIC DEFENDER
 CLARK COUNTY
 NEVADA
 OCT 19 1999



CE42

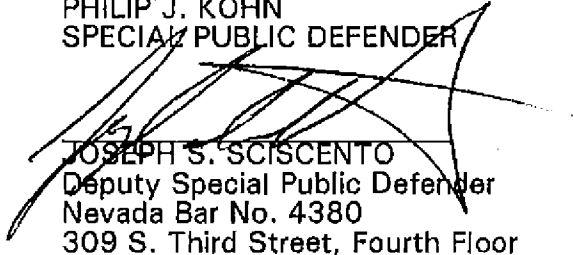
CE52

1 inducements and/or the like to such informants. This Motion is based upon the
2 Memorandum of Points and Authorities, and argument of counsel at the time set for
3 hearing on the Motion.

4 DATED this 19 day of October, 1999.

5 Respectfully submitted,

6 PHILIP J. KOHN
7 SPECIAL PUBLIC DEFENDER

8
9 
10 JOSEPH S. SCISCENTO
11 Deputy Special Public Defender
12 Nevada Bar No. 4380
13 309 S. Third Street, Fourth Floor
14 Las Vegas, Nevada 89155
15 (702) 455-6265

16 **NOTICE OF MOTION**

17 TO: STEWART BELL, District Attorney

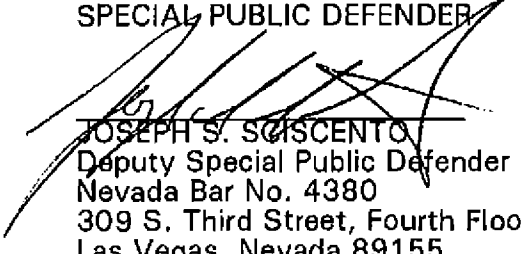
18 TO: GARY GUYMON, Chief Deputy District Attorney

19 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will
20 bring the foregoing Motion on for hearing before the above-entitled Court on the 21
21 day of 09 at 9:00 a.m.,

22 Department V, or as soon thereafter as counsel may be heard.

23 DATED this 19 day of October, 1999.

24 PHILIP J. KOHN
25 SPECIAL PUBLIC DEFENDER

26 
27 JOSEPH S. SCISCENTO
28 Deputy Special Public Defender
Nevada Bar No. 4380
309 S. Third Street, Fourth Floor
Las Vegas, Nevada 89155
(702) 455-6265

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

1
2
3 **MEMORANDUM OF POINTS AND AUTHORITIES**

4 The capital Defendant, Donte Johnson, respectfully moves this Court for an Order
5 directing the prosecution to reveal the identity of all confidential informants, to produce
6 any statements or information provided by these confidential informants, reveal any
7 promises or understandings (explicit or implicit) with any witness or informant, and to
8 reveal whether any threats or inducements of any nature whatsoever have been made
9 regarding any witness or informant.

10 This Motion is made pursuant to the Sixth, Eighth, and Fourteenth Amendments
11 to the United States Constitution and Article I of the Nevada Constitution.

12 **I. DEFINITIONS**

13 Unless the context indicates otherwise, the terms listed below are defined and used
14 herein as follows:

15 1. The "state" means any and all of the following organizations: County of
16 Clark, Clark County District Attorney's Office, Las Vegas Metropolitan Police Department,
17 Nevada Attorney General's Office, and the Nevada Highway Patrol. The "state" also
18 means: (a) all present and former agents, officers, investigators, consultants, employees,
19 and staff members of organizations or officials named above in this paragraph; (b) any
20 other person or entity acting on the behalf of any of these organizations or officials or on
21 whose behalf such person or entity has acted in the past; or © any other person or entity
22 otherwise subject to the control of any of these organizations or officials.

23 2. "Relating to" means discussing, describing, referring to, reflecting,
24 containing, analyzing, studying, reporting on, commenting on, evidencing, constituting,
25 setting forth, considering, recommending, concerning, relevant to, bearing on, or
26 pertaining to, in whole or in part.

27 3. "All" means "any and all."

28 4. "Any" means "any and all."

1 5. "Each means "any and all."

2 6. "And" means "and/or."

3 7. "Or" means "and/or."

4 II. INSTRUCTIONS

5 1. References to the singular shall be construed to include the plural, and
6 references to the plural shall be construed to include the singular.

7 2. All verbs shall be construed to include all tenses.

8 3. Each request is continuing in nature and additional responsive information
9 should be revealed as soon as it occurs.

10 III. INFORMATION TO BE REVEALED

11 The Defendant asserts that he has a right to disclosure of the informants utilized
12 in this case pursuant to the rationale set forth in the seminal case of Rovario v. U.S., 353
13 U.S. 53, 62, 77 S.Ct. 623, 628, 1 L.Ed. 2d 639 (1957). The Court in Rovario held that:

14 A further limitation on the applicability of the privilege arises from the
15 fundamental requirements of fairness. Where the disclosure of an informer's
16 identity, or of the contents of his communications, is relevant and helpful to
the defense of the accused, or is essential to a fair determination of a cause,
the privilege must give way.

17 Id. at 60, 77 S.Ct. at 628.

18 Although the prosecution's claim of privilege is entitled to consideration, the claim
19 does not end the inquiry. One of the more basic limitations on the scope of the privilege
20 was recognized by the Supreme Court in Rovario:

21 "[w]here the disclosure of an informer's identity, or of the contents of his
22 communications, is relevant and helpful to the defense of an accused, or is
23 essential to a fair determination of the cause, the privilege must give way...
24 As such, the Government's mere assertion of a colorable claim for privilege
does not end the trial court's inquiry, for the court must determine whether
the potential helpfulness of informant's testimony to the defendant warrants
a conclusion that the defendant cannot be tried fairly absent disclosure."

25 U.S. v. Brodie, 871 F.2d 125, 128 (D.C. Cir. 1989) (citing Rovario, supra).

26 NRS § 49.335 codifies the common law police privilege against disclosure of the
27
28

1 identities of informants. However, the Nevada Supreme Court has recognized that
2 disclosure of the identity of an informant should be ordered where "the confidential
3 informant could supply information to substantiate a defense or rebut an element of the
4 offense." Twigg v. Sheriff, 95 Nev. 112, 114, 590 P.2d 630 (1979); Sheriff of Washoe
5 County v. Vasile, 96 Nev. 5, 604 P.2d 809 (1980).

6 In determining the relevant balance between the competing interests, courts
7 consider three factors.

- 8 (1) the degree of the informant's involvement in the criminal activity;
- 9 (2) the relationship between the defendant's asserted defense and the
10 likely testimony of the informant; and
- 11 (3) the government interest in nondisclosure.

12 U.S. v. Gonzalo Beltran, 915 F.2d 487, 489 (9th Cir. 1990)

13 The capital Defendant moves this Court to order the state to reveal the following
14 facts and information:

15 1. The full name and address of each confidential informant upon whose
16 statements relate to the investigation of the accused and all the information that was
17 related to law enforcement officials, including, but not limited to, the names, addresses
18 and substance of information of the confidential informants who advised investigating
19 officers that the Defendant had committed this offense.

20 2. The full nature and extent of all immunity, express or implied, granted to
21 each informant and to any witness (whether she or he testified at trial or not), including
22 the nature and detail of all crimes for which immunity was granted;

23 3. The full nature of any consideration that has been given or promised to any
24 individual by the State that relates to the investigation and prosecution of this crime,
25 including the nature and details of any consideration given or promised;

26 4. Whether any threats, force, promises, inducements, or any other such
27 devices were used to make or induce any individual to relate information to the State that
28

1 relates to the investigation and prosecution of this crime, including the nature and details
2 of any such devices used; and

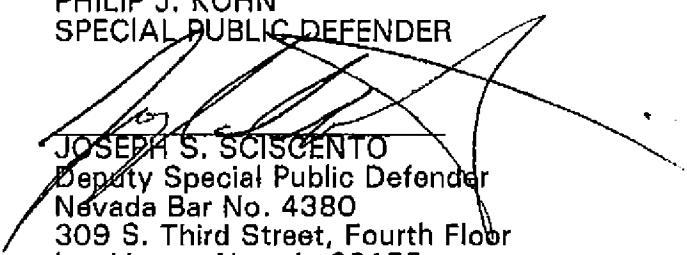
3 5. All records, notes, memoranda, and documents in the possession of the
4 State relating to the grant of immunity, promises, consideration, threats or any other
5 inducements to any individual to obtain information or testimony about this crime by the
6 State and any of its law enforcement or other agencies.

7 Due process requires that the aforementioned items be revealed to the defense.
8 Giglio v. U.S., 405 U.S. 150 (1972); Napue v. Illinois, 360 U.S. 264 (1959); Brady v.
9 Maryland, 373 U.S. 83 (1963); United States v. Pitt, 717 F.2d 1334 (11th Cir. 1983).

10 Dated this 19 day of October, 1999.

11 Respectfully submitted,

12 PHILIP J. KOHN
13 SPECIAL PUBLIC DEFENDER

14 
15 JOSEPH S. SCISCENTO
16 Deputy Special Public Defender
17 Nevada Bar No. 4380
18 309 S. Third Street, Fourth Floor
19 Las Vegas, Nevada 89155
20 (702) 455-6265
21
22
23
24
25
26
27
28

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

ORIGINAL

FILED

OCT 13 2 23 PM '99

Shirley J. Jones
CLERK

0001
PHILIP J. KOHN
Special Public Defender
Nevada Bar No. 000556
JOSEPH S. SCISCENTO
Deputy Special Public Defender
Nevada Bar No. 004380
DAYVID J. FIGLER
Nevada Bar No. 004264
309 S. Third Street, Fourth Floor
Las Vegas, Nevada 89155-2316
(702) 455-6265
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

DONTE JOHNSON,

Defendant.

CASE NO. C153154
DEPT NO. V
DOCKET H

MOTION TO COMPEL DISCLOSURE OF EXISTENCE
AND SUBSTANCE OF EXPECTATIONS, OR ACTUAL RECEIPT OF
BENEFITS OR PREFERENTIAL TREATMENT FOR
COOPERATION WITH PROSECUTION

Hearing Date: 10/21/99
Hearing Time: 9A

COMES NOW the Defendant, DONTE JOHNSON, by and through his attorneys,
PHILIP J. KOHN, Special Public Defender, JOSEPH S. SCISCENTO,, Deputy Special Public
Defender, and DAYVID J. FIGLER, Deputy Special Public Defender, and hereby moves this
Honorable Court for an Order compelling the State to disclose all evidence of any other
confidential informant's expectations of, or actual receipt of benefits for cooperation with
the prosecution and/or any law enforcement agency of the State of Nevada, and/or any

RECEIVED
OCT 19 1999
SPECIAL PUBLIC
DEFENDER
CLARK COUNTY
NEVADA



CE42

CE52

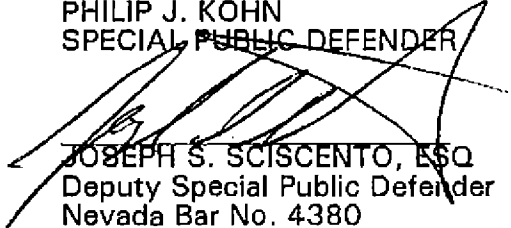
1 state, country, or local law enforcement agency. Such orders should include the
2 requirements to disclose any promises, favors, deals, bargains, special treatments,
3 leniency, housing or consideration of any kind, or expectation of the same paid, given,
4 offered, or held out by the prosecution or law enforcement agency in exchange for
5 testimony, evidence, and/or law enforcement agency in exchange for testimony, evidence,
6 and/or information, whether or not it is intended to be used by the prosecution.

7 This motion is based upon the Due Process Clause of the Fifth Amendment to the
8 United States Constitution, the Federal Rules of Criminal Procedure, all papers and
9 pleadings on file herein, and the attached Memorandum of Points and Authorities.

10 DATED this 12 day of October, 1999.

11 Respectfully submitted,

12 PHILIP J. KOHN
13 SPECIAL PUBLIC DEFENDER

14 
15 JOSEPH S. SCISCENTO, ESQ.
16 Deputy Special Public Defender
17 Nevada Bar No. 4380
18 309 S. Third Street, Fourth Floor
19 Las Vegas, Nevada 89155
20 (702) 455-6265
21
22
23
24
25
26
27
28

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2

3

4

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

CLARK COUNTY
NEVADA

1 S.Ct. 763, 31 L.Ed.2d 104 (1972).

2 Furthermore, the Court stated that evidence of any understanding or agreement
3 attached to future or present prosecution would be relevant to the witnesses' credibility.

4 The Court reaffirmed this principle in United States vs. Bagley, 473 U.S. 667, 105
5 S.Ct. 3375, 85 L.Ed.2d 481 (1985). In Bagley, the Court indicated that the failure to
6 disclose such evidence might affect trial strategy and result in ineffective assistance of
7 counsel. Id. at 682, 683.

8 In Roberts v. State, 110 Nev. 1121 (1994), the court concluded that the proper
9 standard for analyzing whether a Brady violation has occurred after a specific request is
10 whether there exists a reasonable possibility that the claimed evidence would have
11 affected the judgment of the trier of fact, and thus the outcome of the case. Roberts, at
12 1132.

13 In the present case, numerous witnesses have criminal records. Justice requires
14 that such information must be furnished to the defendant. The Ninth Circuit, in
15 reconsidering Bagley on remand under the new Bagley standard, found that nondisclosure
16 of evidence that would have been used to impeach the government's key witness in an
17 effective manner undermined confidence in the outcome of Bagley's trial, and was
18 therefore material. See Bagley v. Lumpkin, 798 F.2d 1297 (9th Cir. 1986), Roberts, at
19 1131. The Roberts, court further stated that evidence that would enable effective cross-
20 examination and impeachment may be material and nondisclosure of such evidence may
21 deprive an accused of a fair trial. Id. at 1133.

22 CONCLUSION

23 The Defendant respectfully requests this Honorable Court to enter its order
24 requiring the State to disclose any promises or expectations of immunity, leniency, or

25 ..

26 ...

27

28

SPECIAL PUBLIC
DEFENDER

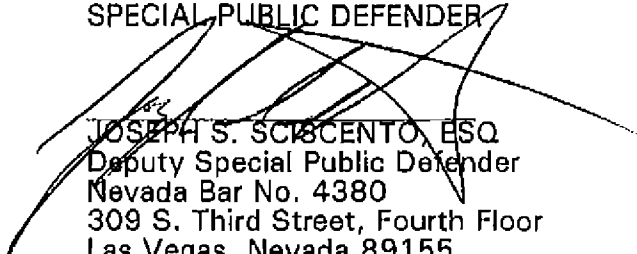
CLARK COUNTY
NEVADA

1 other preferential treatment or benefits in exchange for testimony or information
2 concerning the Defendant charged in this case.

3 Dated this 12 day of October, 1999.

4 Respectfully submitted,

5 PHILIP J. KOHN
6 SPECIAL PUBLIC DEFENDER

7 
8 JOSEPH S. SCISCENTO, ESQ
9 Deputy Special Public Defender
10 Nevada Bar No. 4380
11 309 S. Third Street, Fourth Floor
12 Las Vegas, Nevada 89155
13 (702) 455-6265
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

ORIGINAL

FILED

OCT 13 2 25 PM '99

Shirley J. Johnson
CLERK

0001
PHILIP J. KOHN
Special Public Defender
Nevada Bar No: 0556
JOSEPH S. SCISCENTO
Deputy Special Public Defender
Nevada Bar No: 4380
DAYVID J. FIGLER
Deputy Special Public Defender
Nevada Bar No: 4264
309 South Third Street, Fourth Floor
Las Vegas, NV. 89155-2316
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

v.

DONTE JOHNSON aka
JOHN WHITE
ID# 1586283

Defendant.

CASE NO: C153154
DEPT NO: V

DATE OF HEARING: 10/2/99
TIME OF HEARING: 9:00

MOTION AND NOTICE OF MOTION IN LIMINE TO PRECLUDE
EVIDENCE OF OTHER GUNS WEAPONS AND AMMUNITION
NOT USED IN THE CRIME

COMES NOW, the Defendant DONTE JOHNSON aka, JOHN WHITE, by and through his attorneys, PHILIPJ. KOHN, Special Public Defender, JOSEPH S. SCISCENTO, Deputy Special Public Defender and DAYVID FIGLER, Deputy Special Public Defender, and moves this Court for an order precluding the prosecution from presenting any evidence of guns, weapons and ammunition not used in the crime. This motion is based upon the

RECEIVED
OCT 26 1999
CLERK

SPECIAL PUBLIC
DEFENDER
CLARK COUNTY
NEVADA

CE42

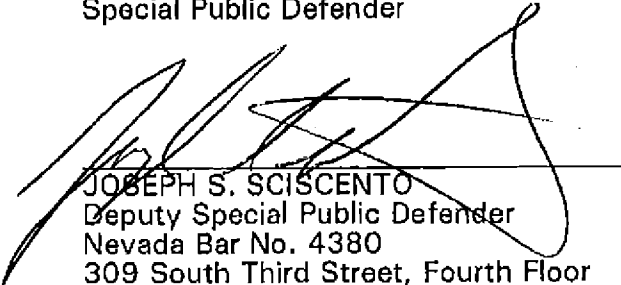
CE52

8

1 attached Memorandum of Points and Authorities, all papers and pleadings on file herein,
2 and any argument that this court may hear is support of this motion

3 Dated this 19 day of October, 1999.

4 PHILIP J. KOHN, ESQ.
Special Public Defender

5
6
7
8 
JOSEPH S. SCISCENTO
Deputy Special Public Defender
Nevada Bar No. 4380
309 South Third Street, Fourth Floor
Las Vegas, NV. 89155-2316
Attorney for Defendant

11
12 **NOTICE OF MOTION**

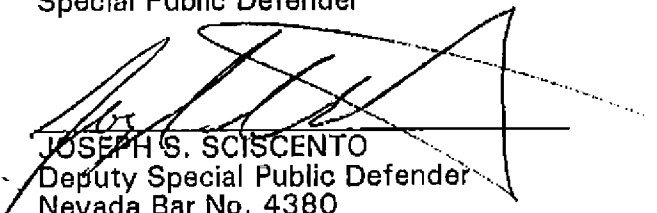
13 TO: STEWART BELL, ESQ., District Attorney for State;

14 TO: GARY GUYMON, ESQ., Deputy District Attorney

15 YOU AND EACH OF YOU PLEASE TAKE NOTICE that counsel for Defendant will
16 bring the above and foregoing on for hearing before the above-entitled Court **MOTION AND**
17 **NOTICE OF MOTION IN LIMINE TO PRECLUDE EVIDENCE OF OTHER GUNS WEAPONS**
18 **AND AMMUNITION NOT USED IN THE CRIME** t on the 21 day of OCT, 1999
19 at the hour of 9a m., or as soon thereafter as counsel may be heard.

20 DATED this 19 day of October 1999.

21 PHILIP J. KOHN, ESQ.
Special Public Defender

22
23
24 
JOSEPH S. SCISCENTO
Deputy Special Public Defender
Nevada Bar No. 4380
309 South Third Street, Fourth Floor
Las Vegas, NV. 89155-2316
Attorney for Defendant

25
26
27
28
SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 STATEMENT OF FACTS

3 Donte Johnson is being charged by way of Indictment with the following charges
4 of Murder, Robbery and Burglary. The alleged crimes took place on August 13, 1998.
5 The State is alleging that, on or about August 13, 1998, the Defendant along with other
6 Co-Defendants, entered into a residence, with the intent to rob the occupants of the
7 residence. The State further alleges that on August 13, 1998 Donte Johnson murdered
8 four individuals at the residence.

9 On or about August 17, 1998, a full four days after the alleged murders, Mr.
10 Johnson is alleged to be in possession of a White four-door Ford. When the vehicle was
11 pulled over the driver identified himself as "Donte Fleth". The driver and the passenger
12 subsequently fled from the vehicle and were not apprehended. The police recovered an
13 "enforcer" .30 caliber rifle from the vehicle.

14 On or about August 18, 1998, the police, pursuant to a consent to search card
15 signed by Todd Armstrong, searched the residences located at 4815 Everman. The police
16 learned from Tod Armstrong, that the residence was owned by his mother. At the
17 Everman residence the police recovered 2 firearms, a .22 Ruger rifle model 10/22 serial
18 No: 233-12826 and a .32 caliber automatic handgun, A VZOR .50 caliber pistol. The
19 guns recovered at the Everman residence were not the guns used in the alleged murders.
20 A ballistic report was performed by the Las Vegas Metropolitan Police Department, and
21 it was confirmed that the guns that the police recovered; to-wit: the .22 Ruger rifle, the
22 .32 handgun and the VZOR .50 Caliber, were not used in the murders. The forensic
23 report states that the murder weapon was a .38 caliber (See a copy of the report
24 attached hereto as Exhibit "1" and incorporated by reference). None of the above guns
25 recovered can fire the .38 caliber bullet.

26 The Defendant has not been found in possession of any weapons, which were
27 alleged to be used in the crime, and any weapons that were found in the vehicle and the
28 Everman residence were not used in the alleged murder.

1 To date the murder weapon has not been found.

2 **LEGAL ARGUMENT**

3 A prosecutor may use only evidence that is relevant to the crime being charged.
4 NRS 48.015 reads as follows:

5 **RELEVANT EVIDENCE** defined as used in this Chapter, "relevant evidence"
6 means evidence having a tendency to make the existence of any fact that
7 is of consequence to the determination of the action more or less probable
8 than it would be without the evidence.

9 "Murder" is the unlawful killing of a human being, with malice aforethought, either
10 expressed or implied. See, generally NRS 200.010. The introduction of the above guns
11 does not prove any element of the crime. The guns are not alleged to be used in the
12 murder. The guns do not show motive of the crime, intent, absence of mistake, modis
13 operandi, or any legitimate reason which would allow the guns being introduced.

14 The police found the guns located in a vehicle that allegedly the defendant was in.
15 Further, the police found additional guns in a residence that the defendant may have
16 resided in. The State is not alleging the guns to be the murder weapon and the ballistic
17 reports show unequivocally that the guns that the Police recovered were not the guns
18 used in the murders (See, a copy of the Ballistic report attached hereto as Exhibit "2 " and
19 incorporated by reference).

20 None of these guns are alleged to be the murder weapon, and they have no
21 evidentiary value as to the determination of guilt or innocence of the Defendant.

22 The victims were alleged to be shot by a .38 caliber automatic and neither of the
23 above-mentioned guns are of that caliber. Therefore, the evidentiary value of these guns
24 are non-existing. There is not reason for their introduction.

25 The Court has the sole discretion to disallow the evidence if it is not relevant, and
26 absent any abuse, the courts decision are rarely overturned. See, United States v. Pitts,
27 6 F.3d 1366 (9th Cir. 1993). However, in the case of Weakland v. State, 615 P.2d 252,
28 the Nevada Supreme Court overturned a perjury conviction when the court allowed the
jury to hear the perjury was based on statements of a murder that the Defendant had

1 committed. The Court in Weakland, stated:

2 "Contrary to respondent's contention, the repeated description of the murder
3 did more than provide a backdrop of reality against which the defendant's
4 false statements could be weighed. Instead, they impressed upon the jury
5 that the applanate Weakland was a cold-blooded killer- in addition to a liar.
6 In determining whether Weakland committed perjury at the LaPena and
7 Maxwell trials as the state charged, the jury may well have been influenced
8 by this reception of inadmissable evidence." Weakland at 701.

9 The problem that the Defendant has here is similar to the Weakland case, in that
10 the jury is going to hear additional information about guns that the defendant may have
11 had control of, and the jury is going to assume that the Defendant committed the crimes
12 charged because of other irrelevant acts.

13 The State needs to show how the admittance of other guns are relevant to show
14 the Defendant committed the crimes charged.

15 "We have held that the prosecution is entitled to present "a full and accurate
16 account" of the circumstances surrounding a crime. Dutton v State (cite
17 omitted) . Nevertheless, the evidence must be relevant and necessary in the
18 presentation of the case, especially when evidence implicates the defendant
19 in the commission of the crimes or only tends to prove bad character."
20 Shults v. State, 96 Nev. 742, 616 P.2d 388, (1980). (emphasis added)

21 What else does the State intend to prove by bringing in the other guns that are not
22 the murder weapon. The State wants to show that Mr. Johnson is a bad guy and that
23 he carried guns around and that because of this he committed the crimes.

24 **EVEN IF THE EVIDENCE IS RELEVANT IT IS INADMISSABLE**
25 **AS BEING PREJUDICIAL, A CONFUSION OR A WASTE OF TIME**

26 NRS 48.035, reads in relevant part as follows:

27 "1. Although relevant, evidence is not admissible if its probative value is
28 substantially outweighed by the danger of unfair prejudice, of confusion of
the issues or of misleading the jury"

* * *

29 The Defendant does not concede the issue that the guns are relevant evidence, in
30 the alternative the defendant argues that if the Court determines that these guns are
31 relevant, then the Defendant argues that the introduction is prejudicial, a confusion to the
32 jury or a waste of time.

1 There is no need for the evidence of the guns, and the introduction of those guns
2 into the trial, will be highly prejudicial to the Defendant. The defense can assume that the
3 State will try to show that the defendant is a criminal because he is in possession of these
4 two guns, or that he is a bad guy because he owns these guns, or that he is a murderer
5 because he is in possession of these two guns.

6 Further the jury will be confused as to the issue of the guilt of the defendant. The
7 jury may assume that the guns were used in the murder or that possession of the two
8 guns is a crime or that the defendant committed this crime because he was in possession
9 of the two guns.

10 The jury will be misled into believing that these guns were used in the murder the
11 Defendant is on trial for. Attached hereto as Exhibit "3" is a recent newspaper article and
12 picture that shows Mr. GUYMON holding up two guns. The caption below reads:

13 "During closing arguments Monday in the murder trial of Terrell Young,
14 Deputy District Attorney Gary Guymon holds up weapons used in the Aug.
15 14, 1998, slaying that left four men dead."

16 The possibility of the mistake and confusion is evident with this picture. If Mr.
17 O'Connell, the Review-Journal writer who is a seasoned legal reporter, can be misled into
18 believing that the guns were used in the murder, then the jury, who may be sitting for the
19 first time as jury members, will almost certainly be misled into believing this non-fact.
20 The existence of the mistake and confusion is very apparent with this picture.

21 "Prosecutor may not introduce evidence of other criminal acts of accused
22 unless evidence is substantially relevant for some purpose other than to
23 show probability that the accused committed charged acts because of trait
24 of character.

25 * * *

26 [I]t may not be admitted if its prejudicial effect outweighs its probative value

27 In addition, the introduction of the two guns, not used in the murder, will be a
28 waste of time in that the defense will be forced to bring in additional witnesses to discuss
the ownership of the guns, who had control of the guns and other issues which do not
tend to establish if Mr. Johnson committed murder. This will cause undue delay.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CONCLUSION

Based on the above argument the Defendant hereby requests that this Court issue an Order In Limine preventing the State from bringing into evidence other guns not used in the murder. Further, that the State be prohibited from making any statements that there were any additional guns found in possession of the defendant.

Dated this 19 day of October, 1999.

Respectfully Submitted

PHILIP J. KOHN.
SPECIAL PUBLIC DEFENDER

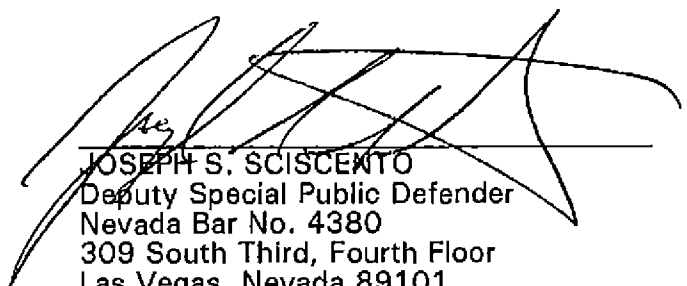

JOSEPH S. SCISCENTO
Deputy Special Public Defender
Nevada Bar No. 4380
309 South Third, Fourth Floor
Las Vegas, Nevada 89101
(702) 455-6265
Attorney for Defendant

EXHIBIT "1"

LA VEGAS METROPOLITAN POLICE DEPARTMENT
FORENSIC LABORATORY REPORT OF EXAMINATION

NAME:

CASE: 98 0607-2264
AGENCY: 98 0814-1600
DATE: LVMPD
9-26-98
BOOKED BY: See Below
REQUESTED BY: Homicide -
T. Thowsen

INCIDENT: Homicide(s)

I, RICHARD G. GOOD, SR., do hereby declare:

OCT 21 1998

That I am the Forensic Laboratory Manager of Comparative Analyses performing firearms and toolmark examinations as part of my regular duties for the Las Vegas Metropolitan Police Department;

That on February 7, 1977, I first qualified in the Eighth Judicial Court of Clark County, Nevada, as an expert witness to testify regarding firearms and toolmark examinations and comparisons;

That I received evidence from the Evidence Vault in the above case and that I completed an examination of the following evidence:

RG1 One sealed evidence envelope booked by D. Brotherson #4931 on 6-7-98 from 3000 LVBS Rm #4911 containing Item #1 - one fired *Winchester* 380 Automatic cartridge case booked under EV# 98 0607-2264.

RG2 One sealed evidence envelope booked by S. Fletcher #5221 on 8-14-98 from 4825 Terra Linda containing Items #4 - #8 - four fired *Winchester* 380 Automatic cartridge cases and one bullet fragment booked under EV# 980814-1600.

That the results of the examination are as follow:

Cartridge Case Comparison - Negative. The fired cartridge cases listed above were fired from two different firearms.

See also Laboratory report under EV# 98 0814-1600.

I returned the evidence to the Evidence Vault.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on:

Sept. 26, 1998

Richard G. Good, Sr.
RICHARD G. GOOD, SR. #806

James H. Orr
REVIEW

EXHIBIT "2"

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
FORENSIC LABORATORY REPORT OF EXAMINATION**

NAME: Biddle, Jeffrey (V)
Gorringer, Tracy (V)
Mowen, Mathew (V)
Talamanez, Peter (V)

INCIDENT: Homicides

CASE: 98 0814-1600
AGENCY: LVMPD
DATE: 9-26-98
BOOKED BY: See Below
REQUESTED BY: Homicide-
T. Thowsen

I, RICHARD G. GOOD, SR., do hereby declare:

OCT 21 1998

That I am the Forensic Laboratory Manager of Comparative Analyses performing firearms and toolmark examinations as part of my regular duties for the Las Vegas Metropolitan Police Department;

That on February 7, 1977, I first qualified in the Eighth Judicial Court of Clark County, Nevada, as an expert witness to testify regarding firearms and toolmark examinations and comparisons;

That I received evidence from the Evidence Vault in the above case and that I completed an examination of the following evidence:

RG1 One sealed envelope by S. Fletcher #5221 dated 8-14-98 from 4825 Terra Linda with Items #4 -# 8- four cartridge cases and one bullet fragment.

RG2 One sealed envelope by S. Norman #3110 dated 8-15-98 from "CCME" with Items #8 and #9 - bullet fragments.

RG3 One sealed envelope by S. Norman #3110 dated 8-15-98 from "CCME" with Item #20 - bullet fragments.

RG4 One sealed envelope by S. Norman #3110 dated 8-15-98 from "CCME" with Item #42 - bullet fragments.

RG5 One sealed envelope by S. Norman #3110 dated 8-15-98 from "CCME" with Item #29 - bullet fragments.

That the results of the examination are as follow:

Cartridge Case Examinations - All four of the above submitted cartridges cases (Items #4, #6, #7, and #8 by 5221) were made by *Winchester* and were of caliber 380 Automatic. All four of the cartridge cases were fired from the same, unknown firearm.

Bullet Examinations - All of the bullet fragments submitted (Items #5 by 5221 and Items #8, #9, #20, #29 and #42 by 3110) were either lead fragments or aluminum fragments all of which were consistent with *Winchester Silvertip* ammunition.

PI of 2 by R806

Firearms possessing characteristics similar to those found on the above items include, but are not limited to: *Accu-Tek, AMT, Colt, Davis, Llama and Smith & Wesson* pistols in 380 Automatic caliber.

I returned the evidence to the Evidence Vault.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on:

Sept. 26, 1998

Richard G. Good, Sr.
RICHARD G. GOOD, SR. #806

J. Gerriehs On
REVIEW

EXHIBIT "3"



Jeff Scheld/Review-Journal

During closing arguments Monday in the murder trial of Terrell Young, Deputy District Attorney Gary Guymon holds up weapons used in the Aug. 14, 1998, slaying that left four men dead.

Suspect's role at scene debated

Jury deliberations begin in robbery that turned deadly

By Peter O'Connell
Review-Journal

A District Court jury will return this morning to deliberate the case of a man accused of participating in a robbery that left four men dead.

In closing arguments late Monday afternoon, prosecutors and defense attorneys agreed that 20-year-old Terrell Young participated in the Aug. 14, 1998, robbery at 4825 Terra Linda Ave. Young said as much in his taped confession to police.

But defense attorneys said their client had no advance knowledge the victims at the house were to be killed to ensure their silence.

They pointed the finger at Donte Johnson, the alleged trigger-man in the killings, whom they have described as "the meanest SOB you will ever hear about in your life."

Defense attorney Lew Wolfbrandt

said Johnson made the decision that turned a robbery into a quadruple homicide. Moreover, Johnson was the one who implemented that decision by turning up the volume on a stereo and firing a bullet into the back of each victim's head, Wolfbrandt said.

Prosecutors disagreed, saying Young, Johnson and Sikia Smith all played indispensable roles in the incident.

They said the three men knew the probable result when they brought guns and duct tape — but no masks — to commit a robbery in the early morning hours at a house where they were known.

Deputy District Attorney Gary Guymon allowed that Johnson played the most critical role in the incident. "But they acted as a team, each playing an integral part," he said.

Under the law, Johnson, Young and Smith are responsible for the acts each

committed during the crime, Guymon told the jury.

Killed were Matthew Mowen, 19, Jeffrey Biddle, 19, Tracey Gorringer, 20, and Peter Talamantez, 17.

Smith was sentenced to four consecutive life terms in July. Johnson faces a capital murder trial next year.

Prosecutors offered Young a plea agreement in which he could avoid a possible death sentence. Wolfbrandt said this was conditional on Young testifying against a fourth man who has not been charged.

Young's sister, LaDonna Booker, testified Monday that her brother told her he did not expect anyone to die in the robbery. She said Young hoped to relocate.

Young continues to wear a stun-belt with which he was outfitted after twice disrupting jury selection. Prosecutors are seeking the death penalty.

ORIGINAL

FILED

OCT 19 2 33 PM '99

Shirley B. Longjumeau
CLERK

1 **ROC**
 2 PHILIP J. KOHN
 3 Special Public Defender
 4 Nevada Bar No. 000556
 5 JOSEPH S. SCISCENTO
 6 Deputy Special Public Defender
 7 Nevada Bar No. 004380
 8 DAYVID J. FIGLER
 9 Nevada Bar No. 004264
 10 309 S. Third Street, Fourth Floor
 11 Las Vegas, Nevada 89155-2316
 12 (702) 455-6265
 13 Attorneys for Defendant

8 **DISTRICT COURT**
 9 **CLARK COUNTY, NEVADA**

11 THE STATE OF NEVADA,

12 Plaintiff,

13 vs.

14 DONTE JOHNSON,

15 Defendant.

CASE NO. C153154
 DEPT NO. V
 DOCKET H

16 **RECEIPT OF COPY**

17
 18 RECEIPT OF COPY of the foregoing **MOTION TO REVEAL THE IDENTITY OF**
 19 **INFORMANTS AND REVEAL ANY BENEFITS, DEALS, PROMISES OR INDUCEMENTS** and
 20 Notice of Motion is hereby acknowledged this 19 day of October, 1999.

21
 22 *Stewart L. Bell*
 23 STEWART L. BELL
 24 District Attorney
 25 200 S. Third Street
 26 Las Vegas, NV 89155
 27 Attorney for Plaintiff
 28

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

CE52

ORIGINAL

FILED

7

OCT 19 2 33 PM '99

Shirley B. Panagione
CLERK

1 ROC
2 PHILIP J. KOHN
3 Special Public Defender
4 Nevada Bar No. 000556
5 JOSEPH S. SCISCENTO
6 Deputy Special Public Defender
7 Nevada Bar No. 004380
8 DAYVID J. FIGLER
9 Nevada Bar No. 004264
10 309 S. Third Street, Fourth Floor
11 Las Vegas, Nevada 89155-2316
12 (702) 455-6265
13 Attorneys for Defendant

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,	)	CASE NO.	C153154
	)	DEPT NO.	V
Plaintiff,	)	DOCKET	H
)		
vs.)		
)		
DONTE JOHNSON,)		
)		
Defendant.)		

RECEIPT OF COPY

RECEIPT OF COPY of the foregoing MOTION TO COMPEL DISCLOSURE OF
EXISTENCE AND SUBSTANCE OF EXPECTATIONS, OR ACTUAL RECEIPT OF BENEFITS
OR PREFERENTIAL TREATMENT FOR COOPERATION WITH PROSECUTION and Notice
of Motion is hereby acknowledged this 19 day of October, 1999.

Stewart L. Bell
STEWART L. BELL
District Attorney
200 S. Third Street
Las Vegas, NV 89155
Attorney for Plaintiff

COUNTY CLERK

OCT 19 1999

RECEIVED

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

CE52

FILED

OCT 19 2 33 PM '99

Shirley L. Rungione
CLERK

1 **ROC**
 2 PHILIP J. KOHN
 3 Special Public Defender
 4 Nevada Bar No. 000556
 5 JOSEPH S. SCISCENTO
 6 Deputy Special Public Defender
 7 Nevada Bar No. 004380
 8 DAYVID J. FIGLER
 9 Nevada Bar No. 004264
 10 309 S. Third Street, Fourth Floor
 11 Las Vegas, Nevada 89155-2316
 12 (702) 455-6265
 13 Attorneys for Defendant

14 **DISTRICT COURT**
 15 **CLARK COUNTY, NEVADA**

16 THE STATE OF NEVADA,

17 Plaintiff,

18 vs.

19 DONTÉ JOHNSON,

20 Defendant.

CASE NO. C153154
 DEPT NO. V
 DOCKET H

21 **RECEIPT OF COPY**

22 RECEIPT OF COPY of the foregoing **MOTION TO COMPEL THE PRODUCTION**
 23 **OF ANY AND ALL STATEMENTS OF THE DEFENDANT** and Notice of Motion is hereby
 24 acknowledged this 19 day of October, 1999.

25 *Stewart L. Bell*

26 STEWART L. BELL
 27 District Attorney
 28 200 S. Third Street
 29 Las Vegas, NV 89155
 30 Attorney for Plaintiff

COUNTY CLERK
 OCT 19 1999
 RECEIVED
 SPECIAL PUBLIC
 DEFENDER
 CLARK COUNTY
 NEVADA

CE52

1 **ROC**
 2 PHILIP J. KOHN
 3 Special Public Defender
 4 Nevada Bar No: 0556
 5 JOSEPH S. SCISCENTO
 6 Deputy Special Public Defender
 7 Nevada Bar No: 4380
 8 DAYVID J. FIGLER
 9 Deputy Special Public Defender
 10 Nevada Bar No: 4264
 11 309 South Third Street, Fourth Floor
 12 Las Vegas, NV. 89155-2316
 13 Attorneys for Defendant

FILED

Oct 19 2 34 PM '99

Shirley S. Kingma
 CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,
 13 Plaintiff,

14 v.

15 DONTÉ JOHNSON aka
 16 JOHN WHITE
 17 ID# 1586283

18 Defendant.

CASE NO: C153154
 DEPT NO: V

DATE OF HEARING:
 TIME OF HEARING:

RECEIPT OF COPY

20 RECEIPT OF COPY of the foregoing MOTION AND NOTICE OF MOTION IN LIMINE
 21 TO PRECLUDE EVIDENCE OF OTHER GUNS NOT USED IN THE CRIME is hereby
 22 acknowledged this 19 day of October, 1999.

COUNTY CLERK

RECEIVED
 OCT 26 9 19 99

Stewart L. Bell
 STEWART L. BELL
 District Attorney
 200 S. Third Street
 Las Vegas, NV 89155
 Attorney for Plaintiff

SPECIAL PUBLIC
 DEFENDER

CLARK COUNTY
 NEVADA

ORIGINAL

1 ROC
 2 PHILIP J. KOHN
 3 Special Public Defender
 4 Nevada Bar No. 000556
 5 JOSEPH S. SCISCENTO
 6 Deputy Special Public Defender
 7 Nevada Bar No. 004380
 8 DAYVID J. FIGLER
 9 Nevada Bar No. 004264
 10 309 S. Third Street, Fourth Floor
 11 Las Vegas, Nevada 89155-2316
 12 (702) 455-6265
 13 Attorneys for Defendant

FILED

OCT 13 2 25 PM '99

Shirley M. Johnson
 CLERK

DISTRICT COURT
 CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

DANTE JOHNSON,

Defendant.

CASE NO. C153154
 DEPT NO. V
 DOCKET H

RECEIPT OF COPY

RECEIPT OF COPY of the foregoing ORDER TO TRANSPORT is hereby
 acknowledged this 19 day of October, 1999.

Clara #3775
 CLARK COUNTY DETENTION CENTER

RECEIVED

OCT 19 1999

SPECIAL PUBLIC
DEFENDERCLARK COUNTY
NEVADA

CE52

124

ORIGINAL

FILED

OCT 19 4 18 PM '99

Shirley S. Thompson
CLERK

RSPN
STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

DONTE JOHNSON,
#1586283

Defendant.

Case No. C153154
Dept. No. V
Docket H

STATE'S RESPONSE TO DEFENDANT'S OPPOSITION TO STATE'S MOTION
TO VIDEOTAPE THE DEPOSITION OF CHARLA SEVERS

DATE OF HEARING: 10/21/99
TIME OF HEARING: 9:00 A.M.

COMES NOW, the State of Nevada, by STEWART L. BELL, District Attorney, through
GARY L. GUYMON, Chief Deputy District Attorney, and files this State's Response to
Defendant's Opposition to State's Motion to Videotape the Deposition of Charla Severs.

//

//

//

//

//

//

//

//

COUNTY CLERK
OCT 19 1999
RECEIVED

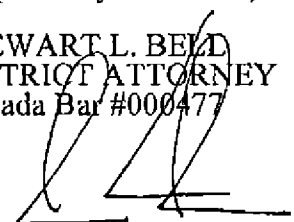
CE52

1 This response is made and based upon all the papers and pleadings on file herein, the
2 attached points and authorities in support hereof, and oral argument at the time of hearing, if
3 deemed necessary by this Honorable Court.

4 DATED this 19 day of October, 1999.

5 Respectfully submitted,

6 STEWART L. BEIL
7 DISTRICT ATTORNEY
8 Nevada Bar #000477

9 BY 
10 GARY L. GUYMON
11 Chief Deputy District Attorney
12 Nevada Bar #003726

13 POINTS AND AUTHORITIES

14 NRS 174.175 states:

15 1. If it appears that a prospective witness may be unable
16 to attend or prevented from attending a trial or hearing, that his
17 testimony is material and that it is necessary to take his
18 deposition in order to prevent a failure of justice, the court at
19 any time after the filing of an indictment, information or
20 complaint may upon motion of a defendant or of the state and
21 notice to the parties order that his testimony be taken by
22 deposition and that any designated books, papers, documents or
23 tangible objects, not privileged, be produced at the same time
24 and place. If the deposition is taken upon motion of the state,
25 the court shall order that it be taken under such conditions as
26 will afford to each defendant the opportunity to confront the
27 witnesses against him.

28 2. If a witness is committed for failure to give bail to
appear to testify at a trial or hearing, the court on written motion
of the witness and upon notice to the parties may direct that his
deposition be taken. After the deposition has been subscribed
the court may discharge the witness.

3. This section does not apply to the prosecutor, or to an
accomplice in the commission of the offense charged.

25 A plain reading of the statute makes it clear that the State or the defense may ask for a
26 deposition of a witness if the following requirements are established:

27 1) if it appears that a perspective witness may be unable to attend or prevented from
28 attending a trial;

1 2) that the witness' testimony is material;

2 3) the deposition is necessary in order to prevent a failure of justice.

3 The State, in its Amended Notice of Motion and Motion to Videotape the Deposition of
4 Charla Severs, established, by the affidavit of Chief Deputy District Attorney Gary L. Guymon,
5 that Charla Severs fled the jurisdiction and was not going to make herself available to testify
6 because of threats she had received from one of Donte Johnson's associates (Dwayne Anderson).
7 The State learned of these threats by speaking to Charla Severs once she was arrested on a
8 material witness warrant.

9 Witness Charla Severs' concerns are corroborate by the writings which were seized
10 pursuant to a search warrant wherein Defendant Donte Johnson's co-defendants (Sikia Smith and
11 Terrell Young) and wrote Donte Johnson letters explaining how they were going to "take care
12 of" the witnesses against Donte Johnson. Defense counsel for Donte Johnson has copies of
13 Donte Johnson, Sikia Smith and Terrell Young's letters which were seized and must agree that
14 those letters contain threats aimed at the witnesses who may testify against them. While it is true
15 that the threats do not name any individual, it is clear that those individuals who may incriminate
16 the defendants are who the threats are directed at.

17 The State clearly alleges that Charla Severs' testimony is material in that she was at the
18 Everman address when the defendants armed themselves with duct tape, brown gloves and hand
19 guns and left the Everman address to go to the Terra Linda residence to rob and kill the four
20 boys. Charla Severs remained at the Everman address throughout the course of the evening and
21 was home when Donte Johnson returned with his co-conspirators. Upon Donte Johnson's return
22 Charla Severs noticed that his clothing was now stained with blood. At that time, and
23 subsequently, Donte Johnson confessed to Charla Severs to being the individual who shot and
24 killed the four boys at the Terra Linda residence. Charla Severs listened to Donte Johnson as
25 he bragged about how blood came out of those four boys heads like "the Niagra falls".

26 Certainly the above information is material and assists the State in seeing that a just
27 verdict is returned against Donte Johnson.

28 If the Court is unwilling to accept the representations made by Chief Deputy District

1 Attorney Gary L. Guymon in the affidavit wherein Guymon represents to this Court that he
2 learned, through Charla Severs, of Charla Severs' concerns for her safety and the threats that
3 were made towards her, the State asks that the Court canvass Charla Severs regarding the same.

4 In an effort to preclude Charla Severs from being able to give a videotaped deposition,
5 the defense has alleged that Charla Severs is an accomplice. This allegation is preposterous.

6 The physical evidence and the witness statements belie the notion that Charla Severs has
7 any involvement in the murders which occurred at the Terra Linda residence. In fact, Sikia
8 Smith and Terrell Young, both of whom have been convicted in this matter, gave confessions
9 which illustrate that Smith, Young and Johnson were the only three present in the Terra Linda
10 home at the time of the murders.

11 The defense quickly points to a letter which Charla Severs sent to Channel 8 news
12 wherein she indicates that Terrell Young, Sikia Smith and herself were the individuals at the
13 Terra Linda residence and not Donte Johnson. The letter of Charla Severs is a clear indication
14 of her efforts to exonerate her boyfriend, Donte Johnson.

15 This Court does not only have to take the State's representations that Charla Severs is not
16 an accomplice, but can also satisfy itself by hearing the deposition of Charla Severs. After
17 hearing Charla Severs testify as to why she wrote the Channel 8 letter, and to all of the facts
18 surrounding this case this Court will know that Charla Severs is not an accomplice. If this Court
19 concludes that Charla Severs is an accomplice after listening to the deposition of Charla Severs
20 then this Court can suppress the deposition of Charla Severs and find that it is not admissible
21 against defendant Donte Johnson.

22 Certainly Charla Severs, through her motion, has met the requirements of NRS
23 174.175(2) which require the following:

- 24 1) the witness be committed for failure to give bail to appear to testify;
- 25 2) prepare a written motion;
- 26 3) given notice to all the parties involved.

27 CONCLUSION

28 The State has met the requirements of NRS 174.175(1) which permit the State to tape the

1 deposition of Charla Severs. If, however, the Court does not agree that Charla Severs will be
2 unable to attend a trial due to her articulated fears, then this Court should grant Charla Severs'
3 request to take her deposition under NRS 174.175(2).

4 A deposition wherein Charla Severs is subject to direct examination by the State and
5 cross examination by the defense which is videotaped, and presided over by this Court, will
6 preserve the testimony of Charla Severs and give the jury an opportunity to assess her credibility
7 and the information she provides.

8 For the above reasons the State requests that the State be allowed an opportunity to have
9 Charla Severs give a videotaped deposition. In the event that this Court does not wish to grant
10 the State's motion, then the State would join in Charla Severs' motion in an effort to preserve her
11 testimony and have her released from custody.

12 DATED this 19 day of October, 1999.

13 Respectfully submitted,

14 STEWART L. BEIL
15 DISTRICT ATTORNEY
16 Nevada Bar #000477

17 BY GARY L. GUYMON
18 Chief Deputy District Attorney
19 Nevada Bar #003726

20
21 AFFIDAVIT

22 STATE OF NEVADA }
23 COUNTY OF CLARK } ss:

24 GARY L. GUYMON, being first duly sworn, deposes and says:

25 1. That your affiant is a Chief Deputy District Attorney employed by the Clark County
26 District Attorney's Office and has been so employed for ten (10) years.

27 2. That your affiant was assigned the prosecution of the August 14, 1998, quadruple
28 homicide during the month of August, 1998.

1 3. That your affiant has remained on the case and has prosecuted two (2) of the
2 defendant's co-defendants (Sikia Smith and Terrell Young).

3 4. That your affiant was the prosecutor who tried both Sikia Smith and Terrell Young.
4 Both Smith and Young were convicted of all of the offenses, including four (4) counts of First
5 Degree Murder With Use of a Deadly Weapon after a jury trial and given sentences of life
6 without the possibility of parole.

7 5. That your affiant has reviewed all of the discovery associated with the quadruple
8 homicide which occurred on August 14, 1998. That the physical evidence and the witness
9 statements belie the notion that Charla Severs has any involvement in the quadruple homicide
10 which occurred on August 14, 1998.


11 6. That the independent admissions of Sikia Smith and Terrell Young both illustrate that
12 Smith, Young and Johnson were the only three present at in the Terra Linda home at the time
13 of the murders. Despite Charla Severs' letter to Channel 8 news, the State, based on all of the
14 information to date associated with this case, does not believe Charla Severs to be an
15 accomplice.

16
17 
18 GARY L. GUYMON

19
20
21 CERTIFICATE OF FACSIMILE TRANSMISSION

22 I hereby certify that service of State's Response to Defendant's Opposition to State's
23 Motion to Videotape the Deposition of Charla Severs, was made this 19 day of October,
24 1999, by facsimile transmission to:

25 SPECIAL PUBLIC DEFENDER'S OFFICE
26 FAX #(702) 455-6273

27 
28 Secretary for the District Attorney's Office

28 GUYMG/sbs

FACSIMILE COVER PAGE

Date: 10/19/99
Time: 15:32:56
Pages: 7

To: DAYVID FIGLER & JOE SCISCENTO
Company: SPECIAL PUBLIC DEFENDER'S OFFICE
Fax #: 455-6273

From: STEPHANIE SCHWARTZ
Title: LEGAL SECRETARY II
Company: Clark County District Attorney's Office
Address: 200 S. Third Street - 5th floor
Las Vegas , NV 89155
USA

Fax #: 455-6410
Voice #: 455-4796

Message:

JOHNSON, DONTE - C153154
STATE'S RESPONSE TO DEFENDANT'S OPPOSITION TO STATE'S
MOTION TO VIDEOTAPE THE DEPOSITION OF CHARLA SEVERS

ORIGINAL

FILED IN OPEN COURT

OCT 26 1999

19

SHIRLEY B. PARRAGUIRRE, CLERK

BY *Alona Candito*

DEPUTY

ALONA CANDITO

129
0071

PHILIP J. KOHN

Special Public Defender

Nevada Bar No: 0556

JOSEPH S. SCISCENTO, ESQ.

Deputy Special Public Defender

Nevada Bar No: 4380

DAYVID J. FIGLER, ESQ.

Deputy Special Public Defender

Nevada Bar No: 4264

309 South Third Street

4th floor

Las Vegas, NV. 89155-2316

Attorney for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

DONTE JOHNSON aka

JOHN WHITE

Defendant.

C153154
CASE NO: G154293

DEPT NO: III

MOTION AND NOTICE OF MOTION IN LIMINE TO PRECLUDE
ANY MEDIA COVERAGE OF VIDEO DEPOSITION OF
CHARLA SEVERS

COMES NOW, the Defendant DONTE JOHNSON aka, by and through his counsel of record PHILIP J. KOHN, Special Public Defender, JOSEPH S. SCISCENTO, Deputy Special Public Defender, and DAYVID FIGLER, Deputy Special Public Defender, moves this Court for an order precluding the media from recording, producing and or rebroadcasting the video deposition of witness CHARLA SEVERS. This motion is based

...

...

...

...

...

RECEIVED

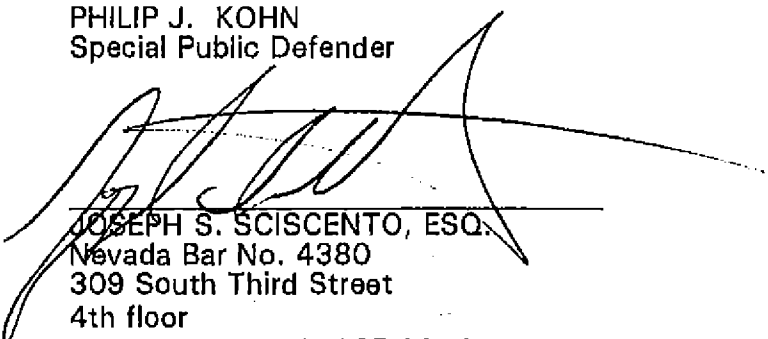
OCT 26 1999

COUNTY CLERK

1 upon the attached Memorandum of Points and Authorities, the file herein, and any
2 argument that this court may hear is support of this motion

3 Dated this 26 day of October, 1999.

4 PHILIP J. KOHN
Special Public Defender

5
6 
7 JOSEPH S. SCISCENTO, ESQ.
8 Nevada Bar No. 4380
9 309 South Third Street
10 4th floor
11 Las Vegas, NV. 89155-2316
12 Attorney for Defendant

13 **NOTICE OF MOTION**


14 **TO: STEWART BELL, ESQ., District Attorney for State;**

15 **TO: GARY GUYMON, ESQ., Deputy District Attorney**

16 **YOU AND EACH OF YOU PLEASE TAKE NOTICE** that counsel for Defendant will
17 bring the above and foregoing Motion on for hearing before the above-entitled Court on
18 the ____ day of _____, 1999 at the hour of _____.m., or as soon thereafter as
19 counsel may be heard.

20 DATED this 26 day of OCTOBER 1999.

21 PHILIP J. KOHN
Special Public Defender

22
23 
24 JOSEPH S. SCISCENTO, ESQ.
25 Nevada Bar No. 4380
26 309 South Third Street
27 4th floor
28 Las Vegas, NV. 89155-2316
Attorney for Defendant

1 AFFIDAVIT OF JOSEPH S. SCISCENTO.

2 STATE OF NEVADA)

3 :ss

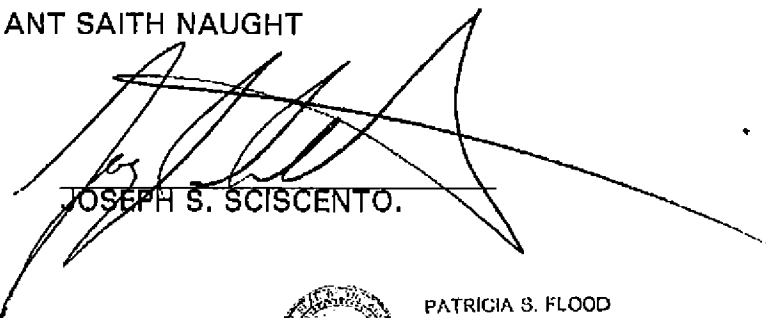
4 COUNTY OF CLARK)

5 COMES NOW, JOSEPH S. SCISCENTO, ESQ., and being duly sworn deposes and
6 states as follows:

7 1. That he is a duly licensed attorney for and in the State of Nevada, County
8 of Clark, and he is the attorney of record of the above Defendant;

9 2. That he has read the foregoing motion and knows the contents therein and
10 believes the allegations to be true and correct and as to those matters based on
11 information and belief he believes them to be true.

12 FURTHER YOUR AFFIANT SAITH NAUGHT

13 
14 JOSEPH S. SCISCENTO.

15
16 Subscribed and Sworn to
17 before me this 26 day of
18 October, 1999

19 Patricia S. Flood
20 Notary Public



PATRICIA S. FLOOD
Notary Public - Nevada
My appt. exp. Sep. 1, 2000
No. 92-3783-1

21 MEMORANDUM OF POINTS AND AUTHORITIES

22 STATEMENT OF FACTS

23 Mr. Johnson is being charged by way of indictment with the following charges of;
24 Murder, Robbery and Burglary. The alleged crimes took place on August 13th 1998. The
25 State is alleging that, on or about August 13th, 1998 the Defendant along with other Co-
26 defendants, entered into a residence, with the intent to rob the occupants of the
27 residence. The State further alleges that on August 13th, 1998 Donte Johnson murdered
28 four individuals at the residence.

 The State has moved this Court for an Order to take the Video Deposition of CHARLA

1 Severs. This Court has granted the Motion for the State to take the Video Deposition of
2 CHARLA SEVERS, and the deposition is scheduled for October 26th, 1999.

3 LEGAL ARGUMENT

4 ALLOWING THE PRESS TO REBROADCAST, REPRINT
5 OR REPORT ON THE DEPOSITION WILL CAUSE
6 IRREPARABLE HARM TO THE DEFENDANT

7 The Defendant is entitled to an impartial jury, free of pre-trial publicity. An accused
8 may request the press be excluded from the hearing if it will cause irreparable harm to the
9 defendant's sixth amendment right to a fair trial.

10 " An accused who seeks closure must establish "That it is strictly and
11 inescapably necessary in order to protect the fair-trial guarantee" . This
12 burden may be discharged by demonstrating: (1) "a substantial probability
13 that irreparable damage to his fair trial right will result from conducting the
14 proceedings in public"; (2) "A substantial probability that alternatives to
15 closure will not protect adequately his right to a fair trial"; and (3) "a
16 substantial probability that closure will be effective in protecting against
17 perceived harm" United States v. Brooklier, 685 F.2d 162 (1982).

18 In the case at bar the testimony is trial testimony given prior to the actual trial.
19 This is extraordinary measures that is not common in most trials. To allow this
20 information to be given to the general public will allow the prospective jury members to
21 hear actual trial testimony prior to the time of trial, and these prospective jury members
22 are then going to be excluded from jury duty on this case, and the jury pool selection will
23 be greatly diminished.

24 "A state may deny this right of public access only if it shows that "the
25 denial is necessitated by a compelling governmental interest, and is narrowly
26 tailored to serve that interest" Globe Newspaper Co., v. Superior Court 457
27 U.S. 596, (1982)

28 "The first amendment right of access may sometimes conflict with a
defendant's sixth amendment right to a fair trial. In these situations, we
require that a party seeking closure of proceedings or sealing of documents
establish that the procedure is strictly and inescapably necessary in order to
protect the fair-trial guarantee." Brooklier 685 F.2d at 1167" Cited in The
Associated Press v. United States District Court for the Central District of
California, 705 F.2d 1143 (1983).

The federal courts have held that an accused may request a Brooklier, hearing to
determine if the court should exclude the press from the hearing.

1 IT IS ERROR TO ALLOW THE MEDIA TO RECORD AND
2 REBROADCAST THE VIDEO DEPOSITION OF CHARLA SEVERS.

3 If Ms. Severs is shown to be unavailable for the trial, then the video deposition will
4 be used as trial testimony. It should be noted that the testimony is proposed to be used
5 in place of live testimony.

6 Now the next logical step is that if the media is allowed to reproduce the testimony
7 of CHARLA Severs, then the general public will hear trial testimony, this is the same
8 general public that will be selected to be the jury for Donte Johnson. Now if a member
9 of the jury reads any newspaper article or listens to any news report of the trial, then that
10 jury member has to be excused as a juror.

11 NRS 175.401 reads as follows:

12 At each adjournment of the court, whether the jurors are permitted to
13 separate or depart for home overnight, or are kept in charge of officers, they
14 must be admonished by the judge or another officer of the court that it is
15 their duty not to:

16 1. Converse among themselves or with anyone else on any subject
17 connected with the trial;

18 2. Read, watch or listen to any report of or commentary on the trial by
19 an medium of information, including without limitation newspapers,
20 television and radio; or

21 3. If they have not been charged, form or express any opinion on any
22 subject connected with the trial until the cause is finally submitted to them.

23 The problem is presented as this; Trial testimony will be distributed to the general
24 public. Any person who hears this report of the testimony of CHARLA Severs, will be
25 deemed to be biased and they can not serve on the jury. The jury pool will be greatly
26 reduced because of the bias. The Review-journal/Sun has a daily circulation of 196,000
27 and a Sunday circulation of over 221,000. This does not take into account the number
28 of readers, just the circulation. Further this does take into account the number of persons
29 who will hear the testimony on the three major networks. Therefore Ms. Johnson can not
30 get a fair trial because he will not have a un-bias, fair representation of the general public.

31 It should be further noted that this deposition is not merely investigation or prior
32 pre-trial arguments of counsel, this is trial evidence, this is very unique and not done on

1 an everyday basis. This is evidence that will be introduced to the trier of facts. While
2 it is true that the defendant cannot control the pre-trial publicity that is surrounding this
3 case, the defendant, can prevent any of his defenses from being exposed prior to the time
4 he desires. In a criminal trial the defendant is entitled to wait to give its opening
5 statement, and can wait to present testimony. This is sometimes done as a legal tactic,
6 yet when the defense is forced to expose its defense to the general public prior to the
7 trial, the Defendant loses any edge he may possess.

8 "The district court also found, as alleged, that one other juror committed
9 misconduct by reading newspaper accounts of the trial. The district court
10 determined that this misconduct, too, was harmless beyond a reasonable
11 doubt because the juror did not recall the newspaper accounts and because
12 the accounts did not contain information other than that admitted into
13 evidence at trial. In addition, the record reveals that during the hearing on the
14 motion, another juror admitted to driving by the scene of the murder. In
15 concluding that the misconduct was harmless, the district court overlooked
16 a factor implicit in its finding that the misconduct occurred and that factor
17 was significant because it related directly to the issues of premeditation and
18 credibility. Even if the offending juror did not disclose her conclusions to the
19 others during guilt phase, she returned to and participated fully in the jury's
20 deliberations while being influenced, in whole or in part, by her out of court
21 investigations. We cannot say beyond a reasonable doubt that in
22 participating she did not inject opinions developed as a result of her
23 particularly egregious misconduct and thus infect the other jurors in their
24 deliberations. The misbehaving juror's conduct and testimony denying any
25 misconduct may well have exposed her to criminal liability. We are hopeful
26 that the Washoe County District Attorney's office has adequately reviewed
27 her conduct to determine if criminal prosecution is warranted. The cost and
28 delay she has caused in this case are substantial. Faced with the vast
quantity and egregious character of the misconduct, and considering the
seriousness of the crime charged, we therefore do not believe it can be said
beyond a reasonable doubt that the jury's verdict would have been the same,
at least in the degree attached to their crime, had the misconduct not
occurred. Our judicial system guarantees every defendant a fair trial with
impartial jurors deciding a case only on admissible evidence presented in
court. Conduct which erodes these basic tenets will be presumed
prejudicial. *CF. Sipsas v. State* 102 Nev. 199, 716 P.2d 231 (1986). The
offending juror

* * *

Although we base our decision on the flagrante and egregious misconduct
that occurred, we note with grave concern that three jurors, or twenty-five
percent of the jury, engaged in some form of misconduct during this trial.
Misconduct in any form is inimical to the interest of justice and will not be
tolerated. We therefore direct the lower courts to insure that juror
misconduct does not occur by properly informing jurors of the importance of
their role and of those activities which are prohibited. In addition to the
mandatory admonishment pursuant to NRS 175.401, district judges should

1 also admonish jurors in criminal cases that they not to visit the crime scene
2 or make independent investigations. Rowbottom v. State, 105 Nev. 472,
779 P.2d 934 (1989).

3 The problem we have her is that potential jury members are going to hear actual
4 trial testimony, prior to the time that they are sworn in as jury members. Further this will
5 limit the amount of people that are ineligible for selection as jury members. The Nevada
6 Supreme Court has stated that it is error to have a sitting jury member hear out-of-court
7 commentary about the case. The same should be said for potential jury members who
8 hear actual trial testimony prior to actually becoming a jury member. Since the testimony
9 is proposed trial testimony the burden is higher then ordinary pre-trial publicity.

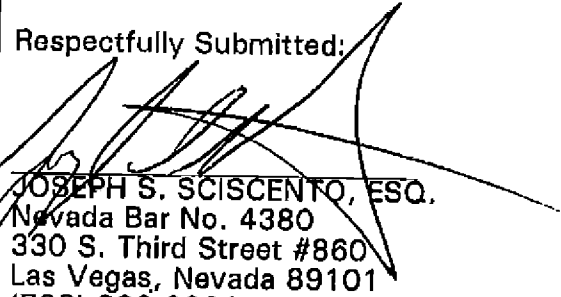
10 Since this is extra-ordinary measures, the court should take extra-ordinary measures
11 to insure that the defendants fair trial rights are preserved.

12 CONCLUSION

13 Based on the above argument the Defendant hereby requests that this Court issue
14 an Order In Limine preventing the State from bringing into evidence through witness
15 Severs any mention of prior bad acts, prior crimes, prior, uncharged and charged acts.

16 Dated this 26 day of October, 1999.

17
18 Respectfully Submitted:

19
20 
21 JOSEPH S. SCISCENTO, ESQ.
22 Nevada Bar No. 4380
330 S. Third Street #860
23 Las Vegas, Nevada 89101
(702) 382-2664
24
25
26
27
28

73
ORIGINAL

1 ROC
2 PHILIP J. KOHN
3 Special Public Defender
4 Nevada Bar No. 000556
5 PETER R. LaPORTA
6 Deputy Special Public Defender
7 Nevada Bar No. 003754
8 DAYVID J. FIGLER
9 Nevada Bar No. 004264
10 309 S. Third Street, Fourth Floor
11 Las Vegas, Nevada 89155-2316
12 (702) 455-6265
13 Attorneys for Defendant

FILED

JUN 29 9 39 AM '99

Cheryl M. Higgins
CLERK

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

11 THE STATE OF NEVADA,

12 Plaintiff,

13 vs.

14 DONTE JOHNSON,

15 Defendant.

CASE NO. C153154
DEPT NO. V
DOCKET H

16
17 RECEIPT OF COPY

18 RECEIPT OF COPY of the foregoing MOTION TO REVEAL THE IDENTITY OF
19 INFORMANTS AND REVEAL ANY BENEFITS, DEALS, PROMISES OR INDUCEMENTS and
20 Notice of Motion is hereby acknowledged this 29th day of June, 1999.

21
22 *Stewart L. Bell*
23 STEWART L. BELL
24 District Attorney
25 200 S. Third Street
26 Las Vegas, NV 89155
27 Attorney for Plaintiff
28

SPECIAL PUBLIC
DEFENDER
CLARK COUNTY
NEVADA

CE5

1 **ROC**
 2 PHILIP J. KOHN
 3 Special Public Defender
 4 Nevada Bar No. 000556
 5 PETER R. LaPORTA
 6 Deputy Special Public Defender
 7 Nevada Bar No. 003754
 8 DAYVID J. FIGLER
 9 Nevada Bar No. 004264
 10 309 S. Third Street, Fourth Floor
 11 Las Vegas, Nevada 89155-2316
 12 (702) 455-6265
 13 Attorneys for Defendant

FILED

JUN 29 9 39 AM '99

Charles E. Riggins
 CLERK

DISTRICT COURT
 CLARK COUNTY, NEVADA

12	THE STATE OF NEVADA,)		
13		)	CASE NO.	C153164
14	Plaintiff,	)	DEPT NO.	V
15		)	DOCKET	H
16	vs.)		
17	DONTE JOHNSON,)		
18)		
19	Defendant.)		

RECEIPT OF COPY

RECEIPT OF COPY of the foregoing **MOTION TO COMPEL THE PRODUCTION**
OF ANY AND ALL STATEMENTS OF THE DEFENDANT and Notice of Motion is hereby
 acknowledged this 29th day of June, 1999.

Stewart L. Bell
 STEWART L. BELL
 District Attorney
 200 S. Third Street
 Las Vegas, NV 89155
 Attorney for Plaintiff

ORIGINAL

FILED

JUN 29 9 39 AM '99

Shirley E. Rungius
CLERK

1 ROC
2 PHILIP J. KOHN
3 Special Public Defender
4 Nevada Bar No. 000556
5 PETER R. LaPORTA
6 Deputy Special Public Defender
7 Nevada Bar No. 003754
8 DAYVID J. FIGLER
9 Nevada Bar No. 004264
10 309 S. Third Street, Fourth Floor
11 Las Vegas, Nevada 89155-2316
12 (702) 455-6265
13 Attorneys for Defendant

14
15 DISTRICT COURT
16 CLARK COUNTY, NEVADA

17 THE STATE OF NEVADA,

18 Plaintiff,

19 vs.

20 DONTE JOHNSON,

21 Defendant.

CASE NO. C153154
DEPT NO. V
DOCKET H

22 RECEIPT OF COPY

23 RECEIPT OF COPY of the foregoing MOTION TO COMPEL DISCLOSURE OF
24 EXISTENCE AND SUBSTANCE OF EXPECTATIONS, OR ACTUAL RECEIPT OF BENEFITS
25 OR PREFERENTIAL TREATMENT FOR COOPERATION WITH PROSECUTION and Notice
26 of Motion is hereby acknowledged this 29th day of June, 1999.

27
28
Stewart L. Bell
STEWART L. BELL
District Attorney
200 S. Third Street
Las Vegas, NV 89155
Attorney for Plaintiff

CEC

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

1 **OPPS**
 2 PHILIP J. KOHN
 3 Special Public Defender
 4 Nevada Bar No. 000556
 5 PETER R. LaPORTA
 6 Deputy Special Public Defender
 7 Nevada Bar No. 003754
 8 DAYVID J. FIGLER
 9 Nevada Bar No. 004264
 10 309 S. Third Street, Fourth Floor
 11 Las Vegas, Nevada 89155-2316
 12 (702) 455-6265
 13 Attorneys for Defendant

JUL 2 10 49 AM '99

Philip J. Kohn
 CLERK

10 **DISTRICT COURT**
 11 **CLARK COUNTY, NEVADA**

13 THE STATE OF NEVADA,

14 Plaintiff,

15 vs.

16 DONTE JOHNSON,

17 Defendant.

CASE NO. C153154
 DEPT NO. V
 DOCKET H

19 **OPPOSITION TO MOTION IN LIMINE TO PERMIT THE STATE**
 20 **TO PRESENT "THE COMPLETE STORY OF THE CRIME"**

21 **Date of Hearing: 06/29/99**

Time of Hearing: 8:30 a.m.

22 COMES NOW, the Defendant DONTE JOHNSON, (hereinafter "JOHNSON") by and
 23 through his attorneys-of-record, PHILIP J. KOHN, Special Public Defender, PETER R.
 24 LaPORTA, Deputy Special Public Defender, and DAYVID J. FIGLER, Deputy Special Public
 25 Defender and opposes the State's Motion In Limine to Permit the State to Present "The
 26 Complete Story of the Crime".

27 This Opposition is made and based upon the papers and pleadings on file herein,
 28

SPECIAL PUBLIC
 DEFENDER

CLARK COUNTY
 NEVADA

1 the Points and Authorities attached hereto, and any arguments of counsel at the time of
2 hearing.

3 DATED this 29th day of June, 1999.

4 PHILIP J. KOHN
5 SPECIAL PUBLIC DEFENDER

6
7
8 PETER R. LaPORTA
9 Nevada Bar No. 003754
10 309 S. Third Street, Fourth Floor
11 Las Vegas, Nevada 89155-2316
12 (702) 455-6265
13 Attorneys for Defendant

14 **POINTS AND AUTHORITIES**

15 I.

16 **STATEMENT OF FACTS**

17 For purposes of this Opposition the defense adopts the prosecution Statement of
18 Facts.

19 II.

20 **DISCUSSION**

21 By way of introduction, NRS 48.045(2) provides as follows:

22 Evidence of other crimes, wrongs, or acts is not admissible to prove the
23 character of a person in order to show that he acted in conformity therewith.
24 It may, however, be admissible for other purposes, such as proof of motive,
25 opportunity, intent, preparation, plan, knowledge, identity, or absence of
26 mistake or accident.

27 In his treatise on evidence, the Honorable Jack B. Weinstein notes that the Court
28 has the inherent power to require the State to reveal at pretrial hearings in criminal cases
its intention to use evidence of other crimes as well as the nature of such evidence:

The (NRS 48.045) does not incorporate a suggestion that advance notice be
given when other crimes will be shown. Nevertheless, there is power in the
Court to require a revelation at pretrial hearings in civil and criminal cases of

1 intention to use other crimes. (Footnote omitted). Discussion at this time
2 permits setting limitations to prevent abuse, and allows the opponent to
3 prepare more adequately to meet the issue. *Weinstein's Evidence*, Vol.2,
4 Section 404(01), pp. 404-13-14.

5 Generally, evidence of other crimes, wrongs or acts which are different crimes from
6 those for which the Defendant has been charged *will not be considered* at trial unless they
7 fall within an exception to the rule. *Fairman v. State*, 83 Nev. 137, 139, 425 P.2d 342,
8 343 (1967); NRS 48.045(2). The exceptions to this general rule allow evidence of other
9 crimes for purposes such as proof of motive, opportunity, intent, preparation, plan,
10 knowledge, identity, or absence of mistake or accident. NRS 48.045(2). Evidence of
11 other crimes, wrongs or acts is not admissible, however, "to provide the character of a
12 person in order to show that he acted in conformity therewith." NRS 48.045(2).

13 In addition to meeting an exception to the general rule against admissibility, the
14 State must be able to establish a substantial need for the evidence. *Tucker v. State*, 82
15 Nev. 127, 130, 412 P.2d 970, 971-72 (1966).

16 . . . when the other offense sought to be introduced falls within an exception
17 to the rule of exclusion, the trial court should be convinced that the
18 probative value of such evidence outweighs its prejudicial effect.

19 Finally, in order to be admissible, evidence of other crimes, wrongs or acts must
20 meet three (3) further requirements. *Berner v. State*, 104 Nev. 695, 765 (P.2d 114,
21 1146 (1988). First, the evidence must be relevant to the crime charged. *Id.* Secondly,
22 the defendant's commission of other crimes, wrongs or acts must be proven by clear and
23 convincing evidence. *Petrocelli v. State*, 101 Nev. 46, 692 P.2d 503 (1985); *Berner*,
24 *supra*. Third the incident must be more probative than prejudicial. *Daly v. State*, 99 Nev.
25 564, 665 P.2d 798 (1983); *Berner, supra*.

26 The State wishes to introduce the stolen 1994 white Ford passenger vehicle under
27 the complete story of the crime doctrine.

28 Evidence of another act or crime which is *so closely related to an act in
controversy or a crime charged* then the ordinary witness cannot describe
the act in controversy or the crime charged while referring to the other act

1 or crime shall not be excluded. But at the request of the interested party a
2 cautionary instruction shall be given explaining the reason for this admission.

3 **A. EVIDENCE REGARDING THE DEFENDANT'S POSSESSION OF A STOLEN VEHICLE**
4 **IS NOT ADMISSIBLE PURSUANT TO THE "COMPLETE STORY OF THE CRIME"**
5 **DOCTRINE.**

6 The defendant is charged with multiple counts of capital homicide, robbery,
7 kidnapping, etc. He is not charged with possession of a stolen vehicle. It defies this
8 writer's logic as to just how the Nevada Highway patrolmen's testimony, that he pulled
9 over a four-door Ford, on U.S. 95 near Charleston Boulevard, and his continued testimony
10 that the defendant fled on foot from the site of the traffic stop, could in any way
11 complete the story of the capital homicides, robberies, and kidnappings that the State
12 alleges the defendant committed some three (3) nights previous to this traffic stop.

13 The fact that the State alleges the Defendant drove to and from the murder crime
14 scene in a similarly described vehicle is of absolutely no import.

15 **B. EVIDENCE REGARDING JOHNSON'S GANG AFFILIATION IS INADMISSIBLE**
16 **BECAUSE IT DOES NOT ESTABLISH JOHNSON'S MOTIVE TO KILL PETER**
17 **TALAMANTEZ.**

18 The State alleges that victim Talamantez referred to Johnson as "cuz" moments
19 before the victim's death at the hands of Johnson.

20 The defense finds that the State's reasons for victim Talamantez' death are
21 disingenuous at best. There is absolutely no basis for the conclusion that "one of the
22 most insulting statements to a blood gang member is the word "cuz". This is the opinion
23 and a conclusionary statement of the Clark County District Attorney's office not of some
24 independent expert witness who has testified at trial.

25 Additionally, in its recently completed trial of State v. Sikia Smith, the defense put
26 on testimony and introduced evidence and as a result argued, that when Johnson and his
27 two Co-Defendants went to the Terra Linda crime scene address they went prepared to
28 kill. The testimony was that they brought along duct tape and many guns. Their argued
reasons that made the killings necessary was they could be identified by the victims, as

1 they had met the victims on prior occasions.

2 The unstated and real reason as to why the Clark County District Attorney's office
3 wishes to introduce the verbal exchange is they simply wish to introduce Johnson's
4 purported gang affiliations. Johnson argues that the purported reasons for the
5 introduction for the statement "cuz" pretextual at best and are simply a ruse.

6 They do not establish Johnson's alleged motive to kill for the alleged killing of
7 Talamantez as the State has argued in a different matter in other related trials.

8 **CONCLUSION**

9 The Defendant moves this court not to allow the introduction of the "cuz"
10 statement, nor to allow the introduction of the '94 Ford.

11 DATED this 29th day of June, 1999.

12 PHILIP J. KOHN
13 SPECIAL PUBLIC DEFENDER

14
15
16 PETER B. LAPORTA
17 Nevada Bar No. 003754
18 309 S. Third Street, Fourth Floor
19 Las Vegas, Nevada 89155-2316
20 (702) 455-6265
21 Attorneys for Defendant
22
23
24
25
26
27
28

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

ROC

PHILIP J. KOHN

Special Public Defender

Nevada Bar No. 000556

PETER R. LaPORTA

Deputy Special Public Defender

Nevada Bar No. 003754

DAYVID J. FIGLER

Nevada Bar No. 004264

309 S. Third Street, Fourth Floor

Las Vegas, Nevada 89155-2316

(702) 455-6265

Attorneys for Defendant

FILED

JUL 2 10 54 AM '99

Shirley B. Higgins
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

DONTE JOHNSON,

Defendant.

CASE NO. C153154
DEPT NO. V
DOCKET H

RECEIPT OF COPY

RECEIPT OF COPY of the foregoing **OPPOSITION TO MOTION IN LIMINE TO PERMIT THE STATE TO PRESENT "THE COMPLETE STORY OF THE CRIME"** is hereby acknowledged this 2nd day of June, 1999.

Stewart L. Bell
STEWART L. BELL
District Attorney
200 S. Third Street
Las Vegas, NV 89155
Attorney for Plaintiff

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TRAN

ORIGINAL

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

PLAINTIFF,

VS.

DONTE JOHNSON, aka JOHN LEE
WHITE

DEFENDANT.

CASE NO. C153154

DEPT. V

Transcript of
Proceedings

BEFORE THE HONORABLE JEFFREY D. SOBEL, DISTRICT COURT JUDGE

STATE'S MOTION IN LIMINE TO PERMIT THE STATE
TO PRESENT "THE COMPLETE STORY OF THE CRIME"

STATUS CHECK: TRIAL DATE

THURSDAY, JULY 8, 1999, 9:00 A.M.

APPEARANCES:

FOR THE STATE:

GARY GUYPON, ESQ.
ROBERT DASKAS, ESQ.
DEPUTY DISTRICT ATTORNEYS

FOR DEFENDANT JOHNSON:

PETER LAPORTA, ESQ.
DEPUTY SPECIAL PUBLIC
DEFENDER

COURT RECORDER:

SHIRLEE PRAWALSKY

CE34

1 LAS VEGAS, NEVADA, THURSDAY, JULY 8, 1999, 9:00 A.M.

2 THE COURT: State versus Johnson. This was only on calendar--well, it's on
3 calendar for a couple of things. But the main reason it's on calendar today was to
4 see if that trial date works. And I think I was told by Mr. Figler that he's moved the
5 other trial date and we can have the 1/10 jury trial, 1/4 calendar call?

6 MR. LAPORTA: That will be fine, Judge.

7 THE COURT: That will be the order.

8 State's Motion in Limine to Permit the State to Present the Complete
9 Story of the Crime, how long do you need to answer it?

10 MR. LAPORTA: Judge, we have answered it; we filed our opposition to it.

11 THE COURT: Okay. It hasn't hit the file yet and we didn't get a courtesy
12 copy, at least according to my secretary. Would you please file a reply to it. How
13 long will it take?

14 MR. GUYMON: Ten days, Judge.

15 THE COURT: Okay. Ten days. It will be set over till the 10/21 status check
16 date that we already have for the filing of motions. We'll either make a decision or
17 tell you when we're going to make a decision on that date.

18 There's some other motions that have been set for 7/13. Do you want
19 to move those to 10/21 also?

20 MR. LAPORTA: That will be fine, Judge.

21 THE COURT: Okay. Let's move all those other motions to 10/21. We'll have
22 one day for all these things rather than having you come back.

23 MR. LAPORTA: All right, Judge. And we'll have all of our motions filed well
24 before that date.

25 THE COURT: Thank you.

26 MR. GUYMON: And, Judge, not that it's going to make a difference, but I'm
27 going to ask the Court to hold both parties to the date that we've been given. And
28

1 the reason I say that is because when I stood in here--

2 THE COURT: That's why we set the date. I mean, you weren't here, but Mr.
3 Daskas was. I told him we were going to do it absent extraordinary circumstances,
4 everything would be filed by that date, Mr. Guymon. That's what we said last time
5 and that's what we're going to do.

6 MR. GUYMON: And I guess I--my comments now go to the trial date. And
7 that is that in September when I stood here I asked the Court for a firm trial date in
8 July. We statused this on two occasions; the Court told us it was a firm set in July.
9 He was the first to be arrested, he's going to be the last one to be tried. And, Judge,
10 I want to bring finality to this case. So I'm going to ask the Court to hold both
11 parties to the trial date.

12 THE COURT: Okay, well, let's talk about that, Mr. Guymon. Let's talk about
13 that.

14 MR. GUYMON: Okay.

15 THE COURT: I continued the trial because, in my opinion, the defense could
16 not be ready. And that was due to things that were triggered by your office. One
17 of them--because I felt we could resolve all the other things, Mr. Guymon, and still
18 have the trial date that I thought was firm--was you're alleging this man has killed
19 four individuals. Now, I think an average person might think that that's enough to
20 get a death penalty. You now come up with a new alleged murder which is also a
21 significant matter.

22 MR. GUYMON: Judge, I--

23 THE COURT: Listen to me, Mr. Guymon and then you'll have your opportunity
24 to talk.

25 MR. GUYMON: Very well.

26 THE COURT: I offered your partner on this case to continue to go to trial on
27 that firm date, Mr. Guymon, if you would not refer in the penalty phase, if we got
28

1 that far, to this new case that obviously effective assistance of counsel could not be
2 given with reference to without a continuance. So that we could keep the trial date,
3 get it over with, if we could still maintain his right to effective assistance of counsel
4 under the sixth amendment.

5 Now, that wasn't my choice; it was your partner's choice. And you are
6 certainly free to make that choice. But I don't think it's fair for you to come in here
7 in the presence of reporters and other people who are going to give a story on this
8 as they report everything else in a highly publicized case, and make it sound like
9 something I did, Mr. Guymon, impacted on the firmness of this date.

10 I just read an article today when I was at my doctor and eight o'clock
11 in the morning that was referring to the way they treat people in Texas who are
12 accused of capital crimes and every other kind of crime. And it summarized the way
13 people are treated all over American in capital crimes. One out of seven people,
14 supposedly, since we reinstituted the death penalty, have been released because their
15 counsel was incompetent and couldn't even prove that they were innocent.

16 All I want to do is make sure, if Mr. Johnson is convicted, that when he
17 does it, that's a final conviction, that we don't litigate incompetency of counsel and
18 have a reversal ten years from now. That's the only reason we continued what I
19 considered a firm trial date.

20 Now, I understand when we had the resetting last week--I believe you
21 were in another Department--I said then: absent extraordinary circumstances, this will
22 go to trial. I considered their inability to respond to some of the things that had
23 been--and I'm not blaming you, Mr. Guymon--some of these things did not come up
24 until late in the game. But I'm telling you: that was a firm trial date and the new one
25 is an equally firm trial date. But if something changes that impacts, in my opinion,
26 on their ability to give effective assistance of counsel under the sixth amendment of
27 the United States constitution before I will permit you and your associate to go in
28

1 front of a jury and ask that this man's life be taken, I'll grant another continuance.

2 Now, what would you like to add?

3 MR. GUYMON: Judge, I don't blame you for the continuance just as you don't
4 blame me. I will tell the Court that I facilitated that discovery months ago to defense
5 counsel. It wasn't as though I provided it to them a day or two days before we
6 walked in here--

7 THE COURT: Absolutely.

8 MR. GUYMON: --and they've had it for months, Judge. They had it just as
9 soon as we had it.

10 THE COURT: It's my understanding they had it about five weeks. But, that
11 is not enough--

12 MR. GUYMON: And that is--

13 THE COURT: --to prepare a meaningful defense to a whole new allegation.

14 MR. GUYMON: That is not true, Judge. They had it at the time that it was
15 submitted to us and it's not fault that that submission came into the office. It's not--

16 THE COURT: And I'm not blaming you, Gary, am I?

17 MR. GUYMON: No, but my point is this, Judge: when we facilitate that
18 months ago, literally, and when I write two, and three, and four letters to counsel
19 saying, "We have an open file policy. Come take a look at this stuff," at some point
20 in time, Judge, it's time for everybody to hunker down and get the job done. And
21 I'm not suggesting--

22 THE COURT: And should they pass up other murder cases? I mean, how
23 many murder cases do you have, Mr. LaPorta, at the moment?

24 MR. LAPORTA: Personally that I have, Judge?

25 THE COURT: Right.

26 MR. LAPORTA: I have eight.

27 THE COURT: I'm not denigrating what it takes to prosecute a case. It takes
28

1 a tremendous amount of organizational skills and time. In order to investigate, from
2 the defense standpoint, these allegations, it takes a lot of time. Now, strategically,
3 honestly, Mr. Guymon, I can't see why you needed that additional murder case if you
4 can prove that a man killed four individuals in the way that I read in the newspapers
5 you allege that he did. It would seem to me that your case is as persuasive as it
6 really is going to get. If you wanted that trial date I don't see why you wouldn't just
7 sacrifice that new allegation. But, as I said, that's up to you. I'm not in the business
8 of prosecuting. And I'm not in the business of defending. But, I offered that in
9 order to keep the trial date because the other reasons that I thought Mr. LaPorta and
10 Mr. Figler were advancing were not sufficient cause to continue the trial date.

11 MR. GUYMON: And I appreciate that, Judge. But I can tell the Court that I
12 gave them that discovery months ago, Judge. So, it's not as though we were
13 holding that discovery.

14 THE COURT: And I never thought that you were.

15 MR. GUYMON: All right. Very well.

16 MR. LAPORTA: Judge--

17 THE COURT: This is as firm as we're going to get.

18 MR. LAPORTA: That's fine, Judge. And we'll be ready on January 10th. I'm
19 a little confused, Judge. Mr. Guymon said they have an open file policy. And we
20 went in and sat down for the better part of an hour and went through the discovery
21 very painstakingly. And I believe that morning we also received quite a thick packet
22 of discovery that was on a murder charge, is that not correct?

23 MR. GUYMON: Actually, I had sent that to you before you even ever came to
24 the office, Mr. LaPorta.

25 MR. LAPORTA: Judge, I personally had never seen that. And why it never hit
26 the file, I'll inquire into this morning.

27 THE COURT: And I don't know either. But this is the trial date and I would
28

1 hope in the interest of advancing the certainty of it, every day something comes in
2 you send it over.

3 MR. GUYMON: And that's what we've done, Judge.

4 THE COURT: And you keep records of that. But, you know, at some point
5 also, even if it were their fault, I would be in the position, even if it were their fault,
6 hypothetically, that I'd have to continue the case because even if it's their fault, the
7 man is entitled to effective assistance of counsel.

8 MR. GUYMON: And I--

9 THE COURT: And that puts the Court in a box unless it just wants to put
10 blinders over its eyes and say--

11 MR. GUYMON: No, Judge--

12 THE COURT: No, I'm saying I believe there are courts in this country who, for
13 whatever personal interest they have, put blinders over their eyes and say, "We're
14 going forward." In this article I read this morning, they executed a man in Texas
15 where his appeal time was blown by his third counsel who knew nothing about the
16 appellate process and the judge--no, he wasn't executed. The judges in Texas
17 refused to stay his execution and a federal judge had to intervene and say, "What is
18 the matter with you people? This is a miscarriage of justice. You've got to have
19 effective assistance of counsel."

20 So, as soon as we are all agreed that there is a reasonable compliance
21 with the sixth amendment--and I'm hoping it will be this very date--we're going to
22 have a trial and let the chips fall where they may.

23 MR. GUYMON: And, Judge, I appreciate your guarding of the record. I don't
24 suggest that somehow it's your doing in any way. For you to suggest that because
25 reporters are here I make this statement. That is not why I make this statement. I
26 am an advocate for the State. And while I appreciate the Court's interest in having
27 this case tried once--

1 THE COURT: And I'm not saying you're saying it because they're here--
2 MR. GUYMON: Not at all.
3 THE COURT: --I'm saying that each and every one of these things seems to
4 get reported and because I like to move the calendar along and not have trouble, it
5 seems like there's often things that are reported in the newspaper that I don't think
6 fairly reflect the whole situation. And I'm a little tired of it, that's all. I'm not
7 blaming you, I'm not saying you're playing with the newspapers.
8 MR. GUYMON: And I think you understand our concerns; I understand yours.
9 THE COURT: Thank you.
10 MR. LAPORTA: Thank you, Judge.

11 * * * *

12 ATTEST: I do hereby certify that I have truly and correctly transcribed
13 the sound recording of the proceedings in the above case.

14 *Shirlee Prawalsky*
15 SHIRLEE PRAWALSKY, COURT RECORDER
16
17
18
19
20
21
22
23
24
25
26
27
28

79

FILED

JUL 15 2 57 PM '99

Chadwick
CLEAR

ORIGINAL

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,)
)
PLAINTIFF,)
VS.)
)
DONTÉ JOHNSON, aka JOHN LEE)
WHITE)
DEFENDANT.)

CASE NO. C153154
DEPT. V
Transcript of
Proceedings

BEFORE THE HONORABLE JEFFREY D. SOBEL, DISTRICT COURT JUDGE

DEFENDANT'S MOTION TO COMPEL DISCLOSURE OF EXISTENCE
AND SUBSTANCE OF EXPECTATIONS, OR ACTUAL RECEIPT OF
BENEFITS OR PREFERENTIAL TREATMENT FOR
COOPERATION WITH PROSECUTION

DEFENDANT'S MOTION TO COMPEL THE PRODUCTION OF ANY
AND ALL STATEMENTS OF THE DEFENDANT

DEFENDANT'S MOTION TO REVEAL THE IDENTITY OF INFORMANTS
AND REVEAL ANY BENEFITS, DEALS, PROMISES, OR INDUCEMENTS

TUESDAY, JULY 13, 1999, 9:00 A.M.

APPEARANCES:

FOR THE STATE:	ARTHUR NOXON, ESQ. DEPUTY DISTRICT ATTORNEY
FOR DEFENDANT JOHNSON:	PETER LAPORTA, ESQ. DEPUTY SPECIAL PUBLIC DEFENDER

COURT RECORDER: SHIRLEE PRAWALSKY

CE34

1 LAS VEGAS, NEVADA, TUESDAY, JULY 13, 1999. 9:00 A.M.
2 THE COURT: Okay, Johnson. Who is going to take that, Pete or--
3 MR. LAPORTA: Judge, I will. They're all motions for discovery.
4 THE COURT: Okay. Who has got that file, do you know? This is Johnson on
5 page 17. I don't have the file because it was on calendar last Thursday.
6 MR. NOXON: Judge, we heard from Mr. Daskas and pursuant to that, this
7 hearing was vacated. And it was to be in October, wasn't it?
8 MR. LAPORTA: Yeah, Judge. We had agreed that all motions were going to
9 be heard October 21st.
10 THE COURT: Oh, right, I vacated this date now that I recall it until that other
11 time.
12 MR. LAPORTA: We thought that it had been left on simply because it was a
13 discovery motion for not only the guilt phase, but also potentially any discovery the
14 district attorney's office might use during the penalty phase, Judge. And we also--
15 we know that they have an open policy file. But we also wanted to let them know
16 that we were going to hold them responsible for anything that the police had or any
17 other law enforcement agencies had. Hold them in constructive possession.
18 THE COURT: Well, I mean there's law to that effect. But we did vacate this
19 date that's, I'm sure, why they're not here.
20 COURT RECORDER: Mr. Daskas' secretary called; I told him it was not on
21 calendar today. I thought it was vacated.
22 THE COURT: We had vacated it at that last thing on Thursday.
23 If you have some problem that you think should come before that other
24 date, put it back on so they'll be--
25 MR. LAPORTA: We will, Judge. And we do believe that we do need to hear
26 this before the October 21st date.
27 THE COURT: Okay.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

MR. LAPORTA: So, we'll reset it.

THE COURT: Put it on any time that they know that it's going to be on separately.

MR. LAPORTA: All right. Thank you, Judge.

THE COURT: All right. You're welcome.

* * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the sound recording of the proceedings in the above case.


SHIRLEE PRAWALSKY, COURT RECORDER

1 TRAN

2 ORIGINAL

FILED

JUL 15 2 56 PM '99

Shirley Prawalsky
CLERK

3
4 DISTRICT COURT
5 CLARK COUNTY, NEVADA

6 STATE OF NEVADA,)

7 PLAINTIFF,)

8 VS.)

CASE NO. C153154

9 DEPT. V)

10 DONTE JOHNSON, aka JOHN LEE)
WHITE)

11 DEFENDANT.)

Transcript of
Proceedings

12
13 BEFORE THE HONORABLE JEFFREY D. SOBEL, DISTRICT COURT JUDGE

14 STATE'S MOTION IN LIMINE TO PERMIT THE STATE
15 TO PRESENT "THE COMPLETE STORY OF THE CRIME"

16 DEFENDANT'S MOTION TO CONTINUE TRIAL

17 CALENDAR CALL

18 TUESDAY, JUNE 29, 1999, 9:00 A.M.

19 APPEARANCES:

20 FOR THE STATE:

ROBERT DASKAS, ESQ.
DEPUTY DISTRICT ATTORNEY

21
22 FOR DEFENDANT JOHNSON:

PETER LAPORTA, ESQ.
DAYVID FIGLER, ESQ.
DEPUTY SPECIAL PUBLIC
DEFENDERS

23
24
25
26 COURT RECORDER:

SHIRLEE PRAWALSKY

27
28
CE34

1 LAS VEGAS, NEVADA, TUESDAY, JUNE 29, 1999, 9:00 A.M.

2 THE COURT: Donte Johnson, page 3.

3 The first order of business is Defendant's Motion to Continue Trial.
4 What's your position on that?

5 MR. DASKAS: Judge, we had asked for a firm trial setting; that's still our
6 position. I'll submit it to the Court.

7 THE COURT: So, you're ready for trial next week?

8 MR. DASKAS: Absolutely, Judge.

9 THE COURT: How would you address their concerns that they are not ready--
10 because you're an officer of the court--and I'm sure you'd like to, if you secure a
11 conviction, have one that will stand up--how to you specifically address their
12 contentions in telling me--I gather you're ready for trial, but you don't dispute that
13 they are not, do you?

14 MR. DASKAS: Judge, I don't know whether they are or they're not. They've
15 been to our office several times. We've discussed the case. They've been through
16 our trial folders.

17 THE COURT: Well, let's go over the points one by one then. They say there's
18 a new confidential informant named Royal that they were just given the name of a
19 few weeks ago. Is that true?

20 MR. DASKAS: Not to my knowledge, Judge. We haven't secured any
21 testimony from any confidential informant in this case.

22 MR. FIGLER: Your Honor, it perhaps wasn't a confidential informant as much
23 as someone who has been referred to as a "snitch." And we first received
24 notification of that when we had an open-file meeting with the district attorney. I
25 think that's outlined in Mr. LaPorta's affidavit.

26 MR. LAPORTA: It's number 1, Judge.

27 THE COURT: And when was that, a couple weeks ago?

1 MR. LAPORTA: It was about two, three weeks ago, Judge.
2 THE COURT: Okay. Now, I don't want to put you on the spot.
3 MR. DASKAS: No, I understand.
4 THE COURT: Is this really somebody else's case?
5 MR. DASKAS: No, no, it's my case as well, Judge.
6 THE COURT: All right. And how about this "unknown CI" that they refer to
7 who is just not yet revealed. Do you even know who they're talking about?
8 MR. FIGLER: That's the subject of a motion that we filed, Your Honor. It
9 hasn't been revealed to us yet.
10 THE COURT: Okay. And that motion is going to be heard when?
11 MR. FIGLER: I'm not sure what the setting date on that was. I would imagine
12 it would be set for today if Your Honor would not grant our Motion to Continue, or
13 not today, but before the trial would actually start.
14 THE COURT: Okay.
15 MR. FIGLER: But that motion, it's my understanding, had been filed.
16 THE COURT: How about the new murder allegation which I take it would
17 come in penalty? Is there a new allegation that they might have to investigate about
18 a new murder?
19 MR. DASKAS: They have received discovery with respect to the other acts
20 we intend to introduce at penalty as of probably 30 days ago I would guess, Judge.
21 THE COURT: Okay. Now, I would imagine they could investigate very
22 quickly--they have a week still, Mr. Royal and we could hear this unknown CI. Would
23 you be willing to forego using in the penalty phase this other murder to get this case
24 to trial?
25 MR. DASKAS: No, Judge. And what I'll tell the Court is my understanding
26 is they actually represent Mr. Johnson on that other murder charge. So, they should,
27 at least be familiar with the allegations contained in that other charge.

1 THE COURT: Is this true, too?

2 MR. FIGLER: Your Honor, there's been no other murder charge per se, that's
3 been filed against Mr. Johnson. There is an attempt murder charge which we do, in
4 fact, represent him on. It's our understanding that they intend to bring in an
5 additional attempt murder charge. So, that would be two attempt murder charges and
6 a murder charge which they provided us some discovery on. I don't know why it
7 hasn't been filed yet. But, they do intend to bring that in on the penalty phase. And
8 we've received a packet.

9 THE COURT: Let's talk about--are you--I mean we said this was a firm trial
10 date. But obviously, that depends on preparation. If we could take care of these
11 other problems, would you be willing to forego the use of this other alleged murder
12 because you already supposedly have four in this case, in order to keep this trial
13 date?

14 MR. DASKAS: No, we wouldn't Judge.

15 THE COURT: Now, how are the other trials going? Because I understand
16 there was a sequence.

17 MR. DASKAS: That's correct, Judge. I'll tell the Court Sikia Smith was just
18 convicted on Friday of all 14 counts, including the four murders. The penalty hearing
19 begins tomorrow morning. It should, and will, I'm sure, conclude on Friday. Terrell
20 Young, the other co-defendant's case, was continued until August 30th in front of
21 Judge Pavlikowski. And that, of course, leaves Mr. Johnson.

22 THE COURT: Okay. The Motion to Continue the Trial is granted. How long
23 will it take you to do everything necessary to give this man effective assistance of
24 counsel?

25 MR. FIGLER: Well, now, Your Honor, we're also in the process of because of
26 the fact that there are three trials, and the evidence is somewhat similar to each of
27 them, we had submitted to Your Honor two previous--

28

1 THE COURT: How similar is it? Did they get this stolen car routine and the
2 gang stuff in the other trial?

3 MR. FIGLER: Well, Your Honor, there's some physical evidence. And there's
4 some--

5 THE COURT: Did they get that in in the other trials? I'm curious, that
6 "complete story" that's the subject of a motion?

7 MR. FIGLER: I don't believe so.

8 MR. DASKAS: And, Judge, what I'll represent to the Court is: Sikia Smith was
9 not in that car when it was pulled over so it wasn't necessary to introduce that to
10 that jury.

11 MR. FIGLER: And this was post-incident conduct, Your Honor.

12 THE COURT: Well, I was just curious whether it came in on another trial. It's
13 not going to govern me one way or the other.

14 MR. FIGLER: There's the same physical evidence.

15 THE COURT: But my question was: when can you be ready, not why?

16 MR. FIGLER: Well, the representation I was going to make to Your Honor is
17 that this physical evidence has been subject of a stipulation and order by Your Honor.
18 There's probably one more that's coming with regard to a re-testing of certain DNA
19 fingerprint and other physical evidence. That takes some time. We're in the process
20 of transferring it. Of course, it's difficult because they do have the other trials going
21 on at the same time.

22 THE COURT: What's the bottom line? How long?

23 MR. LAPORTA: Judge, I would say--I have a September death penalty and a
24 November death penalty. Judge, I'd ask after the first of the year.

25 MR. DASKAS: And, Judge, with all due respect to the Court and counsel, as
26 the Court is aware, we asked for the firm trial setting. I appreciate their concerns.
27 Our request would be that we set it, say, the second week of August before Terrell

28

1 Young's trial. I think that would give them ample time to--

2 THE COURT: Why--of course, we always have--we have another murder trial
3 before that. But why would you want it in that sequence, by the way?

4 MR. DASKAS: Actually, Judge, that's not the concern. The sequence isn't
5 a concern. Simply getting the matter to trial is our concern.

6 THE COURT: Well, why not reveal to them, then, about three months ago--I
7 mean, when did you find out about this new murder?

8 MR. DASKAS: The case was submitted to our office and I'm guessing, Judge,
9 probably 45, 60 days ago. And I would say they've had the matter for, probably, 45
10 days.

11 THE COURT: So, it was quickly after you got it?

12 MR. DASKAS: Absolutely, Judge, yes. And what I'll tell the Court is I actually
13 placed a phone call, I believe, to Mr. Figler and told him about the discovery and then
14 he came over and picked up the discovery along with Mr. LaPorta.

15 MR. FIGLER: Yeah, we physically received that, Your Honor, within the last
16 two, two and a half weeks.

17 THE COURT: Now, this trial was as firm as I believed anything could be. I urge
18 you not to start endorsing witnesses at the end or something. Give them everything
19 you've got. Because I'd really like--this isn't going to be, in my opinion, a long trial.
20 We're going to get it all over with in less than a week. But we've got to start it to
21 do that.

22 MR. DASKAS: I understand, Your Honor.

23 MR. FIGLER: There is one additional concern, Your Honor. And that's
24 something that came up in Mr. Smith's trial which we're probably going to have to,
25 we're required to file a motion in this Court with regard to our mitigation specialist
26 who is retained by our office also being retained by the State.

27 THE COURT: You're going to--give me the trial date I just said.

28

1 THE CLERK: Trial date: January 3rd with a calendar call December 28th.
2 THE COURT: Okay. Now, any and all motions will be filed by both sides so
3 we don't have to play around with last-minute motions, any and all motions--
4 MR. FIGLER: Your Honor, I hate to be the sticky-wicky here. On January 3rd,
5 first of all, the District Court isn't scheduling any trials for that week because of the
6 Y-2K problem.
7 THE COURT: Okay. Well, then we'll do it the next week. Yes?
8 MR. FIGLER: On the second week, the following week, I have a death penalty
9 case in Department XV, Keith Shanley with Mr. Wall. And that should be a one, one
10 and half week trial. That's a death case; I'm doing it with Mr. Kohn.
11 THE COURT: You know, what are the odds that that will go when it's
12 scheduled? I don't think one-tenth of the trials that are scheduled go when they're
13 scheduled to go.
14 MR. FIGLER: It's my duty to inform you of what I have, Your Honor.
15 THE COURT: Is it the first setting on that?
16 MR. FIGLER: That's the second setting on that, Your Honor. The first setting
17 since they turned it into a death penalty case.
18 THE COURT: When is your trial, Pete, in September?
19 MR. LAPORTA: Judge, the trial is Kenshawn Maxey; it's a death penalty case.
20 THE COURT: When is it in September?
21 MR. LAPORTA: And let's see here. It goes, I believe the 7th. It starts the 7th
22 of September. I anticipate that will be at least a two-week trial, Judge.
23 MR. FIGLER: I mean, I could talk with Judge Loehrer and see if she'll give us
24 some relief on that because that would be an ideal date in January. I think we'll be
25 able to get our mitigation stuff done as well as all the stuff of the trial phase. I think
26 that's exactly how much time we would need, Your Honor. You know, I could--we
27 could maybe get together with Judge Loehrer. But it took a long time to get that
28

1 one.

2 THE COURT: All right. Give him the second week in January. We'll status
3 check this after you talk to Loehrer a week from Thursday.

4 THE CLERK: Status check date will be July 8th.

5 THE COURT: The new trial date, tentatively, will be?

6 THE CLERK: Will be: calendar call on January 4th with a jury trial January
7 10th at 10:00 a.m.

8 THE COURT: We will have all motions from both sides in two months before
9 trial: October the 18th. The motions will be filed that day.

10 MR. LAPORTA: Thank you, Judge.

11 THE COURT: Courtesy copies to the Court. And on Thursday, October the
12 21st, we'll have a status check to see how we're litigating those matters.

13 There's going to have to be extraordinary cause for any motion coming
14 in after that date. So, everything you've got, you file it.

15 MR. FIGLER: Fine. And that's--

16 THE COURT: This trial date is vacated.

17 MR. LAPORTA: That date is fine with my calendar, Judge. Thank you.

18 THE COURT: All right. Let's find out next week if you can get Judge Loehrer
19 to move her trial a little bit to accommodate us.

20 MR. FIGLER: Thank you, Judge.

21 THE COURT: Thank you.

22 * * * *

23 ATTEST: I do hereby certify that I have truly and correctly transcribed
24 the sound recording of the proceedings in the above case.

25 
26 SHIRLEE PRAWALSKY, COURT RECORDER

27

28

ORIGINAL

FILED

JUL 27 10 34 AM '99

Shirley L. Thompson
CLERK

ORDR
PHILIP J. KOHN
Special Public Defender
Nevada Bar No. 000556
PETER R. LaPORTA
Deputy Special Public Defender
Nevada Bar No. 003754
DAYVID J. FIGLER
Nevada Bar No. 004264
309 S. Third Street, Fourth Floor
Las Vegas, Nevada 89155-2316
(702) 455-6265
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

DONTE JOHNSON,

Defendant.

CASE NO. C153154
DEPT NO. V
DOCKET H

ORDER TO TRANSPORT

TO: Clark County Detention Center
330 S. Casino Center
Las Vegas, Nevada 89101

This matter having come on by Ex Parte Application, the matter having been fully reviewed, and good cause appearing therefor,

IT IS HEREBY ORDERED that the Clark County Detention Center transport Defendant, DONTE JOHNSON, to the Offices of his court-appointed psychologist, Dr. Louis Mortillaro, Ph.D, for purpose of continuing with the psychological exam ;

...

SPECIAL PUBLIC
DEFENDER
CLARK COUNTY
NEVADA


1 IT IS FURTHER ORDERED that the Defendant, DONTE JOHNSON be taken to Dr.
2 Louis Mortillaro's offices located at 501 S. Rancho, #F37, Las Vegas, NV 89106 on July
3 28, 1999 at 1:30 p.m.

4 DATED this 28th day of July, 1999

5
6
7 
DISTRICT COURT JUDGE

8 SUBMITTED BY:

9 CLARK COUNTY SPECIAL PUBLIC DEFENDER

10 
11 PETER R. LaPORTA
12 Deputy Special Public Defender
13 State Bar No. 003754
14 309 S. Third Street, Fourth Floor
15 Las Vegas, NV 89155
16 Attorney for Defendant
17
18
19
20
21
22
23
24
25
26
27
28

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

ORIGINAL

20

1 **ORDR**

PHILIP J. KOHN

2 Special Public Defender

Nevada Bar No. 000556

3 PETER R. LaPORTA

Deputy Special Public Defender

4 Nevada Bar No. 003754

DAYVID J. FIGLER

5 Nevada Bar No. 004264

309 S. Third Street, Fourth Floor

6 Las Vegas, Nevada 89155-2316

(702) 455-6265

7 Attorneys for Defendant

FILED

JUL 28 11 01 AM '99

Shirley J. Thompson
CLERK

8
9
10 **DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12
13 THE STATE OF NEVADA,

14 Plaintiff,

15 vs.

16 DONTÉ JOHNSON,

17 Defendant.

CASE NO. C153154
DEPT NO. V
DOCKET H

18
19 **RECEIPT OF COPY**

20 RECEIPT OF COPY of the foregoing **ORDER TO TRANSPORT** is hereby
21 acknowledged this 27 day of July, 1999.

22
23 *Kiana Clayton 5348*
24 CLARK COUNTY DETENTION CENTER

25
26
27
28
SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

10/31

ORIGINAL

24

0001
STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff

FILED

AUG 19 9 13 AM '99

Shirley B. Bourgeois
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

DONTE JOHNSON,
#1586283

Defendant.

Case No. C153154
Dept. No. V
Docket H

NOTICE OF MOTION AND MOTION TO PERMIT DNA TESTING OF THE
CIGARETTE BUTT FOUND AT THE CRIME SCENE BY THE LAS VEGAS
METROPOLITAN POLICE DEPARTMENT FORENSIC LABORATORY OR BY
AN INDEPENDENT LABORATORY WITH THE RESULTS OF THE TEST TO
BE SUPPLIED TO BOTH THE DEFENSE AND THE PROSECUTION

DATE OF HEARING: 08/30/99
TIME OF HEARING: 9:00 A.M.

COMES NOW, the State of Nevada, by STEWART L. BELL, District Attorney, through
GARY L. GUYMON, Chief Deputy District Attorney, and files this Notice of Motion and
Motion To Permit DNA Testing of the Cigarette Butt Found at the Crime Scene by an
Independent Laboratory with the Results of the Test to be Supplied to Both the Defense and the
Prosecution.

This Motion is made and based upon all the papers and pleadings on file herein, the
attached points and authorities in support hereof, and oral argument at the time of hearing, if
deemed necessary by this Honorable Court.

//

RECEIVED

AUG 19 1999

COUNTY CLERK

CE11

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

DATED this 17 day of August, 1999.

BY GARY L. GUYMON
GARY L. GUYMON
Chief Deputy District Attorney
Nevada Bar #003726

FACTUAL BACKGROUND

Since the time of criminalist Wahl's analysis of the cigarette butt (August 1, 1998) the

1 Las Vegas Metropolitan Police Department forensic lab has acquired the ability to further
2 analyze the remaining DNA associated with the cigarette butt through STR testing techniques.
3 The STR testing technique will permit criminalist Wahl to identify the source of the DNA on
4 the cigarette butt found at the crime scene.

5 The prosecution in the above case has contacted criminalist Wahl in an effort to
6 determine whether or not there is sufficient remaining DNA sample on the cigarette butt in order
7 to perform further tests. Criminalist Wahl believes that there is sufficient remaining DNA on
8 the cigarette butt in order to conduct STR testing.

9 The defense has previously submitted a court order requesting the Las Vegas
10 Metropolitan Police Department to release the cigarette butt so that the defense's DNA expert
11 can analyze the remaining DNA associated with the cigarette butt.

12 As can be seen by exhibits 1 and 2, the prosecution has had a number of discussions with
13 the defense regarding the cigarette butt and the remaining DNA.

14 The State is in the tenuous position of having to make a decision associated with the
15 remaining DNA associated with the cigarette butt in question. The State seeks a ruling from this
16 court as to what, if anything, should be done so that the State can identify the DNA source
17 through STR testing and still give the defense a meaningful opportunity to conduct their
18 examinations.

19 LAW AND ARGUMENT

20 If, in fact, Mr. Wahl is correct in his opinion that there may well be insufficient quantity
21 for two separate tests at two separate laboratories then the defense is, in effect, proposing that
22 all remaining DNA be destroyed if the State is not permitted to conduct the necessary STR
23 testing. The State requests that they be able to conduct STR testing in their lab, or in the
24 alternative, that all of the sample be sent to a single laboratory for STR testing with the
25 understanding that the test results will be provided to both the prosecution and the defense.
26 Surely the truth-finding process demands no less. Physical evidence, if relevant, belongs to the
27 trier of fact rather than one of the parties to the litigation to the exclusion of the other. The
28 prosecution would have been absolutely entitled, without notification to the defense, to forward

1 the remaining DNA to the laboratory of its choice for STR testing. The law does not require
2 notification to the defense, but notification has been provided so that they would have an
3 opportunity to participate in any discussions associated with the remaining DNA. It is certainly
4 hoped that this attempt at fairness and the attempt to further refine the truth about a piece of
5 physical evidence does not result in its destruction in the event the test is unfavorable to the
6 defense.

7 A case almost directly on point comes to us from the Supreme Court of the State of
8 California entitled *People v. Cooper*, 53 Cal. 3d 771, 809 P.2d 865, 281 Cal Rptr. 90 (1991).
9 The defendant was convicted and sentenced to death for multiple homicides and his conviction
10 was affirmed on appeal. One of the issues raised on appeal pertaining to the scientific testing
11 of a series of tiny drops of blood collected from the victim's residence. The defense had filed
12 a written motion for the release of this blood for the purpose of independent testing, however,
13 the defense attorney objected because the blood drops were so small that serological testing
14 would entirely consume the blood. As in this case, the defense wanted to be given the remaining
15 DNA associated with the cigarette butt and be allowed to consume this DNA through testing
16 without informing the District Attorney of the results. The Court ordered that testing of all
17 samples be done in the presence of both prosecution and defense experts. The defense appealed
18 stating that the trial court erred by not allowing independent testing. The California Supreme
19 Court concluded:

20 "In this case, the blood samples were so small they could not
21 effectively be divided to give the defense a portion. Under these
22 facts, the defendant has no right to obtain the evidence collected
23 by the prosecution, to destroy that evidence in independent
24 testing, and then to withhold from the prosecution the results of
25 the testing."

26 The California Supreme Court argued by analogy from a previous decision *People v.*
27 *Meredith*, 29 Cal. 3d 682, 175 Cal. Rptr. 612, 631 P.2d 46 (1981). In that case the defendant
28 was charged with murder and robbery and the defendant's investigators recovered the victim's
wallet from a trash can. The Supreme Court held that not only was the prosecution entitled to
the wallet, the location of the wallet likewise had to be revealed to the prosecution. "When

1 defense counsel alters or removes physical evidence, he necessarily deprives the prosecution the
2 opportunity to observe that evidence in its original condition."

3 The Court therefore concluded that "Just as there was no defense right in Meredith to
4 destroy evidence" it found before the prosecution founded, so too, there is no defense right to
5 destroy evidence found by the prosecution. The Supreme Court in Cooper rejected arguments
6 based upon the fifth amendment privilege against self-incrimination, the sixth amendment right
7 to effective assistance of counsel, as well as attorney-client privilege.

8 The Nevada Supreme Court has, on numerous occasions, announced its revulsion to the
9 concept of keeping relevant physical evidence from the trier of fact. Indeed, there are several
10 Nevada reported decisions which have resulted in the reversal of jury verdicts where evidence
11 was inadvertently destroyed by the police while in the process of gathering evidence. *Sparks*
12 *v. State*, 104 Nev. 316, 759 P.2d 180 (1988); *Sanborn v. State*, 107 Nev. 399, 812 P.2d 1279
13 (1991). If all of the DNA goes to the defense for independent testing and the results are
14 unfavorable then the results will not be provided to the prosecution unless ordered to do so by
15 the Court. More importantly, if the defense does not elect to use STR analysis then the State
16 will never have the opportunity to identify DNA source on the cigarette butt. The courts have
17 consistently held that where physical evidence comes in possession of the defense from their
18 own client, such evidence cannot be concealed from the prosecution. See *Meredith*, 631 P.2d
19 46; *People v. Fairbank*, 192 Cal. App. 3d 32, 237 Cal. Rptr. 158 (1987); *People v. Lee*, 3 Cal.
20 App. 3d 514, 83 Cal. Rptr. 715 (1970). All of these cases were decided in favor of the
21 prosecution where the defense claimed attorney-client privilege. In *Lee*, the Court stated
22 "Neither the public defender, nor substituted counsel for the defendant, had the right to withhold
23 the evidence from the State by asserting an attorney-client privilege."

24 In addition to everything stated above, concealing or destroying evidence is a crime in
25 the State of Nevada. NRS 199.220 provides:

26 "Every person who, with intent to conceal the commission of
27 any felony, or to protect or conceal the identity of any person
28 committing the same, or with intent to delay or hinder the
administration of the law or to prevent the production thereof at
any time, in any court or for any officer, tribunal, judge or

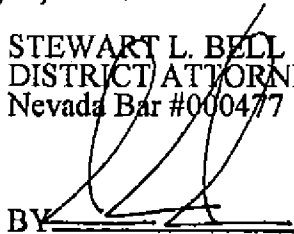
1 magistrate, shall wilfully... conceal any... instrument or thing
2 shall be guilty of a gross misdemeanor."

3 CONCLUSION

4 In conclusion, the cigarette butt and any evidence that may be gleamed thereof, if
5 relevant, belongs to the trier of fact and must be made available to the party who's responsibility
6 it is to present the evidence to the jury. If, as it would appear, a greater refinement and greater
7 statistical relevance can be brought to the attention of the jury as it pertains to the defendant's
8 DNA then that evidence must be preserved and made available to the prosecution in its effort
9 to meet its burden of proof beyond reasonable doubt. The State respectfully requests that the
10 State be able to consume the remaining DNA associated with the cigarette butt for the purposes
11 of STR testing and provide the defense with the discovery associated with the same. In the
12 alternative, the State would respectfully request that the Court order the cigarette butt be
13 released to an independent lab for STR testing and that the results be made available to both the
14 prosecution and the defense.

15 DATED this 17 day of August, 1999.

16 STEWART L. BELL
17 DISTRICT ATTORNEY
18 Nevada Bar #000477

19 BY 
20 GARY L. GUYMON
21 Chief Deputy District Attorney
22 Nevada Bar #003726
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing Notice of Motion and Motion To Permit
DNA Testing of the Cigarette Butt Found at the Crime Scene by the Las Vegas Metropolitan
Police Department Forensic Laboratory or by an Independent Laboratory with the Results of the
Test to be Supplied to Both the Defense and the Prosecution is hereby acknowledged this
19th day of August, 1999.

SPECIAL PUBLIC DEFENDER'S OFFICE
ATTORNEY FOR DEFENDANT

BY Jeni Wade / for.
309 S. THIRD STREET, SUITE 400
LAS VEGAS, NEVADA 89101

GUYMG/sbs



OFFICE OF THE DISTRICT ATTORNEY

Clark County Courthouse • 200 S Third St • PO Box 552212 • Las Vegas NV 89155-2212
(702) 455-4711 • Fax: (702) 455-2294

STEWART L. BELL

District Attorney

J. CHARLES THOMPSON

Assistant District Attorney

MICHAEL D. DAVIDSON

Assistant District Attorney

July 30, 1999

Dayvid Figler, Deputy Special Public Defender
Peter LaPorta, Deputy Special Public Defender
309 S. Third Street, Suite 400
Las Vegas, NV 89101

RE: State of Nevada vs. Donte Johnson
Case No. C153154

Dear Mr. Figler and Mr. LaPorta:

Most recently I spoke to you about your request to have the cigarette butt from the crime scene sent to your experts in order to do a DNA analysis.

As you know the Las Vegas Metropolitan Police Department has previously extracted DNA from the cigarette butt in question and done PCR testing on the same. The Las Vegas Metropolitan Police Department would now like to extract additional DNA from the cigarette butt in order to do STR testing. If our lab extracts additional DNA from the cigarette butt for STR testing there may not be sufficient DNA left for your lab to test.

Without knowing what tests your lab wishes to perform on the cigarette butt I have listed a number of options below:

The Las Vegas Metropolitan Police Department could extract additional DNA from the cigarette butt to perform STR testing and provide your lab with any and all findings associated with both the PCR test and STR tests.

The Las Vegas Metropolitan Police Department could extract all of the additional DNA from the cigarette butt and provide your lab with half of the extracted sample in order for your lab to perform whatever tests they wish to perform on the remaining DNA. Unfortunately, this procedure may leave our lab and your lab with an insufficient sample to do any meaningful DNA testing.

EXHIBIT "1"

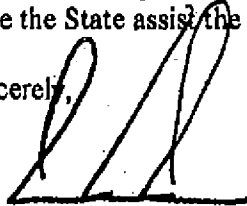
The Las Vegas Metropolitan Police Department could attempt to extract the additional DNA from the cigarette butt in the presence of your DNA expert and perform testing of the same with your expert presence. This is an option that I have not cleared with the director of the lab and, as such, it may be against their policies and procedures, but I would certainly be willing to explore the same.

The cigarette butt could be sent to your experts for DNA testing and have any and all results associated with the testing be made available to our lab, pursuant to the rules of reciprocal discovery. If, however, your lab is not going to perform STR testing I would be reluctant to do this, as the State has a particular interest in what numbers may be generated through STR testing procedures.

Lastly, the cigarette butt could be sent to a third lab unrelated to the Las Vegas Metropolitan Police Department lab or your expert's lab for STR testing, with the understanding that the results would be made available to both sides for analysis.

Should you have any questions about the above please contact me, as I am very hopeful to have the State assist the defense in any way in order to bring this case to trial.

Sincerely,



GARY L. GUYMON
Chief Deputy District Attorney

GLG/sbs



OFFICE OF THE DISTRICT ATTORNEY

Clark County Courthouse • 200 S Third St • PO Box 552212 • Las Vegas NV 89155-2212
(702) 455-4711 • Fax: (702) 455-2294

STEWART L. BELL

District Attorney

J. CHARLES THOMPSON

Assistant District Attorney

MICHAEL D. DAVIDSON

Assistant District Attorney

August 6, 1999

Dayvid Figler, Deputy Special Public Defender
Peter LaPorta, Deputy Special Public Defender
309 S. Third Street, Suite 400
Las Vegas, NV 89101

RE: State of Nevada vs. Donte Johnson
Case No. C153154

Dear Mr. Figler and Mr. LaPorta:

Not long ago I sent you a letter outlining what I believe to be possibilities associated with the remaining DNA left on the cigarette butt found at the crime scene.

While awaiting your comments as to my letter I began asking others in our office if they were familiar with a similar circumstance and what they had done. I have subsequently learned that there is a case on point (*People vs. Cooper*, 53 Cal 3rd 771, 809 P.2nd 865 (1991)) which actually adopts one of the options that I proposed. The case established the procedure of picking a third, independent laboratory to do the DNA extraction and testing and share the results with both sides. This proposal was adopted by the Court in the *Strohmyer* case and is the proposal which I will motion the Court to adopt in the event that the same becomes necessary.

I will be out of the office from August 9th thru August 13th. I am hopeful that I will promptly hear from you upon my return so that we can resolve this issue and any others associated with the above case.

Sincerely,

Gary L. Guymon
Chief Deputy District Attorney

GLG/sbs

EXHIBIT "2"

FILED

AUG 24 9 58 AM '99

Shirley B. Burzina
CLERK

1 NOTC
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 DONTE JOHNSON,
12 #1586283

13 Defendant.

Case No. C153154
Dept. No. V
Docket H

15 NOTICE OF WITNESSES
16 [NRS 174.234 (1)(b)]

17 TO: DONTE JOHNSON, Defendant; and

18 TO: SPECIAL PUBLIC DEFENDER'S OFFICE, Counsel of Record:

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

21 NAME	ADDRESS
22 FLINT, KAREES MICHELE	1525 E. FREMONT STREET, #232 LAS VEGAS, NV 89101
23 NEVAREZ, ELIZABETH	3005 ST. GEORGE, UNIT B NORTH LAS VEGAS, NV 89030

25 //

26 //

27 //

28 //

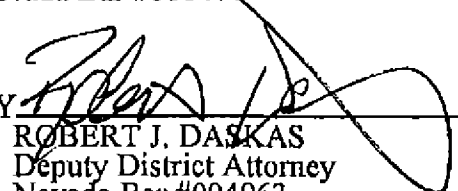
RECEIVED

AUG 24 1999

COUNTY CLERK

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

3 STEWART L. BELL
4 DISTRICT ATTORNEY
Nevada Bar #000477

5
6 BY 
7 ROBERT J. DASKAS
8 Deputy District Attorney
Nevada Bar #004963

9 CERTIFICATE OF FACSIMILE TRANSMISSION

10 I hereby certify that service of Notice of Witnesses, was made this 23rd day of August,
11 1999, by facsimile transmission to:

12 SPECIAL PUBLIC DEFENDER'S OFFICE
13 FAX # (702) 455-6273

14 
15 Secretary for the District Attorney's Office

16
17
18
19
20
21
22
23
24
25
26
27
28 98F11830X/sbs

FACSIMILE COVER PAGE

Date: 8/23/99
Time: 16:38:48
Pages: 3

To: S.P.D.
Company: SPECIAL PUBLIC DEFENDER
Fax #: 455-6273

From: STEPHANIE SCHWARTZ
Title: LEGAL SECRETARY
Company: Clark County District Attorney's Office
Address: 200 S. Third Street - 5th floor
Las Vegas , NV 89155
USA

Fax #: 455-6410
Voice #: 455-4796

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TRAN

ORIGINAL

FILED

AUG 31 3 27 PM '99

DISTRICT COURT
CLARK COUNTY, NEVADA

Shirley Prawalsky
Clerk

STATE OF NEVADA,

PLAINTIFF,

VS.

DONTE JOHNSON, aka JOHN LEE
WHITE

DEFENDANT.

CASE NO. C153154

DEPT. V

Transcript of
Proceedings

BEFORE THE HONORABLE JEFFREY D. SOBEL, DISTRICT COURT JUDGE

STATE'S MOTION TO PERMIT DNA TESTING

MONDAY, AUGUST 30, 1999, 9:00 A.M.

APPEARANCES:

FOR THE STATE:

GARY GUYMON, ESQ.
DEPUTY DISTRICT ATTORNEY

FOR DEFENDANT JOHNSON:

PHILLIP KOHN, ESQ.
SPECIAL PUBLIC DEFENDER

COURT RECORDER: SHIRLEE PRAWALSKY

COUNTY CLERK

AUG 31 1999

RECEIVED

CE11

1 LAS VEGAS, NEVADA, MONDAY, AUGUST 30, 1999, 9:00 A.M.

2 THE COURT: Let's do Johnson, page 19.

3 This is the State's Motion for DNA. Is there going to be an objection,
4 Mr. Kohn, filed?

5 MR. KOHN: Yes, Your Honor, there will be, I think so. I have not talked to my
6 attorneys. And one of them called in sick. So, I would ask this be put over for a few
7 days.

8 THE COURT: Okay. At that time we'll set up a schedule for getting this
9 underway because we, of course, don't want to impact the trial date.

10 MR. KOHN: There may well be a stipulation. Did you talk to Dayvid about
11 this?

12 MR. GUYMON: I have spoken to him. He had not formally taken a position as
13 of our last conversation.

14 THE COURT: Okay. Is Thursday good?

15 MR. KOHN: Thursday is fine. I did talk to Mr. Figler. I think we're going to be
16 able to work this out. Is it about getting something to what-in the lab?

17 MR. GUYMON: Yes. And I think we're close, Judge. But I wanted to make
18 sure I include the Court.

19 THE COURT: Okay, Thursday.


20 MR. KOHN: Thursday is fine.

21 THE CLERK: That's September 2nd at 9:00 a.m.

22 MR. KOHN: Thank you, Judge.

23 * * * *

24 ATTEST: I do hereby certify that I have truly and correctly transcribed
25 the sound recording of the proceedings in the above case.

26 
27 SHIRLEE PRAWALSKY, COURT RECORDER
28

ORIGINAL

FILED

AUG 31 3 49 PM '99

Shirley D. Hargis
CLERK

1 **ORDR**
2 PHILIP J. KOHN
3 Special Public Defender
4 Nevada Bar No. 000556
5 PETER R. LaPORTA
6 Deputy Special Public Defender
7 Nevada Bar No. 003754
8 DAYVID J. FIGLER
9 Nevada Bar No. 004264
10 309 S. Third Street, Fourth Floor
11 Las Vegas, Nevada 89155-2316
12 (702) 455-6265
13 Attorneys for Defendant

10 **DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

13 THE STATE OF NEVADA,

14 Plaintiff,

15 vs.

16 DONTE JOHNSON,

17 Defendant.

CASE NO. C163154
DEPT NO. V
DOCKET H

19 **ORDER TO TRANSPORT**

20 **TO:** Clark County Detention Center
21 330 S. Casino Center
22 Las Vegas, Nevada 89101

23 This matter having come on by Ex Parte Application, the matter having been fully
24 reviewed, and good cause appearing therefor,

25 IT IS HEREBY ORDERED that the Clark County Detention Center transport
26 Defendant, DONTE JOHNSON, to the Offices of his court-appointed psychologist, Dr.
27 Louis Mortillaro, Ph.D, for purpose of continuing with the psychological exam ;
28 ...

COUNTY CLERK

AUG 31 1999

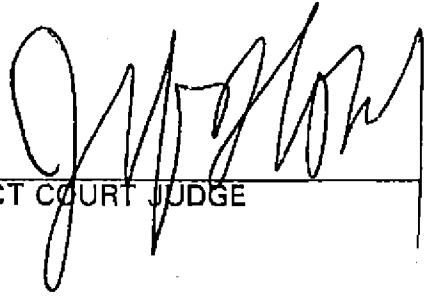
RECEIVED

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

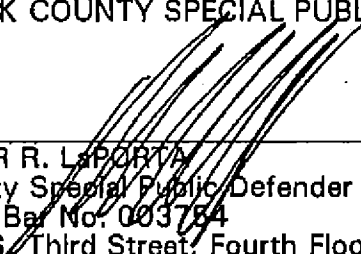
1 IT IS FURTHER ORDERED that the Defendant, DONTE JOHNSON be taken to Dr.
2 Louis Mortillaro's offices located at 501 S. Rancho, #F37, Las Vegas, NV 89106 on
3 September 11, 1999 at 8:00 a.m.

4 DATED this 30 day of August, 1999.

5
6 
DISTRICT COURT JUDGE

7 SUBMITTED BY:

8 CLARK COUNTY SPECIAL PUBLIC DEFENDER

9
10
11 
PETER R. LAPORTA
Deputy Special Public Defender
State Bar No. 003754
309 S. Third Street, Fourth Floor
Las Vegas, NV 89155
Attorney for Defendant
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

90
ORIGINAL

1 ROC
2 PHILIP J. KOHN
3 Special Public Defender
4 Nevada Bar No. 000556
5 PETER R. LaPORTA
6 Deputy Special Public Defender
7 Nevada Bar No. 003754
8 DAYVID J. FIGLER
9 Nevada Bar No. 004264
10 309 S. Third Street, Fourth Floor
11 Las Vegas, Nevada 89155-2316
12 (702) 455-6265
13 Attorneys for Defendant

FILED

SEP 1 3 27 PM '99

Shirley B. King
CLERK

10 DISTRICT COURT
11 CLARK COUNTY, NEVADA

13 THE STATE OF NEVADA,

14 Plaintiff,

15 vs.

16 DONTE JOHNSON,

17 Defendant.

CASE NO. C153154
DEPT NO. V
DOCKET H

19 RECEIPT OF COPY

20 RECEIPT OF COPY of the foregoing ORDER TO TRANSPORT is hereby
21 acknowledged this 1 day of September, 1999.

23 *C. J. [Signature]* #5775
24 CLARK COUNTY DETENTION CENTER

COUNTY CLERK

SEP 11 1999

RECEIVED

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

2

1 State of Nevada
2 Plaintiff
3 -VS-
4 Donte Johnson
5 1586283 Defendant

FILED
SEP 7 2 48 PM '99
Shirley Clerk

Case NO C153154
Docket NO H
Court NO. V

Memorandum In
Pursuant for a
Change of Venue

15 Comes Now Defendant Donte Johnson by and through this memorandum
16 to the court, making record and giving rise to Defendants request of
17 a transfer from the District for trial, this memorandum is based upon,
18 Prejudice in the District.

19 The court upon motion of the Defendant shall transfer the proceeding
20 as to that Defendant to another district whether or not such district is
21 specified in the defendant's memorandum/motion if the court is
22 satisfied that there exists in the district where the prosecution is
23 pending so great a prejudice against the defendant that the
24 defendant cannot obtain a fair and impartial trial at any place fixed
25 by law for holding court in this district.

RECEIVED

SEP 07 1999

COUNTY CLERK

2581

A.

1 Defendant's arrest engendered a large scale news media campaign of
2 inflammatory publicity concerning the case that has continued to date,
3 creating an atmosphere in and around the Las Vegas District of Clark
4 county which is now charged with great hostility against the defendant
5 and which has seriously prejudiced the defendant's chances of obtaining
6 a fair and impartial trial within the district.

B.

7
8 As a result of nature pertaining the amount of media and
9 news coverage in this matter, and the number of person in the Las Vegas
10 area regularly reading, viewing, and hearing the news media in proportion to
11 the area's total population, it appears that virtually every household in
12 Las Vegas District of the Clark county, and thus virtually every prospective
13 juror, has been exposed to a constant barrage of inflammatory accounts,
14 detailing in a manner highly prejudicial to the defendant every
15 occurrence in this matter that has arisen since the defendants arrest.

C.

16
17 pursuant to rule 21(a) of the Federal rules of criminal Procedure, for
18 an order ~~amending~~ transferring the trial of the aboved-captioned
19 proceeding on the grounds that, by reason of numerous and inflammatory
20 news media reports concerning the defendant, there exists in the
21 Las Vegas district, where the prosecution is pending, so great a prejudice
22 against the defendant that the defendant cannot obtain a fair and impartial
23 trial at any place fixed by law for holding court in this district.
24
25
26
27

-3-

D.

A trial for the defendant at this time in this district will deprive the defendant of life and liberty without due process of law, in contravention of the Fifth Amendment to the United States constitution, and of the defendant's right to a fair and impartial trial, in contravention of the sixth Amendment of the United States constitution.

(General Considerations
Showing Necessary to Warrant
Change of Venue)

The general rule that a defendant in a criminal case must affirmatively show that there is such a feeling of prejudice prevailing in the community where he is to be tried as will be reasonably certain to prevent a fair and impartial trial, thus entitling him to a change of venue, has been frequently applied in cases where courts have been called upon to determine whether pretrial publicity has been such as to warrant the granting of a criminal defendant's request for a change of venue. In the following illustrative cases the courts stated that it must be shown that the prospects of the defendant not receiving a fair and impartial trial are "reasonably certain," or "likely," the courts also using other similar terms.

Ariz.-State V. Woolary (1963) 93 Ariz. 76, 378 P2d 751 (reasonably certain). State V. Hunt (1965) 2 Ariz. App 6, 406 P2d 208 (reasonably certain). Cal-Mainer V. Superior Court of Mendocino County (1968) 68 Cal. 2d 375, 66 Cal Rptr 724, 438 P2d 372 (reasonable likelihood)

1 Idaho - State v. Cypher (1968) 92 Idaho 159, 438 P2d 904
2 (reasonable likelihood).

3 Ill - People v. Meyers (1942) 381 Ill. 156, NE2d 870 (reasonable
4 apprehension); People v. Berry (1967) 37 Ill 2d 329, 226 NE2d
5 591 (reasonable apprehension); People v. Hendron (1968) 41 Ill 2d
6 351, 243 NE2d 208 (Reasonable apprehension).

7 Kan - State v. Harris (1928) 126 Kan. 710, 271 P 516, *infra*.

8 La - State v. Lejeune (1965) 248 La. 682 918 So 2d 77, 87 S Ct
9 37 *infra*.

10 Mass - Commonwealth v. Pies (1958) 337 Mass 565, 150 NE2d
11 527 (likely).

12 Minn - State v. Thompson (1963) 266 Minn 385, 123 NW2d 378 *infra*
13 *infra*.

14 Ohio - Forsythe v. State (1967, CP) 12 Ohio Misc 99, 41 Ohio Ops 2d
15 104, 230 NE2d 681 (Reasonable likelihood).

16 R.I - State v. Burns (1951) 79 RI 130, 84 A2d 801 (reasonably apparent).

17 Tex - Rogers v. State (1951) 155 Tex. Crim 423, 236 SW2d 141 (probable)
18
19
20

21 Respectfully Submitted

Dated — — —

22 Dante Johnson
23 Dante Johnson
24
25
26
27

-5-

(Note to the Court)

1 Pursuant to *State v. Thompson* (1963) 266 Minn 385, 123 NW2d
2 378, it was noted that courts could do little to restrain news media
3 from printing or broadcasting what they claimed was news, but that
4 when it appeared that the public had been subjected to so much
5 publicity about a case that it seemed unlikely that a fair trial
6 could be had in the locality in which the trial normally would
7 be held, the court could and should see to it that the trial is
8 transferred to another locality in which it is more probable that a
9 fair trial will be held.

10
11 Conclusion

12
13 Based upon the foregoing, the defendant respectfully urges this
14 honorable court to enter an order granting the relief requested and
15 for such other and further relief as this court deems necessary
16 and proper.

17
18 Respectfully Submitted.

19 Donte Johnson

20 *Donte Johnson*

21
22 Attorney, for defendant

23
24 David Figler

25
26 Dated:

FILED

SEP 9 2 39 PM '99

Shirley A. Rungius
CLERK

ORDR
PHILIP J. KOHN
Special Public Defender
Nevada Bar No. 000556
PETER R. LaPORTA
Deputy Special Public Defender
Nevada Bar No. 003754
DAYVID J. FIGLER
Nevada Bar No. 004264
309 S. Third Street, Fourth Floor
Las Vegas, Nevada 89155-2316
(702) 455-6265
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

DONTE JOHNSON,

Defendant.

CASE NO. C153154
DEPT NO. V
DOCKET H

ORDER FOR TRANSCRIPT

TO: JAMES HELLESO, CSR.

Upon the ex parte application of DAYVID J. FIGLER, Deputy Special Public Defender, court appointed counsel for Defendant, DONTE JOHNSON, in the above-entitled matter, and good cause appearing therefor,

IT IS HEREBY ORDERED that the certified court reporter for District Court,

...

...

...

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

CR37

1 Department III, provide to the Office of the Special Public Defender at the State's expense
2 a daily transcript of the proceedings of Terrell C. Young, Case No. C153461.

3 DATED this 9th day of September, 1999.
4
5
6

7 
8 DISTRICT JUDGE

9 PHILIP J. KOHN
10 SPECIAL PUBLIC DEFENDER

11
12 By: 

13 DAYVID J. FIGLER
14 Deputy Special Public Defender
15 Nevada Bar No. 004264
16 309 South Third Street
17 P.O. Box 552316
18 Las Vegas, Nevada 89155
19 (702)455-6265
20 Attorneys for Defendant
21
22
23
24
25
26
27
28

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

Donte Johnson #1586283

330 South Casino Center

Las Vegas Nevada 89101 -1-

FILED

case NO C153104 ^{SEP 20} 2 50 PM '99

Dept NO V ^{Whitely, B. Ruggione}
Docket NO H CLERK

Donte Johnson,

defendant

-VS-

The State of ~~Nevada~~
Nevada,

Plaintiff

Memorandum for Production of Exculpatory Evidence

Comes now defendant, Donte Johnson, through himself, respectfully moves this court for entry of an order requiring the Government to preserve and to provide him within a time to be therein specified, and any or all actual and potential exculpatory evidence relating to the issues of guilt or punishment as currently known to the Government, its agents and representatives, or which may become known to them by the exercise on their part of due diligence. Such evidence shall include, but is not limited, to the following:

1. evidence from any informants or other sources that the defendant was not a participant in any of the events alleged by this indictment.
2. Any and all statements, reports, tape recordings, and the like made by or for law enforcement agents, state or federal of any informants, cooperating witnesses, unindicted co-conspirators, or other persons or entities having any knowledge of

RECEIVED

SEP 20 1999

COUNTY CLERK

the fact of the case or relationship to this case and do not show the Defendant's involvement in or relation to any of the allegations contained in the indictment which are exculpatory in nature.

3. Whether any informant, unindicted co-conspirator, or other nonpolice individual who supplied any information or performed any role whatsoever concerning any aspect of the offenses charged herein was at that time or now is an agent of the Drug Enforcement Agency, the United States or any other governmental unit, foreign or domestic.

4. As to those agents, informants, unindicted co-conspirators, cooperating individuals and the like, who may be called to testify in this case then state:

A. Whether or not such agents or individual was suspected, apprehended, or convicted of the commission of any crime or offense at the time he was solicited to gather information or performed other duties on behalf of the United States or any other governmental unit including crimes to which he or they confessed or which were admitted by them during any debriefing, Grand Jury testimony or the like or in which they were implicated by others.

B. What crime or crimes and giving specific details, including whether such individual was suspected of, or apprehended for, or convicted of said offense at the time he was solicited to gather or provide information on behalf of either local, state, or federal authorities.

C. Whether or not any potential or actual criminal charges against, or sentences of, sanctions against such individuals were abandoned, reduced, deferred or discontinued or otherwise mitigated or foregone upon agreement of and for the benefit of any such individual or any close friend or relative of such person or persons in exchange for their testimony and for cooperation in this case on behalf of the Government and the details of same.

3
1 D. The financial arrangements if any, and all ~~other~~ which existed between said
2 individuals and/or their close friends and/or relatives and the Government

3 5. The prior criminal records of any and all witnesses, informants, unindicted
4 co-conspirators, and cooperating individuals who will be used as witnesses ~~for~~
5 against the Defendant and in preparation of this case for arrest, search and
6 seizure, indictment, trial, pretrial motions, or involvement on part of such individual
7 as known or may become known to the Government by the exercise of due
8 diligence on its part.

9 6. The substance of any plea bargains entered into by any other unnamed
10 participants in or witnesses to the offenses alleged herein whose information
11 or cooperation aided in the investigation and/or prosecution of this case and who
12 potentially may or are intended to testify or cooperate in any way with the
13 prosecution of this case including whether said plea bargain was entered into
14 by the prosecutor or any other Governmental unit, foreign or domestic, federal,
15 state or local and regardless of whether or not the individual is charged herein
16 including therewith, the authority at the individuals involved in making such
17 bargains or arrangements.

18 7. Any and all orders of assistance, plea bargains, or the like as well as
19 job or employment offers, agreements to forego prosecution, assistance and offers
20 of assistance regarding prison officials, boards of parole, and probation offices,
21 as well as offers of aid and assistance regarding sentencings, decisions to prosecu
22 and the like insofar as they exist relative to any individual involved in this case
23 including therewith such as they pertained to the friends, relatives and
24 assistants to any individual participating in this case as witnesses or otherwise
25 for the Government.
26
27

if -

1 8. A copy of any and all notes of investigative agencies, public or private, state or
2 federal, local or otherwise involving the investigation of this case which tends to
3 exculpate the Defendants as to either guilt or punishment. This includes
4 debriefing notes, tapes of interviews, and conversations with informants,
5 cooperating individuals, unindicted co-conspirators and the like which notes
6 or tapes conflict with the Government's witnesses' version of events
7 directly or by omission.

8 9. Any and all information regarding any informant or potential witness
9 to be called to testify by the Government in its case who is presently
10 or has ever been dependent upon any schedule or non-schedule narcotic
11 or controlled substance and the extent of said dependency; when and where
12 said dependency insofar as it is or could lead to information beneficial to
13 the defense.

14 10. The names and addresses of any individuals confronted by the
15 Government or anyone acting on its behalf in any manner who, when so
16 confronted, stated that the Defendant was in no way connected with the
17 allegations set forth in the indictment herein or who gave statements
18 or information mitigative in nature.

19 11. Whether or not any individual alleged to be a witness, to the
20 allegations contained in the indictment herein has ever been or is now
21 a paid Government informant.

22 12. As to all individuals named in paragraph 11, state the nature
23 of any remuneration paid to the individual, the date it was paid, and the
24 purpose for which it was paid.

25 13. Whether the Government has filed any I.R.S. forms for any
26 individuals who have given information to the Government in this case and
27 were paid informants. If such exists, please produce them for inspection by the
28 Defendant.

1 14. The names and last known addresses of each individual approached by the
2 Government as set forth in paragraphs 11 and 25 for cooperation or testimony
3 in the investigation and preparation for trial of this case.

4 15. If any individual was threatened in any way or given any kind of
5 offer in any way in order to secure his cooperation in any way regarding this
6 case ~~then~~ then name the individual who made the threat or offer and the
7 exact nature of the threat or offer as well as the date, time, and location at
8 which such was made and the identity and last known address of any other
9 individual present.

10 16. Copies of all IRS 1040 forms and related tax schedules filed by any
11 informants or cooperating individuals not charged in this indictment and who aided
12 the Government in this case in any way. Such request is for the years of 1990
13 through 1999.

14 17. Produce copies of all Government ~~informant~~ provided W-2 forms relative
15 to this case, to any Government paid informant or witnesses or potential witnesses
16 (chemists and law enforcement officers excepted) relating to this case.

17 18. Indicate the length or time all Government informants in this case
18 have worked for any Government department, agency, or unit and how many times
19 they have been utilized by same and for what total compensation if any.

20 19. Whether any Government witness or informant who were participants in
21 the crimes alleged, although not charged in the indictments, have ever been known
22 by the Government or its agents to have:

23 a. Stolen anything (what and when);

24 b. Made any false reports;

25 c. distributed or used any controlled substance

26 (the above request is made notwithstanding whether or not said actions
27 were prosecuted).

6

20. Have any of the law enforcement officers involved in this investigation or prosecution, whether state, federal, or otherwise, ever been the subject of any adverse internal departmental investigation relating to honesty or veracity.

21. If the answer to paragraph number 20 is yes, then what were the results of such investigations; were polygraph examinations taken, and if so what were the results; were reports actions taken, if so, what?

22. How many witnesses or potential witnesses to this case took or refused to take the polygraph examination with respect to anything relating to this case and if so, please produce for examination by the defendant the test results, materials, questions and the like.

23. State whether or not any case involving testimony of any law enforcement officers, whether federal, state, or otherwise, participating in the investigation of the instant case has already been dismissed because of alleged misconduct or untruthfulness on the part of the said law enforcement officer.

24. If the answer to paragraph number 23 is yes, please give all details relating thereto.

25. What is the name and address of each and every individual who was present during and/or witness to the conduct of the Defendant that the Government alleges constitutes the offense set forth in the indictment herein. and designate which, if any, have been subjected to hypnosis regarding this case.

26. State whether any regulation, operating order, circular, letter, or other official instruction or guideline was violated or breached by the conduct of any individual covered by the same during the course of their official or unofficial involvement in this case.

27. Give the name and address of each individual who has handled evidentiary items in this case.

28. what is the extent of drug use, past and present, of all Government agents, witnesses, informants, cooperating individuals, and co-defendants if any, who were used to obtain evidence which will be presented against the defendant by the Government to prove its case, as such is known, or can become known by the exercise of due diligence on the part of the Government insofar as such information relates to those individuals' ability to see, hear, and relate to those facts which occur in their presence.

29. The psychiatric records and/or history of such person described in the above paragraphs numbers 4, 5, 6, and 28, that relate to each such individual's ability to be truthful, forthright, and honest as a witness and to know, hear, see, tell and relate facts done in their presence as such is known or can become known by the exercise of due diligence on the part of the Government.

30. Any and all evidence of any nature, type or description which indicates lack of knowledge, intent, or capability by the defendant in allegations set forth here, or which would be mitigative to his involvement and would operate to his benefit on the issue of punishment.

Wherefore, defendant requests this court grant this motion and such other further relief as may be deemed just including direction that any requested item not ordered be preserved and maintained in tact for future consideration.

Respectfully submitted,

Donte Johnson

Donte Johnson

Date:

Attorney,

~~David Figler~~
David, Figler

Authority

By this motion, the defendant seeks, under *Brady v. Maryland*, 373 U.S. 83 (1963), a broad array of potentially exculpatory evidence. The United States Supreme Court has held that the Government has an ongoing obligation to turn over evidence which is favorable to the accused. *Pennsylvania v. Ritchie*, 480 U.S. 49 (1987).

The Sixth Amendment specifically guarantees a defendant the right to be confronted with the "witnesses against him." *Pointer v. Texas*, 380 U.S. 400, 403 (1965); *Brookhart v. Janis*, 384 U.S. 1, 3 (1966), and to impeach with prior inconsistent statements. *Wheeler v. United States*, 174 U.S. 47, 55 (1899). That right attaches when a witness offers testimony that is "damaging," *Brookhart v. Janis*, 384 U.S. 1, 3 (1966), or has material bearing on his case. In *United States v. Bagley*, 473 U.S. 667, 105 S. Ct. 3375, 3384 (1985), the Supreme Court made it absolutely plain that the suppression of impeachment or other exculpatory evidence amounts to constitutional error that requires reversal if such evidence is material in the sense that its suppression might affect the outcome of trial. (*Blackmun, Jr.*)

(The reviewing court should assess "with awareness of the difficulty of reconstructing in a post-trial proceeding the course that the defense and the trial would have taken had the defense not been misled by the prosecutor's incomplete response.") *Id.*

Conclusion

Based upon the foregoing, the Defendant respectfully urges this Honorable court to enter an order granting the relief requested and for such other and further relief as this court deems necessary and proper.

Respectfully Submitted,

Donte Johnson

Donte Johnson

Pete LaPorta, Attorney for Defendant.

Dated: 9-10-99

ORIGINAL

1 **CRTF**
2 **STEWART L. BELL**
3 **DISTRICT ATTORNEY**
4 **Nevada Bar #000477**
5 **200 S. Third Street**
6 **Las Vegas, Nevada 89155**
7 **(702) 435-4711**
8 **Attorney for Plaintiff**

FILED

SEP 21 8 42 AM '99

Shirley S. Pangione
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 **DONTE JOHNSON,**
12 **#1586283**

13 Defendant(s).

Case No. C153154
Dept. No. V
Docket H

16 **CERTIFICATE FOR ATTENDANCE OF OUT-OF-STATE**

17 **WITNESS CHARLA CHENIQUA SEVERS aka Kashawn Hives**

18 I, JEFFREY D. SOBEL, Judge of the Eighth Judicial District Court of the State of
19 Nevada, in and for the County of Clark, a Court of Record, do hereby certify to the best of my
20 knowledge and belief, based upon the Ex Parte Application for Order Requiring Material
21 Witness to Post Bail; Affidavit; Order Requiring Material Witness to Post Bail or Be Committed
22 to Custody; and Warrant of Arrest for Material Witness CHARLA CHENIQUA SEVERS aka
23 Kashawn Hives, which is attached hereto and specifically incorporated herein by reference as
24 if fully set forth:

25 1. That there is now pending in District Court the above entitled criminal prosecution
26 by the State of Nevada against DONTE JOHNSON, Defendant, wherein said Defendant stands
27 accused and charged with having committed the following criminal offense(s) against the laws
28 of the State of Nevada, to-wit: the crimes of **BURGLARY WHILE IN POSSESSION OF A**

64391

COUNTY CLERK

SEP 21 1999

RECEIVED

1 FIREARM (Felony - NRS 205.060, 193.165); CONSPIRACY TO COMMIT ROBBERY
2 AND/OR KIDNAPING AND/OR MURDER (Felony - NRS 199.480, 200.380, 200.310,
3 200.320, 200.010, 200.030); ROBBERY WITH USE OF A DEADLY WEAPON (Felony -
4 NRS 200.380, 193.165); FIRST DEGREE KIDNAPING WITH USE OF A DEADLY
5 WEAPON (Felony - NRS 200.310, 200.320, 193.165); and MURDER WITH USE OF A
6 DEADLY WEAPON (Open Murder) (Felony - NRS 200.010, 200.030, 193.165), in the
7 following manner, to-wit:

8 That DONTE JOHNSON, the Defendant above named, on or about August 14, 1998, at
9 and within the County of Clark, State of Nevada, contrary to the form, force and effect of
10 statutes in such cases made and provided, and against the peace and dignity of the State of
11 Nevada,

12 COUNT I -BURGLARY WHILE IN POSSESSION OF A FIREARM

13 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH,
14 then and there wilfully, unlawfully, and feloniously enter, while in possession of a firearm, with
15 intent to commit larceny and/or robbery and/or murder, that certain building occupied by
16 MATHEW MOWEN and TRACEY GORRINGE and JEFFREY BIDDLE, located at 4825
17 Terra Linda Avenue, Las Vegas, Clark County, Nevada; the Defendant aiding or abetting
18 TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH by counsel and
19 encouragement and by entering into a course of conduct whereby the said Defendant arrived at
20 4825 Terra Linda Avenue with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE
21 SMITH; the said Defendant entering the residence with TERRELL COCHISE YOUNG and/or
22 SIKIA LAFAYETTE SMITH while Defendant and/or TERRELL COCHISE YOUNG and/or
23 SIKIA LAFAYETTE SMITH were in possession of a firearm or firearms; Defendant and/or
24 TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding MATHEW
25 MOWEN and TRACEY GORRINGE and JEFFREY BIDDLE and PETER TALAMENTEZ and
26 placing them on the floor of the residence; then Defendant and/or TERRELL COCHISE
27 YOUNG and/or SIKIA LAFAYETTE SMITH shooting at and into the body of the said
28 MATHEW MOWEN and TRACEY GORRINGE and JEFFREY BIDDLE and PETER

1 TALAMENTEZ with a firearm.

2 COUNT II - CONSPIRACY TO COMMIT ROBBERY AND/OR KIDNAPPING AND/OR
3 MURDER

4 did then and there meet with TERRELL COCHISE YOUNG, SIKIA LAFAYETTE
5 SMITH and/or another unknown individual, and between themselves, and each of them with
6 the other, wilfully, unlawfully, and feloniously conspire to commit a crime, to wit: robbery
7 and/or kidnaping and/or murder, and in furtherance of said conspiracy, Defendant did commit
8 the acts as alleged in Counts III thru XIV of this indictment, together with TERRELL COCHISE
9 YOUNG and/or SIKIA LAFAYETTE SMITH, which acts are incorporated herein by this
10 reference as though fully set forth.

11 COUNT III - ROBBERY WITH USE OF A DEADLY WEAPON

12 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH,
13 then and there wilfully, unlawfully, and feloniously, take personal property, to wit: lawful
14 money of the United States, from the person of JEFFREY BIDDLE, or in his presence or
15 company, by means of force or violence, or fear of injury to, and without the consent and against
16 the will of the said JEFFREY BIDDLE, said Defendant using a deadly weapon, to wit: a
17 firearm, during the commission of said crime; the Defendant aiding or abetting TERRELL
18 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH by counsel and encouragement and
19 by entering into a course of conduct whereby the said Defendant arrived at 4825 Terra Linda
20 Avenue with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH; the said
21 Defendant entering the residence with TERRELL COCHISE YOUNG and/or SIKIA
22 LAFAYETTE SMITH while Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
23 LAFAYETTE SMITH were in possession of a firearm or firearms; Defendant and/or TERRELL
24 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding the said JEFFREY BIDDLE
25 and placing him on the floor of the residence; then Defendant and/or TERRELL COCHISE
26 YOUNG and/or SIKIA LAFAYETTE SMITH taking lawful money of the United States from
27 the person of JEFFREY BIDDLE and/or other persons in his presence or company; then
28 Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH shooting

1 at and into the body of the said JEFFREY BIDDLE with a firearm.

2 COUNT IV - ROBBERY WITH USE OF A DEADLY WEAPON

3 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH,
4 then and there wilfully, unlawfully, and feloniously, take personal property, to wit: lawful
5 money of the United States, from the person of TRACEY GORRINGE, or in his presence or
6 company, by means of force or violence, or fear of injury to, and without the consent and against
7 the will of the said TRACEY GORRINGE, said Defendant using a deadly weapon, to wit: a
8 firearm, during the commission of said crime; the Defendant aiding or abetting TERRELL
9 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH by counsel and encouragement and
10 by entering into a course of conduct whereby the said Defendant arrived at 4825 Terra Linda
11 Avenue with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH; the said
12 Defendant entering the residence with TERRELL COCHISE YOUNG and/or SIKIA
13 LAFAYETTE SMITH while Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
14 LAFAYETTE SMITH were in possession of a firearm or firearms; Defendant and/or TERRELL
15 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding the said TRACEY
16 GORRINGE and placing him on the floor of the residence; then Defendant and/or TERRELL
17 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH taking lawful money of the United
18 States from the person of TRACEY GORRINGE and/or other persons in his presence or
19 company; then Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE
20 SMITH shooting at and into the body of the said TRACEY GORRINGE with a firearm.

21 COUNT V - ROBBERY WITH USE OF A DEADLY WEAPON

22 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH
23 then and there wilfully, unlawfully, and feloniously, take personal property, to wit: lawful
24 money of the United States, from the person of MATHEW MOWEN, or in his presence or
25 company, by means of force or violence, or fear of injury to, and without the consent and against
26 the will of the said MATHEW MOWEN, said Defendant using a deadly weapon, to wit: a
27 firearm, during the commission of said crime; the Defendant aiding or abetting TERRELL
28 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH by counsel and encouragement and

1 by entering into a course of conduct whereby the said Defendant arrived at 4825 Terra Linda
2 Avenue with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH; the said
3 Defendant entering the residence with TERRELL COCHISE YOUNG and/or SIKIA
4 LAFAYETTE SMITH while Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
5 LAFAYETTE SMITH were in possession of a firearm or firearms; Defendant and/or TERRELL
6 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding the said MATHEW MOWEN
7 and placing him on the floor of the residence; then Defendant and/or TERRELL COCHISE
8 YOUNG and/or SIKIA LAFAYETTE SMITH taking lawful money of the United States from
9 the person of MATHEW MOWEN and/or other persons in his presence or company; then
10 Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH shooting
11 at and into the body of the said MATHEW MOWEN with a firearm.

12 COUNT VI - ROBBERY WITH USE OF A DEADLY WEAPON

13 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH
14 then and there wilfully, unlawfully, and feloniously, take personal property, to wit: lawful
15 money of the United States, from the person of PETER TALAMENTEZ, or in his presence or
16 company, by means of force or violence, or fear of injury to, and without the consent and against
17 the will of the said PETER TALAMENTEZ, said Defendant using a deadly weapon, to wit: a
18 firearm, during the commission of said crime; the Defendant aiding or abetting TERRELL
19 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH by counsel and encouragement and
20 by entering into a course of conduct whereby the said Defendant arrived at 4825 Terra Linda
21 Avenue with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH; the said
22 Defendant entering the residence with TERRELL COCHISE YOUNG and/or SIKIA
23 LAFAYETTE SMITH while Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
24 LAFAYETTE SMITH were in possession of a firearm or firearms; Defendant and/or TERRELL
25 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding the said PETER
26 TALAMENTEZ and placing him on the floor of the residence; then Defendant and/or
27 TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH taking lawful money of
28 the United States from the person of PETER TALAMENTEZ and/or other persons in his

1 presence or company; then Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
2 LAFAYETTE SMITH shooting at and into the body of the said PETER TALAMENTEZ with
3 a firearm.

4 COUNT VII - FIRST DEGREE KIDNAPING WITH USE OF A DEADLY WEAPON

5 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH
6 wilfully, unlawfully, feloniously, and without authority of law, seize, confine, inveigle, entice,
7 decoy, abduct, conceal, kidnap, or carry away JEFFREY BIDDLE, a human being, with the
8 intent to hold or detain the said JEFFREY BIDDLE, against his will, and without his consent,
9 for the purpose of committing robbery and/or murder, said Defendant and/or TERRELL
10 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH using a deadly weapon, to wit: a
11 firearm during the commission of said crime; the Defendant aiding or abetting TERRELL
12 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH by counsel and encouragement and
13 by entering into a course of conduct whereby the said Defendant arrived at 4825 Terra Linda
14 Avenue with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH; the said
15 Defendant entering the residence with TERRELL COCHISE YOUNG and/or SIKIA
16 LAFAYETTE SMITH while Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
17 LAFAYETTE SMITH were in possession of a firearm or firearms; Defendant and/or TERRELL
18 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding the said JEFFREY BIDDLE
19 and placing him on the floor of the residence for the purpose of committing robbery and/or
20 murder; then Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE
21 SMITH shooting at and into the body of the said JEFFREY BIDDLE with a firearm.

22 COUNT VIII - FIRST DEGREE KIDNAPING WITH USE OF A DEADLY WEAPON

23 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH,
24 wilfully, unlawfully, feloniously, and without authority of law, seize, confine, inveigle, entice,
25 decoy, abduct, conceal, kidnap, or carry away MATHEW MOWEN, a human being, with the
26 intent to hold or detain the said MATHEW MOWEN, against his will, and without his consent,
27 for the purpose of committing robbery and/or murder, said Defendant and/or TERRELL
28 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH using a deadly weapon, to wit: a

1 firearm during the commission of said crime; the Defendant aiding or abetting TERRELL
2 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH by counsel and encouragement and
3 by entering into a course of conduct whereby the said Defendant arrived at 4825 Terra Linda
4 Avenue with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH; the said
5 Defendant entering the residence with TERRELL COCHISE YOUNG and/or SIKIA
6 LAFAYETTE SMITH while Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
7 LAFAYETTE SMITH were in possession of a firearm or firearms; Defendant and/or TERRELL
8 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding the said MATHEW MOWEN
9 and placing him on the floor of the residence for the purpose of committing robbery and/or
10 murder; then Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE
11 SMITH shooting at and into the body of the said MATHEW MOWEN with a firearm.

12 COUNT IX - FIRST DEGREE KIDNAPING WITH USE OF A DEADLY WEAPON

13 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH,
14 wilfully, unlawfully, feloniously, and without authority of law, seize, confine, inveigle, entice,
15 decoy, abduct, conceal, kidnap, or carry away TRACEY GORRINGE, a human being, with the
16 intent to hold or detain the said TRACEY GORRINGE, against his will, and without his
17 consent, for the purpose of committing robbery and/or murder, said Defendant and/or TERRELL
18 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH using a deadly weapon, to wit: a
19 firearm during the commission of said crime; the Defendant aiding or abetting TERRELL
20 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH by counsel and encouragement and
21 by entering into a course of conduct whereby the said Defendant arrived at 4825 Terra Linda
22 Avenue with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH; the said
23 Defendant entering the residence with TERRELL COCHISE YOUNG and/or SIKIA
24 LAFAYETTE SMITH while Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
25 LAFAYETTE SMITH were in possession of a firearm or firearms; Defendant and/or TERRELL
26 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding the said TRACEY
27 GORRINGE and placing him on the floor of the residence for the purpose of committing
28 robbery and/or murder; then Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA

1 LAFAYETTE SMITH shooting at and into the body of the said TRACEY GORRINGE with a
2 firearm.

3 COUNT X - FIRST DEGREE KIDNAPING WITH USE OF A DEADLY WEAPON

4 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH,
5 wilfully, unlawfully, feloniously, and without authority of law, seize, confine, inveigle, entice,
6 decoy, abduct, conceal, kidnap, or carry away PETER TALAMENTEZ, a human being, with
7 the intent to hold or detain the said PETER TALAMENTEZ, against his will, and without his
8 consent, for the purpose of committing robbery and/or murder, said Defendant and/or TERRELL
9 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH using a deadly weapon, to wit: a
10 firearm during the commission of said crime; the Defendant aiding or abetting TERRELL
11 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH by counsel and encouragement and
12 by entering into a course of conduct whereby the said Defendant arrived at 4825 Terra Linda
13 Avenue with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH; the said
14 Defendant entering the residence with TERRELL COCHISE YOUNG and/or SIKIA
15 LAFAYETTE SMITH while Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
16 LAFAYETTE SMITH were in possession of a firearm or firearms; Defendant and/or TERRELL
17 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding the said PETER
18 TALAMENTEZ and placing him on the floor of the residence for the purpose of committing
19 robbery and/or murder; then Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
20 LAFAYETTE SMITH shooting at and into the body of the said PETER TALAMENTEZ with
21 a firearm.

22 COUNT XI - MURDER WITH USE OF A DEADLY WEAPON (OPEN MURDER)

23 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH,
24 then and there wilfully, feloniously, without authority of law, and with premeditation and
25 deliberation, and with malice aforethought, kill JEFFREY BIDDLE, a human being, by shooting
26 at and into the body of said JEFFREY BIDDLE, with a deadly weapon, to wit: a firearm, the
27 said Defendants being responsible under the following theories of criminal liability, to wit: 1)
28 Premeditation and Deliberation; 2) Felony Murder, Defendant and/or TERRELL COCHISE

1 YOUNG and/or SIKIA LAFAYETTE SMITH committing the murder in the perpetration or
2 attempted perpetration of kidnaping and/or robbery; 3) Aiding or Abetting, the Defendant aiding
3 or abetting TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH by counsel and
4 encouragement and by entering into a course of conduct whereby the said Defendant arrived at
5 4825 Terra Linda Avenue with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE
6 SMITH; the said Defendant entering the residence with TERRELL COCHISE YOUNG and/or
7 SIKIA LAFAYETTE SMITH while Defendant and/or TERRELL COCHISE YOUNG and/or
8 SIKIA LAFAYETTE SMITH were in possession of a firearm; Defendant and/or TERRELL
9 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding the victim and placing him
10 on the floor of the residence; Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
11 LAFAYETTE SMITH shooting at and into the body of the said JEFFREY BIDDLE with a
12 firearm; 4) Conspiracy, by the said Defendant acting pursuant to a conspiracy to commit robbery
13 and/or kidnaping and/or murder with TERRELL COCHISE YOUNG and/or SIKIA
14 LAFAYETTE SMITH, whereby the said Defendant entered the residence with TERRELL
15 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH while Defendant and/or TERRELL
16 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH were in possession of a firearm or
17 firearms; Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH
18 binding the said JEFFREY BIDDLE and placing him on the floor of the residence; then
19 Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH shooting
20 at and into the body of the said JEFFREY BIDDLE with the firearm or firearms.

21 COUNT XII - MURDER WITH USE OF A DEADLY WEAPON (OPEN MURDER)

22 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH,
23 then and there wilfully, feloniously, without authority of law, and with premeditation and
24 deliberation, and with malice aforethought, kill TRACEY GORRINGE, a human being, by
25 shooting at and into the body of said TRACEY GORRINGE, with a deadly weapon, to wit: a
26 firearm, the said Defendant being responsible under the following theories of criminal liability,
27 to wit: 1) Premeditation and Deliberation; 2) Felony Murder, Defendant and/or TERRELL
28 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH committing the murder in the

1 perpetration or attempted perpetration of robbery and/or kidnaping; 3) Aiding or Abetting, the
2 Defendant aiding or abetting TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE
3 SMITH by counsel and encouragement and by entering into a course of conduct whereby the
4 said Defendant arrived at 4825 Terra Linda Avenue with TERRELL COCHISE YOUNG and/or
5 SIKIA LAFAYETTE SMITH; the said Defendant entering the residence with TERRELL
6 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH while Defendant and/or TERRELL
7 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH were in possession of a firearm;
8 Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding
9 the victim and placing him on the floor of the residence; Defendant and/or TERRELL COCHISE
10 YOUNG and/or SIKIA LAFAYETTE SMITH shooting at and into the body of the said
11 TRACEY GORRINGE with a firearm; 4) Conspiracy, by the said Defendant acting pursuant to
12 a conspiracy to commit robbery and/or kidnaping and/or murder with TERRELL COCHISE
13 YOUNG and/or SIKIA LAFAYETTE SMITH, whereby the said Defendant entered the
14 residence with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH while
15 Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH were in
16 possession of a firearm or firearms; Defendant and/or TERRELL COCHISE YOUNG and/or
17 SIKIA LAFAYETTE SMITH binding the said TRACEY GORRINGE and placing him on the
18 floor of the residence; then Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
19 LAFAYETTE SMITH shooting at and into the body of the said TRACEY GORRINGE with the
20 firearm or firearms.

21 COUNT XIII - MURDER WITH USE OF A DEADLY WEAPON (OPEN MURDER)

22 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH,
23 then and there wilfully, feloniously, without authority of law, and with premeditation and
24 deliberation, and with malice aforethought, kill MATHEW MOWEN, a human being, by
25 shooting at and into the body of said MATHEW MOWEN, with a deadly weapon, to wit: a
26 firearm, the said Defendant being responsible under the following theories of criminal liability,
27 to wit: 1) Premeditation and Deliberation; 2) Felony Murder, Defendant and/or TERRELL
28 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH committing the murder in the

1 perpetration or attempted perpetration of kidnaping and/or robbery; 3) Aiding or Abetting, the
2 Defendant aiding or abetting TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE
3 SMITH by counsel and encouragement and by entering into a course of conduct whereby the
4 said Defendant arrived at 4825 Terra Linda Avenue with TERRELL COCHISE YOUNG and/or
5 SIKIA LAFAYETTE SMITH; the said Defendant entering the residence with TERRELL
6 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH while Defendant and/or TERRELL
7 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH were in possession of a firearm;
8 Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding
9 the victim and placing him on the floor of the residence; Defendant and/or TERRELL COCHISE
10 YOUNG and/or SIKIA LAFAYETTE SMITH shooting at and into the body of the said
11 MATHEW MOWEN with a firearm; 4) Conspiracy, by the said Defendant acting pursuant to
12 a conspiracy to commit robbery and/or kidnaping and/or murder with TERRELL COCHISE
13 YOUNG and/or SIKIA LAFAYETTE SMITH, whereby the said Defendant entered the
14 residence with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH, while
15 Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH were in
16 possession of a firearm or firearms; Defendant and/or TERRELL COCHISE YOUNG and/or
17 SIKIA LAFAYETTE SMITH binding the said MATHEW MOWEN and placing him on the
18 floor of the residence; then Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
19 LAFAYETTE SMITH shooting at and into the body of the said MATHEW MOWEN with the
20 firearm or firearms.

21 COUNT XIV - MURDER WITH USE OF A DEADLY WEAPON (OPEN MURDER)

22 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH,
23 then and there wilfully, feloniously, without authority of law, and with premeditation and
24 deliberation, and with malice aforethought, kill PETER TALAMENTEZ, a human being, by
25 shooting at and into the body of said PETER TALAMENTEZ, with a deadly weapon, to wit:
26 a firearm, the said Defendant being responsible under the following theories of criminal liability,
27 to wit: 1) Premeditation and Deliberation; 2) Felony Murder, Defendant and/or TERRELL
28 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH committing the murder in the

1 perpetration or attempted perpetration of robbery and/or kidnaping; 3) Aiding or Abetting, the
2 Defendant aiding or abetting TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE
3 SMITH by counsel and encouragement and by entering into a course of conduct whereby the
4 said Defendant arrived at 4825 Terra Linda Avenue with TERRELL COCHISE YOUNG and/or
5 SIKIA LAFAYETTE SMITH; the said Defendant entering the residence with TERRELL
6 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH while Defendant and/or TERRELL
7 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH were in possession of a firearm;
8 Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding
9 the victim and placing him on the floor of the residence; Defendant and/or TERRELL COCHISE
10 YOUNG and/or SIKIA LAFAYETTE SMITH shooting at and into the body of the said PETER
11 TALAMENTEZ with a firearm; 4) Conspiracy, by the said Defendant acting pursuant to a
12 conspiracy to commit robbery and/or kidnaping and/or murder with TERRELL COCHISE
13 YOUNG and/or SIKIA LAFAYETTE SMITH, whereby the said Defendant entered the
14 residence with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH while
15 Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH were in
16 possession of a firearm or firearms; Defendant and/or TERRELL COCHISE YOUNG and/or
17 SIKIA LAFAYETTE SMITH binding the said PETER TALAMENTEZ and placing him on the
18 floor of the residence; then Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
19 LAFAYETTE SMITH shooting at and into the body of the said PETER TALAMENTEZ with
20 the firearm or firearms.

21 2. That the trial therein has been set by the Court to be held before the Eighth Judicial
22 District Court of the State of Nevada, in and for the County of Clark, commencing on January
23 10, 2000, at the hour of 10:00 o'clock A.M. of said day.

24 3. That CHARLA CHENIQUA SEVERS aka Kashawn Hives, is a necessary and
25 material witness and a principal witness for the State of Nevada in such prosecution by reason
26 of the following:

27 On August 18, 1998, Charla Severs was interviewed by Detective Thowsen, with the Las
28 Vegas Metropolitan Police Department, Homicide Division, at which time she provided a series

1 of false information to Det. Thowsen in order to avoid Donte Johnson, Terrell Young and Sikia
2 Smith, in being arrested.

3 On or about September 1, 1998, Charla Severs testified before the Grand Jury and
4 provided false information on defendants Donte Johnson, Terrell Young and Sikia Smith's behalf
5 in the quadruple homicide.

6 On or about September 3, 1998, Charla subsequently again interviewed with Det.
7 Thowsen wherein she provided truthful information which included the fact that she had
8 personal knowledge that the homicide had been done by the above named individuals.

9 On or about September 15, 1998, Charla Severs testified before the Grand Jury under
10 oath and provided information in which incriminated defendants Donte Johnson, Terrell Young
11 and Sikia Smith in the quadruple homicide.

12 On or about September 27, 1998, Charla Severs attempted to recant her previous
13 testimony which incriminated the above individuals.

14 Investigator Alexia Conger, with the Clark County District Attorney's Office determined
15 that Ms. Severs has been declared missing by her mother, Vernell Dyess. A missing persons
16 report was filed with the Las Vegas Metropolitan Police Department on April 12, 1999. Prior
17 to this date efforts to locate Ms. Severs have included telephone number and address verification
18 which have met with negative results. Prior residences have been checked and are negative as
19 well. Ms. Severs has not been arrested and is not in custody at this time. Ms. Severs family
20 members have been interviewed and are concerned that she is not willing to come to Court.
21 Further attempts to locate Ms. Severs include verification of employment and credit history.
22 Several weekly/daily rental motels in the downtown area have been checked as well with
23 negative results.

24 Charla Severs has been to the jail on numerous occasions to visit Donte Johnson. Charla
25 Severs has previously indicated that she is the girlfriend of said Donte Johnson, and more
26 importantly has testified to the same.

27 Based on the facts we believe her to be an adverse witness who is attempting to avoid
28 service of process.

1 4. That the presence of the said CHARLA CHENIQUA SEVERS aka Kashawn Hives
2 personally in said District Court for the trial of the Defendant for the purpose of giving
3 testimony therein upon the part of the State of Nevada on January 10, 2000, at the hour of 10:00
4 o'clock A.M. of said day will be required for a period of five (5) day(s).

5 5. That if the said CHARLA CHENIQUA SEVERS aka Kashawn Hives as such witness
6 comes into the State of Nevada in obedience to a Summons directing her to attend and to testify
7 at said trial, the laws of the State of Nevada and of any other state through which said witness
8 may be required to pass by the ordinary course of travel to attend said trial, give her protection
9 from arrest or the service of process, civil or criminal, in connection with matters which arose
10 before her entrance into said state pursuant to said Summons.

11 6. That this Certificate is made for the purpose of being presented to a Judge of a Court
12 of Record in the County of New York County, State of New York, where the said CHARLA
13 CHENIQUA SEVERS aka Kashawn Hives now is, upon proceedings to compel the said
14 CHARLA CHENIQUA SEVERS aka Kashawn Hives to attend and testify at the trial in said
15 criminal prosecution before the Eighth Judicial District Court of the State of Nevada, in and for
16 the County of Clark, upon the day and time hereinbefore set forth.


17 7. That CHARLA CHENIQUA SEVERS aka Kashawn Hives has previously failed to
18 appear at the time and date specified on a Summons issued by the Eighth Judicial District Court
19 of the State of Nevada, County of Clark, in the above captioned matter and that as a result, the
20 State of Nevada applied for and obtained a Material Witness Warrant for CHARLA
21 CHENIQUA SEVERS aka Kashawn Hives, a copy of which is attached hereto as Exhibit "1"
22 and incorporated by reference as though fully set forth herein.


23 8. That pursuant to the Request for Attendance of Out of State Witness made by GARY
24 L. GUYMON, Chief Deputy District Attorney, and pursuant to the provisions contained in the
25 Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal
26 Proceedings, it is recommended that the witness CHARLA CHENIQUA SEVERS aka Kashawn
27 Hives be kept in custody and delivered to an officer of this State to assure her attendance in this
28 State. That if incarceration is ordered pursuant to this request, the witness, CHARLA

1 CHENIQUA SEVERS aka Kashawn Hives, will be returned without delay at the expense of the
2 State of Nevada as soon as her testimony has been secured.

3 WITNESS, the Honorable JEFFREY D. SOBEL, Judge of the Eighth Judicial District
4 Court of the State of Nevada, in and for the County of Clark, this 20th day of September,
5 1999.

6
7 
8 DISTRICT JUDGE

9 STEWART L. BELL
10 DISTRICT ATTORNEY
11 Nevada Bar #000477


12 BY 
13 GARY L. GUYPON
14 Chief Deputy District Attorney
15 Nevada Bar #003726
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **EXPT**
2 **STEWART L. BELL**
3 **DISTRICT ATTORNEY**
4 **Nevada Bar #000477**
5 **200 S. Third Street**
6 **Las Vegas, Nevada 89155**
7 **(702) 455-4711**
8 **Attorney for Plaintiff**

FILED

APR 30 9 28 AM '99

William B. Ruggione

DISTRICT COURT CLERK
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 **DONTE JOHNSON**
12 **#1586283**

13 Defendant.

Case No. C153154
Dept No. V
Docket H

14
15 **EX PARTE APPLICATION FOR ORDER REQUIRING**
16 **MATERIAL WITNESS TO POST BAIL**

17 COMES NOW, STEWART L. BELL, Clark County District Attorney, by and through
18 GARY L. GUYMON, Chief Deputy District Attorney, and makes application to the above-
19 entitled Court that an Order be entered herein requiring CHARLA SEVERS be taken into
20 immediate custody as a material witness for the purpose of posting bail for her appearance in
21 the jury trial of the above-entitled matter for the said reason of attempting to avoid testifying
22 before the Eighth Judicial District Court.

23 Further application is made that the Court set bail in the amount of \$10,000.00 and if the
24 said witness fails to post bail in the amount of \$10,000.00 for her appearance as a witness in this
25 matter that the Court further direct and order that said witness be delivered into the custody of
26 the Sheriff of Clark County, pending final disposition of the jury trial in the above entitled
27 matter on or until further Order of this Court.


28 //

EXHIBIT "I"

1 This application is made pursuant to the provision of NRS 178.494 and is based upon
2 Affidavits attached hereto which are incorporated herein by this reference.

3 DATED this 22 day of April, 1999.

4 STEWART L. BELL
5 DISTRICT ATTORNEY
6 Nevada Bar #000477

7 BY 
8 GARY L. GUYMON
9 Chief Deputy District Attorney
10 Nevada Bar #003726
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AFFIDAVIT

STATE OF NEVADA }
COUNTY OF CLARK } ss:

GARY L. GUYMON, being first duly sworn deposes and says:

That he is employed in the Office of the Clark County District Attorney, State of Nevada and is engaged in the prosecution of criminal matters and has been so employed for the period of nine (9) years.

This matter has been set for jury trial, said hearing to commence at or about 9:00 a.m. on the 5th day of July, 1999 in said Court.

Your affiant will advise the Court that one CHARLA SEVERS, ID#1421158 of Las Vegas, Clark County, Nevada, is in fact a material witness in the above-captioned matter.

Your affiant will further advise the Court on information and belief that said witness is avoiding testifying before the Eighth Judicial District Court in which she is a material and essential witness.

On August 18, 1998, Charla Severs was interviewed by Detective Thowsen, with the Las Vegas Metropolitan Police Department, Homicide Division, at which time she provided a series of false information to Det. Thowsen in order to avoid Donte Johnson, Terrell Young and Sikia Smith, in being arrested.

On or about September 1, 1998, Charla Severs testified before the Grand Jury and provided false on defendants Donte Johnson, Terrell Young and Sikia Smith's behalf in the quadruple homicide.

On or about September 3, 1998, Charla subsequently again interviewed with Det. Thowsen wherein she provided truthful information which included the fact that she had personal knowledge that the homicide had been done by the above named individuals.

On or about September 15, 1998, Charla Severs testified before the Grand Jury under oath and provided information in which incriminated defendants Donte Johnson, Terrell Young and Sikia Smith in the quadruple homicide.

On or about September 27, 1998, Charla Severs attempted to recant her previous testimony which incriminated the above individuals.

1 Investigator Alexia Conger, with the Clark County District Attorney's Office determined that Ms.
2 Severs has been declared missing by her mother, Vernell Dyess. A missing persons report was filed with
3 the Las Vegas Metropolitan Police Department on April 12, 1999. Prior to this date efforts to locate Ms.
4 Severs have included telephone number and address verification which have met with negative results.
5 Prior residences have been checked and are negative as well. Ms. Severs has not been arrested and is not
6 in custody at this time. Ms. Severs family members have been interviewed and are concerned that she
7 is not willing to come to Court. Further attempts to locate Ms. Severs include verification of employment
8 and credit history. Several weekly/daily rental motels in the downtown area have been checked as well
9 with negative results.

10 Charla Severs has been to the jail on numerous occasions to visit Donte Johnson. Charla Severs
11 has previously indicated that she is the girlfriend of said Donte Johnson, and more importantly has
12 testified to the same.

13 Based on the facts we believe her to be an adverse witness who is attempting to avoid service of
14 process.

15 THEREFORE, your affiant would respectfully pray that this Honorable Court under the
16 authority of NRS 178.494 issue an Order directing that any police officer of this State shall
17 forthwith take the said CHARLA SEVERS, ID#1421158 into custody and forthwith convey her
18 to the jail of the County of Clark, State of Nevada, for incarceration to insure her presence
19 before the Eighth Judicial District Court.

20 I declare under penalty of perjury that the foregoing is true and correct.

21
22 Executed on 4.27.99
(Date)


(Signature)

1 **ORDR**

2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

FILED

APR 30 9 28 AM '99

Shirley S. Rungius

DISTRICT COURT CLERK
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 DONTE JOHNSON,
12 #1586283

13 Defendant.

Case No. C153154
Dept. No. V
Docket H

14
15 **ORDER REQUIRING MATERIAL WITNESS TO POST
16 BAIL OR BE COMMITTED TO CUSTODY**

17 STATE OF NEVADA }

18 COUNTY OF CLARK }

ss:

19 TO: Any Sheriff, Constable, Marshal,
20 Policeman or Peace Officer in
the State of Nevada

21 An ex parte application upon sworn affidavit having been presented to this Court pursuant
22 to NRS 178.494, wherein it appears that the testimony of CHARLA SEVERS, ID#1421158 is
23 material to the jury trial in the above-entitled matter, and it further appearing to the Court by the
24 way of affidavit that the attendance of said witness in the jury trial of this matter by subpoena
25 is impracticable;

26 YOU ARE THEREFORE commanded forthwith to place said witness in your immediate
27 custody for the purpose of said witness posting bail with the above entitled court in the amount
28 of \$10,000.00 in order to secure the attendance of said witness CHARLA SEVERS, ID#1421158

1 before the Court on the 5th day of July, 1999, at 9:00 a.m., in the jury trial of the above entitled
2 matter.

3 IT IS FURTHER ORDERED and directed that if said witness CHARLA SEVERS,
4 ID#1421158 fails to post bail in the sum of \$10,000.00 to secure her attendance as a witness in
5 the jury trial in the above-stated matter as above provided, then you are further commanded to
6 deliver said witness into the custody of the Sheriff of Clark County pending final disposition of
7 the jury trial in the above-entitled matter or until further Order of this Court.

8 YOU ARE FURTHER ORDERED to direct the Sheriff of the County of Clark, State of
9 Nevada, to make the said CHARLA SEVERS, ID#1421158 available in custody in the Eighth
10 Judicial District Court of the State of Nevada, in and for the County of Clark at 9:00 a.m. on the
11 5th day of July, 1999, for the testimony in the captioned matter and further disposition by this
12 Court.

13 The arresting officer is further authorized, in the event that further communication
14 indicates that the said CHARLA SEVERS, ID#1421158 will appear at the jury trial at the time
15 above stated without the necessity of incarceration in the Clark County Jail or the posting of the
16 bond above described, to make arrangements for food and lodging for the said CHARLA
17 SEVERS for the night of the 4th day of July, 1999.

18 DATED this 29th day of April, 1999.

19
20
21
22
23
24
25
26
27
28

DISTRICT JUDGE

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

DONTE JOHNSON,
#1586283

Defendant.

Case No. C153154
Dept. No. V
Docket H

WARRANT OF ARREST

FOR MATERIAL WITNESS CHARLA SEVERS, ID#1421158

THE STATE OF NEVADA,

To: Any Sheriff, Constable, Marshall, Policeman, or Peace Officer in This State:

An affidavit upon oath has been this day laid before me by GARY L. GUYMON accusing CHARLA SEVERS, ID#1421158 thereof of being a Material Witness;

YOU ARE THEREFORE COMMANDED forthwith to arrest the above named CHARLA SEVERS, ID#1421158 and bring her before the Eighth Judicial District Court of the State of Nevada, in and for the County of Clark after it is determined that the said CHARLA SEVERS, ID#1421158, is in the custody of the Sheriff of Clark County, State of Nevada, or in case of my absence or inability to act, before the nearest and most accessible Magistrate in this County.

WITNESS my hand this 29th day of April, A.D. 1999.

And I direct that this Warrant may be served at any hour of the day or night.


DISTRICT COURT JUDGE

SHERIFF'S RETURN

I hereby certify that I received the above and foregoing Warrant on the ____ day of _____, 19__, and served the same by arresting the within named Defendant, _____, and bringing _____ into Court his ____ day of _____, 19__.

JERRY KELLER, Sheriff, Clark County, Nevada

BY _____

Deputy

DA#C153154/sbs
LVMPD EV#9808141600
CONSP;RWDW;KDNPWDW;MWDW - F
070978; BFA; 530267749
(TK4)

PAWPD0CSVORDR\FORDR\11\81183001.WPD

ORIGINAL

1 **REQT**
2 **STEWART L. BELL**
3 **DISTRICT ATTORNEY**
4 **Nevada Bar #000477**
5 **200 S. Third Street**
6 **Las Vegas, Nevada 89155**
7 **(702) 435-4711**
8 **Attorney for Plaintiff**

FILED

SEP 21 8 41 AM '99

Shirley B. Cunningham
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 **DONTE JOHNSON,**
12 **#1586283**

13 Defendant(s).
14

Case No. C153154
Dept. No. V
Docket H

15 **REQUEST FOR ATTENDANCE OF OUT-OF-STATE**

16 **WITNESS CHARLA CHENIQUA SEVERS aka Kashawn Hives**

17 **TO: The Honorable Judge of the above entitled Court:**

18 The undersigned, GARY L. GUYMON, Chief Deputy District Attorney of the County
19 of Clark, State of Nevada, hereby reports and certifies as follows:

20 1. That there is now pending in District Court the above entitled criminal prosecution
21 by the State of Nevada against DONTE JOHNSON, Defendant, wherein said Defendant stands
22 accused and charged with having committed the following criminal offenses against the laws of
23 the State of Nevada, to-wit: the crime(s) of **BURGLARY WHILE IN POSSESSION OF A**
24 **FIREARM (Felony - NRS 205.060, 193.165); CONSPIRACY TO COMMIT ROBBERY**
25 **AND/OR KIDNAPING AND/OR MURDER (Felony - NRS 199.480, 200.380, 200.310,**
26 **200.320, 200.010, 200.030); ROBBERY WITH USE OF A DEADLY WEAPON (Felony -**
27 **NRS 200.380, 193.165); FIRST DEGREE KIDNAPING WITH USE OF A DEADLY**
28 **WEAPON (Felony - NRS 200.310, 200.320, 193.165); and MURDER WITH USE OF A**

CLERK

RECEIVED
SEP 21 1999
COUNTY CLERK

1 **DEADLY WEAPON (Open Murder) (Felony - NRS 200.010, 200.030, 193.165), in the**
2 following manner, to-wit:

3 That DONTE JOHNSON, the Defendant above named, on or about August 14, 1998, at
4 and within the County of Clark, State of Nevada, contrary to the form, force and effect of
5 statutes in such cases made and provided, and against the peace and dignity of the State of
6 Nevada,

7 **COUNT I -BURGLARY WHILE IN POSSESSION OF A FIREARM**

8 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH,
9 then and there wilfully, unlawfully, and feloniously enter, while in possession of a firearm, with
10 intent to commit larceny and/or robbery and/or murder, that certain building occupied by
11 MATHEW MOWEN and TRACEY GORRINGE and JEFFREY BIDDLE, located at 4825
12 Terra Linda Avenue, Las Vegas, Clark County, Nevada; the Defendant aiding or abetting
13 TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH by counsel and
14 encouragement and by entering into a course of conduct whereby the said Defendant arrived at
15 4825 Terra Linda Avenue with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE
16 SMITH; the said Defendant entering the residence with TERRELL COCHISE YOUNG and/or
17 SIKIA LAFAYETTE SMITH while Defendant and/or TERRELL COCHISE YOUNG and/or
18 SIKIA LAFAYETTE SMITH were in possession of a firearm or firearms; Defendant and/or
19 TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding MATHEW
20 MOWEN and TRACEY GORRINGE and JEFFREY BIDDLE and PETER TALAMENTEZ and
21 placing them on the floor of the residence; then Defendant and/or TERRELL COCHISE
22 YOUNG and/or SIKIA LAFAYETTE SMITH shooting at and into the body of the said
23 MATHEW MOWEN and TRACEY GORRINGE and JEFFREY BIDDLE and PETER
24 TALAMENTEZ with a firearm.

25 **COUNT II - CONSPIRACY TO COMMIT ROBBERY AND/OR KIDNAPPING AND/OR**
26 **MURDER**

27 did then and there meet with TERRELL COCHISE YOUNG, SIKIA LAFAYETTE
28 SMITH and/or another unknown individual, and between themselves, and each of them with

1 the other, wilfully, unlawfully, and feloniously conspire to commit a crime, to wit: robbery
2 and/or kidnaping and/or murder, and in furtherance of said conspiracy, Defendant did commit
3 the acts as alleged in Counts III thru XIV of this indictment, together with TERRELL COCHISE
4 YOUNG and/or SIKIA LAFAYETTE SMITH, which acts are incorporated herein by this
5 reference as though fully set forth.

6 COUNT III - ROBBERY WITH USE OF A DEADLY WEAPON

7 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH,
8 then and there wilfully, unlawfully, and feloniously, take personal property, to wit: lawful
9 money of the United States, from the person of JEFFREY BIDDLE, or in his presence or
10 company, by means of force or violence, or fear of injury to, and without the consent and against
11 the will of the said JEFFREY BIDDLE, said Defendant using a deadly weapon, to wit: a
12 firearm, during the commission of said crime; the Defendant aiding or abetting TERRELL
13 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH by counsel and encouragement and
14 by entering into a course of conduct whereby the said Defendant arrived at 4825 Terra Linda
15 Avenue with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH; the said
16 Defendant entering the residence with TERRELL COCHISE YOUNG and/or SIKIA
17 LAFAYETTE SMITH while Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
18 LAFAYETTE SMITH were in possession of a firearm or firearms; Defendant and/or TERRELL
19 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding the said JEFFREY BIDDLE
20 and placing him on the floor of the residence; then Defendant and/or TERRELL COCHISE
21 YOUNG and/or SIKIA LAFAYETTE SMITH taking lawful money of the United States from
22 the person of JEFFREY BIDDLE and/or other persons in his presence or company; then
23 Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH shooting
24 at and into the body of the said JEFFREY BIDDLE with a firearm.

25 COUNT IV - ROBBERY WITH USE OF A DEADLY WEAPON

26 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH,
27 then and there wilfully, unlawfully, and feloniously, take personal property, to wit: lawful
28 money of the United States, from the person of TRACEY GORRINGE, or in his presence or

1 company, by means of force or violence, or fear of injury to, and without the consent and against
2 the will of the said TRACEY GORRINGE, said Defendant using a deadly weapon, to wit: a
3 firearm, during the commission of said crime; the Defendant aiding or abetting TERRELL
4 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH by counsel and encouragement and
5 by entering into a course of conduct whereby the said Defendant arrived at 4825 Terra Linda
6 Avenue with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH; the said
7 Defendant entering the residence with TERRELL COCHISE YOUNG and/or SIKIA
8 LAFAYETTE SMITH while Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
9 LAFAYETTE SMITH were in possession of a firearm or firearms; Defendant and/or TERRELL
10 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding the said TRACEY
11 GORRINGE and placing him on the floor of the residence; then Defendant and/or TERRELL
12 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH taking lawful money of the United
13 States from the person of TRACEY GORRINGE and/or other persons in his presence or
14 company; then Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE
15 SMITH shooting at and into the body of the said TRACEY GORRINGE with a firearm.

16 COUNT V - ROBBERY WITH USE OF A DEADLY WEAPON

17 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH
18 then and there wilfully, unlawfully, and feloniously, take personal property, to wit: lawful
19 money of the United States, from the person of MATHEW MOWEN, or in his presence or
20 company, by means of force or violence, or fear of injury to, and without the consent and against
21 the will of the said MATHEW MOWEN, said Defendant using a deadly weapon, to wit: a
22 firearm, during the commission of said crime; the Defendant aiding or abetting TERRELL
23 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH by counsel and encouragement and
24 by entering into a course of conduct whereby the said Defendant arrived at 4825 Terra Linda
25 Avenue with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH; the said
26 Defendant entering the residence with TERRELL COCHISE YOUNG and/or SIKIA
27 LAFAYETTE SMITH while Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
28 LAFAYETTE SMITH were in possession of a firearm or firearms; Defendant and/or TERRELL

1 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding the said MATHEW MOWEN
2 and placing him on the floor of the residence; then Defendant and/or TERRELL COCHISE
3 YOUNG and/or SIKIA LAFAYETTE SMITH taking lawful money of the United States from
4 the person of MATHEW MOWEN and/or other persons in his presence or company; then
5 Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH shooting
6 at and into the body of the said MATHEW MOWEN with a firearm.

7 COUNT VI - ROBBERY WITH USE OF A DEADLY WEAPON

8 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH
9 then and there wilfully, unlawfully, and feloniously, take personal property, to wit: lawful
10 money of the United States, from the person of PETER TALAMENTEZ, or in his presence or
11 company, by means of force or violence, or fear of injury to, and without the consent and against
12 the will of the said PETER TALAMENTEZ, said Defendant using a deadly weapon, to wit: a
13 firearm, during the commission of said crime; the Defendant aiding or abetting TERRELL
14 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH by counsel and encouragement and
15 by entering into a course of conduct whereby the said Defendant arrived at 4825 Terra Linda
16 Avenue with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH; the said
17 Defendant entering the residence with TERRELL COCHISE YOUNG and/or SIKIA
18 LAFAYETTE SMITH while Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
19 LAFAYETTE SMITH were in possession of a firearm or firearms; Defendant and/or TERRELL
20 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding the said PETER
21 TALAMENTEZ and placing him on the floor of the residence; then Defendant and/or
22 TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH taking lawful money of
23 the United States from the person of PETER TALAMENTEZ and/or other persons in his
24 presence or company; then Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
25 LAFAYETTE SMITH shooting at and into the body of the said PETER TALAMENTEZ with
26 a firearm.

27 COUNT VII - FIRST DEGREE KIDNAPING WITH USE OF A DEADLY WEAPON

28 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH

1 wilfully, unlawfully, feloniously, and without authority of law, seize, confine, inveigle, entice,
2 decoy, abduct, conceal, kidnap, or carry away JEFFREY BIDDLE, a human being, with the
3 intent to hold or detain the said JEFFREY BIDDLE, against his will, and without his consent,
4 for the purpose of committing robbery and/or murder, said Defendant and/or TERRELL
5 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH using a deadly weapon, to wit: a
6 firearm during the commission of said crime; the Defendant aiding or abetting TERRELL
7 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH by counsel and encouragement and
8 by entering into a course of conduct whereby the said Defendant arrived at 4825 Terra Linda
9 Avenue with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH; the said
10 Defendant entering the residence with TERRELL COCHISE YOUNG and/or SIKIA
11 LAFAYETTE SMITH while Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
12 LAFAYETTE SMITH were in possession of a firearm or firearms; Defendant and/or TERRELL
13 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding the said JEFFREY BIDDLE
14 and placing him on the floor of the residence for the purpose of committing robbery and/or
15 murder; then Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE
16 SMITH shooting at and into the body of the said JEFFREY BIDDLE with a firearm.

17 COUNT VIII - FIRST DEGREE KIDNAPING WITH USE OF A DEADLY WEAPON

18 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH,
19 wilfully, unlawfully, feloniously, and without authority of law, seize, confine, inveigle, entice,
20 decoy, abduct, conceal, kidnap, or carry away MATHEW MOWEN, a human being, with the
21 intent to hold or detain the said MATHEW MOWEN, against his will, and without his consent,
22 for the purpose of committing robbery and/or murder, said Defendant and/or TERRELL
23 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH using a deadly weapon, to wit: a
24 firearm during the commission of said crime; the Defendant aiding or abetting TERRELL
25 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH by counsel and encouragement and
26 by entering into a course of conduct whereby the said Defendant arrived at 4825 Terra Linda
27 Avenue with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH; the said
28 Defendant entering the residence with TERRELL COCHISE YOUNG and/or SIKIA

1 LAFAYETTE SMITH while Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
2 LAFAYETTE SMITH were in possession of a firearm or firearms; Defendant and/or TERRELL
3 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding the said MATHEW MOWEN
4 and placing him on the floor of the residence for the purpose of committing robbery and/or
5 murder; then Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE
6 SMITH shooting at and into the body of the said MATHEW MOWEN with a firearm.

7 COUNT IX - FIRST DEGREE KIDNAPING WITH USE OF A DEADLY WEAPON

8 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH,
9 wilfully, unlawfully, feloniously, and without authority of law, seize, confine, inveigle, entice,
10 decoy, abduct, conceal, kidnap, or carry away TRACEY GORRINGE, a human being, with the
11 intent to hold or detain the said TRACEY GORRINGE, against his will, and without his
12 consent, for the purpose of committing robbery and/or murder, said Defendant and/or TERRELL
13 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH using a deadly weapon, to wit: a
14 firearm during the commission of said crime; the Defendant aiding or abetting TERRELL
15 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH by counsel and encouragement and
16 by entering into a course of conduct whereby the said Defendant arrived at 4825 Terra Linda
17 Avenue with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH; the said
18 Defendant entering the residence with TERRELL COCHISE YOUNG and/or SIKIA
19 LAFAYETTE SMITH while Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
20 LAFAYETTE SMITH were in possession of a firearm or firearms; Defendant and/or TERRELL
21 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding the said TRACEY
22 GORRINGE and placing him on the floor of the residence for the purpose of committing
23 robbery and/or murder; then Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
24 LAFAYETTE SMITH shooting at and into the body of the said TRACEY GORRINGE with a
25 firearm.

26 COUNT X - FIRST DEGREE KIDNAPING WITH USE OF A DEADLY WEAPON

27 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH,
28 wilfully, unlawfully, feloniously, and without authority of law, seize, confine, inveigle, entice,

1 decoy, abduct, conceal, kidnap, or carry away PETER TALAMENTEZ, a human being, with
2 the intent to hold or detain the said PETER TALAMENTEZ, against his will, and without his
3 consent, for the purpose of committing robbery and/or murder, said Defendant and/or TERRELL
4 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH using a deadly weapon, to wit: a
5 firearm during the commission of said crime; the Defendant aiding or abetting TERRELL
6 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH by counsel and encouragement and
7 by entering into a course of conduct whereby the said Defendant arrived at 4825 Terra Linda
8 Avenue with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH; the said
9 Defendant entering the residence with TERRELL COCHISE YOUNG and/or SIKIA
10 LAFAYETTE SMITH while Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
11 LAFAYETTE SMITH were in possession of a firearm or firearms; Defendant and/or TERRELL
12 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding the said PETER
13 TALAMENTEZ and placing him on the floor of the residence for the purpose of committing
14 robbery and/or murder; then Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
15 LAFAYETTE SMITH shooting at and into the body of the said PETER TALAMENTEZ with
16 a firearm.

17 COUNT XI - MURDER WITH USE OF A DEADLY WEAPON (OPEN MURDER)

18 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH,
19 then and there wilfully, feloniously, without authority of law, and with premeditation and
20 deliberation, and with malice aforethought, kill JEFFREY BIDDLE, a human being, by shooting
21 at and into the body of said JEFFREY BIDDLE, with a deadly weapon, to wit: a firearm, the
22 said Defendants being responsible under the following theories of criminal liability, to wit: 1)
23 Premeditation and Deliberation; 2) Felony Murder, Defendant and/or TERRELL COCHISE
24 YOUNG and/or SIKIA LAFAYETTE SMITH committing the murder in the perpetration or
25 attempted perpetration of kidnaping and/or robbery; 3) Aiding or Abetting, the Defendant aiding
26 or abetting TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH by counsel and
27 encouragement and by entering into a course of conduct whereby the said Defendant arrived at
28 4825 Terra Linda Avenue with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE

1 SMITH; the said Defendant entering the residence with TERRELL COCHISE YOUNG and/or
2 SIKIA LAFAYETTE SMITH while Defendant and/or TERRELL COCHISE YOUNG and/or
3 SIKIA LAFAYETTE SMITH were in possession of a firearm; Defendant and/or TERRELL
4 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding the victim and placing him
5 on the floor of the residence; Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
6 LAFAYETTE SMITH shooting at and into the body of the said JEFFREY BIDDLE with a
7 firearm; 4) Conspiracy, by the said Defendant acting pursuant to a conspiracy to commit robbery
8 and/or kidnaping and/or murder with TERRELL COCHISE YOUNG and/or SIKIA
9 LAFAYETTE SMITH, whereby the said Defendant entered the residence with TERRELL
10 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH while Defendant and/or TERRELL
11 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH were in possession of a firearm or
12 firearms; Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH
13 binding the said JEFFREY BIDDLE and placing him on the floor of the residence; then
14 Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH shooting
15 at and into the body of the said JEFFREY BIDDLE with the firearm or firearms.

16 COUNT XII - MURDER WITH USE OF A DEADLY WEAPON (OPEN MURDER)

17 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH,
18 then and there wilfully, feloniously, without authority of law, and with premeditation and
19 deliberation, and with malice aforethought, kill TRACEY GORRINGE, a human being, by
20 shooting at and into the body of said TRACEY GORRINGE, with a deadly weapon, to wit: a
21 firearm, the said Defendant being responsible under the following theories of criminal liability,
22 to wit: 1) Premeditation and Deliberation; 2) Felony Murder, Defendant and/or TERRELL
23 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH committing the murder in the
24 perpetration or attempted perpetration of robbery and/or kidnaping; 3) Aiding or Abetting, the
25 Defendant aiding or abetting TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE
26 SMITH by counsel and encouragement and by entering into a course of conduct whereby the
27 said Defendant arrived at 4825 Terra Linda Avenue with TERRELL COCHISE YOUNG and/or
28 SIKIA LAFAYETTE SMITH; the said Defendant entering the residence with TERRELL

1 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH while Defendant and/or TERRELL
2 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH were in possession of a firearm;
3 Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding
4 the victim and placing him on the floor of the residence; Defendant and/or TERRELL COCHISE
5 YOUNG and/or SIKIA LAFAYETTE SMITH shooting at and into the body of the said
6 TRACEY GORRINGE with a firearm; 4) Conspiracy, by the said Defendant acting pursuant to
7 a conspiracy to commit robbery and/or kidnaping and/or murder with TERRELL COCHISE
8 YOUNG and/or SIKIA LAFAYETTE SMITH, whereby the said Defendant entered the
9 residence with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH while
10 Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH were in
11 possession of a firearm or firearms; Defendant and/or TERRELL COCHISE YOUNG and/or
12 SIKIA LAFAYETTE SMITH binding the said TRACEY GORRINGE and placing him on the
13 floor of the residence; then Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
14 LAFAYETTE SMITH shooting at and into the body of the said TRACEY GORRINGE with the
15 firearm or firearms.

16 COUNT XIII - MURDER WITH USE OF A DEADLY WEAPON (OPEN MURDER)

17 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH,
18 then and there wilfully, feloniously, without authority of law, and with premeditation and
19 deliberation, and with malice aforethought, kill MATHEW MOWEN, a human being, by
20 shooting at and into the body of said MATHEW MOWEN, with a deadly weapon, to wit: a
21 firearm, the said Defendant being responsible under the following theories of criminal liability,
22 to wit: 1) Premeditation and Deliberation; 2) Felony Murder, Defendant and/or TERRELL
23 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH committing the murder in the
24 perpetration or attempted perpetration of kidnaping and/or robbery; 3) Aiding or Abetting, the
25 Defendant aiding or abetting TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE
26 SMITH by counsel and encouragement and by entering into a course of conduct whereby the
27 said Defendant arrived at 4825 Terra Linda Avenue with TERRELL COCHISE YOUNG and/or
28 SIKIA LAFAYETTE SMITH; the said Defendant entering the residence with TERRELL

1 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH while Defendant and/or TERRELL
2 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH were in possession of a firearm;
3 Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding
4 the victim and placing him on the floor of the residence; Defendant and/or TERRELL COCHISE
5 YOUNG and/or SIKIA LAFAYETTE SMITH shooting at and into the body of the said
6 MATHEW MOWEN with a firearm; 4) Conspiracy, by the said Defendant acting pursuant to
7 a conspiracy to commit robbery and/or kidnaping and/or murder with TERRELL COCHISE
8 YOUNG and/or SIKIA LAFAYETTE SMITH, whereby the said Defendant entered the
9 residence with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH while
10 Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH were in
11 possession of a firearm or firearms; Defendant and/or TERRELL COCHISE YOUNG and/or
12 SIKIA LAFAYETTE SMITH binding the said MATHEW MOWEN and placing him on the
13 floor of the residence; then Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
14 LAFAYETTE SMITH shooting at and into the body of the said MATHEW MOWEN with the
15 firearm or firearms.

16 COUNT XIV - MURDER WITH USE OF A DEADLY WEAPON (OPEN MURDER)

17 did, together with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH,
18 then and there wilfully, feloniously, without authority of law, and with premeditation and
19 deliberation, and with malice aforethought, kill PETER TALAMENTEZ, a human being, by
20 shooting at and into the body of said PETER TALAMENTEZ, with a deadly weapon, to wit:
21 a firearm, the said Defendant being responsible under the following theories of criminal liability,
22 to wit: 1) Premeditation and Deliberation; 2) Felony Murder, Defendant and/or TERRELL
23 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH committing the murder in the
24 perpetration or attempted perpetration of robbery and/or kidnaping; 3) Aiding or Abetting, the
25 Defendant aiding or abetting TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE
26 SMITH by counsel and encouragement and by entering into a course of conduct whereby the
27 said Defendant arrived at 4825 Terra Linda Avenue with TERRELL COCHISE YOUNG and/or
28 SIKIA LAFAYETTE SMITH; the said Defendant entering the residence with TERRELL

1 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH while Defendant and/or TERRELL
2 COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH were in possession of a firearm;
3 Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH binding
4 the victim and placing him on the floor of the residence; Defendant and/or TERRELL COCHISE
5 YOUNG and/or SIKIA LAFAYETTE SMITH shooting at and into the body of the said PETER
6 TALAMENTEZ with a firearm; 4) Conspiracy, by the said Defendant acting pursuant to a
7 conspiracy to commit robbery and/or kidnaping and/or murder with TERRELL COCHISE
8 YOUNG and/or SIKIA LAFAYETTE SMITH, whereby the said Defendant entered the
9 residence with TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH while
10 Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA LAFAYETTE SMITH were in
11 possession of a firearm or firearms; Defendant and/or TERRELL COCHISE YOUNG and/or
12 SIKIA LAFAYETTE SMITH binding the said PETER TALAMENTEZ and placing him on the
13 floor of the residence; then Defendant and/or TERRELL COCHISE YOUNG and/or SIKIA
14 LAFAYETTE SMITH shooting at and into the body of the said PETER TALAMENTEZ with
15 the firearm or firearms.

16 2. That the trial therein has been set by the Court to be held before the Eighth Judicial
17 District Court of the State of Nevada, in and for the County of Clark, commencing on January
18 10, 2000, at the hour of 10:00 o'clock A.M. of said day.

19 3. That CHARLA CHENIQUA SEVERS aka Kashawn Hives, is a necessary and
20 material witness and a principal witness for the State of Nevada in such prosecution by reason
21 of the following:

22 On August 18, 1998, Charla Severs was interviewed by Detective Thowsen, with the Las
23 Vegas Metropolitan Police Department, Homicide Division, at which time she provided a series
24 of false information to Det. Thowsen in order to avoid Donte Johnson, Terrell Young and Sikia
25 Smith, in being arrested.

26 On or about September 1, 1998, Charla Severs testified before the Grand Jury and
27 provided false information on defendants Donte Johnson, Terrell Young and Sikia Smith's behalf
28 in the quadruple homicide.

1 On or about September 3, 1998, Charla subsequently again interviewed with Det.
2 Thowsen wherein she provided truthful information which included the fact that she had
3 personal knowledge that the homicide had been done by the above named individuals.

4 On or about September 15, 1998, Charla Severs testified before the Grand Jury under
5 oath and provided information in which incriminated defendants Donte Johnson, Terrell Young
6 and Sikia Smith in the quadruple homicide.

7 On or about September 27, 1998, Charla Severs attempted to recant her previous
8 testimony which incriminated the above individuals.

9 Investigator Alexia Conger, with the Clark County District Attorney's Office determined
10 that Ms. Severs has been declared missing by her mother, Vernell Dyess. A missing persons
11 report was filed with the Las Vegas Metropolitan Police Department on April 12, 1999. Prior
12 to this date efforts to locate Ms. Severs have included telephone number and address verification
13 which have met with negative results. Prior residences have been checked and are negative as
14 well. Ms. Severs has not been arrested and is not in custody at this time. Ms. Severs family
15 members have been interviewed and are concerned that she is not willing to come to Court.
16 Further attempts to locate Ms. Severs include verification of employment and credit history.
17 Several weekly/daily rental motels in the downtown area have been checked as well with
18 negative results.

19 Charla Severs has been to the jail on numerous occasions to visit Donte Johnson. Charla
20 Severs has previously indicated that she is the girlfriend of said Donte Johnson, and more
21 importantly has testified to the same.

22 Based on the facts we believe her to be an adverse witness who is attempting to avoid
23 service of process.

24 4. That the presence of the said CHARLA CHENIQUA SEVERS aka Kashawn Hives
25 personally in said District Court for the trial of the Defendant for the purpose of giving
26 testimony therein upon the part of the State of Nevada on January 10, 2000, at the hour of 10:00
27 o'clock A.M. of said day will be required for a period of five (5) day(s).

28 5. That if the said CHARLA CHENIQUA SEVERS aka Kashawn Hives as such witness

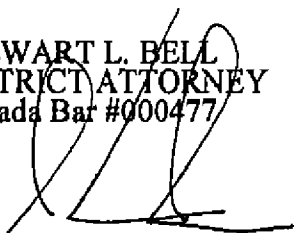
1 comes into the State of Nevada in obedience to a Summons directing her to attend and to testify
2 at said trial, the laws of the State of Nevada and of any other state through which said witness
3 may be required to pass by the ordinary course of travel to attend said trial, give her protection
4 from arrest or the service of process, civil or criminal, in connection with matters which arose
5 before his entrance into said state pursuant to said Summons.

6 6. It is further requested that the Certificate include a recommendation that the witness,
7 CHARLA CHENIQUA SEVERS aka Kashawn Hives, be kept in custody by the duly authorized
8 authorities, to be released to an officer of the State of Nevada to assure the witness' attendance
9 in this State for the reasons set forth herein.

10 WHEREFORE, it is requested, for and on behalf of the State of Nevada, that your Honor
11 certify to the above and foregoing by the issuance of a Certificate thereto under the seal of the
12 Eighth Judicial District Court of the State of Nevada, in and for the County of Clark, for the
13 purpose of being presented to a Judge of a Court of Record in the State of New York in a
14 proceeding to compel the attendance of the said CHARLA CHENIQUA SEVERS aka Kashawn
15 Hives as a witness at said trial for the time and date above set forth, and pursuant to law.

16 DATED this _____ day of September, 1999, in the City of Las Vegas, County of Clark,
17 State of Nevada.

18 STEWART L. BELL
19 DISTRICT ATTORNEY
Nevada Bar #000477

20
21 BY 
22 GARY L. GUYMON
23 Chief Deputy District Attorney
24 Nevada Bar #003726
25
26
27
28

AFFIDAVIT

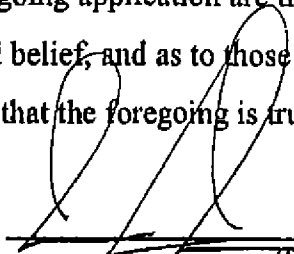
STATE OF NEVADA }
COUNTY OF CLARK } ss:

GARY L. GUYMON, being first duly sworn, deposes and says:

That the facts set forth in the foregoing application are true, except as to those matters therein stated to be upon information and belief, and as to those matters I believe it to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Dated on 9.20.99
(Date)


(Signature)

ORIGINAL

FILED

SEP 23 3 11 PM '99

Shirley S. Ringine
CLERK

0001
STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

DONTE JOHNSON, aka
John White, #1586283

Defendant.

Case No. C153154
Dept. No. V
Docket H

NOTICE OF MOTION AND MOTION TO VIDEOTAPE THE
DEPOSITION OF CHARLA SEVERS

DATE OF HEARING: 10/11/99
TIME OF HEARING: 9:00 A.M.

COMES NOW, the State of Nevada, by STEWART L. BELL, District Attorney, through
GARY L. GUYMON, Chief Deputy District Attorney, and files this Notice of Motion and
Motion to Videotape the Deposition of Charla Severs.

This Motion is made and based upon all the papers and pleadings on file herein, the
attached points and authorities in support hereof, and oral argument at the time of hearing, if
deemed necessary by this Honorable Court.

CLARK COUNTY CLERK

SEP 24

SEP 25

SEP 26

SEP 27

SEP 28

//

//



10/13/99

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

DATED this 29 day of September, 1999.

BY GARY L. GUYMON
Chief Deputy District Attorney
Nevada Bar #003726

NRS 174.175 states:

- 16
17
18
19
20
21
22
23
24
25
26

27
28


1 accompanying affidavit, witness Charla Severs may be prevented from attending the trial
2 because of threats she has received associated with this case.

3 This Court should take no comfort in her promise to appear in light of the fact that she
4 has previously perjured herself in this case and fled the jurisdiction in an effort to avoid
5 testifying.

6 Wherefore, it is respectfully requested that this honorable Court grant the State's Motion
7 to Videotape the Deposition of Charla Severs ,and that said deposition be taken in the courtroom,
8 with Judge Sobel presiding.

9 DATED this 29 day of September, 1999.

10 STEWART L. BELL
11 DISTRICT ATTORNEY
Nevada Bar #000477

12
13 BY 
14 GARY L. GUYMON
15 Chief Deputy District Attorney
16 Nevada Bar #003726

17
18 AFFIDAVIT

19 STATE OF NEVADA }
20 COUNTY OF CLARK } ss:

21 GARY L. GUYMON, being first duly sworn, deposes and says:

22 1. That he is a Deputy District Attorney with the Clark County District Attorney's Office,
23 assigned as co-counsel with Robert J. Daskas to prosecute the case entitled State of Nevada v.
24 Donte Johnson, aka John White, Defendant, Case No. C153154, District Court Department V.

25 2. That a trial date in the above case has been set for January 10, 2000.

26 3. That witness Charla Severs was recently brought back to the State of Nevada from
27 Manhattan, New York, by investigators with the Clark County District Attorney's Office as a
28 result of this Court's issuance of a Material Witness Warrant. A copy of the State's Ex-Parte

1 Application for Order Requiring Material Witness to Post Bail is attached hereto, as well as a
2 copy of this Court's Order Requiring Material Witness to Post Bail or Be Committed to Custody
3 as Exhibit "1".

4 4. That the State has previously advised this Court that on August 18, 1998, Charla
5 Severs was interviewed by Detective Thowsen, with the Las Vegas Metropolitan Police
6 Department, Homicide Section, at which time she provided a series of false information to
7 Detective Thowsen in an effort to exonerate Donte Johnson, Terrell Young and Sikia Smith.

8 5. That on or about September 1, 1998, Charla Severs testified before the grand jury and
9 provided false information in an effort to absolve Donte Johnson, Terrell Young and Sikia Smith
10 in the quadruple homicide which occurred on August 14, 1998, at the Terra Linda residence.
11 Charla Severs' testimony was meant to thwart prosecution in the above cases.

12 6. That on or about September 3, 1998, Charla Severs again interviewed with Detective
13 Thowsen wherein she provided truthful information, which included the fact that she had
14 personal knowledge that the homicide had been done by the above named individuals.

15 7. That on or about September 15, 1998, Charla Severs testified before the grand jury,
16 under oath, and provided information which incriminated Defendants Donte Johnson, Terrell
17 Young and Sikia Smith in the quadruple homicide.

18 8. That on or about September 27, 1998, Charla Severs attempted to recant her previous
19 testimony which incriminated the above individuals. Charla Severs' efforts to recant her
20 testimony were done by way of a written letter which is attached as Exhibit "2".

21 9. That Charla Severs again attempted to exonerate Donte Johnson by sending a letter
22 to Channel 8 news, said letter being dated December 2, 1998, and being attached hereto as
23 Exhibit "3".

24 10. That Investigator Alexia Conger, with the Clark County District Attorney's Office,
25 determined that Ms. Severs had been declared missing by her mother, Vernell Dyess. A missing
26 persons report was filed with the Las Vegas Metropolitan Police Department on April 12, 1999.
27 Mrs. Dyess filed the missing persons report because she had not heard from her daughter for a

28 //

1 number of months, which was highly unusual and the word on the street was that Charla Severs
2 had been killed.

3 11. That prior to April 12, 1999, efforts to locate Ms. Severs had included telephone
4 number and address verification which had met with negative results. Prior residences had been
5 checked and had negative results as well. Ms. Severs had not been arrested and was not in
6 custody at the time the missing persons report was filed.

7 12. That Ms. Severs' family members had been interviewed by members of the Clark
8 County District Attorney's Office wherein said family members advised the District Attorney's
9 Office that Charla Severs had previously indicated that she would not cooperate with the State,
10 nor would she come to court.

11 13. That a review of Donte Johnson's jail records evidence that Charla Severs had been
12 to the jail on a number of occasions to visit Donte Johnson. Charla Severs has previously
13 indicated that she is the girlfriend of Donte Johnson and, more importantly, has testified to the
14 same.

15 14. That on or about June 1, 1999, two investigators with the Clark County District
16 Attorney's Office were assigned to work full-time, for a period of three weeks, in an effort to
17 locate Charla Severs as a material witness in the prosecution of Donte Johnson, Terrell Young
18 and Sikia Smith. Despite the efforts of experienced investigators with the Clark County District
19 Attorney's Office, Charla Severs was not located.

20 15. That on or about September 17, 1999, Charla Severs was arrested in Manhattan, New
21 York, for the charges of Solicitation of Prostitution. At the time of Charla Severs' arrest, she was
22 using the name Kashawn Hives. Authorities with the Manhattan, New York, Police Department
23 were able to successfully determine Kashawn Hives' identity as Charla Severs, at which time
24 they notified Detectives Buczek and Thowsen, with the Las Vegas Metropolitan Police
25 Department. Charla Severs was subsequently released from the authorities in Manhattan, New
26 York, to investigators with the Clark County District Attorney's Office so that she could be
27 returned to Las Vegas, Nevada, as a material witness and booked on said Material Witness
28 Warrant.

1 16. That a search warrant was issued and served on September 17, 1999, a copy of which
2 is attached as Exhibit "4". The search warrant permitted the State to seize letters written to and
3 from Donte Johnson, Terrell Young and Sikia Smith which contain incriminating information
4 associated with the homicide and/or future threats directed at witnesses.

5 17. That your affiant reviewed the above seized materials and found numerous threats
6 directed at witnesses associated with this case.

7 18. That your affiant spoke to witness Charla Severs on September 28, 1999, and learned
8 that Charla Severs left the jurisdiction after being threatened by Dwayne Anderson, aka Skill.
9 Charla Severs was threatened because she did not want to cooperate with Donte Johnson and
10 continue to lie on his behalf.

11 19. That Charla Severs believed the threats were serious because she personally knows
12 the persons involved and their deadly capacity.

13 20. That your affiant knows Dwayne Anderson to be closely associated with Donte
14 Johnson. Your affiant knows of a prior homicide that Dwayne Anderson and Donte Johnson
15 participated in together.

16 21. That the purpose of the instant motion is to record, preserve and perpetuate the
17 testimony of Charla Severs in the event that her attendance can not be obtained for the jury trial
18 and/or penalty phase of said trial, if the same is deemed necessary. Defense counsel Dayvid
19 Figler has previously indicated an interest in having Charla Severs testify in the above case and
20 the taping of a deposition of Charla Severs will give the defense an opportunity to interview her
21 prior to trial and to preserve her testimony.

22 22. That NRS 174.228(2) provides that a videotaped deposition may be allowed by a
23 court in all cases.

24 23. That there is no reason why a videotaped deposition is not an appropriate remedy
25 to preserve the testimony of Charla Severs. The Defense has previously expressed an interest

26 //

27 //

28 //

1 in having Charla Severs testify. Witness Charla Severs has demonstrated by her actions that she
2 is unwilling to testify and that she may be unable to testify if the threats made against her are
3 carried out.

4 I declare under penalty of perjury that the foregoing is true and correct.

5
6
7 GARY L. GUYMON

8
9
10
11
12 RECEIPT OF COPY

13 RECEIPT OF COPY of the above and foregoing Notice of Motion and Motion to
14 Videotape the Deposition of Charla Severs is hereby acknowledged this 24th day of
15 September, 1999.

16 SPECIAL PUBLIC DEFENDER'S OFFICE
17 ATTORNEY FOR DEFENDANT

18 BY Loni Wade / for.
19 309 South Third Street, Suite 400
20 Las Vegas, Nevada 89101
21
22
23
24
25
26
27

28 GUYMG/sbs

1 EXPT
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 435-4711
8 Attorney for Plaintiff

FILED

APR 30 9 25 AM '99

Shirley B. Rasmussen

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 TERRELL COCHISE YOUNG
12 #1509343

13 Defendant.

Case No. C153461
Dept No. III
Docket E

14
15 EX PARTE APPLICATION FOR ORDER REQUIRING
16 MATERIAL WITNESS TO POST BAIL

17 COMES NOW, STEWART L. BELL, Clark County District Attorney, by and through
18 GARY L. GUYMON, Chief Deputy District Attorney, and makes application to the above-
19 entitled Court that an Order be entered herein requiring CHARLA SEVERS be taken into
20 immediate custody as a material witness for the purpose of posting bail for her appearance in
21 the jury trial of the above-entitled matter for the said reason of attempting to avoid testifying
22 before the Eighth Judicial District Court.

23 Further application is made that the Court set bail in the amount of \$10,000.00 and if the
24 said witness fails to post bail in the amount of \$10,000.00 for her appearance as a witness in this
25 matter that the Court further direct and order that said witness be delivered into the custody of
26 the Sheriff of Clark County, pending final disposition of the jury trial in the above entitled
27 matter on or until further Order of this Court.

28 //

EXHIBIT "1"

1 This application is made pursuant to the provision of NRS 178.494 and is based upon
2 Affidavits attached hereto which are incorporated herein by this reference.

3 DATED this _____ day of April, 1999.

4 STEWART L. BELL
5 DISTRICT ATTORNEY
6 Nevada Bar #000477

7 BY _____
8 GARY L. GUYPON
9 Chief Deputy District Attorney
10 Nevada Bar #003726
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AFFIDAVIT

STATE OF NEVADA }
COUNTY OF CLARK } ss:

GARY L. GUYMON, being first duly sworn deposes and says:

That he is employed in the Office of the Clark County District Attorney, State of Nevada and is engaged in the prosecution of criminal matters and has been so employed for the period of nine (9) years.

This matter has been set for jury trial, said hearing to commence at or about 8:30 a.m. on the 21st day of June, 1999 in said Court.

Your affiant will advise the Court that one CHARLA SEVERS, ID#1421158 of Las Vegas, Clark County, Nevada, is in fact a material witness in the above-captioned matter.

Your affiant will further advise the Court on information and belief that said witness is avoiding testifying before the Eighth Judicial District Court in which she is a material and essential witness.

On August 18, 1998, Charla Severs was interviewed by Detective Thowsen, with the Las Vegas Metropolitan Police Department, Homicide Division, at which time she provided a series of false information to Det. Thowsen in order to avoid Donte Johnson, Terrell Young and Sikia Smith, in being arrested.

On or about September 1, 1998, Charla Severs testified before the Grand Jury and provided false on defendants Donte Johnson, Terrell Young and Sikia Smith's behalf in the quadruple homicide.

On or about September 3, 1998, Charla subsequently again interviewed with Det. Thowsen wherein she provided truthful information which included the fact that she had personal knowledge that the homicide had been done by the above named individuals.

On or about September 15, 1998, Charla Severs testified before the Grand Jury under oath and provided information in which incriminated defendants Donte Johnson, Terrell Young and Sikia Smith in the quadruple homicide.

On or about September 27, 1998, Charla Severs attempted to recant her previous testimony which incriminated the above individuals.

1 Investigator Alexia Conger, with the Clark County District Attorney's Office determined that Ms.
2 Severs has been declared missing by her mother, Vernell Dyess. A missing persons report was filed with
3 the Las Vegas Metropolitan Police Department on April 12, 1999. Prior to this date efforts to locate Ms.
4 Severs have included telephone number and address verification which have met with negative results.
5 Prior residences have been checked and are negative as well. Ms. Severs has not been arrested and is not
6 in custody at this time. Ms. Severs family members have been interviewed and are concerned that she
7 is not willing to come to Court. Further attempts to locate Ms. Severs include verification of employment
8 and credit history. Several weekly/daily rental motels in the downtown area have been checked as well
9 with negative results.

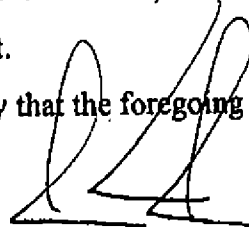
10 Charla Severs has been to the jail on numerous occasions to visit Donte Johnson. Charla Severs
11 has previously indicated that she is the girlfriend of said Donte Johnson, and more importantly has
12 testified to the same.

13 Based on the facts we believe her to be an adverse witness who is attempting to avoid
14 service of process.

15 THEREFORE, your affiant would respectfully pray that this Honorable Court under the
16 authority of NRS 178.494 issue an Order directing that any police officer of this State shall
17 forthwith take the said CHARLA SEVERS, ID#1421158 into custody and forthwith convey her
18 to the jail of the County of Clark, State of Nevada, for incarceration to insure her presence
19 before the Eighth Judicial District Court.

20 I declare under penalty of perjury that the foregoing is true and correct.

21
22 Executed on 4-22-99
(Date)



(Signature)

1 **ORDER**

2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

FILED

APR 30 9 25 AM '99

Shirley L. Augustine

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 TERRELL COCHISE YOUNG,
12 #1509343

13 Defendant.

Case No. C153461
Dept. No. III
Docket E

14
15 **ORDER REQUIRING MATERIAL WITNESS TO POST
16 BAIL OR BE COMMITTED TO CUSTODY**

17 STATE OF NEVADA }
18 COUNTY OF CLARK } ss:

19 TO: Any Sheriff, Constable, Marshal,
20 Policeman or Peace Officer in
the State of Nevada

21 An ex parte application upon sworn affidavit having been presented to this Court pursuant
22 to NRS 178.494, wherein it appears that the testimony of CHARLA SEVERS, ID#1421158 is
23 material to the jury trial in the above-entitled matter, and it further appearing to the Court by the
24 way of affidavit that the attendance of said witness in the jury trial of this matter by subpoena
25 is impracticable;

26 YOU ARE THEREFORE commanded forthwith to place said witness in your immediate
27 custody for the purpose of said witness posting bail with the above entitled court in the amount
28 of \$10,000.00 in order to secure the attendance of said witness CHARLA SEVERS, ID#1421158

1 before the Court on the 21st day of June, 1999, at 8:30 a.m., in the jury trial of the above entitled
2 matter.

3 IT IS FURTHER ORDERED and directed that if said witness CHARLA SEVERS,
4 ID#1421158 fails to post bail in the sum of \$10,000.00 to secure her attendance as a witness in
5 the jury trial in the above-stated matter as above provided, then you are further commanded to
6 deliver said witness into the custody of the Sheriff of Clark County pending final disposition of
7 the jury trial in the above-entitled matter or until further Order of this Court.

8 YOU ARE FURTHER ORDERED to direct the Sheriff of the County of Clark, State of
9 Nevada, to make the said CHARLA SEVERS, ID#1421158 available in custody in the Eighth
10 Judicial District Court of the State of Nevada, in and for the County of Clark at 8:30 a.m. on the
11 21st day of June, 1999, for the testimony in the captioned matter and further disposition by this
12 Court.

13 The arresting officer is further authorized, in the event that further communication
14 indicates that the said CHARLA SEVERS, ID#1421158 will appear at the jury trial at the time
15 above stated without the necessity of incarceration in the Clark County Jail or the posting of the
16 bond above described, to make arrangements for food and lodging for the said CHARLA
17 SEVERS for the night of the 20th day of June, 1999.

18 DATED this 29 day of April, 1999.

19
20 
21 DISTRICT JUDGE
22
23
24
25
26
27
28

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

TERRELL COCHISE YOUNG,
#1509343

Defendant.

Case No. C153461
Dept. No. III
Docket E

WARRANT OF ARREST

FOR MATERIAL WITNESS CHARLA SEVERS, ID#1421158

THE STATE OF NEVADA,

To: Any Sheriff, Constable, Marshall, Policeman, or Peace Officer in This State:

An affidavit upon oath has been this day laid before me by GARY L. GUYMON accusing CHARLA SEVERS, ID#1421158 thereof of being a Material Witness;

YOU ARE THEREFORE COMMANDED forthwith to arrest the above named CHARLA SEVERS, ID#1421158 and bring her before the Eighth Judicial District Court of the State of Nevada, in and for the County of Clark after it is determined that the said CHARLA SEVERS, ID#1421158, is in the custody of the Sheriff of Clark County, State of Nevada, or in case of my absence or inability to act, before the nearest and most accessible Magistrate in this County.

WITNESS my hand this 22 day of April, A.D. 1999.

And I direct that this Warrant may be served at any hour of the day or night.


DISTRICT COURT JUDGE

SHERIFF'S RETURN

I hereby certify that I received the above and foregoing Warrant on the ____ day of ____, 19__, and served the same by arresting the within named Defendant, _____, and bringing _____ into Court his ____ day of ____, 19__.

JERRY KELLER, Sheriff, Clark County, Nevada

BY _____

Deputy

DA#C153461/sbs
LVMPD EV#9808141600
CONSP;RWDW;KDNPWDW;MWDW - F
070978; BFA; 530267749
(TK3)

P:\WPDOCS\ORDR\FORDR\812\81255601.WPD

LaJa

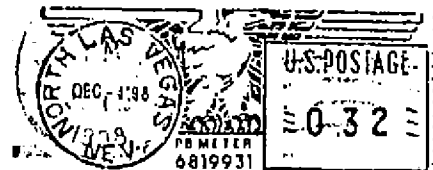
To Whom It May Concern: 09-27-98

Thanks a whole lot! I did exactly what B-Loduce told me even though it tore me apart. But I did not want to come up missing in action ^(CIA). I

wish I would of never did that shit. I should of let him fuck me off! Instead of lying on Deko, like that. They all hate him and I did this shit like I hate him too. I cant even face him, because I feel like I betrayed him, now could I tell him he is going to be fucked because I was scared B-lo was going to do me in. My Baby still dont know I said anything. I just wish shit would of went differently. Now I have to hideout from this punk bitch! So if you find me I hope I aint looking like those 4 white boys you all found. I hope you all find him too. So now I guess you could perjure me because I lied about some other shit too. But Im not a liar, just scared!

EXHIBIT "2"

CHARLA SEVERS
DETENTION CENTER
City of North Las Vegas
2222 Constitution Way
North Las Vegas, Nevada 89030



CHANNEL 8 NEWS
3228 Channel 8 Dr.
Las Vegas, NV 89015

89109/8087



EXHIBIT "3"

12-02-98

Hello my name is Charla
and I have a story for you the
only reason I did not call
you is because I am in jail
at North Las Vegas Detention Ctr.
Well what I wanted to tell you
all is that my boyfriend is in
jail for that quadruple homicide,
you remember the one you had
on the news not too long ago?
Donte Johnson. Well he didn't have
anything to do w/ that. Terrell
Young and Sikia Smith testified against
him as well as myself because I
was scared. Donte was not there
just Terrell, Sikia and myself but
no one knows I was there. Donte was
gone the night Terrell & Sikia came
over they was looking for Donte
so they could go do that but he
took to long to come so instead
they made me go. I couldnt say no!
When we got back home Donte was there
and he was upset at me because he
wanted to know where I had been.
~~later~~ HE DIDNT KNOW ANYTHING ABOUT
IT AND HE STILL DOESNT, HE IS JUST
TRYING TO PROTECT ME. WHEN THE
D.A CALLED ME TO THEIR OFFICE THE
DAY AFTER I TESTIFIED THAT
Donte WAS WITH ME AND WE DIDNT

KNOW ANYTHING ABOUT IT. AND I
REALLY DIDNT REMEMBER HOW
IT HAD HAPPENED UNTIL THE
DISTRICT ATTORNEY PLAYED TERRELL'S
STATEMENT FOR ME AND THE WHOLE
THING CAME BACK TO ME AND THAT'S
WHEN I GOT SCARED AND INSTEAD
OF CONFESSING I PUT IT ON DONTÉ.
I REALLY DONT WANT TO SEE HIM GO
DOWN FOR SOMETHING HE WASNT
EVEN AROUND AND DIDNT KNOW NOTHING
ABOUT. I WONT LET HIM PROTECT
ME ANY LONGER!

Sincerely,
C. P. S.

APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

Alexia Conger, being first duly sworn deposes and states that she is the affiant herein and is an Investigator with the Clark County District Attorney's Office (hereinafter referred to as CCDA) presently assigned to the Criminal Division. That I have been employed with the CCDA for the past 3 years, 10 months and have been assigned to the Criminal Division for the past 3 years, 10 months.

There is probable cause to believe that certain property hereinafter described will be found at the following described premises, to-wit:

Clark County Detention Center
330 South Casino Center
Las Vegas, Nevada 89101
Current Housing Units for Inmate Donte Johnson ID# 1586283; Inmate Terrell Young ID # 1509343 and Inmate Sikia Smith ID# 1594788, Inmate Property Holding for the above names inmates, and Gang Intelligence Office.

The property referred to and sought to be seized consists of the following:

Correspondence, letters, papers, envelopes and notes, which have been written to and/or from Inmates Donte Johnson (ID# 1586283); to and/ or from Terrell Cochise Young (ID# 1509343) to and/or from Sikia Lafayette Smith (ID# 1594788) and tend to incriminate themselves in the crimes of Murder, Conspiracy to Commit Murder, First Degree Kidnaping, Robbery with Use of Deadly Weapon and Burglary, and/or Threats, directed at known or unknown individuals.

The property hereinbefore described constitutes evidence which tends to

EXHIBIT "4"

demonstrate that the criminal offenses of, Murder, Conspiracy to Commit Murder, First Degree Kidnaping, Robbery With Use of a Deadly Weapon, and Burglary have been committed.

That on August 14, 1998, Jeff Biddle, Tracy Gorringer, Matt Mowen and Peter Talamantez were executed at 4825 Terra Linda, Las Vegas, Clark County, Nevada. Defendant's Donte Johnson, Terrell Young and Sikia Smith were subsequently arrested for the crimes of Burglary, Conspiracy to Commit Murder, Robbery with use of Deadly Weapon, Kidnaping with use of Deadly Weapon and Murder with use of Deadly Weapon. Defendant's Young and Smith have been convicted of the above offenses while Johnson still awaits trial.

In support of your affiant's assertion to constitute the existence of probable cause, the following facts are offered:

That on June 15, 1999, Investigator Conger was contacted by Officer Dante Tromba with the Clark County Detention Center. Officer Tromba is assigned to the Gang Intelligence Section at the Detention Center. Officer Tromba advised that pursuant to the Clark County Detention Center's Policy and Procedures regarding inmate safety, he had confiscated letters written to inmate Donte Johnson. These letters were determined to be contraband in nature, in that there were reference's made to gang association and gang activity. Officer Tromba advised that inmates are prohibited from having any written materials that are gang related and those items are confiscated for the safety and

security of the Clark County Detention Center.

That on September 15, 1999, Officer Tromba again contacted the Clark County District Attorney's office, and advised Investigator Pete Baldonado, that additional correspondence was discovered in the cell of Inmate Terrell Young, and due to the safety concerns of the jail facility, the correspondence to Inmate Terrell Young had been confiscated and is being held at the Clark County Detention Center, in Tromba's office. Investigator Baldonado advised Investigator Conger of the above facts on that same day.

That on September 16, 1999 Investigator Conger observed the letters confiscated by the Clark County Detention Center Corrections Officer, and found that they contain further threats of harm and violence related to the August 14th 1998 Homicide at 4825 Terra Linda, under Event # 9808141600.

The letters contain references to membership in the Brim's Gang (Black Revolutionary Independent Mafia); retaliation to any witnesses who come forward; retaliation if "snitch" jackets are placed on witnesses; one letter by Johnson stated that if he wanted Inmate Terrell Young, he would pull Young's adam's apple out himself.

That Johnson also states that he and Young don't have to worry about the "three little white boys, we ain't got to worry about them or they testimony, I took care of that."

That your affiant is aware that three white male adults (Todd Armstrong, Brian Johnson and Ace Hart) implicated Donte Johnson and Terrell Young in the Homicide at Terra Linda.

That Johnson also refers to an individual he describes as working for the police. He tells Young not to worry, because Johnson has paperwork on him and he is as good as "dropped off".

To further evidence the existence of correspondence between Donte Johnson and Terrell Young, your affiant learned that on September 16, 1999 and September 17, 1999, Terrell Young advised the Honorable Judge Pavlikowski, that Corrections officers with the Clark County Detention Center had recently seized personal property which he received from Donte Johnson.

That on 9/15/99, Investigator Conger learned that the Clark County Detention Center, provides inmates detained at the Clark County Detention Center receive with an Inmate Handbook, or they view a video, which details the rules and regulations which are necessary for the safety and security of the inmates and employees of the Clark County Detention Center.

That the Inmate Handbook states on page 7, paragraph 4, "your person and property are subject to search while in the Clark County Detention Facility. This includes but is not limited to pat searches and unclothed searches at any give time during your incarceration." Furthermore, the handbook states on page 10 that "all incoming mail will be opened and searched for contraband prior to delivery".

That the Inmate Handbook state Formal Rule Infractions include F51 "Participation in or encouraging gang-related activities."

That the search warrant is necessary to ensure that the above correspondence is not destroyed and to seize the same, to be used as evidence in the prosecution's of Donte Johnson, and /or Terrell Young, and/or Sikia Smith.

WHEREFORE, affiant requests that a Search Warrant issue directing a search for and seizure of the aforementioned items at the location set forth herein between the hours of 7:00 a.m. and 7:00 p.m.

Alexia S. Conger

Alexia S. Conger

SUBSCRIBED and SWORN to before me this 17th day of September, 1999.

Annif P. Goziate
JUDGE

STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477

BY [Signature]

Gary L. Guymon
Chief Deputy District Attorney
Nevada Bar #003726

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TRAN

FILED

OCT 1 11 21 AM '99

ORIGINAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Shirley Prawalsky
CLERK

STATE OF NEVADA,)
)
 PLAINTIFF,)
VS.)
)
)
 DONTÉ JOHNSON, aka JOHN LEE)
WHITE)
)
)
 DEFENDANT.)

CASE NO. C153154

DEPT. V

Transcript of
Proceedings

BEFORE THE HONORABLE JEFFREY D. SOBEL, DISTRICT COURT JUDGE

STATE'S REQUEST FOR MATERIAL WITNESS: CHARLA SEVERS

THURSDAY, SEPTEMBER 30, 1999, 9:00 A.M.

APPEARANCES:

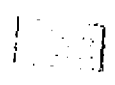
FOR THE STATE:

GARY GUYMON, ESQ.
ROBERT DASKAS, ESQ.
DEPUTY DISTRICT ATTORNEYS

FOR DEFENDANT JOHNSON:

JOSEPH SCISCINTO, ESQ.
DEPUTY SPECIAL PUBLIC
DEFENDER

COURT RECORDER: SHIRLEE PRAWALSKY



COUNTY CLERK
RECEIVED
OCT 01 1999

1 LAS VEGAS, NEVADA, THURSDAY, SEPTEMBER 30, 1999, 9:00 A.M.

2 THE COURT: Gary, what do you have?

3 MR. GUYMON: I have Donte Johnson, page 20.

4 THE COURT: And that's just a request for a material witness bond where it's
5 already been set for ten thousand, right?

6 MR. GUYMON: That is correct, Judge. The statute requires us to bring the
7 witness before you within 72 hours.

8 THE COURT: Okay. Off calendar until the bail is posted.

9 What are you here for, Joe?

10 MR. SCISCENTO: For the record, Your Honor, I'm with Phil Kohn's office
11 representing Mr. Johnson.

12 THE COURT: Okay. Thank you.

13 * * * * *

14 ATTEST: I do hereby certify that I have truly and correctly transcribed
15 the sound recording of the proceedings in the above case.

16 
17 SHIRLEE PRAWALSKY, COURT RECORDER
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TRAN

FILED

ORIGINAL

OCT 1 11 20 AM '99

DISTRICT COURT
CLARK COUNTY, NEVADA

Shirley Prawalsky
CLERK

STATE OF NEVADA,

PLAINTIFF,

VS.

DONTE JOHNSON, aka JOHN LEE
WHITE

DEFENDANT.

CASE NO. C153154

DEPT. V

Transcript of
Proceedings

BEFORE THE HONORABLE JEFFREY D. SOBEL, DISTRICT COURT JUDGE

STATE'S MOTION TO PERMIT DNA TESTING

THURSDAY, SEPTEMBER 2, 1999, 9:00 A.M.

APPEARANCES:

FOR THE STATE:

GARY GUYMON, ESQ.
DEPUTY DISTRICT ATTORNEY

FOR DEFENDANT JOHNSON:

DAYVID FIGLER, ESQ.
DEPUTY SPECIAL PUBLIC
DEFENDER

COURT RECORDER: SHIRLEE PRAWALSKY

COUNTY CLERK

OCT 01 1999

RECEIVED

1 LAS VEGAS, NEVADA, THURSDAY, SEPTEMBER 2, 1999, 9:00 A.M.
2 THE COURT: What do you have, Gary?
3 MR. GUYMON: Donte Johnson, Your Honor.
4 THE COURT: Okay, there's Mr. Figler. Johnson, let's see, we've got a bunch
5 of them. This is the one on page 19.
6 Has the Motion been worked out? There was a discussion on Tuesday
7 that maybe there would be some stipulations reached. Have they been?
8 MR. FIGLER: Yes, Your Honor, I've discussed this with Mr. Kohn from our
9 office. At issue is a item of evidence retrieved from the scene. And it's been
10 purported that the sample from it is not large enough to do multiple testing on it.
11 That was the representation of the Metro crime lab.
12 So what the State did in response to that was to file a motion
13 requesting allowance to send this very sample for DNA testing to an independent
14 lab.
15 THE COURT: So, I take it the bottom line is you're going to oppose this?
16 MR. FIGLER: No, no, Your Honor. What we're going to do is allow that. The
17 only part that still needs to be worked out as far as a formal stipulation is what
18 exactly the name of the lab will be.
19 THE COURT: Okay.
20 MR. FIGLER: It's been represented that perhaps Cellmark, who hasn't done
21 any testing on this case, should be the--and that's C-E-L-L-M-A-R-K--should be the
22 lab that we choose. The one reluctance that we have on that is that Cellmark does
23 quite a bit of work for the district attorney's office. So--but they are a reputable lab.
24 THE COURT: What's the bottom line, Mr. Figler?
25 MR. FIGLER: Excuse me?
26 THE COURT: The bottom line, Mr. Figler?
27 MR. FIGLER: The bottom line is that if we cannot come up in short term with
28

1 another lab, then we'll probably allow Cellmark to be the default for knowledge of
2 the-

3 THE COURT: Okay, so we can take this off calendar as of now?

4 MR. FIGLER: Yeah, we just wanted a record of that, Your Honor, of exactly
5 what the discussions were on this particular topic.

6 THE COURT: Okay, put it back on calendar if there's a problem.

7 Will you approach the bench, please?

8 (Whereupon a bench conference was held, not recorded)

9 THE COURT: All right, off calendar.

10 * * * * *

11 ATTEST: I do hereby certify that I have truly and correctly transcribed
12 the sound recording of the proceedings in the above case.

13 
14 SHIRLEE PRAWALSKY, COURT RECORDER

15

16

17

18

19

20

21

22

23

24

25

26

27

28

100
ORIGINAL

FILED

Oct 6 2 39 PM '99

Shirley B. Pinnagione
CLERK

1 RPLY
2 PHILLIP J. KOHN, ESQ.
3 SPECIAL PUBLIC DEFENDER
4 State Bar No. 556
5 JOSEPH S. SCISCENTO, ESQ.
6 State Bar No. 4380
7 309 S. Third Street 4th Floor
8 Las Vegas, NV. 89101
9 (702) 455-6265
10 Attorney for Defendant

7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

9 * * *

10 THE STATE OF NEVADA)

11 VS.)

12)
13 DONTE JOHNSON, aka)
14 JOHN WHITE)

15 ID# 1586283)

CASE NO: C153154
DEPT NO: V
DKT NO: H

TIME OF HEARING: 9:00 a.m.
DATE OF HEARING: 10/11/99

16 DEFENDANT'S OPPOSITION TO STATE'S MOTION
17 TO VIDEOTAPE THE DEPOSITION OF CHARLA SEVERS

18 COMES NOW, the Clark County Special Public Defenders Office, PHIL
19 KOHN, ESQ., through JOSEPH S. SCISCENTO, ESQ., Deputy Special Public Defender,
20 and DAYVID FIGLER, ESQ., Deputy Special Public Defender, and submits this
21 Opposition to States Motion to Videotape the Deposition of Charla Severs.

22 Said Opposition is based on the following Points and Authorities and all
23 accompanying papers, and any arguments at time of hearing:

24 DATED this 6 day of October, 1999.

25 SPECIAL PUBLIC DEFENDERS
26 PHIL KOHN, ESQ.

Joseph S. Sciscento
JOSEPH S. SCISCENTO, ESQ.
Deputy Special Public Defender

27 **RECEIVED**

28 OCT 6 1999

COUNTY CLERK

6131

1 Points and Authorities

2 FACTS

3 Charla Severs is currently in custody under a Material Witness bond. She
4 was arrested in New York under a Material Witness Warrant, in the case of Terrell
5 Young. She is currently in custody under the material witness bond in Terrell Young
6 and not in the case of Donte Johnson. The State has filed a motion to Videotape the
7 Deposition of Charla Severs.

8 LEGAL ARGUMENT

9 Under NRS 174.175 the Prosecutor must show that the witness may be
10 unable to attend or prevented from attending a trial or hearing. The State has failed to
11 show the exact reason why they assume Ms. Severs would be unable to attend.
12 Further it should be noted that Charla Severs was in Las Vegas on December 2, 1998,
13 as evidenced by her letter that was sent from the North Las Vegas Jail, (SEE, copy of
14 letter and envelope attached hereto as Exhibit "A"). Ms. Severs was in Las Vegas
15 during the time that she was allegedly threatened. So, she, in fact, did not leave the
16 jurisdiction and was present in Las Vegas. There is no evidence presented before this
17 court that Ms. Severs is being threatened by Donte Johnson or that she is in danger
18 because she is going to testify.

19 The State alleges that certain letters were seized that read that there are
20 threats against witnesses, yet the State has failed to show specifically the threats made
21 and further, and more specifically, there is no proof that these statements were directed
22 at or towards Charla Severs.

23 NRS 174-175 reads in part. "If it appears that a prospective witness may
24 be unable to attend or prevented from attending a trial or hearing, . . .", yet the State
25 has failed, in their Motion, to show that anything appears that Charla Severs may be
26 unable to attend or prevented from attending. The State has the burden to prove that
27 Ms. Severs will not be available for trial and a bare-boned affidavit that is conclusionary
28 is not sufficient.

There is no statement from Ms. Severs that she will not appear for the trial

1 for Donte Johnson; there is no affidavit of Ms. Severs that she has been threatened.
2 Further there is no indication, other than by the District Attorney, that Ms. Severs is
3 not going to show up at the trial. There is no statement that Ms. Severs was ever
4 served with a subpoena to testify at the Young trial. Further there is no statement from
5 Ms. Severs that she is not going to show up at the trial of Donte Johnson. There is
6 nothing to show that Ms. Severs will not be available for the trial.

7 Further there is no allegation in the Affidavit that Ms. Severs was ever
8 served with a Subpoena to testify at the Young trial, nor is there any statement that
9 Ms. Severs was ever told to show up at trial. The State can not make conclusionary
10 statements about whether Ms. Severs will not show up to the trial. The State failed to
11 show that they could not have subpoenaed Ms. Severs and by court order, force here
12 to testify at the trial. And further the State could subpoena Ms. Severs for the trial.

13 "A witness is unavailable for the Confrontation Clause
14 purpose if the "Prosecutorial Authorities have made a good-
15 faith effort to obtain his presence at trial"Ohio v. Roberts,
448 U.S. 56 (1980).

16 "The decision to grant or deny a motion to take the
17 deposition of a proposed witness for use at a criminal trial is
18 committed to the discretion of the of the court. We have
19 held that this discretion is not broad, and should be exercised
20 carefully. " United States v. Mann, 590 F.2d 361 (1st Cir.
1978).

21 The Defendant has a Sixth amendment right to confrontation of witness
22 against him.

23 " In all criminal prosecutions, the accused shall enjoy the
24 right . . . to be confronted with the witness against him.
25 "The Supreme Court explained in Ohio v. Roberts 448 U.S.
26 56 (1980) that confrontation clause envisions: [A] personal
27 examination and cross examination of the witness, in which
28 the accused has an opportunity, not only of testing the
recollection and sifting the conscience of the witness, but
compelling him to stand face to face with the jury in order
that they may look at him, and judge his demeanor upon the
stand and the manner in which he gives his testimony
whether he is worthy of belief. Id at 63-64 (quoting Mattox
v. United States, 156 U.S. 237 (1895). " U.S. v. Allie, 978
F.2d 1401 (5th Cir. 1992).

The Supreme Court has determined that the confrontation of the witness is

1 important to the jury and for the trial of the Defendant. The State is trying to avoid the
2 confrontation clause by making bold allegations that the witness will not be present,
3 and therefore the need to take her deposition is needed.

4 This Court should take great pains to force the State to prove that the
5 witness can not appear at the trial.

6 If this Court is considering allowing the State to take the video Deposition
7 of the Witness Severs, the Defense would request an evidentiary hearing prior to
8 granting the Motion, so the Defense can cross examine the witness as to her being
9 threatened, as to whether or not she will show up, whether she was ever given notice
10 that she had to appear at the trial of Terrell Young, and to she if she is going to show
11 up at the trial of Donte Johnson.

12 CONCLUSION

13 For the above stated reasons the Defense is requesting that this Court deny
14 the State's Motion or in the alternative that prior to allowing the Motion, to grant an
15 evidentiary hearing on the issue of whether Ms. Severs will be unavailable for the trial.

16 DATED this 6 day October, 1999

17 SPECIAL PUBLIC DEFENDERS
18 PHIL KOHN, ESQ.

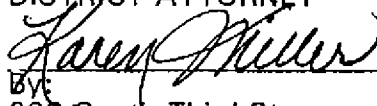
19 JOSEPH S. SCISCENTO, ESQ.
20 Deputy Special Public Defender
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RECEIPT OF COPY

RECEIPT OF COPY, of the above and foregoing Opposition to State's
Motion to Videotape the Deposition of Charla Severs is hereby acknowledged this 6
day of October, 1999.

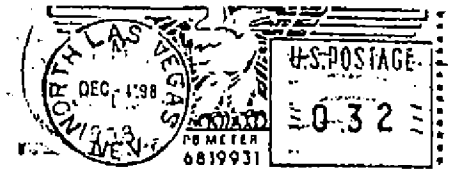
STEWART BELL, ESQ.
CLARK COUNTY
DISTRICT ATTORNEY


BY: _____
200 South Third St.
Las Vegas, NV. 89101

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 1

CHARLA SEVERS
DETENTION CENTER
City of North Las Vegas
2222 Constitution Way
North Las Vegas, Nevada 89030



CHANNEL 8 NEWS
3228 Channel 8 Dr.
Las Vegas, NV 89015

89109/9097



12-02-98

Hello my name is Charla
and I have a story for you the
only reason I did not call
you is because I am in jail
at North Las Vegas Detention Ctr.
Well what I wanted to tell you
all is that my boyfriend is in
jail for that quadruple homicide,
you remember the one you had
on the news not too long ago?
Donte Johnson. Well he didn't have
anything to do w/ that. Terrell
Young and Sikia Smith testified against
him as well as myself because I
was scared. Donte was not there
just Terrell, Sikia and myself but
noone knows I was there. Donte was
gone the night Terrell & Sikia came
over they was looking for Donte
so they could go do that but he
took to long to come so instead
they made me go. I couldn't say no!
When we got back home Donte was there
and he was upset at me because he
wanted to know where I had been.
~~LATE~~ HE DIDNT KNOW ANYTHING ABOUT
IT AND HE STILL DOESNT, HE IS JUST
TRYING TO PROTECT ME. WHEN THE
D.A CALLED ME TO THEIR OFFICE THE
DAY AFTER I TESTIFIED THAT
DONT WAS WITH ME AND WE DIDNT

KNOW ANYTHING ABOUT IT. AND I
REALLY DIDNT REMEMBER HOW
IT HAD HAPPENED UNTIL THE
DISTRICT ATTORNEY PLAYED TERRELL'S
STATEMENT FOR ME AND THE WHOLE
THING CAME BACK TO ME AND THAT'S
WHEN I GOT SCARED AND INSTEAD
OF CONFESSING I PUT IT ON DONTÉ.
I REALLY DONT WANT TO SEE HIM GO
DOWN FOR SOMETHING HE WASNT
EVEN AROUND AND DIDNT KNOW NOTHING
ABOUT. I WONT LET HIM PROTECT
ME ANY LONGER!

Sincerely,
C. R. J.

0001
 STEWART L. BELL
 DISTRICT ATTORNEY
 Nevada Bar #000477
 200 S. Third Street
 Las Vegas, Nevada 89155
 (702) 455-4711
 Attorney for Plaintiff

FILED

OCT 8 3 22 PM '99

Charla E. Severs
 CLERK

DISTRICT COURT
 CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

DONTE JOHNSON, aka
 John White, #1586283

Defendant.

Case No. C153154
 Dept. No. V
 Docket H

AMENDED NOTICE OF MOTION AND MOTION TO VIDEOTAPE
 THE DEPOSITION OF CHARLA SEVERS

DATE OF HEARING: 10/11/99
 TIME OF HEARING: 9:00 A.M.

COMES NOW, the State of Nevada, by STEWART L. BELL, District Attorney, through GARY L. GUYMON, Chief Deputy District Attorney, and files this Amended Notice of Motion and Motion to Videotape the Deposition of Charla Severs.

This Motion is made and based upon all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing, if deemed necessary by this Honorable Court.

//

//

//

//

//

COUNTY CLERK

OCT 08 1999

RECEIVED

100339

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

DATED this 6 day of October, 1999.

BY GARY L. GUYMON
Chief Deputy District Attorney
Nevada Bar #003726

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

//

1 The State asks that the Court notices the State's correction in presenting the actual
2 material witness warrant for Charla Severs in this case State of Nevada v. Donte Johnson. All
3 other facts and exhibits previously submitted are true and accurate.

4 Charla Severs is currently incarcerated on this Court's material witness warrant.

5 POINTS & AUTHORITIES

6 NRS 174.175 states:

7 1. If it appears that a prospective witness may be unable
8 to attend or prevented from attending a trial or hearing, that his
9 testimony is material and that it is necessary to take his
10 deposition in order to prevent a failure of justice, the court at
11 any time after the filing of an indictment, information or
12 complaint may upon motion of a defendant or of the state and
13 notice to the parties order that his testimony be taken by
deposition and that any designated books, papers, documents or
tangible objects, not privileged, be produced at the same time
and place. If the deposition is taken upon motion of the state,
the court shall order that it be taken under such conditions as
will afford to each defendant the opportunity to confront the
witnesses against him.

14 2. If a witness is committed for failure to give bail to
15 appear to testify at a trial or hearing, the court on written motion
16 of the witness and upon notice to the parties may direct that his
17 deposition be taken. After the deposition has been subscribed
the court may discharge the witness.

18 3. This section does not apply to the prosecutor, or to an
19 accomplice in the commission of the offense charged.

20 The plain language of subsection (1) indicates if a witness may be prevented from
21 attending a trial then the State is permitted to take a witnesses deposition. As can be seen by the
22 accompanying affidavit, witness Charla Severs may be prevented from attending the trial
23 because of threats she has received associated with this case.

24 This Court should take no comfort in her promise to appear in light of the fact that she
25 has previously perjured herself in this case and fled the jurisdiction in an effort to avoid
26 testifying.

27 //

28 //

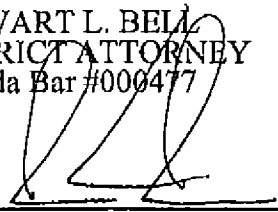
//

//

1 Wherefore, it is respectfully requested that this honorable Court grant the State's Motion
2 to Videotape the Deposition of Charla Severs ,and that said deposition be taken in the courtroom,
3 with Judge Sobel presiding.

4 DATED this 6 day of October, 1999.

5 STEWART L. BELL
6 DISTRICT ATTORNEY
7 Nevada Bar #000477

8 BY 
9 GARY L. GUYMON
10 Chief Deputy District Attorney
11 Nevada Bar #003726

12
13 AFFIDAVIT

14 STATE OF NEVADA }
15 COUNTY OF CLARK } ss:

16 GARY L. GUYMON, being first duly sworn, deposes and says:

17 1. That he is a Deputy District Attorney with the Clark County District Attorney's Office,
18 assigned as co-counsel with Robert J. Daskas to prosecute the case entitled State of Nevada v.
19 Donte Johnson, aka John White, Defendant, Case No. C153154, District Court Department V.

20 2. That a trial date in the above case has been set for January 10, 2000.

21 3. That witness Charla Severs was recently brought back to the State of Nevada from
22 Manhattan, New York, by investigators with the Clark County District Attorney's Office as a
23 result of this Court's issuance of a Material Witness Warrant. A copy of the State's Ex-Parte
24 Application for Order Requiring Material Witness to Post Bail is attached hereto, as well as a
25 copy of this Court's Order Requiring Material Witness to Post Bail or Be Committed to Custody
26 as Exhibit "1".

27 4. That the State has previously advised this Court that on August 18, 1998, Charla
28 Severs was interviewed by Detective Thowsen, with the Las Vegas Metropolitan Police

1 Department, Homicide Section, at which time she provided a series of false information to
2 Detective Thowsen in an effort to exonerate Donte Johnson, Terrell Young and Sikia Smith.

3 5. That on or about September 1, 1998, Charla Severs testified before the grand jury and
4 provided false information in an effort to absolve Donte Johnson, Terrell Young and Sikia Smith
5 in the quadruple homicide which occurred on August 14, 1998, at the Terra Linda residence.
6 Charla Severs' testimony was meant to thwart prosecution in the above cases.

7 6. That on or about September 3, 1998, Charla Severs again interviewed with Detective
8 Thowsen wherein she provided truthful information, which included the fact that she had
9 personal knowledge that the homicide had been done by the above named individuals.

10 7. That on or about September 15, 1998, Charla Severs testified before the grand jury,
11 under oath, and provided information which incriminated Defendants Donte Johnson, Terrell
12 Young and Sikia Smith in the quadruple homicide.

13 8. That on or about September 27, 1998, Charla Severs attempted to recant her previous
14 testimony which incriminated the above individuals. Charla Severs' efforts to recant her
15 testimony were done by way of a written letter which is attached as Exhibit "2".

16 9. That Charla Severs again attempted to exonerate Donte Johnson by sending a letter
17 to Channel 8 news, said letter being dated December 2, 1998, and being attached hereto as
18 Exhibit "3".

19 10. That Investigator Alexia Conger, with the Clark County District Attorney's Office,
20 determined that Ms. Severs had been declared missing by her mother, Vernell Dyess. A missing
21 persons report was filed with the Las Vegas Metropolitan Police Department on April 12, 1999.
22 Mrs. Dyess filed the missing persons report because she had not heard from her daughter for a
23 number of months, which was highly unusual and the word on the street was that Charla Severs
24 had been killed.

25 11. That prior to April 12, 1999, efforts to locate Ms. Severs had included telephone
26 number and address verification which had met with negative results. Prior residences had been
27 checked and had negative results as well. Ms. Severs had not been arrested and was not in
28 custody at the time the missing persons report was filed.

1 12. That Ms. Severs' family members had been interviewed by members of the Clark
2 County District Attorney's Office wherein said family members advised the District Attorney's
3 Office that Charla Severs had previously indicated that she would not cooperate with the State,
4 nor would she come to court.

5 13. That a review of Donte Johnson's jail records evidence that Charla Severs had been
6 to the jail on a number of occasions to visit Donte Johnson. Charla Severs has previously
7 indicated that she is the girlfriend of Donte Johnson and, more importantly, has testified to the
8 same.

9 14. That on or about June 1, 1999, two investigators with the Clark County District
10 Attorney's Office were assigned to work full-time, for a period of three weeks, in an effort to
11 locate Charla Severs as a material witness in the prosecution of Donte Johnson, Terrell Young
12 and Sikia Smith. Despite the efforts of experienced investigators with the Clark County District
13 Attorney's Office, Charla Severs was not located.

14 15. That on or about September 17, 1999, Charla Severs was arrested in Manhattan, New
15 York, for the charges of Solicitation of Prostitution. At the time of Charla Severs' arrest, she was
16 using the name Kashawn Hives. Authorities with the Manhattan, New York, Police Department
17 were able to successfully determine Kashawn Hives' identity as Charla Severs, at which time
18 they notified Detectives Buczek and Thowsen, with the Las Vegas Metropolitan Police
19 Department. Charla Severs was subsequently released from the authorities in Manhattan, New
20 York, to investigators with the Clark County District Attorney's Office so that she could be
21 returned to Las Vegas, Nevada, as a material witness and booked on said Material Witness
22 Warrant.

23 16. That a search warrant was issued and served on September 17, 1999, a copy of which
24 is attached as Exhibit "4". The search warrant permitted the State to seize letters written to and
25 from Donte Johnson, Terrell Young and Sikia Smith which contain incriminating information
26 associated with the homicide and/or future threats directed at witnesses.

27 17. That your affiant reviewed the above seized materials and found numerous threats
28 directed at witnesses associated with this case.

CHRISTOPHER R. ORAM, LTD.
520 SOUTH 4TH STREET | SECOND FLOOR
LAS VEGAS, NEVADA 89101
TEL. 702.384-5563 | FAX. 702.974-0623

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

DONTE JOHNSON,

S.C. CASE NO. 65168

Appellant,

Electronically Filed
Jan 09 2015 11:33 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

vs.

THE STATE OF NEVADA,

Respondent.

APPEAL FROM DENIAL OF PETITION FOR WRIT OF HABEAS CORPUS
(POST-CONVICTION)
EIGHTH JUDICIAL DISTRICT COURT
THE HONORABLE JUDGE ELISSA CADISH, PRESIDING

~~~~~  
APPELLANT'S APPENDIX TO THE OPENING BRIEF  
VOLUME III  
~~~~~

ATTORNEY FOR APPELLANT

CHRISTOPHER R. ORAM, ESQ.

Attorney at Law
Nevada Bar No. 004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
Telephone: (702) 384-5563

ATTORNEY FOR RESPONDENT

CLARK COUNTY DISTRICT ATTORNEY
200 Lewis Avenue
3rd Floor
Las Vegas, Nevada 89101
(702) 671-2500

CATHERINE CORTEZ MASTO
Nevada Attorney General
Nevada Bar No. 0003926
100 North Carson Street
Carson City, Nevada 89701-4717

IN THE SUPREME COURT OF NEVADA

DONTE JOHNSON,

CASE NO. 65168

Appellant,

vs.

THE STATE OF NEVADA

Respondent.

OPENING BRIEF APPENDIX

<u>VOLUME</u>	<u>PLEADING</u>	<u>PAGE NO</u>
7	ADDENDUM TO NOTICE OF EVIDENCE IN SUPPORT OF AGGRAVATING CIRCUMSTANCES (FILED 04/26/2000)	1733-1734
6	AFFIDAVIT OF JOSEPH S. SCISCENTO IN SUPPORT OF THE MOTION TO CONTINUE (FILED 12/14/1999)	1428-1433
19	AMENDED EX PARTE ORDER ALLOWING WITHDRAWAL OF ATTORNEY OF RECORD FOR MATERIAL WITNESS CHARLA SEVERS (FILED 08/24/2000)	4585
7	AMENDED JURY LIST (FILED 06/06/2000)	1823
8	AMENDED JURY LIST (FILED 06/08/2000)	2131
3	AMENDED NOTICE OF MOTION AND MOTION TO VIDEOTAPE THE DEPOSITION OF CHARLA SEVERS (FILED 10/08/1999)	659-681
31	APPELLANT'S OPENING BRIEF (FILED 02/03/2006)	7174-7225
19	CASE APPEAL STATEMENT (FILED 11/08/2000)	4651-4653
42	CASE APPEAL STATEMENT (FILED 03/06/2014)	8200-8202
31	APPELLANT'S REPLY BRIEF (FILED 05/25/2006)	7254-7283

1	3	CERTIFICATE FOR ATTENDANCE OF OUT OF STATE WITNESS CHARLA CHENIQUA SEVERS AKA KASHAWN HIVES (FILED 09/21/1999)	585-606
2			
3	7	CERTIFICATE OF MAILING OF EXHIBITS (FILED 04/17/2000)	1722
4			
5	19	CERTIFICATION OF COPY	
6	7	DECISION AND ORDER (FILED 04/18/2000)	1723-1726
7	2	DEFENDANT JOHNSON'S MOTION TO SET BAIL (FILED 10/05/1998)	294-297
8	6	DEFENDANT'S MOTION AND NOTICE OF MOTION TO SUPPRESS EVIDENCE ILLEGALLY SEIZED (FILED 12/03/1999)	1340-1346
9			
10	5	DEFENDANT'S MOTION FOR CHANGE OF VENUE (FILED 11-29-1999)	1186-1310
11			
12	5	DEFENDANT'S MOTION FOR DISCLOSURE OF ANY POSSIBLE BASIS FOR DISQUALIFICATION OF DISTRICT ATTORNEY (FILED 11/29/1999)	1102-1110
13			
14	5	DEFENDANT'S MOTION FOR DISCLOSURE OF EXCULPATORY EVIDENCE PERTAINING TO THE IMPACT OF THE DEFENDANT'S EXECUTION UPON VICTIM'S FAMILY MEMBERS (FILED 11/29/1999)	1077-1080
15			
16			
17	5	DEFENDANT'S MOTION FOR DISQUALIFICATION FROM THE JURY VENUE OF ALL POTENTIAL JURORS WHO WOULD AUTOMATICALLY VOTE FOR THE DEATH PENALTY IF THEY FOUND MR. JOHNSON GUILTY OF CAPITAL MURDER (FILED 11/29/1999)	1073-1076
18			
19			
20			
21	5	DEFENDANT'S MOTION FOR INSPECTION OF POLICE OFFICER'S PERSONNEL FILES (FILED 11/29/1999)	1070-1072
22			
23	5	DEFENDANT'S MOTION FOR JURY QUESTIONNAIRE (FILED 11/29/1999)	1146-1172
24	15	DEFENDANT'S MOTION FOR NEW TRIAL (FILED 06/23/2000)	3570-3597
25			
26	5	DEFENDANT'S MOTION FOR PERMISSION TO FILED OTHER MOTIONS (FILED 11/29/1999)	1066-1069
27			
28	4	DEFENDANT'S MOTION IN LIMINE FOR ORDER PROHIBITING PROSECUTION MISCONDUCT IN ARGUMENT (FILED 11/29/1999)	967-1057

1	4	DEFENDANT'S MOTION IN LIMINE REGARDING CO-DEFENDANT'S SENTENCES (FILED 11/29/1999)	964-966
2			
3	4	DEFENDANT'S MOTION IN LIMINE TO PRECLUDE EVIDENCE OF WITNESS INTIMIDATION (FILED 10/27/1999)	776-780
4			
5	5	DEFENDANT'S MOTION IN LIMINE TO PROHIBIT ANY REFERENCES TO THE FIRST PHASE A THE "GUILT PHASE" (FILED 11/29/1999)	1063-1065
6			
7	5	DEFENDANT'S MOTION TO ALLOW THE DEFENSE TO ARGUE LAST AT THE PENALTY PHASE (FILED 11/29/1999)	1058-1062
8			
9	5	DEFENDANT'S MOTION TO AUTHENTICATE AND FEDERALIZE ALL MOTIONS, OBJECTIONS, REQUESTS AND OTHER APPLICATIONS AND ISSUES RAISED IN THE PROCEEDINGS IN THE ABOVE ENTITLED CASE (FILED 11/29/1999)	1081-1083
10			
11			
12	5	DEFENDANT'S MOTION TO BIFURCATE PENALTY PHASE (FILED 11/29/1999)	1142-1145
13			
14	5	DEFENDANT'S MOTION TO DISMISS STATE'S NOTICE OF INTENT TO SEEK DEATH PENALTY BECAUSE NEVADA'S DEATH PENALTY STATUTE IS UNCONSTITUTIONAL (FILED 11/29/1999)	1115-1136
15			
16			
17	5	DEFENDANT'S MOTION TO EXCLUDE AUTOPSY PHOTOGRAPHS (FILED 11/29/1999)	1098-1101
18			
19	5	DEFENDANT'S MOTION TO PRECLUDE EVIDENCE OF ALLEGED CO-CONSPIRATORS STATEMENTS (FILED 11/29/1999)	1091-1097
20			
21	5	DEFENDANT'S MOTION TO PROHIBIT THE USE OF PEREMPTORY CHALLENGES TO EXCLUDE JURORS WHO EXPRESS CONCERNS ABOUT CAPITAL PUNISHMENT (FILED 11/29/1999)	1084-1090
22			
23			
24	5	DEFENDANT'S MOTION TO REQUIRE PROSECUTOR TO STATE REASONS FOR EXERCISING PEREMPTORY CHALLENGES (FILED 11/29/1999)	1137-1141
25			
26			
27	19	DEFENDANT'S MOTION TO SET ASIDE DEATH SENTENCE OR IN THE ALTERNATIVE MOTION TO SETTLE RECORD (FILED 09/05/2000)	4586-4592
28			

1	3	DEFENDANT'S OPPOSITION TO STATE'S MOTION TO VIDEOTAPE THE DEPOSITION OF CHARLA SEVERS (FILED 10/06/1999)	650-658
2	3	DEFENDANT'S OPPOSITION TO WITNESS SEVER'S MOTION TO VIDEOTAPE THE DEPOSITION OF CHARLA SEVERS (FILED 10/12/1999)	686-694
5	43	COURT MINUTES	8285 -8536
6	5	DONTE JOHNSON'S MOTION IN LIMINE TO PRECLUDE THE INTRODUCTION OF VICTIM IMPACT EVIDENCE (FILED 11/29/1999)	1111-1114
9	2	EX PARTE APPLICATION AND ORDER TO PRODUCE (FILED 05/21/1999)	453-456
11	2	EX PARTE APPLICATION AND ORDER TO PRODUCE JUVENILE RECORDS (FILED 05/14/1999)	444-447
13	2	EX PARTE APPLICATION AND ORDER TO PRODUCE JUVENILE RECORDS (FILED 05/14/1999)	448-452
15	2	EX PARTE APPLICATION FOR ORDER REQUIRING MATERIAL WITNESS TO POST BAIL (FILED 04/30/1999)	419-422
17	2	EX PARTE APPLICATION TO APPOINT DR. JAMES JOHNSON AS EXPERT AND FOR FEES IN EXCESS OF STATUTORY MAXIMUM (FILED 06/18/1999)	493-498
19	19	EX PARTE MOTION FOR RELEASE OF EVIDENCE (FILED 10/05/2000)	4629
21	15	EX PARTE MOTION TO ALLOW FEES IN EXCESS OF STATUTORY MAXIMUM FOR ATTORNEY ON COURT APPOINTED CASE FOR MATERIAL WITNESS CHARLA SEVERS (FILED 06/28/2000)	3599-3601
24	15	EX PARTE MOTION TO WITHDRAWAL AS ATTORNEY OF RECORD FOR MATERIAL WITNESS CHARLA SEVERS (FILED 06/20/2000)	3557-3558
26	15	EX PARTE ORDER ALLOWING FEES IN EXCESS OF STATUTORY MAXIMUM FOR ATTORNEY ON COURT APPOINTED CASE FOR MATERIAL WITNESS CHARLA SEVERS (FILED 06/28/2000)	3602

1	15	EX PARTE ORDER ALLOWING WITHDRAWAL OF ATTORNEY OF RECORD FOR MATERIAL WITNESS CHARLA SEVERS (FILED 06/20/2000)	3559
2			
3	42	FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER (FILED 03/17/2014)	8185-8191
4			
5	42	FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER (FILED 03/17/2014)	8192-8199
6			
7	1	INDICTMENT (FILED 09/02/1998)	1-10
8			
9	10	INSTRUCTIONS TO THE JURY (FILED 06/09/2000)	2529-2594
10	15	INSTRUCTIONS TO THE JURY (FILED 06/16/2000)	3538-3556
11	26	INSTRUCTIONS TO THE JURY	6152-6168
12	19	JUDGMENT OF CONVICTION (FILED 10/03/2000)	4619-4623
13			
14	30	JUDGMENT OF CONVICTION (FILED 06/06/2005)	7142-7145
15	19	JUDGMENT OF CONVICTION (FILED 10/09/2000)	4631-4635
16			
17	7	JURY LIST (FILED 06/06/2000)	1822
18	2	MEDIA REQUEST (FILED 09/15/1998)	274
19			
20	2	MEDIA REQUEST (FILED 09/15/1998)	276
21	2	MEDIA REQUEST (09/28/1998)	292
22			
23	2	MEMORANDUM FOR PRODUCTION OF EXCULPATORY EVIDENCE (FILED 05/12/1999)	432-439
24			
25	3	MEMORANDUM FOR PRODUCTION OF EXCULPATORY EVIDENCE (FILED 09/20/1999)	577-584
26			
27	3	MEMORANDUM IN PURSUANT FOR A CHANGE OF VENUE (FILED 09/07/1999)	570-574
28			

1	4	MEMORANDUM IN PURSUANT FOR A MOTION TO DISMISS INDICTMENT (FILED 11/02/1999)	783-786
2			
3	17	MEMORANDUM IN SUPPORT OF GRANTING STAY (FILED 07/18/2000)	4149-4152
4	17	MEMORANDUM REGARDING A STAY OF THE PENALTY PROCEEDINGS (FILED 07/19/2000)	4160-4168
5			
6	17	MEMORANDUM REGARDING THE THREE JUDGE PANEL (FILED 07/12/2000)	4102-4110
7			
8	2	MEMORANDUM TO THE COURT (FILED 03/23/1999)	394-399
9			
10	2	MEMORANDUM TO THE COURT (FILED 06/28/1999)	499-504
11	6	MEMORANDUM TO THE COURT (FILED 12/22/1999)	1457-1458
12			
13	6	MEMORANDUM TO THE COURT (FILED 12/29/1999)	1492-1495
14	7	MEMORANDUM TO THE COURT (FILED 02/02/2000)	1625-1631
15			
16	7	MEMORANDUM TO THE COURT (FILED 04/04/2000)	1693-1711
17	7	MEMORANDUM TO THE COURT (FILED 04/11/2000)	1715-1721
18			
19	7	MEMORANDUM TO THE COURT FOR REQUEST OF MOTION TO BE FILED (FILED 02/24/2000)	1652-1653
20			
21	4	MEMORANDUM TO THE COURT FOR REQUESTED MOTION TO BE FILED BY COUNSELS (FILED 11/15/1999)	956-960
22			
23	7	MOTION AND NOTICE OF MOTION FOR DISCOVERY OF PROSECUTION FILES, RECORDS, AND INFORMATION NECESSARY TO A FAIR TRIAL (FILED 04/26/2000)	1727-1732
24			
25	3	MOTION AND NOTICE OF MOTION IN LIMINE TO PRECLUDE ANY MEDIA COVERAGE OF VIDEO DEPOSITION OF CHARLA SEVERS (FILED 10/26/1999)	769-775
26			
27			
28	3	MOTION AND NOTICE OF MOTION IN LIMINE TO PRECLUDE EVIDENCE OF OTHER CRIMES OR BAD ACTS (FILED 10/18/1999)	699-704

1	3	MOTION AND NOTICE OF MOTION IN LIMINE TO PRECLUDE EVIDENCE OF OTHER GUNS WEAPONS AND AMMUNITION NOT USED IN THE CRIME (FILED 10/19/1999)	743-756
2			
3	2	MOTION FOR DISCOVERY (FILED 05/13/1999)	440-443
4			
5	5	MOTION FOR DISCOVERY AND EVIDENTIARY HEARING REGARDING THE MANNER AND METHOD OF DETERMINING IN WHICH MURDER CASES THE DEATH PENALTY WILL SOUGHT (FILED 11/29/1999)	1181-1185
6			
7			
8	17	MOTION FOR IMPOSITION OF LIFE WITHOUT THE POSSIBILITY OF PAROLE SENTENCE; OR IN THE ALTERNATIVE, MOTION TO EMPANEL JURY FOR SENTENCING HEARING AND/OR FOR DISCLOSURE OF EVIDENCE MATERIAL TO CONSTITUTIONALITY OF THREE JUDGE PANEL PROCEDURE (FILED 07/10/2000)	4019-4095
9			
10			
11			
12	6	MOTION FOR OWN RECOGNIZANCE RELEASE OF MATERIAL WITNESS CHARLA SEVERS (FILED 01/11/2000)	1496-1500
13			
14	5	MOTION TO APPLY HEIGHTENED STANDARD OF REVIEW AND CARE IN THIS CASE BECAUSE THE STATE IS SEEKING THE DEATH PENALTY (FILED 11/29/1999)	1173-1180
15			
16	2	MOTION TO DISMISS COUNSEL AND APPOINTMENT OF ALTERNATE COUNSEL (FILED 04/01/1999)	403-408
17			
18	2	MOTION TO COMPEL DISCLOSURE OF EXISTENCE AND SUBSTANCE OF EXPECTATIONS, OR ACTUAL RECEIPT OF BENEFITS OR PREFERENTIAL TREATMENT FOR COOPERATION WITH PROSECUTION (FILED 06/29/1999)	511-515
19			
20			
21	3	MOTION TO COMPEL DISCLOSURE OF EXISTENCE AND SUBSTANCE OF EXPECTATIONS, OR ACTUAL RECEIPT OF BENEFITS OR PREFERENTIAL TREATMENT FOR COOPERATION WITH PROSECUTION (10/19/1999)	738-742
22			
23			
24	2	MOTION TO COMPEL THE PRODUCTION OF ANY AND ALL STATEMENTS OF THE DEFENDANT (FILED 06/29/1999)	516-520
25			
26	3	MOTION TO COMPEL THE PRODUCTION OF ANY AND ALL STATEMENTS OF THE DEFENDANT (FILED 10/19/1999)	727-731
27			
28	2	MOTION TO CONTINUE TRIAL (FILED 06/16/1999)	481-484

1	6	MOTION TO CONTINUE TRIAL (FILED 12/16/1999)	1441-1451
2	2	MOTION TO PROCEED PRO PER WITH CO-COUNSEL AND INVESTIGATOR (FILED 05/06/1999)	429-431
3			
4	2	MOTION TO REVEAL THE IDENTITY OF INFORMANTS AND REVEAL ANY BENEFITS, DEALS, PROMISES OR INDUCEMENTS (FILED 06/29/1999)	505-510
5			
6			
7	3	MOTION TO REVEAL THE IDENTITY OF INFORMANTS AND REVEAL ANY BENEFITS, DEALS, PROMISES OR INDUCEMENTS (FILED 10/19/1999)	732-737
8			
9	19	MOTION TO SET ASIDE DEATH SENTENCE OR IN THE ALTERNATIVE MOTION TO SETTLE RECORD (FILED 09/05/2000)	4593-4599
10			
11	2	MOTION TO WITHDRAW COUNSEL AND APPOINT OUTSIDE COUNSEL (02/10/1999)	380-384
12			
13	19	NOTICE OF APPEAL (FILED 11/08/2000)	4647-4650
14			
15	42	NOTICE OF APPEAL (FILED 03/06/2014)	8203-8204
16	7	NOTICE OF DEFENDANT'S EXPERT WITNESSES (FILED 05/15/2000)	1753-1765
17			
18	42	NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER (FILED 03/21/2014)	8184
19			
20	2	NOTICE OF EVIDENCE IN SUPPORT OF AGGRAVATING CIRCUMSTANCES (FILED 06/11/1999)	460-466
21			
22	4	NOTICE OF EXPERT WITNESSES (FILED 11/17/1999)	961-963
23			
24	2	NOTICE OF INTENT TO SEEK DEATH PENALTY (09/15/1998)	271-273
25			
26	3	NOTICE OF MOTION AND MOTION TO PERMIT DNA TESTING OF THE CIGARETTE BUTT FOUND AT THE CRIME SCENE BY THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT FORENSIC LABORATORY OR BY AN INDEPENDENT LABORATORY WITH THE RESULTS OF THE TEST TO BE SUPPLIED TO BOTH THE DEFENSE AND THE PROSECUTION (FILED 08/19/1999)	552-561
27			
28			

1	3	NOTICE OF MOTION AND MOTION TO VIDEOTAPE THE DEPOSITION OF CHARLA SEVERS (FILED 09/29/1999)	622-644
2			
3	3	NOTICE OF MOTION AND MOTION TO VIDEOTAPE THE DEPOSITION OF MYSELF CHARLA SEVERS (10/11/1999)	682-685
4			
5	17	NOTICE OF MOTION AND STATE'S MOTION IN LIMINE SUMMARIZING THE FACTS ESTABLISHED DURING THE GUILT PHASE OF THE DONTE JOHNSON TRIAL (FILED 07/14/2000)	4111-4131
6			
7	3	NOTICE OF WITNESSES (FILED 08/24/1999)	562-564
8			
9	6	NOTICE OF WITNESSES (FILED 12/08/1999)	1425-1427
10	4	NOTICE OF WITNESSES AND OF EXPERT WITNESSES PURSUANT TO NRS 174.234 (FILED 11/09/1999)	835-838
11			
12	19	NOTICE TO TRANSPORT FOR EXECUTION (FILED 10/03/2000)	4628
13			
14	31	OPINION (FILED 12/28/2006)	7284-7307
15	6	OPPOSITION TO DEFENDANT'S MOTION FOR DISCLOSURE OF ANY POSSIBLE BASIS FOR DISQUALIFICATION OF DISTRICT ATTORNEY (FILED 12/06/1999)	1366-1369
16			
17			
18	6	OPPOSITION TO DEFENDANT'S MOTION FOR DISCLOSURE OF EXCULPATORY EVIDENCE PERTAINING TO THE IMPACT OF THE DEFENDANT'S EXECUTION UPON VICTIM'S FAMILY MEMBERS (FILED 12/06/1999)	1409-1411
19			
20			
21	6	OPPOSITION TO DEFENDANT'S MOTION FOR DISCOVERY AND EVIDENTIARY HEARING REGARDING THE MANNER AND METHOD OF DETERMINING IN WHICH MURDER CASES THE DEATH PENALTY WILL BE SOUGHT (FILED 12/06/1999)	1383-1385
22			
23			
24	6	OPPOSITION TO DEFENDANT'S MOTION FOR DISQUALIFICATION FROM THE JURY VENIRE OF ALL POTENTIAL JURORS WHO WOULD AUTOMATICALLY VOTE FOR THE DEATH PENALTY IF THEY FOUND MR. JOHNSON GUILTY OF CAPITAL MURDER (FILED 12/06/1999)	1380-1382
25			
26			
27			
28	6	OPPOSITION TO DEFENDANT'S MOTION FOR INSPECTION OF POLICE OFFICERS' PERSONNEL FILES (FILED 12/06/1999)	1362-1365

1	6	OPPOSITION TO DEFENDANT’S MOTION FOR PERMISSION TO FILE OTHER MOTIONS (FILED 12/06/1999)	1356-1358
2			
3	6	OPPOSITION TO DEFENDANT’S MOTION IN LIMINE FOR ORDER PROHIBITING PROSECUTION MISCONDUCT IN ARGUMENT (FILED 12/06/1999)	1397-1399
4			
5	6	OPPOSITION TO DEFENDANT’S MOTION IN LIMINE TO PRECLUDE THE INTRODUCTION OF VICTIM IMPACT EVIDENCE (FILED 12/06/1999)	1400-1402
6			
7			
8	6	OPPOSITION TO DEFENDANT’S MOTION IN LIMINE TO PROHIBIT ANY REFERENCES TO THE FIRST PHASE AS THE “GUILTY PHASE” (FILED 12/06/1999)	1392-1393
9			
10	6	OPPOSITION TO DEFENDANT’S MOTION TO ALLOW THE DEFENSE TO ARGUE LAST AT THE PENALTY PHASE (FILED 12/06/1999)	1386-1388
11			
12			
13	6	OPPOSITION TO DEFENDANT’S MOTION TO APPLY HEIGHTENED STANDARD OF REVIEW AND CARE IN THIS CASE BECAUSE THE STATE IS SEEKING THE DEATH PENALTY (FILED 12/06/1999)	1370-1373
14			
15			
16	6	OPPOSITION TO DEFENDANT’S MOTION TO AUTHENTICATE AND FEDERALIZE ALL MOTIONS OBJECTIONS REQUESTS AND OTHER APPLICATIONS AND ISSUES RAISED IN THE PROCEEDINGS IN THE ABOVE ENTITLED CASE (FILED 12/06/1999)	1394-1396
17			
18			
19	6	OPPOSITION TO DEFENDANT’S MOTION TO BIFURCATE PENALTY PHASE (FILED 12/06/1999)	1359-1361
20			
21	6	OPPOSITION TO DEFENDANT’S MOTION TO DISMISS STATE’S NOTICE OF INTENT TO SEEK DEATH PENALTY BECAUSE NEVADA’S DEATH PENALTY STATUTE IS UNCONSTITUTIONAL (FILED 12/06/1999)	1403-1408
22			
23			
24	6	OPPOSITION TO DEFENDANT’S MOTION TO EXCLUDE AUTOPSY PHOTOGRAPHS (FILED 12/06/1999)	1377-1379
25			
26	6	OPPOSITION TO DEFENDANT’S MOTION TO PRECLUDE EVIDENCE OF ALLEGED CO-CONSPIRATORS STATEMENTS (FILED 12/06/1999)	1374-1376
27			
28			

1	6	OPPOSITION TO DEFENDANT’S MOTION TO PROHIBIT THE USE OF PEREMPTORY CHALLENGES TO EXCLUDE JURORS WHO EXPRESS CONCERNS ABOUT CAPITAL PUNISHMENT (FILED 12/06/1999)	1389-1391
2			
3			
4	6	OPPOSITION TO DEFENDANT’S MOTION TO REQUIRE PROSECUTOR TO STATE REASONS FOR EXERCISING PEREMPTORY CHALLENGES (FILED 12/06/1999)	1415-1417
5			
6	3	OPPOSITION TO MOTION IN LIMINE TO PERMIT THE STATE TO PRESENT “THE COMPLETE STORY OF THE CRIME” (FILED 07/02/1999)	524-528
7			
8			
9	4	OPPOSITION TO MOTION INN LIMINE TO PRECLUDE EVIDENCE OF OTHER GUNS, WEAPONS AND AMMUNITION NOT USED IN THE CRIME (FILED 11/04/1999)	791-800
10			
11	6	OPPOSITION TO MOTION TO CONTINUE TRIAL (FILED 12/16/1999)	1434-14440
12			
13	6	ORDER (FILED 12/02/1999)	1338-1339
14	15	ORDER (FILED 06/22/2000)	3568
15			
16	17	ORDER (FILED 07/20/2000)	4169-4170
17	6	ORDER APPOINTING COUNSEL FOR MATERIAL WITNESS CHARLA SEVERS (FILED 12/02/1998)	1337
18			
19	2	ORDER DENYING DEFENDANT’S MOTION TO SET BAIL (FILED 10/20/1998)	378-379
20			
21	10	ORDER FOR CONTACT VISIT (FILED 06/12/2000)	2601-2602
22	17	ORDER FOR CONTACT VISIT (FILED 07/20/2000)	4173-4174
23			
24	7	ORDER FOR PRODUCTION OF INMATE MELVIN ROYAL (FILED 05/19/2000)	1801-1802
25			
26	7	ORDER FOR PRODUCTION OF INMATE SIKIA SMITH (FILED 05/08/2000)	1743-1744
27	7	ORDER FOR PRODUCTION OF INMATE TERRELL YOUNG (FILED 05/12/2000)	1751-1752
28			

1	19	ORDER FOR RELEASE OF EVIDENCE (FILED 10/05/2000)	4630
2	19	ORDER TO STAY OF EXECUTION (10/26/2000)	4646
3			
4	3	ORDER FOR TRANSCRIPT (FILED 09/09/1999)	575-576
5	2	ORDER FOR TRANSCRIPTS (FILED 06/16/1999)	486-487
6			
7	2	ORDER GRANTING PERMISSION OF MEDIA ENTRY (FILED 09/15/1998)	275
8	2	ORDER GRANTING PERMISSION OF MEDIA ENTRY (FILED 09/15/1998)	277
9			
10	2	ORDER GRANTING PERMISSION OF MEDIA ENTRY (FILED 09/28/1998)	293
11	7	ORDER GRANTING PERMISSION OF MEDIA ENTRY (FILED 01/13/2000)	1610-1611
12			
13	19	ORDER OF EXECUTION (FILED 10/03/2000)	4627
14	2	ORDER REQUIRING MATERIAL WITNESS TO POST BAIL OR BE COMMITTED TO CUSTODY	
15		(FILED 04/30/1999)	423-424
16	7	ORDER TO PRODUCE JUVENILE RECORDS (FILED 05/31/2000)	1805-1806
17	2	ORDER TO TRANSPORT (FILED 03/16/1999)	392-393
18			
19	2	ORDER TO TRANSPORT (FILED 03/25/1999)	400-401
20	3	ORDER TO TRANSPORT (FILED 07/27/1999)	549-550
21			
22	3	ORDER TO TRANSPORT (FILED 08/31/1999)	567-568
23	3	ORDER TO TRANSPORT (FILED 10/18/1999)	708-709
24			
25	15	PAGE VERIFICATION SHEET (FILED 06/22/2000)	3569
26	2	RECEIPT OF COPY (FILED 03/29/1999)	402
27			
28	2	RECEIPT OF COPY (06/16/1999)	485

1	3	RECEIPT OF COPY (FILED 06/29/1999)	521
2	3	RECEIPT OF COPY (FILED 06/29/1999)	522
3			
4	3	RECEIPT OF COPY (FILED 06/29/1999)	523
5	3	RECEIPT OF COPY (FILED 07/02/1999)	529
6			
7	3	RECEIPT OF COPY (FILED 07/28/1999)	551
8	3	RECEIPT OF COPY (FILED 09/01/1999)	569
9			
10	3	RECEIPT OF COPY (FILED 10/18/1999)	710
11	3	RECEIPT OF COPY (FILED 10/18/1999)	711
12			
13	3	RECEIPT OF COPY (FILED 10/19/1999)	757
14	3	RECEIPT OF COPY (FILED 10/19/1999)	758
15			
16	3	RECEIPT OF COPY (FILED 10/19/1999)	759
17	3	RECEIPT OF COPY (FILED 10/19/1999)	760
18			
19	3	RECEIPT OF COPY (FILED 10/19/1999)	761
20	4	RECEIPT OF COPY (FILED 10/27/1999)	781
21			
22	6	RECEIPT OF COPY (FILED 11/30/1999)	1311-1313
23	6	RECEIPT OF COPY (FILED 12/06/1999)	1418-1420
24			
25	6	RECEIPT OF COPY (FILED 01/11/2000)	1501
26			
27	6	RECEIPT OF COPY (FILED 01/12/2000)	1502
28	7	RECEIPT OF COPY (FILED 03/31/2000)	1692

1	7	RECEIPT OF COPY (FILED 04/27/2000)	1735
2	14	RECEIPT OF COPY (FILED 06/14/2000)	3248
3	15	RECEIPT OF COPY (FILED 06/23/2000)	3598
4	17	RECEIPT OF COPY (FILED 07/10/2000)	4101
5	17	RECEIPT OF COPY (FILED 07/20/2000)	4171
6	17	RECEIPT OF COPY (FILED 07/20/2000)	4172
7	19	RECEIPT OF COPY (FILED 09/06/2000)	4600
8	19	RECEIPT OF EXHIBITS (FILED 10/18/2000)	4645
9	40	RECORDER'S TRANSCRIPT OF EVIDENTIARY HEARING (FILED 04/11/2013)	7972-8075
10	41	RECORDER'S TRANSCRIPT OF EVIDENTIARY HEARING (FILED 04/11/2013)	8076-8179
11	41	RECORDER'S TRANSCRIPT OF EVIDENTIARY HEARING (FILED 04/11/2013)	8180-8183
12	42	RECORDER'S TRANSCRIPT OF HEARING EVIDENTIARY HEARING (FILED 09/18/2013)	8207-8209
13	42	RECORDER'S TRANSCRIPT OF HEARING STATUS CHECK (FILED 01/15/2014)	8205-8206
14	37	RECORDER'S TRANSCRIPT OF PROCEEDINGS DEFENDANT'S MOTION TO PLACE ON CALENDAR TO RESCHEDULE EVIDENTIARY HEARING (FILED 10/29/2012)	7782-7785
15	42	RECORDER'S TRANSCRIPT OF PROCEEDINGS DEFENDANT'S MOTION TO PLACE ON CALENDAR TO RESCHEDULE EVIDENTIARY HEARING (FILED 04/29/2013)	8281-8284
16	42	RECORDER'S TRANSCRIPT OF PROCEEDINGS EVIDENTIARY HEARING (FILED 06/26/2013)	8210-8280

1	37	RECORDER'S TRANSCRIPT OF PROCEEDINGS STATUS CHECK: EVIDENTIARY HEARING (FILED 10/01/2012)	7786-7788
2			
3	37	RECORDER'S TRANSCRIPT OF PROCEEDINGS STATUS CHECK: EVIDENTIARY HEARING (FILED 07/12/2012)	7789-7793
4			
5	37	RECORDER'S TRANSCRIPT OF PROCEEDINGS STATUS CHECK: EVIDENTIARY HEARING PETITION FOR WRIT OF HABEAS CORPUS (FILED 03/21/2012)	7794-7797
6			
7	37	REPLY BRIEF ON MR. JOHNSON'S INITIAL TRIAL ISSUES (FILED 08/22/2011)	7709-7781
8			
9	4	REPLY TO OPPOSITION TO MOTION IN LIMINE TO PRECLUDE EVIDENCE OF OTHER GUNS, WEAPONS AND AMMUNITION NOT USED IN THE CRIME (FILED 11/15/1999)	950-955
10			
11			
12	17	REPLY TO RESPONSE TO MOTION FOR NEW TRIAL (FILED 07/10/2000)	4096-4100
13			
14	36	REPLY TO THE STATE'S RESPONSE TO DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS POST-CONVICTION, DEFENDANT'S SUPPLEMENTAL BRIEF, AND SECOND SUPPLEMENTAL BRIEF IN SUPPORT OF DEFENDANT'S WRIT OF HABEAS CORPUS POST CONVICTION (FILED 06/01/2011)	7672-7706
15			
16			
17			
18	15	REPLY TO STATE'S OPPOSITION REGARDING THREE JUDGE PANEL (FILED 07/18/2000)	4153-4159
19			
20	7	REPLY TO STATE'S OPPOSITION TO MOTION TO SUPPRESS (FILED 02/16/2000)	1632-1651
21			
22	19	REPLY TO STATE'S RESPONSE TO MOTION TO SET ASIDE DEATH SENTENCE OR IN THE ALTERNATIVE MOTION TO SETTLE RECORD (FILED 10/02/2000)	4615-4618
23			
24	7	REPLY TO STATE'S SUPPLEMENTAL OPPOSITION TO MOTION TO SUPPRESS (FILED 03/30/2000)	1683-1691
25			
26	35	REPLY TO THE STATE'S RESPONSE TO DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION), DEFENDANT'S SUPPLEMENTAL BRIEF, AND SECOND SUPPLEMENTAL BRIEF IN SUPPORT OF DEFENDANT'S WRIT OF HABEAS CORPUS POST CONVICTION (FILED 06/01/2011)	7579-7613
27			
28			

1	1	REPORTER'S TRANSCRIPT OF SEPTEMBER 1, 1998 PROCEEDINGS (FILED 09/14/1998)	11-267
2	2	REPORTER'S TRANSCRIPT OF SEPTEMBER 2, 1998 RE: GRAND JURY INDICTMENTS RETURNED IN OPEN COURT (FILED 10/06/1998)	299-301
3	2	REPORTER'S TRANSCRIPT OF SEPTEMBER 8, 1998 ARRAIGNMENT (FILED 09/14/1998)	268-270
4	2	REPORTER'S TRANSCRIPT OF SEPTEMBER 15, 1998 SUPERSEDING INDICTMENT (FILED 10/20/1998)	309-377
5	2	REPORTER'S TRANSCRIPT OF PROCEEDINGS OF APRIL 12, 1999 PROCEEDINGS (FILED 05/03/1999)	425-428
6	2	REPORTER'S TRANSCRIPT OF APRIL 15, 1999 DEFENDANT'S PRO PER MOTION TO DISMISS COUNSEL AND APPOINTMENT OF ALTERNATE COUNSEL (FILED AND UNDER SEALED) (FILED 04/22/1999)	409-418
7	2	REPORTER'S TRANSCRIPT OF JUNE 8, 1999 PROCEEDINGS (FILED 06/17/1999)	491-492
8	3	REPORTER'S TRANSCRIPT OF JUNE 29, 1999 PROCEEDINGS (FILED 07/15/1999)	541-548
9	3	REPORTER'S TRANSCRIPT OF JULY 8, 1999 PROCEEDINGS (FILED 07/15/1999)	530-537
10	3	REPORTER'S TRANSCRIPT OF JULY 13, 1999 PROCEEDINGS (FILED 07/15/1999)	538-540
11	3	REPORTER'S TRANSCRIPT OF AUGUST 10, 1999 STATE'S MOTION TO PERMIT DNA TESTING (FILED 08/31/1999)	565-566
12	3	REPORTER'S TRANSCRIPT OF SEPTEMBER 2, 1999 STATE'S MOTION TO PERMIT DNA TESTING (FILED 10/01/1999)	647-649
13	3	REPORTER'S TRANSCRIPT OF SEPTEMBER 30, 1999 STATE'S REQUEST FOR MATERIAL L WITNESS CHARLA SEVERS (FILED 10/01/1999)	645-646
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			

1	3	REPORTER'S TRANSCRIPT OF OCTOBER 11, 1999 STATE'S MOTION TO VIDEOTAPE THE DEPOSITION OF CHARLA SEVERS (FILED 10/18/1999)	712-716
2			
3	3	REPORTER'S TRANSCRIPT OF OCTOBER 14, 1999 STATE'S MOTION TO VIDEOTAPE THE DEPOSITION OF CHARLA SEVERS (FILED 10/18/1999)	717-726
4			
5			
6	4	REPORTER'S TRANSCRIPT OF OCTOBER 21, 1999 STATUS CHECK: FILING OF ALL MOTIONS (FILED 11/09/1999)	821-829
7			
8	4	REPORTER'S TRANSCRIPT OF OCTOBER 26, 1999 VIDEO DEPOSITION OF CHARLA SEVERS (FILED UNDER SEAL) (FILED 11/09/1999)	839-949
9			
10	4	REPORTER'S TRANSCRIPT OF OCTOBER 28, 1999 DECISION: WITNESS RELEASE (FILED 11/09/1999)	830-831
11			
12	4	REPORTER'S TRANSCRIPT OF NOVEMBER 8, 1999 PROCEEDINGS (FILED 11/09/1999)	832-834
13			
14	6	REPORTER'S TRANSCRIPT OF NOVEMBER 18, 1999 DEFENDANT'S MOTIONS (FILED 12/06/1999)	1347-1355
15			
16	6	REPORTER'S TRANSCRIPT OF DECEMBER 16, 1999 AT REQUEST OF COURT RE: MOTIONS (FILED 12/20/1999)	1452-1453
17			
18	7	REPORTER'S TRANSCRIPT OF DECEMBER 20, 1999 AT REQUEST OF COURT (FILED 12/29/1999)	1459-1491
19			
20	6	REPORTER'S TRANSCRIPT OF JANUARY 6, 2000 RE: DEFENDANT'S MOTIONS (FILED 01/13/2000)	1503-1609
21			
22	7	REPORTER'S TRANSCRIPT OF JANUARY 18, 2000 PROCEEDINGS (FILED 01/25/2000)	1623-1624
23			
24	7	REPORTER'S TRANSCRIPT OF FEBRUARY 17, 2000 PROCEEDINGS (FILED 03/06/2000)	1654-1656
25			
26	7	REPORTER'S TRANSCRIPT OF MARCH 2, 2000 PROCEEDINGS (FILED 03/16/2000)	1668-1682
27			
28	7	REPORTER'S TRANSCRIPT OF APRIL 24, 2000 PROCEEDINGS (FILED 05/09/2000)	1745-1747

1	7	REPORTER'S TRANSCRIPT OF MAY 8, 2000 PROCEEDINGS (05/09/2000)	1748-1750
2			
3	7	REPORTER'S TRANSCRIPT OF MAY 18, 2000 PROCEEDINGS (FILED 05/30/2000)	1803-1804
4			
5	7	REPORTER'S TRANSCRIPT OF MAY 23, 2000 PROCEEDINGS (FILED 06/01/2000)	1807-1812
6			
7	7	REPORTER'S TRANSCRIPT OF JUNE 1, 2000 PROCEEDINGS (FILED 06/02/2000)	1813-1821
8			
9	11&12	REPORTER'S TRANSCRIPT OF JUNE 5, 2000 JURY TRIAL-DAY-1- VOLUME I (FILED 06/12/2000)	2603-2981
10			
11	8	REPORTER'S TRANSCRIPT OF JUNE 6, 2000 JURY TRIAL- DAY 2- VOLUME II (FILED 06/07/2000)	1824-2130
12			
13	9&10	REPORTER'S TRANSCRIPT OF JUNE 7, 2000 JURY TRIAL-DAY 3- VOLUME III (FILED 06/08/2000)	2132-2528
14			
15	15	REPORTER'S TRANSCRIPT OF JUNE 8, 2000 JURY TRIAL- DAY 4- VOLUME IV (FILED 06/12/2000)	2982-3238
16			
17	14	REPORTER'S TRANSCRIPT OF JUNE 9, 2000 JURY TRIAL (VERDICT)- DAY 5- VOLUME V (FILED 06/12/2000)	3239-3247
18			
19	14	REPORTER'S TRANSCRIPT OF JUNE 13, 2000 JURY TRIAL PENALTY PHASE- DAY 1 VOL. I (FILED 06/14/2000)	3249-3377
20			
21	15	REPORTER'S TRANSCRIPT OF JUNE 13, 2000 JURY TRIAL PENALTY PHASE- DAY 1 VOL. II (FILED 06/14/2000)	3378-3537
22			
23	16	REPORTER'S TRANSCRIPT OF JUNE 14, 2000 JURY TRIAL PENALTY PHASE- DAY 2 VOL. III (FILED 07/06/2000)	3617-3927
24			
25	17	REPORTER'S TRANSCRIPT OF JUNE 16, 2000 JURY TRIAL PENALTY PHASE DAY 3 VOL. IV (FILED 07/06/2000)	3928-4018
26			
27	15	REPORTER'S TRANSCRIPT OF JUNE 20, 2000 STATUS CHECK: THREE JUDGE PANEL (FILED 06/21/2000)	3560-3567
28			

1	17	REPORTER'S TRANSCRIPT OF JULY 13, 2000 DEFENDANT'S MOTION FOR A NEW TRIAL (FILED 07/21/2000)	4175-4179
2			
3	17	REPORTER'S TRANSCRIPT OF JULY 20, 2000 PROCEEDINGS (FILED 07/21/2000)	4180-4190
4			
5	18	REPORTER'S TRANSCRIPT OF JULY 24, 2000 THREE JUDGE PANEL- PENALTY PHASE- DAY 1 (FILED 07/25/2000)	4191-4428
6			
7	19	REPORTER'S TRANSCRIPT OF JULY 16, 2000 THREE JUDGE PANEL- PENALTY PHASE- DAY 2 VOL. II (FILED 07/28/2000)	4445-4584
8			
9	19	REPORTER'S TRANSCRIPT OF SEPTEMBER 7, 2000 PROCEEDINGS (FILED 09/29/2000)	4612-4614
10			
11	19	REPORTER'S TRANSCRIPT OF OCTOBER 3, 2000 SENTENCING (FILED 10/13/2000)	4636-4644
12			
13	20	REPORTER'S TRANSCRIPT OF APRIL 19, 2005 TRIAL BY JURY- VOLUME I- A.M. (FILED 04/20/2005)	4654-4679
14			
15	20	REPORTER'S TRANSCRIPT OF APRIL 19, 2005 TRIAL BY JURY- VOLUME I- P.M. (FILED 04/20/2005)	4680-4837
16			
17	21	REPORTER'S TRANSCRIPT OF APRIL 20, 2005 TRIAL BY JURY- VOLUME I-A.M. (FILED 04/21/2005)	4838-4862
18			
19	21	REPORTER'S TRANSCRIPT OF APRIL 20, 2005 TRIAL BY JURY- VOLUME II- P.M. (FILED 04/21/2005)	4864-4943
20			
21	21 & 22	REPORTER'S TRANSCRIPT OF APRIL 21, 2005 TRIAL BY JURY- VOLUME III-P.M. (FILED 04/22/2005)	4947-5271
22			
23	22	REPORTER'S TRANSCRIPT OF APRIL 21, 200 PENALTY PHASE- VOLUME IV- P.M. (FILED 04/22/2005)	5273-5339
24			
25	23	REPORTER'S TRANSCRIPT OF APRIL 22, 2005 TRIAL BY JURY- VOLUME IV- P.M. (FILED 04/25/2005)	5340-5455
26			
27	23	REPORTER'S TRANSCRIPT OF APRIL 22, 2005 PENALTY PHASE- VOLUME IV- B (FILED 04/25/2005)	5457-5483
28			

1	23	REPORTER'S TRANSCRIPT OF APRIL 25, 2005 TRIAL BY JURY- VOLUME V- P.M. (FILED 04/26/2005)	5484-5606
2			
3	24	REPORTER'S TRANSCRIPT OF APRIL 25, 2005 PENALTY PHASE- VOLUME V-A (FILED 04/26/2005)	5607-5646
4			
5	24	REPORTER'S TRANSCRIPT OF APRIL 26, 2005 TRIAL BY JURY- VOLUME VI- P.M. (FILED 04/27/2005)	5649-5850
6			
7	25	REPORTER'S TRANSCRIPT OF APRIL 26, 2005 PENALTY PHASE- VOLUME VI-A (FILED 04/26/2005)	5950-6070
8			
9	25	REPORTER'S TRANSCRIPT OF APRIL 27, 2005 TRIAL BY JURY- VOLUME VII-P.M. (FILED 04/28/2005)	5854-5949
10			
11	26	SPECIAL VERDICT	6149-6151
12	26	REPORTER'S TRANSCRIPT OF APRIL 27, 2005 PENALTY PHASE - VOLUME VII- A.M. (FILED 04/28/2005)	6071-6147
13			
14	26	REPORTER'S TRANSCRIPT OF APRIL 28, 2005 PENALTY PHASE - VOLUME VIII-C (04/29/2005)	6181-6246
15			
16	26 & 27	REPORTER'S TRANSCRIPT OF APRIL 29, 2005 TRIAL BY JURY- VOLUME IX (FILED 05/02/2005)	6249-6495
17			
18	27 & 28	REPORTER'S TRANSCRIPT OF MAY 2, 2005 TRIAL BY JURY- VOLUME X (FILED 05/03/2005)	6497-6772
19			
20	30	REPORTER'S TRANSCRIPT OF MAY 2, 2005 TRIAL BY JURY (EXHIBITS)- VOLUME X (FILED 05/06/2005)	7104-7107
21			
22	29	REPORTER'S TRANSCRIPT OF MAY 3, 2005 TRIAL BY JURY- VOLUME XI (FILED 05/04/2005)	6776-6972
23			
24	29	REPORTER'S TRANSCRIPT OF MAY 4, 2005 TRIAL BY JURY- VOLUME XII (FILED 05/05/2005)	6974-7087
25			
26	30	REPORTER'S AMENDED TRANSCRIPT OF MAY 4, 2005 TRIAL BY JURY (DELIBERATIONS) VOLUME XII (FILED 05/06/2005)	7109-7112
27			
28	30	REPORTER'S TRANSCRIPT OF MAY 5, 2005 TRIAL BY JURY- VOLUME XIII (FILED 05/06/2005)	7113-7124

1	31	RESPONDENT'S ANSWERING BRIEF (FILED 04/05/2006)	7226-7253
2	3	REQUEST FOR ATTENDANCE OF OUT-OF-STATE WITNESS CHARLA CHENIQUA SEVERS AKA KASHAWN HIVES (FILED 09/21/1999)	607-621
4	4	SEALED ORDER FOR RLEASE TO HOUSE ARREST OF MATERIAL WITNESS CHARLA SEVERS (FILED 10/29/1999)	782
7	33	SECOND SUPPLEMENTAL BRIEF IN SUPPORT OF DEFENDANT'S WRIT OF HABEAS CORPUS (FILED 07/14/2010)	7373-7429
9	19	SPECIAL VERDICT (COUNT XI) (FILED 07/26/2000)	4433-4434
10	19	SPECIAL VERDICT (COUNT XI) (FILED 07/26/2000)	4439
12	19	SPECIAL VERDICT (COUNT XII) (FILED 07/26/2000)	4435
13	19	SPECIAL VERDICT (COUNT XII) (FILED 07/26/2000)	4440-4441
15	19	SPECIAL VERDICT (COUNT XIII) (FILED 07/26/2000)	4436
16	19	SPECIAL VERDICT (COUNT XIII) (FILED 07/26/2000)	4442-4443
18	19	SPECIAL VERDICT (COUNT XII) (FILED 07/26/2000)	4437-4438
20	19	SPECIAL VERDICT (COUNT XIV) (FILED 07/26/2000)	4444
21	2	STATE'S MOTION IN LIMINE TO PERMIT THE STATE TO PRESENT " THE COMPLETE STORY OF THE CRIME" (FILED 06/14/1999)	467-480
23	17	STATE'S OPPOSITION FOR IMPOSITION OF LIFE WITHOUT AND OPPOSITION TO EMPANEL JURY AND/OR DISCLOSURE OF EVIDENCE MATERIAL TO CONSTITUTIONALITY OF THE THREE JUDGE PANEL PROCEDURE (FILED 07/17/2000)	4132-4148
26	6	STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR CHANGE OF VENUE (FILED 12/07/1999)	1421-1424
28	6	STATE'S OPPOSITION TO DEFENDANT'S MOTION IN LIMINE REGARDING CO-DEFENDANT'S SENTENCES (FILED 12/06/1999)	1412-1414

1	4	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO COMPEL THE PRODUCTION OF ANY AND ALL STATEMENTS OF THE DEFENDANT (FILED 11/04/1999)	787-790
2			
3	4	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO REVEAL THE IDENTITY OF THE INFORMANTS AND REVEAL ANY DEALS PROMISES OR INDUCEMENTS (FILED 11/04/1999)	816-820
4			
5			
6	2	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SET BAIL (FILED 10/07/1998)	302-308
7			
8	2	STATE'S OPPOSITION TO DEFENDANT'S PRO PER MOTION TO WITHDRAW COUNSEL AND APPOINT OUTSIDE COUNSEL (FILED 02/19/1999)	385-387
9			
10	7	STATE'S OPPOSITION TO MOTION TO SUPPRESS EVIDENCE ILLEGALLY SEIZED (FILED 01/21/2000)	1612-1622
11			
12	4	STATE'S RESPONSE TO DEFENDANT'S MOTION TO COMPEL DISCLOSURE OF EXISTENCE AND SUBSTANCE OF EXPECTATIONS, OR ACTUAL RECEIPT OF BENEFITS OR PREFERENTIAL TREATMENT FOR COOPERATION WITH PROSECUTION (FILED 11/04/1999)	801-815
13			
14			
15	34	STATE'S RESPONSE TO DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) AND DEFENDANT'S SUPPLEMENTAL BRIEF AND SECOND SUPPLEMENTAL BRIEF IN SUPPORT OF DEFENDANT'S WRIT OF HABEAS CORPUS (POST-CONVICTION) ON 04/13/2011	7436-7530
16			
17			
18			
19	19	STATE'S RESPONSE TO DEFENDANT'S MOTION TO SET ASIDE SENTENCE OR IN THE ALTERNATIVE MOTION TO SETTLE RECORD (FILED 09/15/2000)	4601-4611
20			
21	3	STATE'S RESPONSE TO DEFENDANT'S OPPOSITION TO STATE'S MOTION TO VIDEOTAPE THE DEPOSITION OF CHARLA SEVERS	762-768
22			
23	15	STATE'S RESPONSE TO MOTION FOR NEW TRIAL (FILED 06/30/2000)	3603-3616
24			
25	2	STIPULATION AND ORDER (FILED 06/08/1999)	457-459
26			
27	2	STIPULATION AND ORDER (FILED 06/17/1999)	488-490
28			
	3	STIPULATION AND ORDER (FILED 10/14/1999)	695-698

1	6	STIPULATION AND ORDER (FILED 12/22/1999)	1454-1456
2	7	STIPULATION AND ORDER (FILED 04/10/2000)	1712-1714
3	7	STIPULATION AND ORDER (FILED 05/19/2000)	1798-1800
4	2	SUPERSEDING INDICTMENT (FILED 09/16/1998)	278-291
5	32	SUPPLEMENTAL BRIEF IN SUPPORT OF DEFENDANT'S WRIT OF HABEAS CORPUS (FILED 10/12/2009)	7308-7372
6	39	SUPPLEMENTAL EXHIBITS (FILED 04/05/2013)	7880-7971
7	3	SUPPLEMENTAL MOTION TO VIDEOTAPE DEPOSITION OF CHARLA SEVERS (FILED 10/18/1999)	705-707
8	7	SUPPLEMENTAL NOTICE OF EXPERT WITNESSES (FILED 05/17/2000)	1766-1797
9	2	SUPPLEMENTAL NOTICE OF INTENT TO SEEK DEATH PENALTY PURSUANT TO AMENDED SUPREME COURT RULE 250 (FILED 02/26/1999)	388-391
10	6	SUPPLEMENTAL OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO PRECLUDE EVIDENCE OF OTHER GUNS, WEAPONS AND AMMUNITION NOT USED IN THE CRIME (FILED 12/02/1999)	1314-1336
11	7	SUPPLEMENTAL OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO PRECLUDE EVIDENCE OF OTHER GUNS, WEAPONS AND AMMUNITION NOT USED IN THE CRIME (FILED 05/02/2000)	1736-1742
12	7	SUPPLEMENTAL POINTS AND AUTHORITIES IN OPPOSITION TO MOTION TO SUPPRESS (FILED 03/16/2000)	1657-1667
13	38	TRANSCRIPT OF PROCEEDINGS STATUS CHECK: EVIDENTIARY HEARING AND PETITION FOR WRIT OF HABEAS CORPUS (FILED 01/19/2012)	7798-7804
14	38	TRANSCRIPT OF PROCEEDINGS STATUS CHECK: EVIDENTIARY HEARING AND PETITION FOR WRIT OF HABEAS CORPUS (FILED 1/01/2012)	7805-7807

1	38	TRANSCRIPT OF PROCEEDINGS ARGUMENT: PETITION FOR WRIT OF HABEAS CORPUS ALL ISSUES RAISED IN THE PETITION AND SUPPLEMENT (FILED 12/07/2011)	7808-7879
2			
3	35	TRANSCRIPT OF PROCEEDINGS DEFENDANT'S MOTION TO PLACE ON CALENDAR TO EXTEND THE TIME TO FILE A REPLY BRIEF IN SUPPORT OF DEFENDANT'S WRIT OF HABEAS CORPUS (FILED 04/12/2011)	7614-7615
4			
5			
6	35	TRANSCRIPT OF PROCEEDINGS: HEARING (FILED 10/20/2010)	7616-7623
7			
8	36	TRANSCRIPT OF PROCEEDINGS DECISION: PROCEDURAL BAR AND ARGUMENT: PETITION FOR WRIT OF HABEAS CORPUS (FILED 07/21/2011)	7624-7629
9			
10	36	TRANSCRIPT OF PROCEEDINGS DEFENDANT'S MOTION TO PLACE ON CALENDAR TO EXTEND THE TIME TO FILE REPLY BRIEF IN SUPPORT OF DEFENDANT'S WRIT OF HABEAS CORPUS/HEARING AND ARGUMENT: DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS (FILED 07/06/2011)	7630-7667
11			
12			
13	36	TRANSCRIPT OF PROCEEDINGS DEFENDANT'S MOTION TO PLACE ON CALENDAR TO EXTEND THE TIME TO FILE A REPLY BRIEF IN SUPPORT OF DEFENDANT'S WRIT OF HABEAS CORPUS (FILED 04/12/2011)	7707-7708
14			
15			
16	36	TRANSCRIPT OF PROCEEDINGS DEFENDANT'S MOTION TO PLACE ON CALENDAR TO EXTEND THE TIME TO FILE A REPLY BRIEF IN SUPPORT OF DEFENDANT'S WRIT OF HABEAS CORPUS (FILED 06/07/2011)	7668-7671
17			
18			
19	33	TRANSCRIPT OF PROCEEDINGS STATUS CHECK: BRIEFING/FURTHER PROCEEDINGS (FILED 06/22/2010)	7430-7432
20			
21	33	TRANSCRIPT OF PROCEEDINGS DEFENDANT'S MOTION TO PLACE ON CALENDAR TO EXTEND THE TIME FOR THE FILING OF A SECOND SUPPLEMENTAL BRIEF IN SUPPORT OF DEFENDANT'S WRIT OF HABEAS CORPUS AND TO PERMIT AN INVESTIGATOR AND EXPERT (FILED 10/20/2009)	7433-7435
22			
23			
24	35	TRANSCRIPT OF PROCEEDINGS DECISION: PROCEDURAL BAR AND ARGUMENT: PETITION FOR WRIT OF HABEAS CORPUS (FILED 07/21/2011)	7531-7536
25			
26			
27			
28			

1	35	TRANSCRIPT OF PROCEEDINGS DEFENDANT'S MOTION	
2		TO PLACE ON CALENDAR TO EXTEND THE TIME TO FILE	
3		REPLY BRIEF IN SUPPORT OF DEFENDANT'S WRIT OF	
4		HABEAS CORPUS/HEARING AND ARGUMENT:	
5		DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS	
6		(FILED 07/06/2011)	7537-7574
7	35	TRANSCRIPT OF PROCEEDINGS DEFENDANT'S	
8		MOTION TO PLACE ON CALENDAR TO EXTEND THE TIME	
9		TO FILE A REPLY BRIEF IN SUPPORT OF DEFENDANT'S	
10		WRIT OF HABEAS CORPUS	
11		(FILED 06/07/2011)	7575-7578
12	10	VERDICT	
13		(FILED 06/09/2000)	2595-2600
14	19	VERDICT (COUNT XI)	
15		(FILED 07/26/2000)	2595-2600
16	19	VERDICT (COUNT XII)	
17		(FILED 07/26/2000)	4429
18	19	VERDICT (COUNT XIII)	
19		(FILED 07/26/2000)	4430
20	19	VERDICT (COUNT XIV)	
21		(FILED 07/26/2000)	4432
22	19	WARRANT OF EXECUTION	
23		(FILED 10/03/2000)	4624
24			
25			
26			
27			
28			

CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on the 9th day of January, 2015. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

CATHERINE CORTEZ-MASTO
Nevada Attorney General

STEVE OWENS
Chief Deputy District Attorney

CHRISTOPHER R. ORAM, ESQ.

BY:

/s/ Jessie Vargas
An Employee of Christopher R. Oram, Esq.

CHRISTOPHER R. ORAM, LTD.
520 SOUTH 4TH STREET | SECOND FLOOR
LAS VEGAS, NEVADA 89101
TEL. 702.384-5563 | FAX. 702.974-0623