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DISTRICT COURT  
CLARK COUNTY, NEVADA

**ORIGINAL**

THE STATE OF NEVADA,	)	
	)	
PLAINTIFF,	)	
	)	
VS.	)	CASE NO.: C153154
	)	
DONTE JOHNSON,	)	
	)	
DEFENDANT.	)	

REPORTER'S AMENDED TRANSCRIPT  
OF  
TRIAL BY JURY (DELIBERATIONS)  
(VOLUME XII)

BEFORE THE HONORABLE JUDGE LEE A. GATES  
DISTRICT COURT JUDGE  
DEPARTMENT VIII

DATED WEDNESDAY, MAY 4, 2005

FOR THE PLAINTIFF: ROBERT J. DASKAS, ESQ.  
DAVID STANTON, ESQ.

FOR THE DEFENDANT: ALZORA B. JACKSON, ESQ.  
BRET WHIPPLE, ESQ.

REPORTED BY: SONIA L. RILEY, CCR NO. 727

SONIA L. RILEY, CCR NO. 727 (702) 455-3610

1 S12

MAY - 5 2005  
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 COUNTY CLERK

1 APPEARANCES:

2 FOR THE PLAINTIFF:

3 ROBERT J. DASKAS, ESQ.  
4 DAVID STANTON, ESQ.  
5 DISTRICT ATTORNEY'S OFFICE  
6 200 South Third Street  
7 Las Vegas, Nevada 89101  
8 (702) 455-4711

9 FOR THE DEFENDANT:

10 ALZORA B. JACKSON, ESQ.  
11 SPECIAL PUBLIC DEFENDER'S OFFICE  
12 333 South Third Street  
13 Second Floor  
14 Las Vegas, Nevada 89155  
15 (702) 455-6265

16 BRET O. WHIPPLE, ESQ.  
17 229 S. Las Vegas Blvd.  
18 Suite 205  
19 Las Vegas, Nevada 89101  
20 (702) 257-9500

21 \* \* \* \* \*

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23

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SONIA L. RILEY, CCR NO. 727 (702) 455-3610

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1           **THE COURT:** All right. Bailiff.  
2           (Bailiff sworn.)  
3           **THE BAILIFF:** I do.  
4           All rise. Ladies and gentlemen, at this  
5 time bring your books with you and follow me this  
6 way.  
7           (Deliberations commenced at 5:03 p.m.)  
8           (Outside the presence of the jury.)  
9           **THE COURT:** Counsel, before the jury comes  
10 back, after they come back you are going to have a  
11 chance to probably talk or express anything, but I  
12 want to congratulate both sides for doing an  
13 excellent job. You were very professional. I  
14 thought both of you did a great job regardless of  
15 the outcome.  
16           **MR. DASKAS:** Thanks, Judge.  
17           **MS. JACKSON:** Thank you, your Honor.  
18           **MR. STANTON:** Thank you, your Honor.  
19           **THE COURT:** I will probably let them stay  
20 however long they want to deliberate. If you give a  
21 cell number to the clerk, she will call you if we  
22 get a verdict.  
23           **MS. JACKSON:** All right.  
24           **MR. DASKAS:** Thank you.  
25           (Deliberations adjourned at 7:40 p.m.)

SONIA L. RILEY, CCR NO. 727      (702) 455-3610

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REPORTER'S CERTIFICATE

STATE OF NEVADA)  
:SS  
COUNTY OF CLARK)

I, SONIA L. RILEY, CERTIFIED COURT  
REPORTER, DO HEREBY CERTIFY THAT I TOOK DOWN IN  
STENOTYPE ALL OF THE PROCEEDINGS HAD IN THE  
BEFORE-ENTITLED MATTER AT THE TIME AND PLACE  
INDICATED, AND THAT THEREAFTER SAID STENOTYPE NOTES  
WERE TRANSCRIBED INTO TYPEWRITING AT AND UNDER MY  
DIRECTION AND SUPERVISION AND THE FOREGOING  
TRANSCRIPT CONSTITUTES A FULL, TRUE AND ACCURATE  
RECORD TO THE BEST OF MY ABILITY OF THE PROCEEDINGS  
HAD.

IN WITNESS WHEREOF, I HAVE HEREUNTO  
SUBSCRIBED MY NAME IN MY OFFICE IN THE COUNTY OF  
CLARK, STATE OF NEVADA.

  
SONIA L. RILEY, CCR 727

SONIA L. RILEY, CCR NO. 727 (702) 455-3610

4

**FILED**

DISTRICT COURT  
CLARK COUNTY, NEVADA

2005 MAY -6 1 A 8:31

**ORIGINAL**
  
CLERK

THE STATE OF NEVADA, )

PLAINTIFF, )

VS. )

CASE NO.: C153154

DONTE JOHNSON, )

DEFENDANT. )

## REPORTER'S TRANSCRIPT

OF

TRIAL BY JURY

(VOLUME XIII)

BEFORE THE HONORABLE JUDGE LEE A. GATES  
DISTRICT COURT JUDGE  
DEPARTMENT VIII

DATED THURSDAY, MAY 5, 2005

FOR THE PLAINTIFF: ROBERT J. DASKAS, ESQ.  
DAVID STANTON, ESQ.

FOR THE DEFENDANT: ALZORA B. JACKSON, ESQ.  
BRET WHIPPLE, ESQ.

REPORTED BY: SONIA L. RILEY, CCR NO. 727

SONIA L. RILEY, CCR NO. 727 (702) 455-3610

1 **812****RECEIVED**

MAY - 6 2005

**COUNTY CLERK**

1 APPEARANCES:

2 FOR THE PLAINTIFF:

3 ROBERT J. DASKAS, ESQ.  
4 DAVID STANTON, ESQ.  
5 DISTRICT ATTORNEY'S OFFICE  
6 200 South Third Street  
7 Las Vegas, Nevada 89101  
8 (702) 455-4711

8 FOR THE DEFENDANT:

9 ALZORA B. JACKSON, ESQ.  
10 SPECIAL PUBLIC DEFENDER'S OFFICE  
11 333 South Third Street  
12 Second Floor  
13 Las Vegas, Nevada 89155  
14 (702) 455-6265

15 BRET O. WHIPPLE, ESQ.  
16 229 S. Las Vegas Blvd.  
17 Suite 205  
18 Las Vegas, Nevada 89101  
19 (702) 257-9500

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SONIA L. RILEY, CCR NO. 727 (702) 455-3610

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PAGE

PROCEEDINGS

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VERDICT

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SONIA L. RILEY, CCR NO. 727 (702) 455-3610

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E X H I B I T S

<u>COURT</u>	<u>DESCRIPTION</u>	<u>MKD.</u>	<u>ADM.</u>
A	Two-page redacted letter from Johnnisha previously Defense Exhibit JJ		6

\* \* \* \* \*





1           **THE COURT:** Okay.

2           **MR. WHIPPLE:** Thank you.

3           (Court Exhibit A was admitted into  
4 evidence.)

5           (Jury present.)

6           **THE COURT:** You can be seated.

7           **THE BAILIFF:** Be seated, come to order.  
8 Court is again in session.

9           **THE COURT:** Let the record reflect the  
10 presence of all members of the jury panel with the  
11 exception of the alternates who have been previously  
12 released.

13           Ladies and gentlemen, I understand that  
14 you reached a verdict. However, before I receive  
15 the verdict, I want to take this opportunity to  
16 thank you for spending three weeks here hearing the  
17 case. I'm not thanking you for any particular  
18 verdict or anything, but I just want to thank you  
19 for taking the time from your jobs and the home to  
20 come down here to listen to the case and make a  
21 decision.

22           The question may arise as to whether or  
23 not you can discuss this case with anyone. The  
24 answer is yes. As soon as you're released, you can  
25 talk to anyone you want to about the case, and

SONIA L. RILEY, CCR NO. 727      (702) 455-3610

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1 likewise, if you don't want to talk to anyone, you  
2 don't have to. And if someone should persist, let  
3 one of the bailiffs around the courthouse or Roy  
4 know, and we'll take care of it. All right.

5 Miss Carpenter.

6 **JUROR CARPENTER:** Yes.

7 **THE COURT:** Have you all reached a  
8 verdict?

9 **JUROR CARPENTER:** Yes, we have.

10 **THE COURT:** Would you give the verdict  
11 form to the bailiff, please?

12 All right. We'll have the verdicts read  
13 out loud.

14 **THE CLERK:** District Court, Clark County,  
15 Nevada. The State of Nevada, plaintiff, vs. Donte  
16 Johnson, defendant. Case No. C153154.

17 Verdict

18 The defendant, Donte Johnson, having been  
19 found guilty of Count XI, Murder of the First Degree  
20 With Use of a Deadly Weapon, Jeffrey Biddle, we the  
21 jury having found that the aggravating circumstance  
22 outweighs any mitigating circumstance, impose a  
23 sentence of death.

24 Dated at Las Vegas, Nevada, this 5th day  
25 of May, 2005, Jami Carpenter, foreperson.

SONIA L. RILEY, CCR NO. 727 (702) 455-3610

7



1           Dated at Las Vegas, Nevada, this 5th day  
2 of May 2005, Jami Carpenter, foreperson.  
3           **THE COURT:** Poll the jury.  
4           **THE CLERK:** Shelita Oliver, are these your  
5 verdicts as read?  
6           **JUROR OLIVER:** Yes.  
7           **THE CLERK:** Rachael Ritchie, are these  
8 your verdicts as read?  
9           **JUROR RITCHIE:** Yes.  
10          **THE CLERK:** Michael Krispli, are these  
11 your verdicts as read?  
12          **JUROR KRISPLI:** Yes.  
13          **THE CLERK:** Jami Carpenter, are these your  
14 verdicts as read?  
15          **JUROR CARPENTER:** Yes.  
16          **THE CLERK:** Theresa Thurston, are these  
17 your verdicts as read?  
18          **JUROR THURSTON:** Yes.  
19          **THE CLERK:** Linda Suckow, are these your  
20 verdicts as read?  
21          **JUROR SUCKOW:** Yes.  
22          **THE CLERK:** David Larson, are these your  
23 verdicts as read?  
24          **JUROR LARSON:** Yes, they are.  
25          **THE CLERK:** Kenneth Clarke, are these your

SONIA L. RILEY, CCR NO. 727           (702) 455-3610

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1 verdicts as read?  
2           **JUROR CLARKE:** Yes.  
3           **THE CLERK:** Twila Morgan, are these your  
4 verdicts as read?  
5           **JUROR MORGAN:** Yes.  
6           **THE CLERK:** Karen Batts, are these your  
7 verdicts as read?  
8           **JUROR BATTS:** Yes.  
9           **THE CLERK:** Matthew Taylor, are these your  
10 verdicts as read?  
11           **JUROR TAYLOR:** Yes.  
12           **THE CLERK:** Jeremy Summers, are these your  
13 verdicts as read?  
14           **JUROR SUMMERS:** Yes.  
15           **THE COURT:** Set a sentencing date in 30  
16 days.  
17           Your Honor, may I be heard before the  
18 Court sets a sentencing date? I've discussed this  
19 matter with my client Mr. Johnson extensively. We  
20 have a PSI, recognizing it's five years old from  
21 2000. Mr. Johnson has been incarcerated since that  
22 time. The Court's formal sentencing in this matter  
23 is simply pro forma. We would request that he be  
24 sentenced as soon as possible so that he can get  
25 back to Ely.

SONIA L. RILEY, CCR NO. 727           (702) 455-3610

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1 Is that correct, Mr, Johnson, that is your  
2 request?  
3 **THE DEFENDANT:** That is correct.  
4 **THE COURT:** He can still go to Ely, can't  
5 he?  
6 **MS. JACKSON:** No.  
7 **THE COURT:** Why.  
8 **MS. JACKSON:** He needs to be sentenced  
9 first. He'd just like to be -- not to have to come  
10 back, your Honor.  
11 **THE COURT:** All right.  
12 **MS. JACKSON:** If we can do it as soon as  
13 possible, that is our sincere request to the Court.  
14 **THE COURT:** What date do you want?  
15 **MS. JACKSON:** If we could have one week  
16 from today, your Honor, we would be grateful.  
17 **THE COURT:** That will be the order.  
18 **MS. JACKSON:** Thank you.  
19 **THE COURT:** All right. We're in recess.  
20 **THE BAILIFF:** All rise.  
21 Ladies and gentlemen, step this way.  
22 **THE CLERK:** May 12 at 9:00 o'clock.  
23 **MS. JACKSON:** Okay.  
24 (The proceedings were concluded at 11:11  
25 a.m.)

SONIA L. RILEY, CCR NO. 727 (702) 455-3610

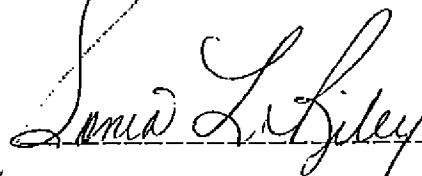
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REPORTER'S CERTIFICATE

STATE OF NEVADA)  
:SS  
COUNTY OF CLARK)

I, SONIA L. RILEY, CERTIFIED COURT  
REPORTER, DO HEREBY CERTIFY THAT I TOOK DOWN IN  
STENOTYPE ALL OF THE PROCEEDINGS HAD IN THE  
ABOVE-ENTITLED MATTER AT THE TIME AND PLACE  
INDICATED, AND THAT THEREAFTER SAID STENOTYPE NOTES  
WERE TRANSCRIBED INTO TYPEWRITING AT AND UNDER MY  
DIRECTION AND SUPERVISION AND THE FOREGOING  
TRANSCRIPT CONSTITUTES A FULL, TRUE AND ACCURATE  
RECORD TO THE BEST OF MY ABILITY OF THE PROCEEDINGS  
HAD.

IN WITNESS WHEREOF, I HAVE HEREUNTO  
SUBSCRIBED MY NAME IN MY OFFICE IN THE COUNTY OF  
CLARK, STATE OF NEVADA.



SONIA L. RILEY, CCR NO. 727

SONIA L. RILEY, CCR NO. 727 (702) 455-3610



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2005 MAY -9 A 8:50

DISTRICT COURT  
CLARK COUNTY, NEVADA

*Barry B. Harman*  
CLERK

STATE OF NEVADA )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
DONTE JOHNSON, )  
 )  
Defendant. )  
----- )

CASE NO. C153154  
DEPT. NO VIII

ORDER TO PREPARE TRANSCRIPT

IT IS HEREBY ORDERED that SONIA L. RILEY, CCR 727, prepare a transcript in the above-captioned matter heard on May 3, 2005.

FURTHER ORDERED, that said transcript shall be prepared pursuant to Supreme Court Rule 250 and at State's expense with cost and fees assessed according to NRS 3.370.

DATED THIS 6 DAY OF May, 2005.

*[Signature]*  
DISTRICT COURT JUDGE

CLERK  
MAY - 9 2005

SONIA L. RILEY, CCR 727  
455-3610

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2005 MAY -91 A 8:51

3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

*Shirley B. Langston*  
CLERK

6 STATE OF NEVADA )

7 Plaintiff, )

8 vs. )

9 DONTE JOHNSON, )

10 Defendant. )

CASE NO. C153154  
DEPT. NO VIII

11

12 ORDER TO PREPARE TRANSCRIPT

13

14 IT IS HEREBY ORDERED that SONIA L. RILEY, CCR  
15 727, prepare a transcript in the above-captioned  
16 matter heard on 5/4/05 & 5/5/05, 2005.

17 FURTHER ORDERED, that said transcript shall  
18 be prepared pursuant to Supreme Court Rule 250 and  
19 at State's expense with cost and fees assessed  
20 according to NRS 3.370.

21 DATED THIS 6 DAY OF May, 2005.

22

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*Sonia L. Riley*  
DISTRICT COURT JUDGE

Sg

SONIA L. RILEY, CCR 727  
455-3610

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DISTRICT COURT  
CLARK COUNTY, NEVADA

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2005 MAY 13 A 9:27

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*[Signature]*  
CLERK

THE STATE OF NEVADA, )  
 )  
 PLAINTIFF, )  
 )  
 VS. ) CASE NO: C153154  
 )  
 DONTÉ JOHNSON, )  
 )  
 DEFENDANT. )

REPORTER'S TRANSCRIPT  
OF  
SENTENCING

BEFORE THE HONORABLE JUDGE LEE A. GATES  
DISTRICT COURT JUDGE  
DEPARTMENT VIII

DATED THURSDAY, MAY 12, 2005

FOR THE PLAINTIFF: ROBERT J. DASKAS, ESQ.  
DAVID STANTON, ESQ.  
FOR THE DEFENDANT: ALZORA B. JACKSON, ESQ.  
BRET O. WHIPPLE, ESQ.

REPORTED BY: SONIA L. RILEY, CCR NO. 727

312

SONIA L. RILEY, CCR NO. 727 (702) 455-3610

RECEIVED  
MAY 13 2005  
CLERK OF DISTRICT COURT

1 APPEARANCES:

2 FOR THE PLAINTIFF:

3 ROBERT J. DASKAS, ESQ.  
4 DAVID STANTON, ESQ.  
5 DISTRICT ATTORNEY'S OFFICE  
6 200 South Third Street  
7 Las Vegas, Nevada 89101  
8 (702) 455-4711

9 FOR THE DEFENDANT:

10 ALZORA B. JACKSON, ESQ.  
11 SPECIAL PUBLIC DEFENDER'S OFFICE  
12 333 South Third Street  
13 Second Floor  
14 Las Vegas, Nevada 89155  
15 (702) 455-6265

16 BRET O. WHIPPLE, ESQ.  
17 229 S. Las Vegas Blvd.  
18 Las Vegas, Nevada 89101  
19 (702) 257-9500

20 DEFENDANT PRESENT

21 \* \* \* \* \*

22 SONIA L. RILEY, CCR NO. 727 (702) 455-3610

2

1 LAS VEGAS, NEVADA; THURSDAY, MAY 12, 2005

2 P R O C E E D I N G S

3 \* \* \* \* \*

4  
5 **THE COURT:** State of Nevada vs. Donte  
6 Johnson.

7 Are you ready to proceed?

8 **MS. JACKSON:** Your Honor, on behalf of  
9 Mr. Johnson, we are not. We had requested a short  
10 sentencing last week at the ending of the trial  
11 pursuant to my client's request. However, we  
12 conferred with the appellate division of our office  
13 and discussed some posttrial issues that need to be  
14 preserved. We, therefore, are requesting a  
15 three-week continuance to prepare and file those  
16 matters.

17 **THE COURT:** What posttrial motions do you  
18 have? You only have seven days to file a motion for  
19 a new trial, if I remember correctly.

20 **MS. JACKSON:** It's ten.

21 **THE COURT:** Is it ten?

22 **MS. JACKSON:** It is ten, and we fully  
23 expect -- if there is any basis, we expect to meet  
24 that deadline, we just have to confer with our  
25 appellate attorneys, your Honor. We ask for a quick

SONIA L. RILEY, CCR NO. 727 (702) 455-3610

3

1 setting, again, because Mr. Johnson asked us to, and  
2 we had no reason at that time to know of any reason  
3 why we could not proceed with a quick setting. He  
4 does want to return to the prison; however, I have  
5 went over and seen him twice since we ended our last  
6 hearing. I've conferred with David Schieck and Lee  
7 McMahon who have pursued numerous appeals in this  
8 area, and we have been conferring, and there are at  
9 least three to four issues that we feel compelled to  
10 file to complete the record prior to the case  
11 proceeding to the appeals. And Mr. Johnson is not  
12 thrilled about this; however, he understands that we  
13 are doing everything we can to protect his life and  
14 the record, and he's in agreement, your Honor.

15 **THE COURT:** State?

16 **MR. DASKAS:** Judge, it's difficult for us  
17 to take a position, because I don't know what the  
18 issues are. Having said that, I think it's  
19 important that we preserve the integrity of the  
20 sentence, and if they want to research some issues,  
21 I don't oppose that.

22 **THE COURT:** How much time do you want?

23 **MS. JACKSON:** Three weeks, your Honor,  
24 please.

25 **THE COURT:** Three weeks.

1           **THE CLERK:** Do you want it on a Thursday,  
2 your Honor?

3           **THE COURT:** No, a Monday or Wednesday.

4           **THE CLERK:** June 1st at 9:00 o'clock.

5           **MS. JACKSON:** Your Honor, may Mr. Donte  
6 Johnson be released to the prison?

7           Can we go June 2nd, your Honor?

8           **THE COURT:** Give them the next Monday or  
9 Wednesday.

10          **THE CLERK:** June 6th at 9:00 a.m.

11          **MS. JACKSON:** Your Honor, may Mr. Johnson  
12 be released to the NDOC? He's prepared to --

13          **THE COURT:** The only problem is you're  
14 going to have -- we might have a problem getting him  
15 back down here if they send him back up to Ely.

16          **MS. JACKSON:** Your Honor, we can do an  
17 order to produce for sentencing. However, I have  
18 discussed with him any hearings that are held that  
19 are not sentencing between now and sentencing, that  
20 he is prepared to waive his appearance and only come  
21 back for sentencing.

22          **THE COURT:** See, the problem is that even  
23 if I set it for June 6th, I'm not -- there's no  
24 guarantee the prison is going to get him down here  
25 on that date.

SONIA L. RILEY, CCR NO. 727      (702) 455-3610

5

1           **MS. JACKSON:** Your Honor, we have a very  
2 good working relationship with Sergeant Jacoby up at  
3 High Desert, which is probably where he will be  
4 housed.

5           **THE COURT:** I thought he was going to Ely.

6           **MS. JACKSON:** They probably won't get him  
7 to Ely that quickly. Even if they do, we have  
8 perfected the process, if you will, at getting  
9 inmates who are high -- they consider them high  
10 custody status -- we have a very smooth operating  
11 procedure with Sergeant Jacoby, the head of the SWAT  
12 team, and I can assure the Court that we work with  
13 them, and we don't present any problem, and we know  
14 how to get it done in an efficient and timely  
15 manner.

16           **THE COURT:** All right.

17           **MS. JACKSON:** Thank you.

18           **THE COURT:** We'll just tell them to keep  
19 him at High Desert, so he's released to High Desert  
20 until June 6th.

21           **MS. JACKSON:** Thank you so much, your  
22 Honor.

23           **THE COURT:** All right.

24           Anything else?

25           **MR. DASKAS:** No, Judge.



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**MS. JACKSON:** Nothing, your Honor.

**THE COURT:** We're in recess.

**THE BAILIFF:** All rise.

(WHEREUPON, THE PROCEEDINGS WERE  
CONCLUDED.)

\* \* \* \* \*



ORD

ORIGINAL

FILED

2005 MAY 13 1A 9:43

DISTRICT COURT

CLARK COUNTY, NEVADA

CLERK

STATE OF NEVADA

Plaintiff,

vs.

DONTÉ JOHNSON,

Defendant.

CASE NO. C153154  
DEPT. NO VIIIORDER TO PREPARE TRANSCRIPT

IT IS HEREBY ORDERED that

\_\_\_\_\_, CCR 727, prepare a transcript in  
the above-captioned matter heard  
on May 12, 2005.FURTHER ORDERED, that said transcript shall  
be prepared pursuant to Supreme Court Rule 250 and  
at State's expense with cost and fees assessed  
according to NRS 3.370.DATED THIS 11 DAY OF May, 2005.

DISTRICT COURT JUDGE

S12

567  
**ORIGINAL**

**FILED IN OPEN COURT**

1 **ORDR**  
2 **DAVID ROGER**  
3 **Clark County District Attorney**  
4 **Nevada Bar #002781**  
5 **ROBERT J. DASKAS**  
6 **Chief Deputy District Attorney**  
7 **Nevada Bar #004963**  
8 **200 South Third Street**  
9 **Las Vegas, Nevada 89155-2212**  
10 **(702) 455-4711**  
11 **State of Nevada**

JUN 06 2005  
**SHIRLEY D. PARRAGUIRRE, CLERK**  
BY Sharon Coffman  
**DEPUTY**  
**SHARON COFFMAN**

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

9 **THE STATE OF NEVADA,**

10 **Plaintiff,**

11 **-vs-**

12 **DONTE JOHNSON,**  
13 **#1586283**

14 **Defendant.**

**Case No. C153154**  
**Dept No. VIII**

15  
16 **ORDER OF EXECUTION**

17 **A JUDGMENT OF DEATH** having been entered on the 5th day of May, 2005,  
18 **against the above named Defendant, DONTE JOHNSON,** as a result of his having been  
19 **found guilty of COUNTS XI, XII, XIII, and XIV - MURDER OF THE FIRST DEGREE**  
20 **WITH USE OF A DEADLY WEAPON,** by a duly and legally impaneled Jury of twelve  
21 **persons; and**

22 **WHEREAS, this Court has made inquiry into the facts and found no legal reasons**  
23 **against the execution of the Judgment of Death.**

24 **///**

25 **///**

26 **///**

27 **///**

28 **///**

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COUNTY CLERK

JUN 06 2005

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1 IT IS ORDERED that the Director of the Department of Prisons shall execute the  
2 Judgment of Death, during the week commencing on the <sup>31</sup>th day of August, 2005.

3 DATED this 6 day of ~~May~~ <sup>JUNE</sup>, 2005.

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6 DISTRICT JUDGE  
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**ORIGINAL**

1 **WARR**  
2 **DAVID ROGER**  
3 **Clark County District Attorney**  
4 **Nevada Bar #002781**  
5 **ROBERT J. DASKAS**  
6 **Chief Deputy District Attorney**  
7 **Nevada Bar #004963**  
8 **200 South Third Street**  
9 **Las Vegas, Nevada 89155-2212**  
10 **(702) 455-4711**  
11 **State of Nevada**

**FILED IN OPEN COURT**  
**JUN 06 2005**

**SHIRLEY A. BARRAGUEN, CLERK**  
**BY *Sharon Coffman***  
**SHARON COFFMAN**

7  
8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 **THE STATE OF NEVADA,**  
11 **Plaintiff,**

12 **-vs-**

13 **DONTE JOHNSON,**  
14 **#1586283**

15 **Defendant.**

**Case No. C153154**  
**Dept No. VIII**

16 **WARRANT OF EXECUTION**

17 A JUDGMENT OF DEATH was entered on the 5th day of May, 2005, against the  
18 above-named Defendant DONTE JOHNSON as a result of having been found guilty of  
19 COUNTS XI, XII, XIII, and XIV - MURDER OF THE FIRST DEGREE WITH USE OF A  
20 DEADLY WEAPON, by a duly and legally impaneled Jury of twelve persons. A Jury, with  
21 the HONORABLE JEFFREY SOBEL presiding, determined Defendant's guilt to the crimes  
22 of COUNTS XI, XII, XIII, and XIV - MURDER OF THE FIRST DEGREE WITH USE OF  
23 A DEADLY WEAPON, in violation of NRS 200.010, 200.030, and 193.165, returned said  
24 guilty verdicts on or about the 9th day of June, 2000. Thereafter, a duly and legally  
25 impaneled Jury of twelve persons, with the HONORABLE LEE GATES presiding,  
proceeded to hear evidence and deliberated on the punishment to be imposed as provided by  
NRS 175.552 and 175.554.

Thereafter, as to COUNT XI, the jury returned with the sentence that the Defendant

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JUN 06 2005  
COUNTY CLERK

1 should be punished by Death, and found that there was one (1) aggravating circumstance  
2 connected with the commission of said crime, to-wit:

3 1. The defendant has, in the immediate proceeding, been convicted of more than one  
4 offense of murder in the first or second degree.

5 That on or about the 5th day of May, 2005, the Jury unanimously found, beyond a  
6 reasonable doubt, that there were no mitigating circumstances sufficient to outweigh the  
7 aggravating circumstance, said verdict having been returned in the County of Clark, State of  
8 Nevada.

9 Thereafter, as to COUNT XII, the jury returned with the sentence that the Defendant  
10 should be punished by Death, and found that there was one (1) aggravating circumstance  
11 connected with the commission of said crime, to-wit:

12 1. The defendant has, in the immediate proceeding, been convicted of more than one  
13 offense of murder in the first or second degree.

14 That on or about the 5th day of May, 2005, the Jury unanimously found, beyond a  
15 reasonable doubt, that there were no mitigating circumstances sufficient to outweigh the  
16 aggravating circumstance, said verdict having been returned in the County of Clark, State of  
17 Nevada.

18 Thereafter, as to COUNT XIII, the jury returned with the sentence that the Defendant  
19 should be punished by Death, and found that there was one (1) aggravating circumstance  
20 connected with the commission of said crime, to-wit:

21 1. The defendant has, in the immediate proceeding, been convicted of more than one  
22 offense of murder in the first or second degree.

23 That on or about the 5th day of May, 2005, the Jury unanimously found, beyond a  
24 reasonable doubt, that there were no mitigating circumstances sufficient to outweigh the  
25 aggravating circumstance, said verdict having been returned in the County of Clark, State of  
26 Nevada.

27 Thereafter, as to COUNT XIV, the jury returned with the sentence that the Defendant  
28 should be punished by Death, and found that there was one (1) aggravating circumstance

connected with the commission of said crime, to-wit:

1. The defendant has, in the immediate proceeding, been convicted of more than one offense of murder in the first or second degree.

That on or about the 5th day of May, 2005, the Jury unanimously found, beyond a reasonable doubt, that there were no mitigating circumstances sufficient to outweigh the aggravating circumstance, said verdict having been returned in the County of Clark, State of Nevada.

The Court, at this time, having determined that no legal reason exists against the execution of the Judgment;

IT IS HEREBY ORDERED that the County Clerk of the County of Clark, State of Nevada, shall forthwith execute, in triplicate, under the Seal of the Court, certified copies of the Warrant of Execution, the Judgment of Conviction, and of the entry thereof in the Minutes of the Court. The original of the triplicate copies of the Judgment of Conviction, Warrant of Execution, and entry thereof in the Minutes of the Court, shall be filed in the Office of the County Clerk, and two of the triplicate copies shall be immediately delivered by the Clerk to the Sheriff of Clark County, State of Nevada.

IT IS FURTHER ORDERED that one of the triplicate copies be delivered by the Sheriff to the Director of the Department of Prisons or to such person as the Director shall designate. The Sheriff is hereby directed to take charge of the said Defendant, DONTE JOHNSON, and transport and deliver the prisoner, forthwith, to the Director of the Department of Prisons at the Nevada State Prison located at or near Carson City, State of Nevada, and said prisoner, DONTE JOHNSON, is to be surrendered to the custody of the said Director of the Department of Prisons or to such authorized person so designated by the Director of the Department of Prisons, for the imprisonment and execution of the said Defendant, DONTE JOHNSON, in accordance with the provisions of this Warrant of Execution.

IT IS FURTHER ORDERED that in connection with the above facts and pursuant to the provisions of NRS 176.345, 176.355 and 176.357, the Director of the Department of



1 Prisons, or such person as shall by him be designated, shall carry out said Judgment and  
2 Sentence by executing the said DONTE JOHNSON, by the administration to him, said  
3 Defendant, DONTE JOHNSON, an injection of a lethal drug, the drug or combination of  
4 drugs to be used for the execution to be selected by the Director of the Department of  
5 Prisons after consulting with the State Health Officer. Said execution to be within the limits  
6 of the State Prison, located at or near Carson City, State of Nevada, during the week  
7 commencing on the <sup>31</sup>~~30~~ day of August, 2005, in the presence of the Director of the  
8 Department of Prisons, and notify those members of the immediate family of the victim who  
9 have, pursuant to NRS 176.357, requested to be informed of the time, date and place  
10 scheduled for the execution, and invite a competent physician, the county coroner, a  
11 psychiatrist and not less than six reputable citizens over the age of 21 years to be present at  
12 the execution. The director shall determine the maximum number of persons who may be  
13 present for the execution. The director shall give preference to those eligible members or  
14 representatives of the immediate family of the victim who requested, pursuant to NRS  
15 176.357, to attend the execution. The execution must take place at the state prison and a  
16 person who has not been invited by the director may not witness the execution.

17 DATED this 6 day of ~~May~~ <sup>June</sup>, 2005.

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19 DISTRICT JUDGE  
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**ORIGINAL**

1 JOC

2 DAVID ROGER  
3 Clark County District Attorney  
4 Nevada Bar #002781  
5 ROBERT J. DASKAS  
6 Chief Deputy District Attorney  
7 Nevada Bar #004963  
8 200 South Third Street  
9 Las Vegas, Nevada 89155-2212  
10 (702) 455-4711  
11 State of Nevada

FILED IN OPEN COURT  
JUN 06 2005

SHIRLEY B. PARRAGUIRSE, CLERK  
BY Sharon Coffman  
DEPUTY  
SHARON COFFMAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,  
11 Plaintiff,

12 -vs-

13 DONTE JOHNSON,  
14 #1586283

15 Defendant.

Case No. C153154  
Dept No. VIII

JUDGMENT OF CONVICTION

18 WHEREAS, on the 17th day of September, 1998, Defendant, DONTE JOHNSON,  
19 entered a plea of Not Guilty to the crimes of COUNT XI - MURDER WITH USE OF A  
20 DEADLY WEAPON (Felony); COUNT XII - MURDER WITH USE OF A DEADLY  
21 WEAPON (Felony); COUNT XIII - MURDER WITH USE OF A DEADLY WEAPON  
22 (Felony); and COUNT XIV - MURDER WITH USE OF A DEADLY WEAPON (Felony),  
23 NRS 200.010, 200.030, 193.165; and

24 WHEREAS, the Defendant DONTE JOHNSON, was tried before a Jury and the  
25 Defendant was found guilty of the crimes of COUNT XI - MURDER WITH USE OF A  
26 DEADLY WEAPON (Felony); COUNT XII - MURDER WITH USE OF A DEADLY  
27 WEAPON (Felony); COUNT XIII - MURDER WITH USE OF A DEADLY WEAPON  
28 (Felony); and COUNT XIV - MURDER WITH USE OF A DEADLY WEAPON (Felony),

JUDGMENT ENTERED

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1 in violation of NRS 200.010, 200.030, and 193.165, and the Jury verdict was returned on or  
2 about the 9th day of June, 2000.

3       Thereafter, another trial jury, deliberating in the penalty phase of said trial, in  
4 accordance with the provisions of NRS 175.552 and 175.554, found, as to COUNT XI, that  
5 there was one (1) aggravating circumstance in connection with the commission of said  
6 crime, to-wit:

7       1. The defendant has, in the immediate proceeding, been convicted of more than one  
8 offense of murder in the first or second degree.

9       That on or about the 5th day of May, 2005, the Jury unanimously found, beyond a  
10 reasonable doubt, that there were no mitigating circumstances sufficient to outweigh the  
11 aggravating circumstance, and determined that the Defendant's punishment should be Death  
12 as to COUNT XI - MURDER OF THE FIRST DEGREE WITH USE OF A DEADLY  
13 WEAPON in the Nevada State Prison located at or near Carson City, State of Nevada.

14       That the same jury, deliberating in the penalty phase of said trial, in accordance with  
15 the provisions of NRS 175.552 and 175.554, found, as to COUNT XII, that there was one (1)  
16 aggravating circumstance in connection with the commission of said crime, to-wit:

17       1. The defendant has, in the immediate proceeding, been convicted of more than one  
18 offense of murder in the first or second degree.

19       That on or about the 5th day of May, 2005, the Jury unanimously found, beyond a  
20 reasonable doubt, that there were no mitigating circumstances sufficient to outweigh the  
21 aggravating circumstance, and determined that the Defendant's punishment should be Death  
22 as to COUNT XII - MURDER OF THE FIRST DEGREE WITH USE OF A DEADLY  
23 WEAPON in the Nevada State Prison located at or near Carson City, State of Nevada.

24       That the same jury, deliberating in the penalty phase of said trial, in accordance with  
25 the provisions of NRS 175.552 and 175.554, found, as to COUNT XIII, that there was one  
26 (1) aggravating circumstance in connection with the commission of said crime, to-wit:

27       1. The defendant has, in the immediate proceeding, been convicted of more than one  
28 offense of murder in the first or second degree.

1 That on or about the 5th day of May, 2005, the Jury unanimously found, beyond a  
2 reasonable doubt, that there were no mitigating circumstances sufficient to outweigh the  
3 aggravating circumstance, and determined that the Defendant's punishment should be Death  
4 as to COUNT XIII - MURDER OF THE FIRST DEGREE WITH USE OF A DEADLY  
5 WEAPON in the Nevada State Prison located at or near Carson City, State of Nevada.

6 That the same jury, deliberating in the penalty phase of said trial, in accordance with  
7 the provisions of NRS 175.552 and 175.554, found, as to COUNT XIV, that there was one  
8 (1) aggravating circumstance in connection with the commission of said crime, to-wit:

9 1. The defendant has, in the immediate proceeding, been convicted of more than one  
10 offense of murder in the first or second degree.

11 That on or about the 5th day of May, 2005, the Jury unanimously found, beyond a  
12 reasonable doubt, that there were no mitigating circumstances sufficient to outweigh the  
13 aggravating circumstance, and determined that the Defendant's punishment should be Death  
14 as to COUNT XIV - MURDER OF THE FIRST DEGREE WITH USE OF A DEADLY  
15 WEAPON in the Nevada State Prison located at or near Carson City, State of Nevada.

16 WHEREAS, thereafter, on the <sup>6<sup>th</sup> June</sup> ~~12th~~ day of ~~May~~, 2005, the Defendant being present in  
17 court with his counsel, ALZORA JACKSON, Deputy Special Public Defender, and BRETT  
18 WHIPPLE, Esq., and ROBERT J. DASKAS, Chief Deputy District Attorney, and DAVID  
19 STANTON, Deputy District Attorney, also being present; the Defendant having previously  
20 been adjudicated guilty by reason of said trial and verdict, the above-entitled Court did  
21 sentence Defendant, by virtue of the Jury's determination to DEATH for COUNT XI -  
22 MURDER WITH USE OF A DEADLY WEAPON; and to DEATH for COUNT XII -  
23 MURDER WITH USE OF A DEADLY WEAPON; and to DEATH for COUNT XIII -  
24 MURDER WITH USE OF A DEADLY WEAPON; and to DEATH for COUNT XIV -  
25 MURDER OF THE FIRST DEGREE WITH USE OF A DEADLY WEAPON.

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1           THEREFORE, the Clerk of the above-entitled Court is hereby directed to enter this  
2 Judgment of Conviction as part of the record in the above entitled matter.

3           DATED this 6 day of ~~May~~<sup>June</sup>, 2005, in the City of Las Vegas, County of Clark,  
4 State of Nevada.

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7 DISTRICT JUDGE  
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28 LVMPD EV# 9808141600  
1° MURDER W/WPN - F

ORIGINAL

ORDR

DAVID M. SCHIECK  
SPECIAL PUBLIC DEFENDER  
Nevada Bar No. 824  
ALZORA B. JACKSON  
Deputy Special Public Defender  
Nevada Bar No. 2255  
333 South Third Street, 2nd Floor  
Las Vegas, NV 89155-2316  
(702) 455-6265  
BRET O. WHIPPLE  
Nevada Bar No. 6168  
229 S. Las Vegas Blvd., Suite 205  
Las Vegas, NV 89101  
Attorneys for Defendant

FILED IN OPEN COURT

JUN 06 2005

SHIRLEY B. TARRAGUIRRE, CLERK

BY

SHARON COFFMAN  
DEPUTY

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

DONTE JOHNSON,

Defendant.

CASE NO. C153154

DEPT. NO. VIII

DATE OF HEARING:  
TIME OF HEARING:

**ORDER TO STAY EXECUTION**

Based on the oral Motion for Stay of Execution, the Court being fully advised in the premises, and good cause appearing therefor,

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COUNTY CLERK

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SPECIAL PUBLIC  
DEFENDER

CLARK COUNTY  
NEVADA

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IT IS HEREBY ORDERED that the execution of Donte Johnson set for the week of

~~August 31, 2005~~ be **STAYED** pending the appeal in this matter.

DATED this 6 day of <sup>June</sup> May, 2005

  
DISTRICT COURT JUDGE

SUBMITTED BY:



ALZORA B. JACKSON  
Nevada Bar No. 2255  
333 S. Third Street, 2<sup>nd</sup> Floor  
Las Vegas, NV 89155  
Attorney for Defendant

SPECIAL PUBLIC  
DEFENDER

CLARK COUNTY  
NEVADA

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ORIGINAL  
DISTRICT COURT  
CLARK COUNTY, NEVADA

FILED

2005 JUN 27 P 1:52

CASE NO. C153154

DEPT. NO. VIII

THE STATE OF NEVADA

*J. B. Pungione*  
CLERK

To the Sheriff of Clark County, and the Warden or Officers in charge of the State Prison of the State of Nevada,

GREETINGS:

WHEREAS

DONTE JOHNSON

having entered a plea of Not Guilty to the crimes of COUNTS - XI, XII, XIII, and XIV - MURDER WITH USE OF A DEADLY WEAPON, and the Defendant having been found guilty by a Jury of the crimes of COUNTS XI, XII, XIII, and XIV - MURDER OF THE FIRST DEGREE WITH USE OF A DEADLY WEAPON, and judgment having been pronounced against him that he be punished by the imposition of the Death Penalty by the administration of an injection of a lethal drug or combination of drugs,

all of which appears of record in the Office of the Clerk of said Court and a certified copy of the Judgment being attached hereto and made a part hereof.

Now this is to command you, the said Sheriff, to safely deliver the said DONTE JOHNSON into the custody of the said Warden or his duly authorized representative, when requested to do so,

and this is to command you, the said Warden, or your duly authorized deputy, to receive from the said Sheriff the said DONTE JOHNSON to be sentenced as aforesaid, and that the said DONTE JOHNSON be put to death by an injection of a lethal drug or combination of drugs.

And these presents shall be your authority to do so. HEREIN FAIL NOT.

WITNESS, Honorable LEE GATES, Judge of the said District Court at the Courthouse, in the County of Clark, this 7<sup>th</sup> day of June, 2005.

Witness my hand and the Seal of said Court,  
the day and year last above written.

*Rita Reid*  
Clerk

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1 **ROC**2 DAVID M. SCHIECK  
3 SPECIAL PUBLIC DEFENDER4 Nevada Bar No. 0824  
5 ALZORA B. JACKSON  
6 Deputy Special Public Defender7 Nevada Bar No. 2255  
8 333 South Third Street, 2nd Floor  
9 Las Vegas, NV 89155-2316  
10 (702) 455-626511 BRET O. WHIPPLE, ESQ.  
12 Nevada Bar No. 616813 229 S. Las Vegas Blvd., Suite 205  
14 Las Vegas, NV 89101  
15 (702) 257-9500

16 Attorneys for Defendant

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*Shirley D. Cunningham*  
CLERK

## DISTRICT COURT

CLARK COUNTY, NEVADA

13 THE STATE OF NEVADA,

14 Plaintiff,

15 vs.

16 DONTE JOHNSON,

17 Defendant.

CASE NO. C153154

DEPT. NO. VIII

DATE OF HEARING:  
TIME OF HEARING:RECEIPT OF COPY

RECEIPT OF A COPY of the foregoing **MOTION FOR A NEW TRIAL, MOTION FOR  
IN CAMERA REVIEW OF POTENTIAL JURY MISCONDUCT, REQUEST FOR EVIDENTIARY  
HEARING AND REQUEST FOR AN ORDER PRESERVING EVIDENCE (FILED UNDER SEAL)**

is hereby acknowledged this 8th day of June, 2005.

*David Roger*  
DAVID ROGER  
District Attorney  
200 S. Third Street  
Las Vegas, NV 89155

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JUN 8 2005

COUNTY CLERK

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DISTRICT COURT  
CLARK COUNTY, NEVADA

**ORIGINAL**

**FILED**  
2005 JUN 13 P 12:5

1 THE STATE OF NEVADA, )

2 PLAINTIFF, )

3 VS. )

CASE NO: C153154

4 DONTÉ JOHNSON )

5 DEFENDANT. )

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11 REPORTER'S TRANSCRIPT

12 OF

13 SENTENCING

14  
15 BEFORE THE HONORABLE JUDGE LEE A. GATES  
16 DISTRICT COURT JUDGE  
17 DEPARTMENT VIII

18  
19 DATED MONDAY, JUNE 6, 2005

20  
21 FOR THE PLAINTIFF: ROBERT J. DASKAS, ESQ.  
DAVID STANTON, ESQ.

22 FOR THE DEFENDANT: ALZORA B. JACKSON, ESQ.  
BRET O. WHIPPLE, ESQ.

23  
24  
25 REPORTED BY: SONIA L. RILEY, CCR NO. 727

S8

SONIA L. RILEY, CCR NO. 727 (702) 455-3610

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COUNTY CLERK

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APPEARANCES:

FOR THE PLAINTIFF:

ROBERT J. DASKAS, ESQ.  
DAVID STANTON, ESQ.  
PUBLIC DEFENDER'S OFFICE  
309 S. Third Street  
Suite 226  
Las Vegas, Nevada 89155  
(702) 455-4685

FOR THE DEFENDANT:

ALZORA B. JACKSON, ESQ.  
SPECIAL PUBLIC DEFENDER'S OFFICE  
333 South Third Street  
Second Floor  
Las Vegas, Nevada 89155  
(702) 455-6265

FOR THE DEFENDANT:

BRET O. WHIPPLE, ESQ.  
229 S. Las Vegas Blvd.  
Las Vegas, Nevada 89101  
(702) 257-9500

DEFENDANT PRESENT

\* \* \* \* \*

1 LAS VEGAS, NEVADA; MONDAY, JUNE 6, 2005

2 P R O C E E D I N G S

3 \* \* \* \* \*

4 **THE COURT:** Let the record reflect the  
5 presence of the defendant in custody with his  
6 attorneys, Mr. Whipple and Miss Jackson, as well as  
7 the representatives of the State.

8 Are you prepared for sentencing?

9 **MR. DASKAS:** Yes, Judge.

10 **MS. JACKSON:** Your Honor, may we approach  
11 the bench?

12 **THE COURT:** Yes.

13 (Sidebar conference outside the presence  
14 of the court reporter.)

15 (In camera proceedings outside the  
16 presence of the public and the jury, in the presence  
17 of the court reporter.)

18 **THE COURT:** Let the record reflect we're  
19 outside the presence of the public and the jury.

20 During the trial, the State, and to some  
21 extent the defendants, were going to the press  
22 telling them everything that was going on in camera.  
23 Anybody right now -- I'm ordering now, no one is to  
24 go to the press and tell them what is said in here.

25 Do you understand that, Mr. Stanton?

SONIA L. RILEY, CCR NO. 727 (702) 455-3610

3

1           **MR. STANTON:** Yes, your Honor.

2           **THE COURT:** I believe it was you who was  
3 going and telling the press all of this information  
4 during the regular trial.

5           **MR. STANTON:** I believe you're incorrect,  
6 your Honor. I didn't speak to the press.

7           **THE COURT:** Every in camera meeting we  
8 had, everything was in the press verbatim.

9           **MR. DASKAS:** Judge, I'll represent to the  
10 Court that neither me nor Mr. Stanton in my presence  
11 ever spoke to the press about anything in camera.

12           **THE COURT:** I couldn't imagine the defense  
13 would have been telling them, although I'm sure they  
14 told them -- the defense told them about the drug  
15 paraphernalia.

16           **MS. JACKSON:** Actually, we didn't, did we?  
17 I didn't.

18           **THE COURT:** Mr. Whipple.

19           **MR. WHIPPLE:** Your Honor, we have a  
20 reporter who is very inquisitive. He has already  
21 approached me this morning.

22           **THE COURT:** That doesn't mean you have to  
23 tell him anything.

24           **MR. WHIPPLE:** I'm talking about this  
25 information we have before us today. That was the

1 new information that has come up. He's already come  
2 before us and stated that there was a juror who came  
3 to him and spoke with him about this matter on the  
4 record this morning at his office.

5 **THE COURT:** A juror came to his office?

6 **MR. WHIPPLE:** That's what he said.

7 **MR. DASKAS:** Let's make the record  
8 complete. What the reporter told me was that a  
9 juror knocked on this reporter's -- Matt Pordum's --  
10 door this morning; that this juror from our trial  
11 told Matt Pordum that he had been contacted by the  
12 prosecution in this case.

13 I can tell the Court that neither  
14 Mr. Stanton nor myself or anybody from our offices  
15 has contacted any jurors, so if the reporter is  
16 under the impression the prosecution asked him, I'm  
17 concerned about what the defense investigator is  
18 telling these jurors when they're being contacted.  
19 We have contacted nobody. The extent of my  
20 communication has been the jury foreperson  
21 telephoned me in my office the day after we were  
22 supposed to have the sentencing last time. She  
23 wanted to know why the sentencing didn't take place,  
24 so I want to make the record clear we've contacted  
25 no jurors.

SONIA L. RILEY, CCR NO. 727 (702) 455-3610

5

1           **THE COURT:** The only person that I heard  
2 that anybody contacted was the defense people.

3           **MR. DASKAS:** That's correct.

4           **MS. JACKSON:** Your Honor, as set forth in  
5 our motion --

6           **THE COURT:** I hope you guys are not going  
7 out there misrepresenting --

8           **MS. JACKSON:** They always say that, and we  
9 go to people, we give them our cards. We say, "I  
10 represent" so and so, and they still say it. We do  
11 not want anybody to think we're prosecutors. We  
12 give them cards, show them our ID, and they still  
13 say it. It's not something that we want to do. In  
14 any event, we hear this all the time, and it's just  
15 not so. I left my card personally on a juror's  
16 door; I put that on the record.

17           **THE COURT:** Why is the juror calling up  
18 the press?

19           **MS. JACKSON:** I don't know.

20                   Why did they call?

21           **MR. WHIPPLE:** He could be misstating that  
22 in order to gain information from us. He knows  
23 something is up. In fact, he came to me and said,  
24 "I've had independent information that the juror  
25 foreman was writing a book and that there's concern

1 about jury misconduct," and I'm thinking the only  
2 way that could have happened is because the person  
3 who actually contacted me about this matter is  
4 related to the press or had a position in the press  
5 who is a relative of one of the alternate jurors, so  
6 that's the only way I can think this information is  
7 getting out, because I was surprised. I have told  
8 nobody other than Alzora and our investigator and  
9 some of the people in the Special Public Defender's  
10 office who knows what's going on. The reason I  
11 mention this is because I'm concerned once this  
12 information gets out, that it's going to give the  
13 jury foreman a desire to destroy the record, because  
14 I want this Court to be aware that when our  
15 investigator spoke with her -- first of all, she  
16 never said anything about taking notes and writing a  
17 book, though she apparently told all the jurors  
18 throughout the trial or the penalty phase that she  
19 was going to write a book. And then when we  
20 contacted her --

21           **THE COURT:** Well, you know what, everybody  
22 writes books these days. You have to show more than  
23 that.

24           **MR. WHIPPLE:** I want this Court to  
25 understand what I believe the misconduct is, but I

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1 just want to show her state of mind.  
2           The second time when our investigator  
3 spoke to her on the phone and mentioned "Hey, some  
4 of the jurors" -- other -- referring to the two  
5 alternates we spoke with -- "talked about a book  
6 that you're writing." She said, "Oh, is that  
7 illegal?" So, it's already in her mind that she  
8 could be doing something wrong. And I want this  
9 Court to also be aware that she's told our  
10 investigator, "I only did the notes after the trial  
11 concluded," whereas she told both alternates during  
12 the trial that she was writing a book -- these notes  
13 on a daily basis -- to put in her book, and in fact,  
14 it was this ongoing joke in the jury room about what  
15 information was going to go into her book, and this  
16 was daily from the first day.

17           **THE COURT:** Like I said, you need to do a  
18 motion. I don't have anything before me other than  
19 you said your investigator talked to them.

20           **MR. WHIPPLE:** This is a motion. It's a  
21 motion for in camera review, potential jury  
22 misconduct and request for evidentiary hearing and  
23 request for gag order.

24           The request for evidentiary hearing -- we  
25 would request an evidentiary hearing. We will

1 subpoena her. We will do a duces tecum requesting  
2 those notes, but I am concerned about her destroying  
3 those notes. If she gets information it could lead  
4 to potential jury misconduct.

5 With regard to the gag order, it's not  
6 that we don't trust her, it's about information  
7 getting out there and her figuring out what they did  
8 wrong and destroying the evidence of it. She also  
9 told Alternate Juror No. 1 that she essentially --  
10 I'm going to summarize it.

11 **THE COURT:** I don't think Mr. Daskas will  
12 intentionally tell anyone to destroy notes.

13 **MR. DASKAS:** Thank you.

14 **MR. WHIPPLE:** I'm not saying he would  
15 intentionally; it's just her getting information.

16 **THE COURT:** I don't think Mr. Daskas will  
17 do that kind of stuff.

18 **MR. WHIPPLE:** I don't believe it either;  
19 it's just that if she gains information knowing  
20 she's a target of this investigation, she can easily  
21 destroy the evidence that supports her misconduct.  
22 That's all it is. That's the end of it.

23 **THE COURT:** I don't know if there's any  
24 misconduct.

25 **MR. DASKAS:** Judge, let me respond to one

1 thing.

2 **MS. JACKSON:** Wait.

3 **MR. WHIPPLE:** The other thing, your Honor,  
4 if you read the affidavit, she told Juror No. 1 that  
5 she had essentially made up her mind before all the  
6 evidence came into this case. She said -- and if  
7 you'll read the affidavit with regard to the first  
8 alternate, she stated that the one side --

9 **THE COURT:** What are you asking for? This  
10 is a motion for what?

11 **MR. WHIPPLE:** It's a request for  
12 evidentiary hearing.

13 **THE COURT:** I'm not going to do a request  
14 for evidentiary hearing without a motion. Am I  
15 supposed to help you guys in a fishing expedition?  
16 Do you have a motion for new trial? What is the  
17 motion for? That's what you have to file. I don't  
18 know what this is.

19 **MR. DASKAS:** Judge, what they filed is a  
20 request for a hearing, basically, and my concern is,  
21 number one, they haven't established the threshold  
22 necessary for the evidentiary hearing.

23 Number two, my concern is they want a gag  
24 order now. Understand, Judge, as I said, we the  
25 State have contacted nobody in this case who served

1 as a juror. The defense has apparently contacted  
2 everybody, or at least the majority of the jurors,  
3 and now what they're saying, Judge, is we've gotten  
4 some information that's favorable to us, so Judge,  
5 prevent the State from calling anybody.

6 **THE COURT:** I'm not going to do that. I  
7 told you the only kind of gag order I'm issuing is  
8 you guys don't go talking to the press about these  
9 proceedings. This is in camera.

10 **MS. JACKSON:** Your Honor, may the  
11 record -- I want to add to the record that our  
12 concern about this juror is not just based upon any  
13 imaginations, and looking at the voir dire of this  
14 juror, it was first brought to the Court's  
15 attention -- and I have that Juror No. 42 -- he told  
16 the Court that she was out in the hallway telling  
17 people that our client got death. I then had the  
18 luxury, with the transcripts, of looking back at the  
19 people that she talked to. They all said that she  
20 told them he got the death penalty. When she came  
21 in and the Court asked her, "Did you say he got the  
22 death penalty?" Her answer was "No, I didn't say  
23 that." So, based upon her answers during voir dire,  
24 when one has a chance to look at them and compare  
25 them with what she said she said and what the other

1 four people that she spoke to indicates that she  
2 said, they are inconsistent, and for that reason, we  
3 believe that she may have a result-oriented type  
4 deliberation as evidenced by her answers during voir  
5 dire, and that she was less than candid with the  
6 Court. So, we're not looking at this juror in a  
7 vacuum. I invite you to look at her responses and  
8 every juror who was involved in this fiasco in the  
9 hallway, and look at their responses. I have them  
10 tagged.

11 **MR. DASKAS:** Judge, as you'll recall, you  
12 ordered individual sequestered voir dire. You had  
13 the opportunity, along with the defense and the  
14 State, to question the woman who was ultimately the  
15 foreperson about that very issue, and I think what  
16 she ultimately said was she had heard something  
17 about a three-judge panel, and you were assured,  
18 Judge, as was the defense and the State, that she  
19 could set aside anything she heard and base her  
20 decision on the evidence. In fact, you ordered us  
21 to give an instruction to that effect, and we gave  
22 that instruction, and let's keep in mind that if the  
23 defense had some concerns about her, they could have  
24 exercised a peremptory challenge.

25 **MS. JACKSON:** We didn't have any preempts

1 left.

2 **MR. DASKAS:** If I might --

3 **MS. JACKSON:** We can't exercise something  
4 we don't have.

5 **THE COURT:** Let him finish.

6 **MR. DASKAS:** I think the record would bear  
7 out they had challenges left.

8 **MS. JACKSON:** There were no exceptions  
9 except for cause.

10 **THE COURT:** Did you make a motion to  
11 excuse for cause?

12 **MR. DASKAS:** No, we did not.

13 **MS. JACKSON:** We didn't have the luxury of  
14 sitting down and comparing 15 transcripts and seeing  
15 that she was a liar.

16 **THE COURT:** This is what the Court is  
17 going to do.

18 **MR. DASKAS:** Can I make one final comment?

19 **THE COURT:** What.

20 **MR. DASKAS:** In one of the affidavits --  
21 and this is really the basis for their request for  
22 the hearing -- in one of the affidavits from an  
23 alternate -- and keep in mind, we don't have an  
24 affidavit from the jury foreperson, but one of the  
25 alternates said something like "The foreperson said

1 before deliberations that whatever decision she  
2 reached, she was going to make one side upset about  
3 that," that one side would be upset, and now the  
4 defense is making some leap and logic that she then  
5 decided to give death. Now, I think this foreperson  
6 was smart enough to realize that whatever decision  
7 she made, life or death, one side was going to be  
8 upset. To suggest that that rises to the level of  
9 having a hearing, I think we simply -- we're simply  
10 not there.

11 **THE COURT:** I don't know. I don't  
12 think -- what's the prejudice about having a hearing  
13 on that issue?

14 **MR. DASKAS:** There isn't, unless somehow a  
15 gag order is imposed and we're told we can't do what  
16 the defense has already done and have interviews  
17 with these jurors to find out what was said.

18 **THE COURT:** You can do your subpoenas.

19 **MR. DASKAS:** Right.

20 **THE COURT:** So, you can get those out.

21 **MS. JACKSON:** Today?

22 **THE COURT:** Yeah.

23 **MS. JACKSON:** Okay.

24 **THE COURT:** We'll set it for -- when do  
25 you want to have the hearing?

1           **MS. JACKSON:** Wednesday.  
2           **MR. DASKAS:** Of this week?  
3           **MS. JACKSON:** Yes.  
4           **MR. WHIPPLE:** Thursday?  
5           **THE COURT:** Why do you have to do it this  
6 week?  
7           **MR. WHIPPLE:** Your Honor, we're concerned  
8 about her getting information.  
9           **THE COURT:** All right. Thursday.  
10          **MR. DASKAS:** Can I make one comment?  
11          **THE COURT:** How long is it going to take?  
12 I'm in a trial here.  
13          **MR. DASKAS:** Judge, she works for one of  
14 the high schools in town, and if I'm not mistaken,  
15 this is the last week of school; finals are being  
16 administered.  
17          **THE COURT:** We should probably do it  
18 Monday.  
19          **MS. JACKSON:** That's fine.  
20          **THE COURT:** Monday at 1:00 o'clock.  
21          State, tell her if you talk to her I'm not  
22 issuing a gag order, and if she has any notes, tell  
23 her to keep the notes, don't destroy them. All  
24 right?  
25          **MR. DASKAS:** All right.

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1           **MS. JACKSON:** Your Honor, your bailiff  
2 also indicated he had preserved some notes from the  
3 notebooks, if the Court would go through those in  
4 camera without us present and see if those pertain  
5 to a book.  
6           **THE COURT:** What's her number?  
7           **MS. JACKSON:** She's Badge No. 262.  
8           **THE COURT:** You don't know what seat she  
9 was in?  
10          **MR. STANTON:** She was in seat number --  
11          **THE CLERK:** Four.  
12          **THE COURT:** Number four.  
13 All right. We'll do that.  
14          **MS. JACKSON:** Thank you, Judge.  
15          **MR. DASKAS:** Do you want to review this  
16 paperwork before we go back on the record? This is  
17 the Judgment of Conviction, the warrant, the Order  
18 of Execution, and the Declaration or Affidavit that  
19 you must sign (indicating). I changed the date from  
20 May to June for your signature, Judge, because we  
21 had it prepared for the last hearing. Of course,  
22 now it's June.  
23          **MS. JACKSON:** We have a Stay. We're going  
24 to be requesting a Stay of Execution which I think  
25 it may still have May on the signature line, your

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1 Honor.

2 **MR. WHIPPLE:** What time are we on Monday?

3 **MS. JACKSON:** One o'clock.

4 Your Honor, I'd like a chance to look

5 those over. I haven't seen them.

6 **THE COURT:** Here, this is the Judgment of

7 Conviction (indicating).

8 June, July -- is that more than 90 days?

9 **MS. JACKSON:** I won't get back until

10 Monday night. Can we do it Tuesday?

11 **THE COURT:** Yeah.

12 **THE CLERK:** You want it on the 14th --

13 Tuesday the 14th. At what time, Judge?

14 **THE COURT:** Make it 10:30 or 10:00. We

15 have a 9:00 o'clock calendar, so make it at

16 10:00 Tuesday.

17 What's the 5th day of September?

18 **MR. DASKAS:** What day of the week is that?

19 **MS. JACKSON:** Usually, Labor Day is right

20 around there.

21 **MR. STANTON:** The 5th day of September is

22 a Monday.

23 **MR. DASKAS:** August 31st is a Wednesday,

24 Judge.

25 **THE COURT:** Let's do it August 31st.

1           **MR. DASKAS:** Those are just copies  
2 (indicating).

3           **MS. JACKSON:** This is not right. On the  
4 12th -- nothing happened on the 12th. It says, "On  
5 the 12th day of May, defendant was present with his  
6 counsel." Nothing happened on the 12th.

7           **THE COURT:** Twelfth day of May -- what  
8 year?

9           **MS. JACKSON:** It says May 12th, 2005, that  
10 he was adjudicated. Nothing happened on the 12th.

11           **MR. DASKAS:** That's when we were supposed  
12 to be here last time.

13           **THE COURT:** We just need to change it to  
14 today.

15           **MS. JACKSON:** I won't write on your  
16 document.

17           Your Honor, would you like to take a look  
18 at our Stay? I need to grab it out of the  
19 courtroom.

20           **THE COURT:** Yes.

21           (Miss Jackson left the in camera  
22 proceedings.)

23           **THE COURT:** When did the jury come back,  
24 the 5th day of May?

25           **MR. DASKAS:** I believe so, yes, because

1 they wanted the sentencing in a week which explains  
2 the 12th day on the document. Yes, because it was  
3 Cinco de Mayo; I remember that.

4 (Ms. Jackson returned to chambers.)

5 **MS. JACKSON:** It probably has May on it,  
6 Judge.

7 **THE COURT:** It does.

8 **MR. WHIPPLE:** One last matter, if I could,  
9 please. Since I returned to the Special Public  
10 Defender's office, I'm going to issue a subpoena for  
11 the jury foreman Jamie Campbell --

12 **MS. JACKSON:** Carpenter.

13 **MR. WHIPPLE:** -- Carpenter for Tuesday at  
14 10:00 a.m. I would also like to have an order from  
15 the Court, if that's possible, preserving any  
16 evidence.

17 **THE COURT:** I said okay.

18 **MR. WHIPPLE:** Can we get an order from the  
19 Court to go along with that?

20 **THE COURT:** Yes.

21 **MR. WHIPPLE:** Thank you.

22 **MS. JACKSON:** Thank you, your Honor.

23 **THE COURT:** All right.

24 **THE BAILIFF:** All rise. Court is again in  
25 session. Please be seated; come to order.

1           **THE COURT:** Approach the bench, Counsel.  
2           (Sidebar conference outside the presence  
3 of the court reporter.)

4           **THE COURT:** Let's go back on the record.  
5           Once again, let the record reflect the  
6 presence of the defendant in custody with his  
7 lawyers, Miss Jackson and Mr. Whipple; Mr. Daskas  
8 and Mr. Stanton representing the State and all  
9 officers of the court.

10           This is the date and time set for  
11 sentencing.

12           State?

13           **MR. DASKAS:** Judge, we provided to the  
14 Court this morning copies of the Judgment of  
15 Conviction and both the warrants and Order of  
16 Execution for Donte Johnson. It is our request that  
17 you simply sign those documents this morning that  
18 reflect the jury's verdict in this case that  
19 sentences Donte Johnson to death for his crimes, and  
20 with that, Judge, we'll submit it.

21           **THE COURT:** All right.

22           Mr. Johnson, is there anything you want to  
23 say before your lawyer has the opportunity to speak?

24           **THE DEFENDANT:** No, sir.

25           **THE COURT:** Counsel, is there anything you

1 want to say?

2           **MS. JACKSON:** No, your Honor. The record  
3 will reflect that we have submitted a Stay of  
4 Execution to this Court. We would ask the Court to  
5 sign that pending the appeal on this matter.

6           We do have several requests on behalf of  
7 Mr. Johnson. We ask that he be transported  
8 forthwith to the Nevada Department of Corrections  
9 for transport to an appropriate facility. We also  
10 ask that this Court would waive any appearances.  
11 Mr. Johnson is aware of what has transpired  
12 regarding any issues in camera. He has met with  
13 counsel on at least three occasions, referenced  
14 those matters, and would ask the Honorable Court to  
15 waive his appearance in that regard.

16           Is that correct, Mr. Johnson?

17           **THE DEFENDANT:** Yes, it is.

18           **THE COURT:** So noted.

19           **MS. JACKSON:** With that, we would submit  
20 it.

21           **THE COURT:** Mr. Johnson, whereas you were  
22 tried before a jury and convicted of Count XI,  
23 Murder With Use of a Deadly Weapon, a felony;  
24 Count XII, Murder With Use of a Deadly Weapon, a  
25 felony; Count XIII, Murder With Use of a Deadly

1 Weapon, a felony; and Count XIV, Murder With Use of  
2 a Deadly Weapon, a felony, and on the 5th day of May  
3 of 2005, a jury unanimously found beyond a  
4 reasonable doubt that there were no mitigating  
5 circumstances sufficient to outweigh the aggravating  
6 circumstances and determined that your punishment  
7 for said crimes should be death as to Counts XI,  
8 XII, XIII and XIV.

9           Pursuant to the jury's verdict on  
10 Count XI, you are hereby sentenced for the crime of  
11 Murder With Use of a Deadly Weapon to death.

12           Count XII, First Degree Murder With Use of  
13 a Deadly Weapon, you are hereby sentenced to death.

14           Count XIII, First Degree Murder With Use  
15 of a Deadly Weapon, you are hereby sentenced to  
16 death.

17           Count XIV, First Degree Murder With Use of  
18 a Deadly Weapon, you are hereby sentenced to death.

19           The clerk is hereby ordered to enter these  
20 judgments into the minutes of the Court, and that  
21 will be the judgment of this jury and of this Court.

22           The Court having sentenced you to death,  
23 it is hereby ordered that the director of the Nevada  
24 Department of Prisons shall execute the judgment of  
25 death during the week commencing on the 31st day of

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1 August of the year 2005.

2 The defendant is to be turned over to the  
3 Nevada Department of Prisons wherein his sentence  
4 shall be executed. He is to be transported  
5 forthwith.

6 We're in recess.

7 **MS. JACKSON:** Did the Court sign the Stay  
8 of Execution?

9 **THE COURT:** Yes.

10 **MS. JACKSON:** The Stay of Execution?  
11 Thank you, your Honor.

12 **THE BAILIFF:** All rise.

13 (WHEREUPON, THE PROCEEDINGS WERE  
14 CONCLUDED.)

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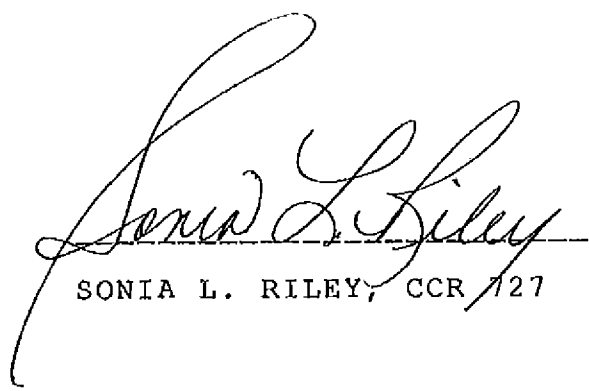
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REPORTER'S CERTIFICATE

STATE OF NEVADA)  
:SS  
COUNTY OF CLARK)

I, SONIA L. RILEY, CERTIFIED COURT  
REPORTER, DO HEREBY CERTIFY THAT I TOOK DOWN IN  
STENOTYPE ALL OF THE PROCEEDINGS HAD IN THE  
BEFORE-ENTITLED MATTER AT THE TIME AND PLACE  
INDICATED, AND THAT THEREAFTER SAID STENOTYPE NOTES  
WERE TRANSCRIBED INTO TYPEWRITING AT AND UNDER MY  
DIRECTION AND SUPERVISION AND THE FOREGOING  
TRANSCRIPT CONSTITUTES A FULL, TRUE AND ACCURATE  
RECORD TO THE BEST OF MY ABILITY OF THE PROCEEDINGS  
HAD.

IN WITNESS WHEREOF, I HAVE HEREUNTO  
SUBSCRIBED MY NAME IN MY OFFICE IN THE COUNTY OF  
CLARK, STATE OF NEVADA.



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1 prepared to take the life of another person is not  
2 to think about the high road, it's not to think  
3 about society, it's not to think about what's best  
4 for all of us in society in general; they're going  
5 to get you to think about the terrible, horrendous  
6 things that happened. Okay? That's how they're  
7 going to prep you, probably just the same way Donte  
8 Johnson was, all excited, not thinking. That's what  
9 they're going to do, and that's why when they talk  
10 about -- when they bring in the visuals, that's why  
11 they do it, because they know it has the power of  
12 full effect. That's why when they start talking  
13 about Niagara Falls and joking and laughing, that's  
14 why they say that. Does it really matter if Donte  
15 Johnson laughed or not after one of these kids are  
16 killed? Does it make it any worse? The poor kid is  
17 dead. He can't come back. It's terrible. It just  
18 doesn't get any worse. The reason they say these  
19 things are to get you in a mode to dehumanize my  
20 client, to kill him. That's why they're saying  
21 those things, to get you emotional. Now, they're  
22 doing it in two different ways. You saw the first  
23 one during their first closing, and that's when they  
24 said, "Donte Johnson is different." Okay. They  
25 want you to think he's different from the rest of

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1 us, because it's a lot easier if you kill somebody  
2 if they're different from you and I. Okay?

3 Now, the other way they do it -- they go  
4 about it is to get those pictures and those  
5 comments. Now, I want to point something out to  
6 you. John White, Donte Johnson and Deko are all the  
7 same person, and when they attempt to suggest that  
8 Donte Johnson is different than John White or Deko  
9 is different, that's the way they dehumanize him.  
10 He's the same person, just like you and I. He  
11 loves; he'd like to love. He's going to be  
12 painfully, painfully construed or controlled for the  
13 rest of his life, but he's just another human being  
14 just like the rest of us.

15 You heard from Craig Clark; he said  
16 there's bad and there's good, and you heard from the  
17 social worker that worked in the Clark County  
18 Detention Center who said, "I don't understand it.  
19 I can't explain it to you." It's sympathetic,  
20 understanding, concern. He is a human being. He's  
21 just a human being, a very imperfect human being,  
22 but you always talk about let the first perfect  
23 human being throw the rock -- yeah, he's much more  
24 imperfect than most of us, thank goodness, but we're  
25 all imperfect, and they are asking you to throw the

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1 rock. They're dehumanizing him to make him  
2 something he's not, and I ask you to recognize that  
3 when you start talking about him being Donte Johnson  
4 or Deko or John White or something other than you  
5 and I. He's not an animal that's laying and needs  
6 to be put down. He's a human being, and I know we  
7 all recognize that.

8           So, I want to turn to the other way. They  
9 want to put you in a frame, in a mode to take the  
10 life of another man, and that is what you've already  
11 seen. They've shown you pictures of these four  
12 victims' families; they show you pictures of the  
13 person in life and in death. They want you to  
14 concentrate on the crime and not society. They want  
15 to feed you old law, not new law. They want you to  
16 take the low road, not the high road. They want you  
17 to react instead of think. They want you to respond  
18 instead of reason, and that is why they're going to  
19 do and say those things. That, they've said, and  
20 I'm asking you to be reasonable, to reason, to  
21 think, because Donte Johnson is not the one who will  
22 pay the price for the actions that you make over the  
23 next few hours or days.

24           Now, I had an opportunity to -- these are  
25 some of the prosecutor's comments that I've seen in

1 the past? "What is justice but that every man gets  
2 his due." Donte Johnson will get -- has received  
3 his justice. I mean, I hope that you take this back  
4 into your jury room with you and see the size of  
5 this (indicating). Will he be alive? Yes. Will he  
6 think? Yes. Will he have the ability to feel?  
7 Yes, but he will be able to do nothing more, nothing  
8 more. A 15-minute shower three times a week. What  
9 was it -- one phone call for 15 minutes a week, and  
10 that is it. His heart will beat, his mind will  
11 work, but he can do nothing with it -- nothing  
12 except stare at the walls and think about what he  
13 could have been, think about what could have been  
14 and what he did. Is that the ultimate punishment?  
15 The heart works, the brain works, but you can't do  
16 anything with it. That's what he's subject to the  
17 rest of his life. He has received justice by  
18 getting life in prison for the rest of his life.  
19 You heard Mr. Esten tell you he will probably spend  
20 it in this small cell alone the rest of his life.  
21 You know what's amazing to me is we heard the warden  
22 talk about how they preferred to have a second  
23 person in this cell. This is it (indicating). I  
24 can't imagine -- my wife and I would end up in a  
25 fight within 15 minutes if we had to live in this

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1 small corner, and yet, these people -- do you  
2 remember Mr. Esten talking about sensory  
3 deprivation? That's how they punish these people.  
4 There's nothing to do. There's nothing to do with  
5 that heart and mind that's working, because they're  
6 stuck in this little hole. How they would actually  
7 rather share this small space with another person  
8 than live alone, that shows the type of punishment  
9 life in prison truly is. I mean, do you want to  
10 live in something like this 23 out of 24 hours a day  
11 with another person?

12 **MR. DASKAS:** Judge, objection. I  
13 apologize. He's asking the jurors to put themselves  
14 in the shoes of the defendant, and that  
15 mischaracterizes the evidence presented. He would  
16 not spend 23 hours a day in his cell. It  
17 mischaracterizes the testimony.

18 **THE COURT:** The jury heard the testimony,  
19 and it's how they remember the testimony to be.

20 **MR. WHIPPLE:** Thank you, your Honor.

21 Look at these pictures. I'm asking you to  
22 take these pictures back into the jury room with  
23 you. I mean, this is the top bunk, there's a bottom  
24 bunk (indicating). Look at them yourself and think  
25 what -- how far you would have to go in order to

1 make the determination that you would rather live in  
2 that environment with another person, how you would  
3 have to be in pain, how you would have to be  
4 punished in order to want to live in that small an  
5 environment with another person, because that is  
6 what Donte Johnson has facing him the rest of his  
7 life. It is a terrible, terrible punishment. The  
8 worst possible crime, worst possible defendant -- I  
9 mean, these are things that you can potentially  
10 hear. What about Timothy McVeigh? That's the worst  
11 possible crime. You know, the small kids -- 50, 60,  
12 70 -- I don't even know. He attacked our standard.  
13 He attacked who we are as a people. He wanted to  
14 stop democracy. He attacked our lifestyle. That is  
15 the worst of the worst.

16           Is life in prison sufficient or is  
17 something more required? Folks, I just showed  
18 you -- I can't imagine that it gets any worse than  
19 to have to live in this environment and not be able  
20 to do anything with the faculties that you have.  
21 Should Donte Johnson be allowed to live and the four  
22 young men die? Isn't that a great question? Is  
23 there anything you can do to bring them back? I  
24 know that any of us, given the opportunity, would do  
25 anything we could to bring them back, and I want

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1 their families to know that I suffer -- I feel  
2 terrible for their loss. I recognize the suffering,  
3 but we can't bring them back. There's no way we can  
4 go back into history and write or change history. I  
5 wish we could. I would be the first leading the  
6 charge -- let's go back. Let's make this whole.  
7 Let's change it, but you know what, taking the life  
8 of Donte Johnson doesn't make them whole, it just  
9 furthers the pain; it just furthers the violence.  
10 There's nothing we can do. Unfortunately, there is  
11 no perfect answer. Unfortunately, that pain and  
12 that suffering will go on. Killing another human  
13 being is not going to change that. Killing another  
14 human being is only going to affect other people so  
15 that they feel the same way that those poor folks  
16 do. That's what killing another human being will  
17 do, and that's why I'm here to ask you -- there are  
18 other options. We can stop the pain. Is Donte  
19 Johnson's life somehow more valuable? You know  
20 what, I'm not even going to go there. I don't  
21 compare lives. Our maker is a person that decides  
22 the value, and Donte Johnson some day will be in  
23 front of him, and he will have to account for his  
24 wrongdoings. The decision is when. He has been  
25 held accountable.

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1           Now, these are a couple of my comments  
2 that I threw up here talking about revenge, talking  
3 about vengeance. You know, there are other  
4 alternatives. I know that you all have hatred and  
5 you're all mad and you all want to make something --  
6 do what's right. You all want to make those poor  
7 families whole, but you can't. I know you feel that  
8 anger; I know you feel that pain, because we're all  
9 human because we can see it in them, and it affects  
10 us and we feel it as well, and we want to do  
11 something with it. What I want you to know is what  
12 are you going to do with all that pain and all that  
13 anger if you take that man's life is transfer it on  
14 to his family. That's all that's going to happen.  
15 All this pain, all this anger can stop here. Any  
16 one of you can make that determination. Vengeance  
17 is powerful and destructive. They know that; that's  
18 why they're feeding it to you. It is not feeding  
19 and it will not sustain you in the course of your  
20 life.

21           Folks, I want to talk to you for a  
22 minute -- vengeance does not sustain history,  
23 because this affects each one of you individually.  
24 Soon, you're going to be done with the Clark County  
25 courthouse, and you'll be moving on, and you're

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1 going to have to live with the decisions that you  
2 make. It's a difficult decision. You know, I once  
3 tried to explain to you how I see all this anger and  
4 this violence and this fear and this meanness and  
5 how important it is and how mercy, and it's breaking  
6 that cycle for me.

7 I think back -- I just want to tell it in  
8 an analogy. I want to give an analogy a little bit  
9 from my life. I grew up a hundred miles north of  
10 here, and I'm kind of different from other folks. I  
11 got a kick out of the summer. My favorite time of  
12 the year was not the spring or the fall, it was when  
13 that first storm came in in like late August. I  
14 mean, we've been weltering like you down here, we  
15 welter in heat all summer long, just so tired of it  
16 and it just -- it eats you up day after day after  
17 day. And the first storm that comes in in the  
18 middle of August, I cherish it, and I go out -- I go  
19 out away from the house from other people to watch  
20 it come in. You're going to be away, you're going  
21 to be alone with your decisions in the future, and I  
22 watch that storm coming in, the mountains in the  
23 background, they have the purple and then they turn  
24 to red and the dark clouds come in and the lightning  
25 starts thundering and hitting the mountains around.

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1 It hasn't rained in months, and then I feel that  
2 cool breeze coming in and the rain falls down, and  
3 it's funny because the rain kicks up dust. Only in  
4 Nevada will rain kick up dust, and then pretty soon  
5 that rain diminishes to dust and turns to mud, and  
6 the desert just comes alive, and there's this  
7 wonderful smell, and it's just peaceful. It's life.  
8 Water brings life to the desert. You can stop that  
9 pain. You can stop that anger. You can stop that  
10 evilness. You have the opportunity to bring peace  
11 to society. You have an opportunity to make sure  
12 that this young man who testified up here, Allen  
13 White, does not have to tell parents -- tell people  
14 that his parents, his father, excuse me, was killed  
15 by society, that he does have a father, that he does  
16 love him. You can break that cycle of violence.  
17 You can bring in that peace, that mercy to these  
18 proceedings. That rain is mercy. That rain is  
19 life, and that's what I'm asking you to think about,  
20 what you can do, think about, what they want you to  
21 do and why.

22 I ask that you'll go back, look at the  
23 law, recognize it. Death is never required, but  
24 each of you have an individual choice to make that;  
25 each of you will have to individually live with that

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1 choice; that you had witnesses come in here that --  
2 again, we're not trying to justify or explain away  
3 that we feel the same pain, we just want to stop it;  
4 that we brought witnesses in here to show you that  
5 Mr. Johnson will receive a terrible, terrible  
6 punishment; that he live in a hole the rest of his  
7 life and will be protected from society; that he is  
8 held accountable that some day he will face his  
9 maker and he will answer for those things. I ask  
10 that you evaluate everything; that you recognize  
11 that the State is trying to serve you -- is trying  
12 to push you into old law, the one vestige of old law  
13 that we still have, and I ask that you recognize  
14 that these have answers (indicating), that life has  
15 value, that the cycle can be broken, and I'm going  
16 to ask that you give a life -- life sentence to  
17 Mr. Johnson, and I thank you for your time.

18 **THE COURT:** Approach the bench.

19 (Sidebar conference outside the presence  
20 of the court reporter.)

21 **THE COURT:** We're going to take a short  
22 recess.

23 During this recess, the jury is admonished  
24 not to read any newspaper articles, listen to any  
25 radio or television reports, express any opinion to

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1 anyone, talk to anyone about the case and don't let  
2 anyone talk to you about the case. All right?

3 **THE BAILIFF:** All rise.

4 (Recess taken.)

5 **THE BAILIFF:** Be seated. Remain seated;  
6 come to order. Court is again in session.

7 **THE COURT:** Miss Jackson.

8 **MS. JACKSON:** Thank you, your Honor.

9

10 DEFENSE'S SECOND CLOSING ARGUMENT

11 **MS. JACKSON:** May it please the Court, my  
12 esteemed co-counsel and Mr. Johnson and ladies and  
13 gentlemen of the jury, I was watching your faces as  
14 my colleague was talking, and I was studying your  
15 faces, and I was asking myself, has this jury  
16 already made up its mind? There are some studies  
17 that say you make up your mind within the first day  
18 or two, and I studied your faces, and I wondered,  
19 have you made up your mind? What an awful feeling,  
20 because you know, when I sit down, the State gets to  
21 speak again in these proceedings. They get to, for  
22 reasons which I'm sure I don't understand, they get  
23 to talk twice. So, when I sit down, that is the  
24 last time you will ever hear anybody say anything on  
25 behalf of that young man, and then you will listen

1 to Mr. Daskas. So, I wonder, I wonder, have you  
2 already made up your minds? I mean, what does one  
3 say standing here in the well of a courtroom, it's  
4 almost surreal trying to tell you something to  
5 convince you not to kill my client, you know, it is  
6 surreal almost, and I begin to wonder, have you  
7 already made up your minds? I don't know. You  
8 know, I'm not going to show you any visuals; I'm not  
9 going to go through a lot of the evidence -- and  
10 it's a lot.

11           There is a presumption in the law that  
12 says that we presume that you perform your duty as  
13 you are instructed, and it says that we presume that  
14 you follow the law, and I think those are things  
15 that we desperately hang on to, because if you  
16 don't, then we're all in a lot of trouble. So, I'm  
17 not going to use any visual aids; I'm not going to  
18 take a whole lot of time; I'm not going to think  
19 that I have the ability to say something so profound  
20 and so moving as to persuade you if you already have  
21 your minds made up. I don't have that ability.  
22 What I'd like to do is just to reason with you, one  
23 human being to another, one citizen to another. And  
24 I prepared a few notes, because this is very  
25 stressful for all of us, and I prepared a few notes

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1 because there are some things that I feel are  
2 important. I don't know if you feel they are  
3 important or not. I don't even know if Mr. Johnson,  
4 if my client, feels they are important, but what  
5 I've done is I prepared a few comments, and I just  
6 want to talk with you for a few minutes about some  
7 things.

8           Well, you know, here you have it. You  
9 have the whole story of how my client came to be  
10 facing you today, you know, and we look around --  
11 the media, the gallery -- and I've done a few of  
12 these cases, and I've never had a microphone taped  
13 to the lecturn where I have to beg for my client's  
14 life. As Mr. Whipple was talking about the lynch  
15 mob mentality, I began to look around and think  
16 about, why is all of this here? You know, what is  
17 this about (indicating)? I think Bret may be right.  
18 You know, before you can lynch somebody, you got to  
19 whip up a mob.

20           This case is about family. It's very  
21 personal. You know, it's really about children, and  
22 it's difficult to consider these four families out  
23 there who've lost -- they've lost their sons. A  
24 young lady has lost her brother. It's hard to think  
25 about those things when we go to August 14th of 1998

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1 and we see such a violent image, the kind of image  
2 that -- when we see it on television -- I don't know  
3 about you, but I quickly hit my remote, and I change  
4 the channel, because I don't bombard myself with  
5 those kind of violent images, and you know -- and no  
6 matter how much the State tries to pooh-pooh it, no  
7 matter how much they say, it doesn't matter, you  
8 know, the stuff that we turn away from that we turn  
9 our children's -- avert their faces away from. Life  
10 took Donte Johnson's face and stuffed it down in his  
11 face, and we had a doctor to tell you what that does  
12 to a person, but we did not need a doctor to tell  
13 you that, now, did we really? How can you avert  
14 your eyes when you see something really palpable.  
15 We have to look at it again, because they're going  
16 to put it up there again, I would dare say. Who  
17 among us is not reviled by such a horrific act? How  
18 can somebody who is wrapped in flesh and blood --  
19 despite what Mr. Stanton says, he is made of flesh  
20 and blood, and he's wrapped in skin just like you  
21 and I. How can somebody do that?

22           Well, John's life started out with a  
23 severe handicap. What you have is the remnants of  
24 abuse and neglect. Remember I told you in my first  
25 closing that children learn what they live? John

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1 has been serving a life sentence since the day --  
2 well, since before he was born, because mom drank a  
3 wee bit while he was inside of her. John has been  
4 serving a life sentence all of his life. What I'd  
5 like to do, if I can, is to give you some reasons to  
6 let him go to a place where he can finish serving  
7 out his sentence, where he won't harm anybody and  
8 nobody will harm him.

9           Now, the prosecution will undoubtedly tell  
10 you that he is a danger wherever he goes, and they  
11 have already done that, and you're going to hear it  
12 again, that he cannot be safely housed; that he will  
13 hurt people, Mr. Stanton said, day, night, black,  
14 white, short, tall. He is so dangerous that you  
15 have to kill -- stand up, Donte. Stand up, John. I  
16 dwarf this man.

17           You may be seated.

18           How large do you think the average inmate  
19 is? How large do you think Dorian Daniels and those  
20 guys are? They produce one episode, one episode to  
21 convince you that he is just so dangerous inside.  
22 We know what he's done outside. You know, I'm not  
23 going to -- you know, what can one really say about  
24 that? We came in here guilty, four counts of murder  
25 plus Derrick Simpson. That's our starting point,

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1 and yet, the law -- the law that you're charged to  
2 follow still says after all of that, death is never  
3 required. Perhaps they know something about these  
4 circumstances. We learn that when this happened, he  
5 was 21 years old. If you do the math, when he was  
6 16 or before that, he did about six months, if  
7 memory serves, but if memory is incorrect it's not  
8 intentional; you will have those documents, but I  
9 believe he served somewhere around half a year when  
10 he was about 13 or 14 years old in a camp and then  
11 at 16 he goes to CYA for over two years, if memory  
12 serves. He's been locked up most of his life. And  
13 they brought you one incident. You know what, we  
14 deny that, and we fault that, and we brought you the  
15 evidence to prove it. You don't normally do that.  
16 We had almost a trial within a trial, but it was so  
17 very important. It was so very important, because  
18 you know, that's the one thing that he did not do.  
19 He didn't do that, and I could have just brought  
20 Miss Navarro in here, you know, who works for  
21 Mr. Roger. She is a Deputy District Attorney. She  
22 has nothing to gain and everything to lose. I could  
23 have just brought in Reggie who lost his temper. I  
24 could have just let those guys stay up in Ely where  
25 they were. We brought them in here because when

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1 something happens in 5C in The Hole, we wanted you  
2 folks to see who's there. There's not people there  
3 like you and I; it's people like Reggie Johnson.  
4 But they hear and they see and, you know, they tell  
5 you that, "Well, Reggie had nothing to lose. He was  
6 already doing a minimum of 64 years." Well, this  
7 happened in February 24th of 2001. Do you think  
8 Reggie had more on his plate than a man who had been  
9 convicted of killing four people; a man who was not  
10 a legal scholar nor was he clairvoyant to know that  
11 in 2000, the Supreme Court would do something that  
12 would overturn his sentence? You heard me ask  
13 Reggie that. I mean -- come on. He had no idea in  
14 '01 that they would try to use that incident to get  
15 you to kill him.

16 Miss Navarro came in here and she backed  
17 up everything Reggie told you, George Cotton told  
18 you and Termaine Lytle told you. She said, unlike  
19 what Mr. Stanton said, that Reggie, from the very  
20 beginning said, "I did this. I'll plead to it."  
21 And why did not he do it? He was trying -- he wrote  
22 her a letter before preliminary hearing, and I think  
23 you heard from Miss Navarro, I think you can decide  
24 what kind of advocate, by George, she is, and she  
25 said he would not take the deal, why, because they

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1 wanted him to implicate this man (indicating) and he  
2 refused. And then all of a sudden from February to  
3 October that same year as a jury is being selected,  
4 the State of Nevada says, you know, hey, your client  
5 just wants us to say he didn't conspire with that  
6 man. Okay, we'll do that, and that's what he did.  
7 That's why he took the negotiation in October of  
8 '01, because they finally, after months and months  
9 and months of insisting that he implicate that man,  
10 they are the ones who conceded, ladies and  
11 gentlemen, oh -- and by the way, the prosecutor  
12 involved in that case -- you did not hear from him,  
13 because you know what, I think -- me thinks they  
14 think they pulled a fast one. Miss Navarro said  
15 that they were supposed to file the paperwork later  
16 to clean this up and they didn't, and it could have  
17 been just an oversight, because at that time, I  
18 don't believe anyone knew that we would be here  
19 today because you would have to be clairvoyant to  
20 know that. Anyway, the paperwork never got filed.  
21 And so, you ask yourself, if Miss Navarro came in  
22 here and lied to you, a lady who works for -- she's  
23 a Deputy District Attorney now. You think she came  
24 in here and lied to you? But we did all we could to  
25 give you a complete picture, because that incident

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1 is the one thing that they point to and say, you  
2 see, he cannot be safely housed. You know, and  
3 Reggie misbehaved while he was here, and I hope that  
4 you can press past that and listen to what he said.  
5 Listen to what Reggie said. You know, we don't want  
6 to believe that guards do things that are wrong, but  
7 you know what, there's one thing my learned  
8 co-counsel said that I beg to differ; he said there  
9 are no drugs in prison. I beg to differ. And you  
10 know how they get in prison? The guards. You know,  
11 how often do we pick up a paper and see where guards  
12 have brought drugs into prisons? Inmates can't get  
13 them in there. You know, they're human beings and  
14 they make mistakes just like anybody else. I  
15 don't -- you know, to say that we are impugning the  
16 integrity of Oscar Irias, a child molester at the  
17 bottom of the food chain even in prison. What  
18 integrity? You know, how do you impugn his  
19 integrity? When Reggie sat there and told you that  
20 this same young Officer Gonzalez who seems to be a  
21 decent enough young man -- I don't know, I don't  
22 know him, but I do know what the facts in this case  
23 have shown. They have shown that he was not in a  
24 place that he was accustomed to being; that he was a  
25 brand new recruit; that the regular 5C people were

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1 training, and you know why this rings true? The  
2 officers in that Bubble we've heard there was two up  
3 to five -- those men, those convicts is what they  
4 are, they told you that these officers didn't see  
5 what was going on, they did not hear it. You know  
6 why you can believe them, because if someone is  
7 trying to toss anybody over a railing, there has to  
8 be a struggle and the one fellow even described the  
9 struggle to some extent. You didn't have any  
10 evidence of an officer yelling out or yelling for  
11 help or trying to get there to stop this. There  
12 would have been sufficient time for an officer to  
13 get there if they had seen it. They didn't see it.  
14 As a matter of fact, Oscar had enough time to hit  
15 the floor, fall on his butt, get up, run in his  
16 cell, sit down, get back up, go over and close his  
17 door before the officer even knew what was going on.  
18               Well, why would young Officer Gonzalez say  
19 that he saw it? Well, you know, he's broke  
20 protocol. He broke protocol. I don't know if it  
21 was his idea -- back to my idea of COs who are less  
22 than perfect -- you know, Reginald told you that  
23 every chance he gets he's going to get at a child  
24 molester. He told you he got to Oscar again when  
25 they had him in the mittens. They're like big oven

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1 mitts. Miss Navarro described those. He was belly  
2 chained. He was all hooked up like the Hannibal  
3 Lecter kind of thing except he didn't have anything  
4 on his face or his mouth and these same COs --  
5 remember, they put him in there in the holding cell  
6 with Oscar again? And Gloria called it like a cock  
7 fight, you know. Reggie is all chained up so they  
8 figure we'll put him in there and see what happens,  
9 and he says, to quote him, "I beat the shit out of  
10 him again," even with all of this stuff on, so, he's  
11 driven by a fierce hatred of child molesters. And  
12 hence, you will see -- you have this in the jury  
13 room -- his blue card. Reggie said I should have  
14 gotten his; perhaps I should have. I don't have  
15 that, but I do have Oscar's and you now know that  
16 when it says "DNHW," it's "Do not house with," and  
17 you'll see that my client's name is not on here.  
18 So, you know what -- I don't know. I know we don't  
19 like to think that guards do things that are wrong  
20 and we don't like to come into court and say we have  
21 rotten guards, but do you think it was a mistake to  
22 put Reggie all chained up and defenseless, they  
23 thought, in there with Oscar after Reggie threw him  
24 off the tier? You know -- I don't know. We are  
25 flawed. You know, God help us, we're all flawed,

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1 and if somebody did that, it was wrong. But doesn't  
2 that give you something to ponder? You know, how  
3 did that happened? It was within months that they  
4 stick this man back in there with Reggie, and he did  
5 what he was supposed to do according to the way he  
6 feels.

7           And we did not hear from a DA who was on  
8 this case, and they could have called him. Somebody  
9 took the plea on Reggie. He yelled at David. It  
10 wasn't David. It was somebody else. You didn't  
11 hear from that person to come in here and say, "No,  
12 that wasn't the deal." You know, this was supposed  
13 to, as Miss Navarro said, never come up against  
14 Donte again. Her exact phrase was, "It was to be  
15 dismissed with prejudice forever." That's what  
16 "dismissed with prejudice" means, ladies and  
17 gentlemen, and yet, here you are being asked to kill  
18 my client because somebody else tossed a child  
19 molester over the -- and not that a child molester  
20 needs to be tossed -- don't get me wrong, I don't  
21 mean to be cavalier, but I can understand Reggie's  
22 frustration. What we're dealing with here is bad  
23 enough. What we're dealing with here is horrific.  
24 You don't need to come in here and lie on my client.  
25 It's frustrating.

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1           You know, you heard from Jim Esten, and  
2 Mr. Whipple covered that, I thought, in very  
3 eloquent detail about where my client will go, about  
4 how all of the decisions are made for you, and you  
5 know, interesting thing about the prison and CDC,  
6 you know. They have a whole stack of write-ups  
7 ranging from, you know, my client called some guard  
8 a mother fucker, to my client popping some guy in  
9 the mouth, to my client saying, "I don't want to  
10 take GED classes." And oh, by the way, on that GED  
11 class thing, notice the date. When you consider  
12 Nancy Hunterton's testimony -- remember the humanity  
13 that she saw in my client and how they yanked him  
14 out of the classes and put him in ad seg so he  
15 couldn't come? This "I don't want to take GED  
16 classes" came afterwards. Do you think he got a  
17 little discouraged? Do you think he got a little  
18 frustrated? Do you think he didn't despair some?  
19 But Mr. Gonzalez -- I want to get back to him for a  
20 second before I leave that. Another reason, the  
21 main reason why you should not believe what he  
22 says -- and I don't know, he doesn't seem like a bad  
23 person, but he certainly is, at the very best,  
24 misinformed. He sat right here and in his very  
25 openly comments, he said Oscar was a quiet,

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1 nonviolent, barely spoke English guy who just stayed  
2 to hisself. Well, you know what -- and then I had  
3 him read these write-ups. My God! I mean these  
4 four -- you just read them -- calling the guards  
5 names, one guard saying that F this, F that. He  
6 resisted being chained up. One officer even says  
7 that "I had problems with him before." This is in  
8 evidence, looks like TT. "I had problems with him  
9 before, and he seems as if he's trying to test  
10 officers to get them upset or pretending that he  
11 does not understand what the officers are saying.  
12 Obviously, Irias has some problem with cooperation  
13 and at times becomes very defiant."

14 Another one that says he is a psych  
15 patient with a violent temper, attacked another  
16 roommate, another inmate. So, when you look at  
17 these (indicating) -- and they're in evidence -- it  
18 should make you wonder -- and you look at this --  
19 you know, you don't have to find Gonzalez is a bad  
20 guy to find out that he is a liar, and maybe he told  
21 this story at first, you know, maybe he told this  
22 story because he was not where he was supposed to be  
23 pursuant to protocol and he was scared because he's  
24 got a family and he wants his job like anybody else,  
25 and then once he told the story -- you know how it

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1 is with that, you kind of have to stick to it. You  
2 don't have to find him to be a bad guy, but you  
3 know, you can't ignore this (indicating). I will  
4 submit to you that with all of the evidence that  
5 just screams that Donte did not do this, to consider  
6 that a decision of this weight is just wrong. It's  
7 just wrong, you know. And then they brought the  
8 lady in here from Indian Springs. She came in to  
9 rebut or disprove or take away from what Jim Esten  
10 said. I think her name was Miss Sheryl Foster, the  
11 lady who has not been to Ely, I think she said since  
12 1989. I lost track how many times she said under  
13 Mr. Whipple's questioning "I don't know. I don't  
14 know, I don't know," and how each time -- these are  
15 things that you have to look at, because that's  
16 what -- how you determine what to give weight to.  
17 Every time they ask her a question, she's looking at  
18 some notes, and Mr. Whipple said, "What are you  
19 looking at?" "May I see that?" "And you see by law,  
20 he gets to see it. She didn't even know anything.  
21 But you know why they brought her in here? They  
22 brought her in here to tell you that she has several  
23 what we call LWOPPs -- life without the possibility  
24 of parole -- in her prison industries work program,  
25 and therefore, you should never consider life

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1 without parole for Donte, because he could be  
2 working in her prison industries program one day.  
3 That's why they brought her in here. That's what  
4 she came in here to tell you. I mean, that's what  
5 they brought her in here to tell you. And then her  
6 testimony should be very disturbing because the  
7 Court, you know, not me, not Whipple, the Court  
8 said, "Well, ma'am, how many is 'several'?" "Well,  
9 several". Well, ma'am, how many is 'several'?"  
10 "Well, several." Well, I don't know what that  
11 means. Does that mean one? Does that mean some old  
12 guy who has been there 50 years who has somehow  
13 redeemed himself and has worked his way up through  
14 the ranks is now in her prison industries program?  
15 What does that mean? You come in here to court to  
16 testify, and you can't even answer a direct question  
17 from the Court. "Ma'am, how many is 'several'?" Do  
18 we have 50 LWOPPs running around doing work at the  
19 prison? Do we have one? Do we have 50? We have  
20 several, she said. Now, what does that mean? I'm  
21 sure I don't know.

22           You know, let's look at this life. Let's  
23 look at this life, because this is the penalty  
24 hearing for Donte Johnson. This is the life we're  
25 going to take a look at, and the law demands that

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1 you consider all of the circumstances. You know,  
2 John is convicted of killing four people, and their  
3 families are hurting. They are suffering, and you  
4 heard them testify and you heard them say that they  
5 are unable to find any peace; that they are unable  
6 to go on, and I agree with Mr. Whipple. You know,  
7 that creates in us an urge to want to help them.  
8 They deserve to be helped. If there was a way that  
9 you could take my client and put him right here  
10 (indicating) and take the victims and put them right  
11 there (indicating) and exchange their lives, we  
12 would not have an issue, now, would we? If only we  
13 could do that, but you can't give them back what's  
14 been taken. You don't have that power. You know,  
15 you think about when you look at Donte's life, you  
16 look at the way he started and then you remember  
17 what these parents and loved ones of these victims  
18 said. And I don't mean to be cruel here, and I  
19 don't mean to be disrespectful, but I'm going to  
20 tell you some facts that must be said. These young  
21 people had very good upbringings. One father  
22 testified that he had coached his son or refereed  
23 his son in virtually every sport, and that's a very  
24 good thing. You know, even the single mother --  
25 awesome lady -- and they loved their kids and they

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1 went to great lengths for their kids because they  
2 love them as we all do, and by George, with all of  
3 that love, with all of that attention, these young  
4 men, when they were killed, were drug dealers, and  
5 they were drug users. Those are the uncontroverted  
6 facts. And if you think me cruel for saying that,  
7 just look at the evidence. I did not make it up.  
8 You know, we do everything for our children. We  
9 would die for our children, and we have good kids,  
10 good children, you know, who get on drugs and become  
11 drug dealers with all of that love, what kind of  
12 chance do you think he had (indicating)? No -- you  
13 know, why would I say something like that? It might  
14 seem mean, but you know what, that is Donte Johnson,  
15 John White's penalty hearing. And when we think  
16 about why -- when Officer Buczek -- I gave you an  
17 example that happened right here in this courtroom.  
18 Remember the detective, Officer Buczek, he was here  
19 testifying, and then we said, "Your Honor, we want  
20 to have him testify in our case," and the Judge  
21 said, "Well, yes. Can you come back?" And he said,  
22 "No. At 3:15, I have to get my kid." Now, did  
23 anybody in here question, "Well, this is more  
24 important"? You know, that just is one example, and  
25 I don't have to tell you about John's father. You

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1 know, before it would have been better if he had  
2 just left sooner, but before he left, he beat this  
3 child, he beat the child's mother, dehumanize. My  
4 client has no idea what it's like to go to a ball  
5 game with his father. My client's idea of a father  
6 is monstrous, scary. You know, the image of his  
7 mother sleeping and this man coming in and punching  
8 her in the face and the blood squirting out onto  
9 John possibly dehumanizing, desensitizing.

10           You know, what does it take to be a  
11 survivor in South Central? That CPS report that you  
12 have, that exhibit talks about the children being  
13 survivors. You know, imagine what it takes, being  
14 beaten, not even knowing why you're being beaten,  
15 being hungry. You know, few Americans really  
16 truly -- never truly experience hunger in this  
17 country, but John has -- crawling inside a dumpster  
18 for food, being locked in a closet hearing your mom  
19 scream, being taken on drug runs with your mother  
20 and your aunt, being kept out of school at an early  
21 age simply because your mom couldn't get around to  
22 sending you, being small in stature and watching,  
23 you know, your mom get beat down, I mean to a bloody  
24 pulp, and not being able to do anything about it.  
25 What did that do to my client? It took him deep,

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1 deep, deep, deep, deep, deep, deep down inside of  
2 himself where nobody could ever hurt him again.  
3 Dr. Kinsora told you about that. And you know what,  
4 in this letter, whether it was a day, whether it was  
5 a month, whether it was a year, have you ever lived  
6 inside a shack with no toilet, no electricity, no  
7 food? The CPS report says they were living there.  
8 Do you think John's family was lying to you when  
9 Keonna and Johnnisha and Eunisha even talked about  
10 living in that place? There is a credibility  
11 instruction. There are some things that you just  
12 can feel. You think they were exaggerating the  
13 memories of a situation like that?

14           And then the State says, well, they did  
15 not give you a complete picture of his schooling, as  
16 if we were trying to somehow fool you, as if we were  
17 somehow trying to give you a little bit of this and  
18 not the rest of it. Of course, when John got with  
19 his grandmother, that lady, you know she was trying  
20 to reach down past her generation of children who  
21 were all on drugs and alcohol and trying to get her  
22 arms around those grandkids. I'm the one who told  
23 you that she said "He's acting like an adult, treat  
24 him like an adult." When he was with her, he went  
25 to school. We are the ones who came in here and

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1 showed you the videotape of John in the choir  
2 singing "Does Anybody Here Love My Jesus." That was  
3 grandma's rules. She insisted. So, you know, when  
4 they get up and try to say that we're telling you  
5 half truths and we're trying to somehow do something  
6 less than be candid and they try to pooh-pooh John's  
7 childhood and try to say well, he was just there a  
8 day, did you need a doctor to come in here and tell  
9 you that things -- Kinsora told you if you take a  
10 child who is only six months old and that child has  
11 been abused, and then you adopt that child, he said  
12 that you take a chance that that child's inner core  
13 may already be damaged at six months. Some may  
14 bounce back, but many do not. Did it take a doctor  
15 to tell us that? We had him come in to tell us  
16 this, because had he not done so, I couldn't talk to  
17 you about it. I could only talk to you about things  
18 that happened inside the four walls of this  
19 courtroom; that's why I had to have him come in, but  
20 I don't think for a minute that you needed to be  
21 told that it's a bad thing to drink while you're  
22 pregnant, and that if you take a child's mind and  
23 you just bombard it with violence, day in, day out,  
24 that warps that child's mind so that you produce a  
25 very violent, desensitized -- just a messed up kid.

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1 I did not have to tell you that. But if he had not  
2 come in here and shared that with you, we couldn't  
3 have this discussion. Excuse me.

4           So, we come to the part of his life where  
5 when John saw a way out, he took it. There were too  
6 many negative things for John to overcome. You  
7 know, as the State says, "Well, what about Moises?"  
8 You can't really compare him to Moises, the  
9 brother-in-law who is Hispanic. We did bring him in  
10 here because he's Hispanic, that's a fact, but he's  
11 also his brother-in-law. He also grew up in South  
12 Central. He also loves this man. Well, Moises  
13 didn't turn out like that. Well, Moises's mother  
14 wasn't retarded. Moises's mother did not drink  
15 while she was pregnant. Moises was not kept out of  
16 school almost a whole first two years of his life.  
17 You know, it's like taking two runners, two  
18 athletes, and putting one into a shed and giving  
19 that one just bread and water, and then taking  
20 another one and giving him the state-of-the-art  
21 training and the equipment for about a month, and  
22 then taking those two athletes who were equal to  
23 start with -- because criminals are not born,  
24 remember that -- they are made. They started out  
25 equal, and then you say, "Okay. You're going to run

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1 the hundred yard dash. On your mark, get set, go.  
2 Now you guys are equal." That's what it's like  
3 comparing. That's what Donte was like. He was  
4 just, you know, so deprived, so handicapped, so  
5 damaged, and now they want you to say, well, he  
6 started out equal with all of us, and let's hold him  
7 to those standards. And yet, in a way, you already  
8 have, because he stands convicted times four. You  
9 know, the space that we're talking about -- I was  
10 watching the template, it goes from here  
11 (indicating) to about here (indicating). You know,  
12 imagine sitting on the toilet doing your business  
13 and then turning around and then having to drink  
14 from that faucet within the next five minutes. It's  
15 one unit.

16           You know, what were these choices, the  
17 choices that the State will convince you -- will try  
18 to convince you that Donte Johnson made, that John  
19 White made -- ask yourself, were they real? You  
20 see, for a choice to be a choice, it has to be  
21 meaningful. It has to have -- I have to -- this  
22 morning I decided to wear this suit. I have more  
23 than one. I have more than one that I like. I  
24 chose this one.

25           You know, Dr. Kinsora called South Central

1 a third world country and he showed you images from  
2 Bosnia and Sierra Leone, and I'm sure Counsel will  
3 get up and say, you know, that was just to make you  
4 feel sorry for my client. You know, Kinsora  
5 suggested that you take a drive down through South  
6 Central sometime if you think we're exaggerating.  
7 It is a third world country. The atmosphere, the  
8 military garb of the soldiers in the wake of the  
9 Rodney King riots, seeing dead bodies, people  
10 running, chasing people with guns -- you become a  
11 survivor, and Kinsora says it best. "The dye was  
12 already cast." By the time grandma got Donte, he  
13 was too small to not obey the rules, but the dye was  
14 already cast. He did not have any choice about  
15 whether or not to become desensitized to violence.  
16 It was that or die. So, he became a survivor. You  
17 become so desensitized to it -- and this is just by  
18 way of explanation -- how could someone do this?  
19 This is how. You know, you have blood splattered on  
20 your face when you're four or five years old, and  
21 there's this business of Niagara Falls. Mr. Whipple  
22 said they will use that to get you into a mob  
23 mentality. When you've had your own mom's blood  
24 probably splattered in your face, it becomes easier.  
25 Does that make it right? No. We're simply giving

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1 you a picture of how someone becomes a person who  
2 can do this, and he is still a person despite all of  
3 this; he's still a person.

4 Well, what about the gang membership?  
5 What would you do to protect your family? You know,  
6 that's a fair question, because here you have John  
7 White, a small-in-stature boy, but the oldest boy  
8 who looked around him and he made up in his mind  
9 that he was not going to allow Keonna and Johnnisha  
10 to get on their knees and perform oral sex on the  
11 local thugs the way their mothers had. He made up  
12 in his mind that when these sisters -- his sisters  
13 decided that we're not going to do that, that he was  
14 not going to let Baby Sonny rape Keonna, he made up  
15 his mind that when that burglar came in and touched  
16 his sister the way that he did, that was the last  
17 time. He made up his mind that he was going to do  
18 what he had to do. The only thing he could do, he  
19 joined the gang. He would not let them be robbed of  
20 their self-respect. He would not do it. He had to  
21 stop the terror. And it never really stopped.  
22 Keonna told you that it never really stopped, but it  
23 got a whole lot better. And he thought that if he  
24 joined this gang and became one of them, it would  
25 make it better for his family, and it did for a

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1 while, but he didn't know the whole gang deal.

2 We brought Dr. Martin Sanchez-Jankowski in  
3 here to talk to you, the man who came from being the  
4 son of Mexican migrant workers going all the way to  
5 MIT, a man who teaches at University of Cal at  
6 Berkeley, one of our most prestigious universities,  
7 a man who was jumped into a gang, been shot three  
8 times, stabbed two times and beaten about the face  
9 with a chain, we brought him in here to tell you  
10 what gangs are like, and he says they've been around  
11 for a long, long time, about 150 years, and he said  
12 they always exist in poor areas. It's very, very,  
13 very seldom we have a situation with the boys we  
14 have here, the 411 boys all out in Summerlin.  
15 That's very rare, very rare, but like any rule,  
16 there are exceptions to it, but he told you that  
17 gangs are very, very, very powerful, and that this  
18 is a gang, and Dr. Kinsora, who never met Jankowski,  
19 by the way, came in here and told you the same  
20 thing, that this is a gang under stress.

21 What did Jankowski tell you when a gang is  
22 under stress? They have to recruit constantly, and  
23 this little Blood gang, the Six Deuce Brims are  
24 surrounded by countless Crip gangs. Do you think  
25 Donte Johnson just made this up? You know, Martin

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1 Jankowski is an award winning writer, written books  
2 that have received accolades, conducted research  
3 that is respected throughout the world, and they  
4 will probably want to pooh-pooh what he had to say.  
5 Notice, however, no one came in here and got up  
6 there and said, "I'm a gang expert, and I dispute  
7 what he has to say," because it's true. This man  
8 taught at the Quantico, Virginia FBI school. His  
9 credentials are impeccable. They're sterling, and I  
10 don't know anybody who is willing to go and be  
11 jumped into a gang, but he did it, and I dare say  
12 you can trust what he has to tell you about this  
13 gang situation.

14           Along with poverty comes desperation.  
15 Well, that's news. He told us that people join  
16 gangs for protection and for financial reasons.  
17 What else did he tell you? He said violence is the  
18 means of exchange that a gang has. It's how gangs  
19 relate to one another. It's how they relate to  
20 other gangs. So, when the State tells you that,  
21 well, Donte Johnson robbed a bank for financial --  
22 well, of course he did, and we'll talk about that  
23 again in a moment. And Donte Johnson committed  
24 these hideous crimes for money and for drugs. Well,  
25 of course he did. That's part of the gang

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1 mentality. Now, we're not blaming the gang for  
2 anything, we are giving you what we are required to  
3 give you at this penalty hearing. We're introducing  
4 you to Donte Johnson and letting you see the factors  
5 as best we can, the factors that made who he is.  
6 There are things that are so far into you and I that  
7 it just blows the mind, and yet, they're real.

8           So, John joined the gang, and remember I  
9 told you in my opening comments that he thought that  
10 that would make things better, and you heard his  
11 family talk about when John was at home probably  
12 thinking, you know, it's not so bad here, we got  
13 food. Remember what he told the CPS workers? "I  
14 want to stay here. My parents are mean to me" --  
15 seven-and-a-half-year-old Johnny. So, here he is  
16 now, he's about 13, 14, he's joined the gang, and  
17 he's in. They stop trying to rape his sisters, and  
18 then he finds out he can't get any peace. You don't  
19 get to stay at home when you're in a gang. Every  
20 day Big Deko -- and he would tell grandma, according  
21 to Johnnisha, "We're going to go to the mall. We're  
22 going to go watch movies" or some nonsense. It was  
23 a form of slavery, I told you in my opening, and  
24 truly it was. Jankowski told you you don't get to  
25 decide not to go. And yes, the younger ones are

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1 precious commodities. Remember that expression,  
2 "put in some work"? We talked about that in my  
3 opening. Say what you will about that bank robbery,  
4 but ladies and gentlemen, it was a lot of things,  
5 and sophisticated just is not one of them. A Ryder  
6 van that was rented -- wouldn't that make it more  
7 easier to trace, plus they're huge, they're bright  
8 yellow. Stuffing money -- money that has the -- the  
9 police reports will tell you this, they have what  
10 they call bait money. A sophisticated bank  
11 robber -- and I represented quite a few -- they know  
12 how to detect bait money, and they don't take it.  
13 These children took the bait money, and they  
14 grabbed -- what -- a little over a thousand dollars.  
15 That's sophisticated? You know, anything to work  
16 you into a tizzy. Was it wrong? Did it terrify  
17 those people? Of course. Was it dangerous? Yes.  
18 Was it criminal? Yes. It was a lot of things, but  
19 by George, it was not sophisticated. And to use  
20 that word -- I don't care what lieutenant from  
21 California says, it's just not true. He talked  
22 about one of the boys telling you that the older  
23 members of the gang had told them to do this because  
24 the older Crip members were on one of the Bloods --  
25 something that they told this man. Maybe it was a

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1 cry for help by these juveniles. They're not  
2 supposed to tell, but they told. And he reads a  
3 report they were sitting in court laughing and  
4 joking in court. They're kids. Does that show  
5 you -- does that show sophistication? They're  
6 stupid kids. That's what kids do. They took these  
7 weapons of mass destruction, they could have killed  
8 people, and we fully concede that, but we just beg  
9 of you to please look at the big picture. Don't  
10 just take bits and pieces and let them create a  
11 fictional character, someone -- a John Gotti, bigger  
12 than life, that you have to kill for them. The law  
13 says "death is never required." If it was ever  
14 required in every quadruple homicide, ask yourself  
15 how come Vornelius Evans got life. He killed four  
16 people. You ask yourself that. The law doesn't say  
17 if you kill a certain number, then death is  
18 required. What the law says is that death is never  
19 required, because there are reasons, there are  
20 circumstances.

21           You know, you heard from Dr. Kinsora and  
22 you heard from Martin Jankowski, and you heard from  
23 Mr. Esten, and I know you're tired and I'm going to  
24 be as swift as I can. I know you're tired, and I  
25 appreciate your patience. This is the only time we

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1 get to talk to you about John, so please bear with  
2 me. John does well in a controlled environment. He  
3 does so well that Nancy Hunterton came in here and  
4 told you that she saw compassion in him and that she  
5 would have come to court even if I hadn't subpoenaed  
6 her, and that she was -- she found value in that  
7 life. Nancy Hunterton saw it. We had to bring you  
8 his parole officer; they did not. We brought Craig  
9 Clark in here to tell you that he saw some value in  
10 that life and he explained to you why John quit  
11 going. Now that you've seen the map, can you blame  
12 him? He had to cross, according to Mr. Clark, seven  
13 different gangs to get to that school. The first  
14 two or three months he said he was doing great. Can  
15 you just see Johnny around there? They all call him  
16 "One Punch" because they thought it was funny  
17 because he was so small and he was going to knock  
18 somebody out with one punch, but he was happy to go  
19 to school. He was happy to clean up around there.  
20 He probably felt safe, but you know, he couldn't go  
21 there, because it's like running a gauntlet. And he  
22 says he had to take the bus, and one of the things  
23 that you find out as a gang-banger is that you don't  
24 get on the bus, and you're on the bus and you're  
25 trapped. Your enemies get on there and they kill

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1 you. Remember the statistics that Dr. Kinsora  
2 showed you and the number of homicides? My God, the  
3 people that kill each other because of colors is  
4 ridiculous to us. That's his life. That's his  
5 life, and he has been serving that life sentence  
6 since the day he was born. Thank God it's not my  
7 life. I don't know about you. I don't think I  
8 would have made it. My client made it. It's his  
9 life. Let him go to Ely and just finish serving out  
10 his sentence.

11           You know, I had the opportunity to be at  
12 Arizona State University last October when my girls  
13 are getting ready to go to school, and they were  
14 scouting out this campus, and we were there for this  
15 football game. I did not notice then, but Pat  
16 Tillman, the brave young man who died, he went to  
17 school there, and they were retiring his jersey.  
18 And they had his family there and they had some of  
19 his teammates there, and it was an awesome ceremony.  
20 There was not a dry eye in that stadium, and it was  
21 packed on both sides. I began to think about that  
22 young man, a young man who -- I mean, they were  
23 talking about the way he was at school, the way he  
24 was, and I believe them, because of what he did. He  
25 gave up a chance to make millions, to be famous, to

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1 be on TV. He just wanted to go and be a Ranger, an  
2 Army Ranger with his brother, and he gave his life  
3 for something that's bigger than revenge, bigger  
4 than an eye for an eye. And as I was preparing my  
5 remarks for you, did Pat Tillman die for Donte  
6 Johnson too or did he just die for those of us who  
7 live in Summerlin? I think not. And then when they  
8 captured Saddam Hussein in that war that makes no  
9 sense, perhaps, but because you know a young man  
10 like Pat Tillman would give up his life makes me  
11 proud of this country and the good in us, and then  
12 we captured that man, that man who has murdered and  
13 tortured millions, and a friend -- and we were  
14 watching the TV, and a friend of mine who has a  
15 five-year-old -- remember when they were giving  
16 Hussein -- and checking his ears and making sure he  
17 was okay and giving him a physical -- and this  
18 five-year-old says to daddy, "Daddy, why are we  
19 helping him? Why don't you" -- "Why don't we just  
20 kill him?" You know what my friend told his son?  
21 "Son, that's what we do. That's what we do."

22           The quality of mercy is not strained. It  
23 dropeth as a gentle rain from heaven. Upon the  
24 place beneath. It is twice blest. It is blessed by  
25 him that gives and him that takes. It is an

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1 attribute to God himself, an earthly power doth show  
2 like a God when mercy seasons justice.

3           Why show Donte mercy? He has killed four  
4 people -- five. He has killed five people. Why  
5 show him mercy? He does not deserve it. Well, of  
6 course not. That's what mercy is. When you show  
7 mercy to your best friend who has gotten sideways  
8 with you, when you show mercy to your child who has  
9 made you angry, when you show mercy to people that  
10 you love, that's not mercy, that is  
11 self-gratification, because it makes you feel good.  
12 People who need mercy are the people that we hate,  
13 but they deserve mercy, they don't need it. That's  
14 not mercy, that's self-gratification.

15           You know, there was once a great teacher,  
16 and in his day, adultery was a capital offense. You  
17 know in this mob that had blood on their mind, they  
18 were thirsty. They wanted to kill and they also  
19 wanted to trap the teacher, and they brought this  
20 woman in, and they said, "You know what, we caught  
21 her in the very act, and you know what the law says?  
22 What are you going to do with her?" The teacher did  
23 not say the law was wrong; he did not say that they  
24 were wrong for wanting to kill her; he just kneeled  
25 down in the sand and he began to write. You know,

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1 for over 2000 years all kind of scholars have tried  
2 to figure out what it was that he wrote, and to this  
3 day, they have not been able to determine what it  
4 was that he wrote. But at some point he looked up,  
5 and he said, "Those among you who don't have any  
6 fault, cast the first stone," and he went back to  
7 his writing. We don't know what he wrote. He  
8 looked up again, and all the lynch mob was gone.  
9 They were dispersed. It probably had something to  
10 do with mercy.

11 Don't kill my client.

12 **THE COURT:** All right. We're going to  
13 take another recess. Five minutes.

14 **THE BAILIFF:** All rise.

15 (Recess taken.)

16 **THE COURT:** Proceed.

17

18 STATE'S REBUTTAL ARGUMENT

19 **MR. DASKAS:** It always strikes me as I  
20 participate in these penalty hearings how things get  
21 turned around. We hear so much about criminal  
22 defendants, about opportunities they never had,  
23 about their difficult childhoods, about privileges  
24 they were never afforded, and you heard a lot about  
25 Donte Johnson over the course of the past two and a

1 half or three weeks.

2 Don't misunderstand me; it's important for  
3 you to have as much information about this man as  
4 possible before you make the decision you are about  
5 to make, but allow me to remind you why we're here.

6 Let me introduce you to the four young men  
7 whose lives were ended by Donte Johnson on  
8 August 14th of 1998.

9 This is Peter Talamentez (indicating),  
10 Matt Mowen (indicating), Jeff Biddle (indicating)  
11 and Tracey Gorringer (indicating). These are the  
12 four young men Donte Johnson executed. None of them  
13 lived to see the ripe old age of 21. This is what  
14 brings us to court today, the four lives this  
15 defendant single-handedly ended in 1998, and the  
16 question for you is what is the appropriate  
17 punishment for this quadruple homicide? What value  
18 do we put on these four lives? Donte Johnson put a  
19 value on their lives. He decided their lives were  
20 worth less than a VCR and a PlayStation. But I want  
21 you to keep something else in mind. Donte Johnson  
22 didn't just end four lives, he destroyed countless  
23 other lives.

24 You know, we're going to finish our jobs  
25 here today or maybe tomorrow, and we're going to get

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1 on with our lives. I'm sure you'll think about this  
2 case occasionally, but there are lives that will  
3 never, ever be the same, and you heard from a  
4 handful of those people last week, the family  
5 members who were affected by what Donte Johnson did.  
6 David Mowen, Matt's father, told you it's been 2,451  
7 days since his son was murdered, but it feels like  
8 yesterday. And I think I probably articulated what  
9 the other families are feeling, and I'll quote David  
10 Mowen. "It's the same day over and over again.  
11 It's the same pain, the same misery, the same anger  
12 every single day. It doesn't get better." After  
13 2,451 days, it hasn't gotten any easier, and it  
14 dawned on me as I listened to those parents, these  
15 parents weren't supposed to outlive their kids.  
16 Parents aren't supposed to bury their children.  
17 Remember Marie Biddle's testimony, Jeff's mom? She  
18 was recently going through some belongings, and she  
19 came across a card that Jeff had sent to his father,  
20 and he wrote something in that card, no doubt,  
21 jokingly. "Dad, what would you ever do without me?"  
22 Jeff's parents never imagined they would have to  
23 find out.

24               These are the consequences of this man's  
25 decisions on August 14th, 1998. That's what brings

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1 us to court today, and the question for you is, how  
2 do you punish him? It's not his lack of  
3 opportunities; it's not his tragic childhood that  
4 brings you to court; it's his decisions on  
5 August 14th of 1998. And the question for you is  
6 what punishment is due Donte Johnson, because that's  
7 why you're here. You're here to punish this man for  
8 his criminal conduct. This is a penalty hearing.  
9 You're not here to rehabilitate Donte Johnson,  
10 you're not here to protect society as the defense  
11 would have you believe, and you're not here to  
12 determine if he can be safely housed. That's not  
13 your decision. You're here to penalize Donte  
14 Johnson for his criminal conduct.

15           How do we do that? How do we punish Donte  
16 Johnson? Do we simply send him to prison for the  
17 rest of his life? Is that appropriate? Do we give  
18 Donte Johnson what he wants? And if it's as bad as  
19 the defense would have you believe, why are they  
20 begging for it? Why are they begging for it? Or is  
21 it like Warden Foster described. Ask yourselves  
22 this question. What would your punishment be if  
23 Donte Johnson had stopped after executing Peter  
24 Talamentez? Imagine for a moment that he was the  
25 only victim in this case. Assume that Pete was the

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1 only one who was laid face down on the ground, duct  
2 taped, hands behind his back, motionless and  
3 defenseless when the defendant pistol whipped him,  
4 kicked him in the face and then executed him. What  
5 if that were the only crime Donte Johnson committed  
6 on August 14th? What would your punishment be?  
7 Keep in mind, you would still consider what he had  
8 done three months earlier on May 4th of 1998 when he  
9 shot Derrick Simpson in the face and stepped over  
10 him and calmly fired a bullet into his spine. Don't  
11 forget about the bank robbery at age 16. What would  
12 your punishment be? Based on this man's criminal  
13 record and the execution of a 17-year-old kid,  
14 wouldn't life in prison without parole at a minimum  
15 be your punishment? Would you actually consider  
16 letting this man out of custody if he stopped after  
17 executing Peter Talamentez?

18           If that would be your punishment, what  
19 about victim number two? What about Matt Mowen? If  
20 life in prison with no chance of parole is the  
21 punishment for the execution of a 17-year-old with  
22 this man's criminal background, what is the  
23 additional punishment for Matt Mowen? There has to  
24 be additional punishment for additional victims, or  
25 do we simply ignore that second murder from August

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1 14th? Do we give Donte Johnson a pass? Do we  
2 pretend it never happened and just give him life  
3 without parole? Do we treat Donte Johnson as if he  
4 had stopped after executing Peter Talamentez or is  
5 something more required in this case of this  
6 defendant? Maybe some of you believe that a double  
7 murderer deserves life without parole.

8           What about victim number three? What  
9 about Jeff Biddle? Where is the punishment for that  
10 execution? Do we treat Donte Johnson as if he had  
11 stopped after killing Peter Talamentez and Matt  
12 Mowen? Do we pretend he never executed Jeff Biddle?  
13 Do we imagine that Jeff Biddle wasn't lying there  
14 taped up, defenseless and motionless when he was  
15 executed or is something more required of this  
16 defendant? Or do you now give him a pass for both  
17 the murder of Matt Mowen and Jeff Biddle, treat him  
18 the same as if he had stopped after killing  
19 17-year-old Peter Talamentez? Maybe some of you  
20 believe a triple murderer deserves life in prison  
21 without parole.

22           What about victim number four? What about  
23 Tracey Gorringer? How do we punish Donte Johnson for  
24 the murder of Tracey Gorringer, or do we pretend that  
25 never happened? Do you remember Tracey Gorringer?

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1 He was the last of the four executions. Consider  
2 his execution. He was lying face down, fingers  
3 interlaced, hands behind his back, taped thoroughly  
4 and tightly, legs bound at the ankles with duct  
5 tape, unable to defend himself, unable to move. The  
6 defendant armed with a .380 handgun and his  
7 co-defendants armed with the sawed-off .30 caliber  
8 rifle and the gun with the folding stock no doubt  
9 pointed at Tracey Gorringer. What did Tracey  
10 Gorringer know and what did Tracey Gorringer hear?  
11 Let's think about that. He surely heard the first  
12 shot to Peter Talamentez. He was in the next room  
13 in the dining room. Maybe Tracey even heard the  
14 grunting noise that Pete made, the one that Donte  
15 Johnson laughed about.

16 **MS. JACKSON:** I'm sorry, Counsel.

17 Your Honor, I'm going to have to object.  
18 Under Butler vs. State, the Supreme Court  
19 specifically said that the prosecutor making  
20 comments about what the victim may have been  
21 thinking while he was being chased is improper  
22 unless there was some evidence of that in the  
23 trial. We don't have any evidence of what Counsel  
24 is referring to now.

25 **MR. DASKAS:** Judge, there's absolutely

1 evidence that he was the last victim shot. The  
2 evidence of the grunts come from the defendant  
3 himself to his friends, and I'm not asking them to  
4 put themselves in the victim's shoes, entitled to  
5 consider all four executions in this case.

6 **MS. JACKSON:** He's asking them to  
7 speculate as to what the victims were thinking, your  
8 Honor. That's improper under Butler.

9 **THE COURT:** Sustained. You can say that  
10 but you can't say what they're thinking or what you  
11 think they were thinking.

12 **MR. DASKAS:** Shot number two, Matt Mowen.  
13 Matt Mowen was in the same room as Tracey Gorringer,  
14 perhaps a foot or two away. While Tracey Gorringer  
15 was still alive as the shots got closer and closer,  
16 Jeff Biddle took bullet number three inches away  
17 from Tracey Gorringer, yet Tracey Gorringer couldn't  
18 do anything about it. He couldn't move. He was  
19 completely defenseless as his three friends were  
20 executed, inches away -- and the question for you  
21 is, how do we punish Donte Johnson for that  
22 execution? Is life in prison still appropriate or  
23 do we pretend that execution never took place? Has  
24 not the defendant, at that point, forfeited his  
25 right to live?

1           If a quadruple killer who laughs about his  
2 crimes isn't deserving of the death penalty, then it  
3 has no meaning. If a quadruple killer who has  
4 previously killed isn't deserving of death, then the  
5 death penalty has no meaning. We heard some  
6 comments from defense counsel about other famous, if  
7 you will, criminals and horrendous acts of violence.  
8 Well, common sense and experience tells you that  
9 criminals who commit single homicides receive life  
10 in prison without parole. In fact, you heard from  
11 one, Termaine Lytle, their witness, convicted of a  
12 single homicide doing consecutive lives in prison  
13 with no chance of parole. That's the punishment  
14 they want for a five-time killer, the same  
15 punishment Termaine Lytle received. Is that  
16 appropriate? What message do we send to would-be  
17 criminals if we give this man without parole? Do  
18 you send this message, if you're going to kill, you  
19 may as well eliminate witnesses, you may as well  
20 commit additional murders because the punishment is  
21 going to be the same? I submit to you that's a  
22 dangerous message to send.

23           Understand this, as we discussed during  
24 jury selection, you may impose different punishments  
25 for different victims. For example, if you think he

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1 deserves life in prison for the first execution, you  
2 can impose that sentence, but what do you do by the  
3 time you get to victim number four and that  
4 execution? Isn't death necessary in that case? I'm  
5 not suggesting that one of these lives is more  
6 valuable than the next, because it's not, but the  
7 point is there has to be additional punishment for  
8 additional victims or you make a mockery of the  
9 "what about his actions afterwards." Did he ever  
10 express remorse or did he laugh about this when he  
11 described the grunting noises these young men made,  
12 and I'll say it again, when he described how the  
13 blood squirted out of their heads like Niagara  
14 Falls, what punishment is due Donte Johnson? Is  
15 life in prison really appropriate for this man for  
16 what he did? And the defense notion that back in  
17 1993 when he was jumped into a gang that this was  
18 all predetermined, that he was going to find himself  
19 in this courtroom years later facing this charge, I  
20 don't buy it and it's not supported by the evidence.

21 Remember his sister Johnnisha, she told  
22 you she saw the exact same things Donte saw growing  
23 up, the exact same violent images, yet, here she  
24 sits, a law abiding respectful citizen. This wasn't  
25 predetermined.

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1 Craig Clark told you there's no  
2 information to suggest this had anything to do with  
3 gang activity, because it didn't. He also told you  
4 that his parolees make it, that they look to him.  
5 Craig Clark as a role model; that they don't all  
6 commit quadruple murders like Donte Johnson did.

7 Dr. Jankowski, the defense gang expert,  
8 told you there's nothing to suggest this crime has  
9 anything to do with gang activity -- their  
10 witness -- because it didn't?

11 Dr. Kinsora, their neuropsych testified  
12 there's nothing to suggest this had anything to do  
13 with gang activity, because it didn't. More  
14 importantly, I asked Dr. Kinsora a question during  
15 cross-examination. Quote, "You're not suggesting  
16 that it was predetermined back in 1993 when he  
17 joined a gang that Donte Johnson would have  
18 committed a quadruple homicide, are you?

19 "Answer: No, of course not.

20 "Question: At some point free will comes  
21 into play, true?

22 "Answer: Correct."

23 This wasn't predetermined. The bottom  
24 line is this: The evidence in this case proves only  
25 one thing. In 1996, Donte Johnson moved to

1 Las Vegas because he could make more money selling  
2 drugs here than in Los Angeles. His move was  
3 motivated by greed and it was supported by the  
4 testimony you heard of Derrick Simpson on videotape,  
5 the young man who has since died as a result of his  
6 gunshot wounds. Derrick Simpson testified that he  
7 bought drugs from Donte Johnson for months back in  
8 1998 because Donte Johnson was here dealing drugs.  
9 The greed is supported by the evidence of the  
10 homicide itself. It is undisputed the defendant  
11 went to Terra Linda to take money and drugs. He was  
12 motivated by greed, the same greed that caused him  
13 to move to Las Vegas in 1996 to make more money as a  
14 drug dealer. Nobody ordered Donte Johnson to move  
15 here. He did not have to cross rival gang territory  
16 to get to the Terra Linda house, and he certainly  
17 did not commit this crime to protect his family.  
18 This wasn't about gangs, this was about greed. The  
19 notion that this was predetermined when he was  
20 jumped into a gang is belied by the evidence  
21 presented. I don't buy it.

22 Donte Johnson went to the Terra Linda  
23 house to get drugs and money. He got neither --  
24 when he didn't get what he wanted, somebody had to  
25 pay. Unfortunately, for Peter Talamentez, he just

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1 happened to be Mexican. That's why he was killed.  
2 And Mr. Whipple actually said and I'll quote --  
3 about Donte Johnson -- "his choices weren't that  
4 unreasonable given his background." Are you kidding  
5 me? His choices weren't that unreasonable given his  
6 background. Are you kidding me? Donte Johnson's  
7 background didn't make him commit a quadruple  
8 homicide and it did not even make him hold a gun  
9 inches from Derrick Simpson's face and squeeze the  
10 trigger.

11           Whatever punishment the 12 of you impose  
12 we will graciously accept. Whatever you  
13 collectively decide, we will accept, but I simply  
14 make one request of you. If after careful  
15 consideration you all agree on a verdict in this  
16 case and you're about to check the box that  
17 designates life without parole as your punishment  
18 for all four of these victims, I ask you to stop and  
19 ask yourselves, does that punishment fit this crime?  
20 Mr. Jackson -- I apologize -- Mr. Whipple and  
21 Miss Jackson were right about one thing. The death  
22 penalty is never required. On behalf of the State  
23 of Nevada, however, I would suggest that it is  
24 sometimes absolutely necessary. Donte Johnson is  
25 deserving of the death penalty.

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1           Thank you.

2           **THE COURT:** All right. Bailiff.

3           (Bailiff sworn.)

4           **THE BAILIFF:** I do.

5           All rise. Ladies and gentlemen, at this

6 time bring your books with you and follow me this

7 way.

8           (Outside the presence of the jury.)

9           **THE COURT:** Counsel, before the jury comes

10 back, after they come back you are going to have a

11 chance to probably talk or express anything, but I

12 want to congratulate both sides for doing an

13 excellent job. You were very professional. I

14 thought both of you did a great job regardless of

15 the outcome.

16           **MR. DASKAS:** Thanks, Judge.

17           **MS. JACKSON:** Thank you, your Honor.

18           **MR. STANTON:** Thank you, your Honor.

19           **THE COURT:** I will probably let them stay

20 however long they want to deliberate. If you give a

21 cell number to the clerk, she will call you if we

22 get a verdict.

23           **MS. JACKSON:** All right.

24           **MR. DASKAS:** Thank you.

25           (Evening recess taken at 7:30 p.m.)

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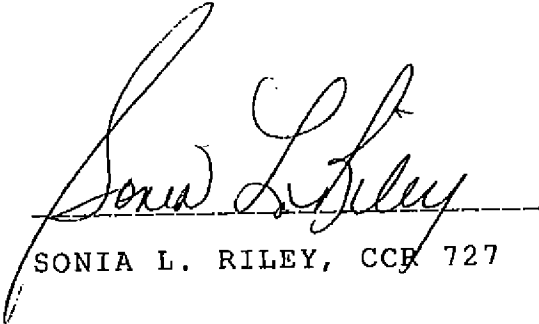
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REPORTER'S CERTIFICATE

STATE OF NEVADA)  
:SS  
COUNTY OF CLARK)

I, SONIA L. RILEY, CERTIFIED COURT  
REPORTER, DO HEREBY CERTIFY THAT I TOOK DOWN IN  
STENOTYPE ALL OF THE PROCEEDINGS HAD IN THE  
BEFORE-ENTITLED MATTER AT THE TIME AND PLACE  
INDICATED, AND THAT THEREAFTER SAID STENOTYPE NOTES  
WERE TRANSCRIBED INTO TYPEWRITING AT AND UNDER MY  
DIRECTION AND SUPERVISION AND THE FOREGOING  
TRANSCRIPT CONSTITUTES A FULL, TRUE AND ACCURATE  
RECORD TO THE BEST OF MY ABILITY OF THE PROCEEDINGS  
HAD.

IN WITNESS WHEREOF, I HAVE HEREUNTO  
SUBSCRIBED MY NAME IN MY OFFICE IN THE COUNTY OF  
CLARK, STATE OF NEVADA.

  
SONIA L. RILEY, CCR 727

SONIA L. RILEY, CCR NO. 727 (702) 455-3610

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FILED IN OPEN COURT  
MAY 05 2005

SHIRLEY B. PARRAGUIRRE, CLERK  
BY Sharon Coffman  
Sharon Coffman DEPUTY

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,  
-vs-  
DONTÉ JOHNSON,  
Defendant.

Case No. C153154  
Dept No. VIII

INSTRUCTIONS TO THE JURY  
(INSTRUCTION NO. 1)

MEMBERS OF THE JURY:

It is now my duty as judge to instruct you in the law that applies to this penalty hearing. It is your duty as jurors to follow these instructions and to apply the rules of law to the facts as you find them from the evidence.

You must not be concerned with the wisdom of any rule of law stated in these instructions. Regardless of any opinion you may have as to what the law ought to be, it would be a violation of your oath to base a verdict upon any other view of the law than that given in the instructions of the Court.

S15

If, in these instructions, any rule, direction or idea is repeated or stated in different ways, no emphasis thereon is intended by me and none may be inferred by you. For that reason, you are not to single out any certain sentence or any individual point or instruction and ignore the others, but you are to consider all the instructions as a whole and regard each in the light of all the others.

The trial jury shall fix the punishment for every person convicted of murder of the first degree.

The jury shall fix the punishment at:

(1) A definite term of 100 years, with eligibility for parole beginning when a minimum of 40 years has been served; or,

(2) Life imprisonment with the possibility of parole, with eligibility for parole beginning when a minimum of 40 years has been served;

(3) Life imprisonment without the possibility of parole, which means exactly what it says, that the defendant shall not be eligible for parole;

(4) Death.



A prison term of one hundred years with eligibility for parole beginning when a minimum of forty years has been served does not mean that the defendant would be paroled after forty years but only that he or she would be eligible for parole after that period of time.

Life imprisonment with the possibility of parole is a sentence to life imprisonment which provides that the defendant would be eligible for parole after a period of forty years. This does not mean that he would be paroled after forty years but only that he would be eligible for parole after that period of time.

Life imprisonment without the possibility of parole means exactly what it says, that the defendant shall not be eligible for parole.

If you sentence the defendant to death, you must assume that the sentence will be carried out.

INSTRUCTION NO. 5

In the penalty hearing, evidence may be presented concerning aggravating and mitigating circumstances relative to the offense, and any other evidence that bears on the Defendant's character.

Hearsay is admissible in a penalty hearing.

INSTRUCTION NO. 6

The law does not require the jury to impose the death penalty under any circumstances, even when the aggravating circumstances outweigh the mitigating circumstances. Nor is the Defendant required to establish any mitigating circumstances in order to be sentenced to less than death.

INSTRUCTION NO. 2

Any aspect of the Defendant's character or record and any of the circumstances of the offense, including any desire you may have to extend mercy to the Defendant, which a jury believes is a basis for imposing a sentence less than death may be considered a mitigating factor. Any one of them may be sufficient, standing alone, to support a decision that death is not the appropriate punishment in this case.



1  
2       The credibility or believability of a witness should be determined by his manner upon  
3 the stand, his relationship to the parties, his fears, motives, interests or feelings, his  
4 opportunity to have observed the matter to which he testified, the reasonableness of his  
5 statements and the strength or weakness of his recollections.

6       If you believe that a witness has lied about any material fact in the case, you may  
7 disregard the entire testimony of that witness or any portion of his testimony which is not  
8 proved by other evidence.

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2 Although you are to consider only the evidence in the case in reaching a verdict, you  
3 must bring to the consideration of the evidence your everyday common sense and judgment  
4 as reasonable men and women. Thus, you are not limited solely to what you see and hear as  
5 the witnesses testify. You may draw reasonable inferences from the evidence which you feel  
6 are justified in the light of common experience, keeping in mind that such inferences should  
7 not be based on speculation or guess.

8 A verdict may never be influenced by prejudice or public opinion. Your decision  
9 should be the product of sincere judgment and sound discretion in accordance with these  
10 rules of law.  
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INSTRUCTION NO. 11

During the course of this proceeding, testimony may have been elicited regarding a prior penalty hearing. You are hereby instructed that you are not to consider during your deliberations any evidence, statements, or inferences regarding any prior penalty hearing or sentence.



INSTRUCTION NO. 12

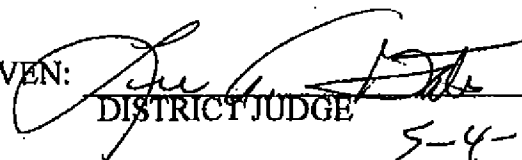
During your deliberation, you will have all the exhibits which were admitted into evidence, these written instructions and forms of verdict which have been prepared for your convenience.

Your verdict must be unanimous. When you have agreed upon your verdicts, they should be signed and dated by your foreperson.

INSTRUCTION NO. 13

Now you will listen to the arguments of counsel who will endeavor to aid you to reach a proper verdict by refreshing in your minds the evidence and by showing the application thereof to the law; but, whatever counsel may say, you will bear in mind that it is your duty to be governed in your deliberation by the evidence as you understand it and remember it to be and by the law as given to you in these instructions, with the sole, fixed and steadfast purpose of doing equal and exact justice between the Defendant and the State of Nevada.

GIVEN:

  
DISTRICT JUDGE

5-4-05

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FILED IN OPEN COURT

MAY 05 2005 11:00 A

SHIRLEY B. BARRAGUIRE, CLERK

BY Sharon Coffman

SHARON COFFMAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-VS-

DONTE JOHNSON,

Defendant.

Case No. C153154

Dept No. VIII

VERDICT

The Defendant, DONTE JOHNSON, having been found guilty of COUNT XIV - MURDER OF THE FIRST DEGREE WITH USE OF A DEADLY WEAPON (Peter Talamentez), and we, the Jury, having found that the aggravating circumstance outweighs any mitigating circumstances, impose a sentence of

☒ Death

☐ Life in Nevada State Prison Without the Possibility of Parole

☐ Life in Nevada State Prison With the Possibility of Parole

☐ A definite term of 100 years imprisonment, with eligibility for parole beginning when a minimum of 40 years has been served

DATED at Las Vegas, Nevada, this 5 day of May, 2005

Samu Agente  
FOREPERSON

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FILED IN OPEN COURT

MAY 05 2005

11:00 AM

CLERK OF DISTRICT COURT

Sharon Coffman

SHARON COFFMAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

DONTE JOHNSON,

Defendant.

Case No. C153154

Dept No. VIII

VERDICT

The Defendant, DONTE JOHNSON, having been found guilty of COUNT XII - MURDER OF THE FIRST DEGREE WITH USE OF A DEADLY WEAPON (Tracey Gorringer), and we, the Jury, having found that the aggravating circumstance outweighs any mitigating circumstances, impose a sentence of

☒ Death

☐ Life in Nevada State Prison Without the Possibility of Parole

☐ Life in Nevada State Prison With the Possibility of Parole

☐ A definite term of 100 years imprisonment, with eligibility for parole beginning when a minimum of 40 years has been served

DATED at Las Vegas, Nevada, this 5 day of May, 2005

FOREPERSON

1 VER

FILED IN OPEN COURT

MAY 05 2005

11:10 A

CHARLEY D. WATZACK, CLERK

BY *Sharon Coffman*

SHARON COFFMAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-VS-

DONTÉ JOHNSON,

Defendant.

Case No. C153154

Dept No. VIII

## VERDICT

The Defendant, DONTÉ JOHNSON, having been found guilty of COUNT XIII - MURDER OF THE FIRST DEGREE WITH USE OF A DEADLY WEAPON (Matthew Mowen), and we, the Jury, having found that the aggravating circumstance outweighs any mitigating circumstances, impose a sentence of

☒ Death☐ Life in Nevada State Prison Without the Possibility of Parole☐ Life in Nevada State Prison With the Possibility of Parole☐ A definite term of 100 years imprisonment, with eligibility for parole beginning when a minimum of 40 years has been servedDATED at Las Vegas, Nevada, this 5 day of May, 2005*Sharon Coffman*  
FOREPERSON

DISTRICT COURT  
CLARK COUNTY, NEVADA

FILED

2005 MAY -6 A 8 31

ORIGINAL

Clerk  
CLERK

THE STATE OF NEVADA, )

PLAINTIFF, )

VS. )

CASE NO.: C153154

DONTE JOHNSON, )

DEFENDANT. )

REPORTER'S AMENDED TRANSCRIPT

OF

TRIAL BY JURY (EXHIBITS)

(VOLUME X)

BEFORE THE HONORABLE JUDGE LEE A. GATES  
DISTRICT COURT JUDGE  
DEPARTMENT VIII

DATED MONDAY, MAY 2, 2005

FOR THE PLAINTIFF: ROBERT J. DASKAS, ESQ.  
DAVID STANTON, ESQ.

FOR THE DEFENDANT: ALZORA B. JACKSON, ESQ.  
BRET WHIPPLE, ESQ.

REPORTED BY: SONIA L. RILEY, CCR NO. 727

SONIA L. RILEY, CCR NO. 727  
(702) 455-3610

1 S12

RECEIVED

MAY - 6 2005

COUNTY CLERK

1 APPEARANCES:

2 FOR THE PLAINTIFF:

3 ROBERT J. DASKAS, ESQ.  
4 DAVID STANTON, ESQ.  
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7 Las Vegas, Nevada 89101  
8 (702) 455-4711

9 FOR THE DEFENDANT:

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16 BRET O. WHIPPLE, ESQ.  
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18 Suite 205  
19 Las Vegas, Nevada 89101  
20 (702) 257-9500

21 \* \* \* \* \*

22

23

24

25

SONIA L. RILEY, CCR NO. 727  
(702) 455-3610

2

EXHIBITS (CONT'D.)

<u>STATE'S</u>	<u>DESCRIPTION</u>	<u>MKD.</u>	<u>ADM.</u>
** 258	Information and Judgment of Conviction	128	129
DEFENSE OO	Parole report 4-1-96		162
PP	Certificate of Completion - 11-16-95		175
ZZ	Guilty Plea Agreement for Reginald Johnson	78	
AAA	Photo of cells in CCDC	96	97
BBB	Sentencing Memorandum for Reginald Johnson	111	114
CCC	Large picture of detention cell	233	234
DDD	Large picture of detention cell	233	234
EEE	Large picture of detention cell	233	244
FFF	Template of floor in cell (yellow paper)	236	259

\*\* State's Exhibit 258 was excluded from evidence on  
May 4, 2005, Volume XII, Page 8, Lines 8-24.

\* \* \* \* \*

SONIA L. RILEY, CCR NO. 727  
(702) 455-3610

3



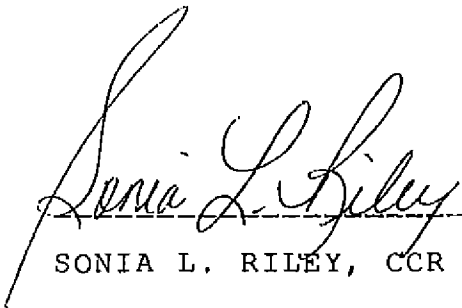
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REPORTER'S CERTIFICATE

STATE OF NEVADA)  
:SS  
COUNTY OF CLARK)

I, SONIA L. RILEY, CERTIFIED COURT  
REPORTER, DO HEREBY CERTIFY THAT I TOOK DOWN IN  
STENOTYPE ALL OF THE PROCEEDINGS HAD IN THE  
BEFORE-ENTITLED MATTER AT THE TIME AND PLACE  
INDICATED, AND THAT THEREAFTER SAID STENOTYPE NOTES  
WERE TRANSCRIBED INTO TYPEWRITING AT AND UNDER MY  
DIRECTION AND SUPERVISION AND THE FOREGOING  
TRANSCRIPT CONSTITUTES A FULL, TRUE AND ACCURATE  
RECORD TO THE BEST OF MY ABILITY OF THE PROCEEDINGS  
HAD.

IN WITNESS WHEREOF, I HAVE HEREUNTO  
SUBSCRIBED MY NAME IN MY OFFICE IN THE COUNTY OF  
CLARK, STATE OF NEVADA.

  
SONIA L. RILEY, CCR 727

SONIA L. RILEY, CCR NO. 727  
(702) 455-3610

1 ORD

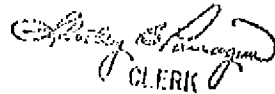
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FILED

2005 MAY -6 A 8:39

3 DISTRICT COURT

4 CLARK COUNTY, NEVADA

  
 CLERK
5  
6 STATE OF NEVADA )

7 Plaintiff, )

8 vs. )

9 DONTÉ JOHNSON, )

10 Defendant. )

CASE NO. C153154  
DEPT. NO VIII11  
12 ORDER TO PREPARE TRANSCRIPT

13  
14 IT IS HEREBY ORDERED that SONIA L. RILEY, CCR  
15 727, prepare a transcript in the above-captioned  
16 matter heard on May 3, 2005, 2005.

17 FURTHER ORDERED, that said transcript shall  
18 be prepared pursuant to Supreme Court Rule 250 and  
19 at State's expense with cost and fees assessed  
20 according to NRS 3.370.

21 DATED THIS 2 DAY OF May, 2005.

22  
23   
24 DISTRICT COURT JUDGE  
25

S12

SONIA L. RILEY, CCR 727  
455-3610

1

COUNTY CLERK

MAY - 6 2005

RECORDED

CHRISTOPHER R. ORAM, LTD.  
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IN THE SUPREME COURT OF THE STATE OF NEVADA

\* \* \* \* \*

DONTE JOHNSON,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

S.C. CASE NO. 65168

Electronically Filed  
Jan 09 2015 02:38 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

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 XXX  
~~~~~

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IN THE SUPREME COURT OF NEVADA

DONTE JOHNSON,

CASE NO. 65168

Appellant,

vs.

THE STATE OF NEVADA

Respondent.

OPENING BRIEF APPENDIX

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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
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**CERTIFICATE OF SERVICE**

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on the 9<sup>th</sup> day of January, 2015. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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