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3 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

4 LUIS PIMENTEL,

5 Petitioner,

6 v.

7 THE EIGHTH JUDICIAL DISTRICT COURT
8 OF THE STATE OF NEVADA, COUNTY OF
9 CLARK, THE HONORABLE CAROLYN
ELLSWORTH, DISTRICT COURT JUDGE,

10 Respondent,

11 THE STATE OF NEVADA,

12 Real Party In Interest.

) No. 66304

) (District Ct. No. C14-296234-1

) Electronically Filed
) Sep 03 2014 09:05 a.m.
) Tracie K. Lindeman
) Clerk of Supreme Court

13
14 **APPELLANT'S SUPPLEMENTAL APPENDIX TO EMERGENCY WRIT OF**
15 **PROHIBITION/MANDAMUS**

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**INDEX TO SUPPLEMENTAL APPENDIX
LUIS PIMENTEL**

PAGE NO.

Court Minutes of August 11, 2014 001-003

Order Denying Defendant's Petition for Writ of Habeas Corpus
Filed 08/27/14 033-035

Recorder's Transcript of Proceedings,
Defendant's Motion to Withdraw as Counsel;
Defendant's Motion to Compel Production of Discovery;
Status Check: Reset Writ 004-032

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****August 11, 2014**

C-14-296234-1 State of Nevada
 vs
 Luis Pimentel

August 11, 2014 9:00 AM All Pending Motions

HEARD BY: Ellsworth, Carolyn

COURTROOM: RJC Courtroom 03E

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Bateman, Samuel G.	Attorney
	Lemcke, Nancy L.	Attorney
	Pimentel, Luis	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFT'S MTN TO WITHDRAW AS COUNSEL...DEFT'S MOTION TO COMPEL PRODUCTION OF DISCOVERY...STATUS CHECK: WRIT

Deft. present in custody. COURT advised it reviewed affidavit and does not see any conflict in this case AND unless Ms. Lemcke refuses to take the case, ORDERED, Motion DENIED. Ms. Lemcke stated she is not going to refuse at this time. State would request a screen to keep Ms. Lemcke from getting into confidential files that an outside attorney would not have access to. COURT directed Ms. Lemcke to set up some sort of screen. Ms. Lemcke agreed, but noted at some point she may need to file on witness. Court advised that request would be addressed in a discovery motion. COURT noted motion is untimely as it should be filed within 30 days after arraignment and after they have looked at DA's file, and ORDERED, Discovery motion(s) as follows:

1. All statements written or recorded: State will be required to comply with NRS 174.235, despite untimely, DENIED unless amounts to Brady material or it's progeny.
2. All Statements of potential witness: State will be required to comply with NRS 174.235, DENIED unless amounts to Brady material or it's progeny.

PRINT DATE: 08/14/2014

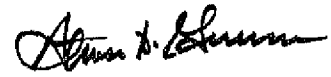
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Minutes Date: August 11, 2014

3. Requests for results, reports and crime scene analysis: State will be required to comply with NRS 174.235, DENIED unless amounts to Brady material or it's progeny;
4. Access to and preservation of all material collected: counsel needs to inspect evidence as Court is not sure what really wants, GRANTED and State DA to arrange said inspection.
5. All intercepted electronic or oral communications: GRANTED to extent it complies with Brady material or it's progeny.
6. Any and all data, recordings, reports: GRANTED to extent it complies with Brady material or it's progeny.
7. Any and all 911 and 311 recordings including car to car communications: Counsel to first review unit log and CAD log and make specific request, DENIED without prejudice as overly broad.
8. All information which shows Deft. did not commit alleged crime(s): GRANTED to extent it complies with Brady material or it's progeny.
9. All statements of identification or witnesses interviewed; GRANTED to extent it complies with Brady material or it's progeny.
10. All relevant reports of chain of custody: Counsel to coordinate with the DA's office for inspection and State will provide any report of destruction of evidence in this case;
11. Any documents used to prepare State's witnesses for preliminary hearing: To extent State complies with NRS 174.235; DENIED unless Brady material.
12. All updated witness contact information; State to provide updated information but not phone numbers.
13. Any and all records of LVMPD or other law enforcement agencies: GRANTED under NRS 174.235 and as to Government agencies to extent it is Brady Material.
14. Any and all information obtained by use of confidential informant(s): GRANTED to extent it complies with Brady material or it's progeny.
15. Disclosure of any compensation, express or implied to witnesses: DENIED unless benefit goes beyond statutory amounts for travel and lodging expenses.
16. Disclosure of all statements, tangible or intangible: GRANTED under NRS 164.235 and complies with Brady, DENIED as to unrecorded consistent statements, but GRANTED as to inconsistent statements to extent it complies with Brady.
17. All impeachment information located in personnel files of any police witness called to testify: GRANTED to extent it complies with Brady material or it's progeny.
18. Criminal history information on witnesses: DENIED, except felony last 10 years, crimes of moral turpitude, State not to run NCIC and defense must comply with FBI procedures.
- 19 - 34. As to U-Visa and related information: DENIED, except as it amounts to Brady material or it's progeny.

Court advised counsel of its tentative ruling as to Writ. Arguments by counsel. COURT ORDERED, Petition DENIED, Writ DISCHARGED. Ms. Lemcke to prepare order.

CUSTODY


CLERK OF THE COURT

1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8 THE STATE OF NEVADA,

9 Plaintiff,

CASE#: C296234

DEPT. V

10 vs.

11 LUIS PIMENTAL aka
12 LUIS GODOFREDO PIMENTAL, III,

13 Defendant.
14

15 BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE
16 MONDAY, AUGUST 11, 2014

17 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**
18 **DEFENDANT'S MOTION TO WITHDRAW AS COUNSEL; DEFENDANT'S**
19 **MOTION TO COMPEL PRODUCTION OF DISCOVERY; STATUS CHECK:**
20 **RESET WRIT**

21 APPEARANCES:

22 For the State:

SAMUEL G. BATEMAN, ESQ.
Deputy District Attorney

23 For the Defendant:

NANCY L. LEMCKE, ESQ.
Deputy Public Defender

24
25 RECORDED BY: LARA CORCORAN, COURT RECORDER

1 MONDAY, AUGUST 11, 2014 AT 9: 22 A.M.

2
3 THE COURT: Case number C296234, State of Nevada versus Luis Pimentel.
4 He is present in custody. Remain seated, sir. Thank you. I appreciate your effort to
5 stand.

6 MS. LEMCKE: Good morning, Your Honor. Nancy Lemcke on behalf of Mr.
7 Pimentel.

8 THE COURT: And this is on for several matters; Defendant's motion to
9 withdraw as counsel. I, of course, read the motion as well I'd asked for the affidavit
10 which I received, and then I had additional ex parte communication in chambers as
11 a continuation of that field affidavit so I could examine exactly whether I believe
12 there was any conflict.

13 In going through it in excruciating detail in examining the rule, I did not
14 feel that there is any conflict, any actual conflict whatsoever in this case according to
15 the rules of professional conduct. And my understanding, Ms. Lemcke, is that I
16 believe I told you of course that the rules of professional conduct are personal to
17 each lawyer and if you felt strongly that you absolutely had a conflict then you could
18 refuse to represent, and I would respect that decision. But that's not what you
19 asked for here.

20 And so I don't see -- as I say, we went through it, you know, looking at
21 each potential conflict and I don't see it. And maybe bar counsel didn't really go
22 through it in that much detail, but I don't see that there is a conflict. So, unless
23 you're refusing, I'm not going to grant the motion.

24 MS. LEMCKE: And I'm not going to refuse at this point. If something were to
25 arise, you know, down the road that I simply am unaware of at this juncture, I will

1 certainly bring that to the Court's attention if necessary. But at this point it was a
2 matter that my office certainly felt that at least warranted attention from this Court.
3 And now that the Court has reviewed it and made a decision accordingly we're
4 content with that.

5 THE COURT: And of course, yes, conflicts can arise as you all know from
6 when you took ethics in law school and those can happen in trial. And so --

7 MR. BATEMAN: Can I just ask a question?

8 THE COURT: Yes.

9 MS. BATEMAN: Just generally my understanding that the Public Defender's
10 office represent -- has had previous representation of a witness in this case, not
11 concurrent. I think the case is closed.

12 THE COURT: Correct.

13 MR. BATEMAN: Correct.

14 THE COURT: In this case because there's two. We have motions --

15 MR. BATEMAN: Right.

16 THE COURT: -- with Ms. Lemcke and this one is the prior, correct, former
17 client?

18 MS. LEMCKE: Right. Well yeah the decedent himself was --

19 THE COURT: Oh, yeah, both, both, right, the decedent, the victim.

20 MS. LEMCKE: -- as well as at least two of the percipient witnesses. And
21 those percipient witnesses and the decedent were both former clients, are all former
22 clients of our office.

23 THE COURT: But there's no confidential information that would be used.

24 MR. BATEMAN: That was my only question is if the Court is ruling on it. I
25 think because of the rules of imputation for the entire PD's office, I think the Court

1 has to rule that there is at least some sort of screening between Ms. Lemcke and
2 her ability to go back and get into, you know, confidential public defender files.
3 Certainly she can investigate the history of the prior client which I'm sure Ms.
4 Lemcke did not represent and they can do that through whatever means or a
5 normal, you know, stuff like contract counsel would have to do. They wouldn't go
6 into the public defender's confidential file.

7 So, I actually agree with the Court. I think on successive or past clients,
8 I don't think the Public Defender's office should get off. I think it happens in most
9 courtrooms. But I think -- I agree with you that the rules don't require it. But I think
10 the rules do require a screening process within the Public Defender's office when
11 that occurs so that the existing attorney for the existing case can't go and get
12 information that they wouldn't otherwise be able to get but for their position within
13 the Public Defender's office. Otherwise, I think that does create the potential for
14 conflict when that confidential information from the previous client becomes known
15 through this mechanism. So, that's the only thing that I was going to request from
16 the Court is that there be some sort of screening within -- in the office.

17 THE COURT: Okay. And you'll make sure that there's screening so you don't
18 look at the prior files. But our conversation which can't be, you know, within
19 chambers -- my understanding is that there was no confidential information gleamed
20 by Ms. Lemcke. So, unless there is a confidential communication then it doesn't
21 frankly matter if she looked at a file and there's no prior to this order. If there was no
22 confidential communication in that file then there is still no conflict; correct?

23 MS. LEMCKE: Well as to this case, Your Honor, I had not pulled any of the
24 files relating to the witnesses in this particular case. And so I don't know -- at least
25 one of them sustained what I believe to be a crime of moral turpitude such that I do

1 believe that I am within my right to try to impeach him with that should he testify
2 antagonistically to our defense at trial which anticipate. Based on his prelim
3 testimony, he probably will. Now I have not pulled that file and it's not a felony
4 disposition, but I do believe that it probably -- it was I believe like an attempt forger,
5 that it was ultimately resolved too. That is his case. And so I haven't pulled that file.
6 I may be asking the Court for an order that allows me to go get that file and look at
7 to see if there is anything in there that might be of value or use to me in assailing
8 that witness's credibility at trial.

9 That said, I have not pulled that file yet because of the reasons
10 articulated by the prosecutor. I had some ethical concerns with the propriety of
11 doing so, and so I kind of self-censored, I guess, in that regard on this particular
12 case.

13 So, at some point, maybe in the very near term given the immediacy of
14 the trial setting in this particular case, I may bring a motion in front of Your Honor
15 given the nature of at least the one offense with respect to the one witness and in
16 terms of what I believe I might be able to impeach him with. But, again, I just -- I
17 don't know if there's a confidential communication that I -- would be of value to me
18 because I just haven't looked yet.

19 THE COURT: If you're going to get that kind of information it wouldn't be by
20 getting the file. It would be by -- just as if it was a witness you had no contact with.
21 It would be by making actually a request. You have a discovery motion which we're
22 going to discuss right now.

23 MS. LEMCKE: Right.

24 THE COURT: And also here's a great example of something that isn't
25 boilerplate where you potentially have some belief that there may be criminal

1 information history that's relevant and material to the defense. So, this is the time
2 we'll address that in your discovery motion --

3 MS. LEMCKE: Okay.

4 THE COURT: -- this morning. Yeah, that's how you do it. You wouldn't --
5 you make the request of the State just like you would any other. The State has
6 access to that local conviction. You can't pull the file though in your office because
7 you have to put yourself in the shoes of somebody -- counsel outside the office and
8 realize you don't have access to that file.

9 MS. LEMCKE: Right. And that's why Your Honor -- I agree with you
10 wholeheartedly. And that's why I say like if I get to the point of thinking that there
11 might be something in the file that would lead to admissible impeachment evidence,
12 then I would bring a motion before Your Honor -- soliciting Your Honor for an order
13 allowing me to actually review that file.

14 THE COURT: Yeah, I would never grant that. I'm just telling you now.

15 MS. LEMCKE: Okay.

16 THE COURT: But the way you do it would be you would talk to the lawyer
17 who of course can't reveal any confidential communication to you, and if there is
18 anything that person could tell you just like any other witness -- if you suspected
19 something of a witness that you had no connection with, no office connection with,
20 you might go and you knew that Mr. Pitaro was representing that person. You might
21 go to Mr. Pitaro and say, hey, was your guy convicted of blah, blah, blah. And he'll
22 tell you yes or no because that's public record. It doesn't violate any confidential
23 communication. And if you asked him for that of course he'd say, no, I'm not going
24 to --

25 MS. LEMCKE: Right.

1 THE COURT: -- that's privileged and I'm not going to tell you that. So, I'm
2 not allow you to get into the public defender file. So, don't' even try filing a motion.

3 MS. LEMCKE: Don't ask. Okay.

4 THE COURT: Okay. All right. So, are we ready to go on to the motion for
5 discovery?

6 My first question, Ms. Lemcke, is have you gone and looked at the
7 State's file yet? I assume the State still has an open file policy. It hasn't changed
8 since last week.

9 MS. LEMCKE: That's correct. I have not yet. I certainly plan to. It's our
10 position it's a open file policy, and I think I kind of set forth this a little bit in my
11 moving papers. It does not obviate the obligation of the prosecutor to turn over both
12 relevant inculpatory and exculpatory information, and that is why -- I know they take
13 exception in their response to my requesting of the Court that Your Honor actually
14 make definitive rulings on each request and actually order that some of the materials
15 that I requested be disclosed. But it's our position, particularly looking at the cases
16 that have come around in the post conviction setting, there is definitely a distinction
17 that the case law makes between a general -- a no request for particular information
18 prior to trial, a general request for the information, and then a specific request for the
19 information.

20 So, it's our position that in order to put ourselves in the best position
21 possible going forward if, God forbid, there would be some surprise at trial or if in the
22 post conviction setting PCR lawyers were able to find some information that we
23 simply didn't have available to us, our client and our office is in the best position
24 possible if we have made a request of the Court and the Court has actually given us
25 a definitive ruling. So, I understand that they don't like the idea of us getting a Court

1 order to this effect, but it's our position that the authority that kind of governs these
2 issues really in way compels us to do so otherwise it weakens the position of our
3 clients going forward.

4 So, to that end, I did delineate the various specific requests and I would
5 ask Your Honor to go through and --

6 THE COURT: Okay. Wait, wait, wait. Take a breath --

7 MS. LEMCKE: Sorry.

8 THE COURT: -- so I can interrupt here. All right.

9 MS. LEMCKE: Okay.

10 THE COURT: Thank you. All right. I understand all that.

11 MS. LEMCKE: Okay.

12 THE COURT: I just asked had you gone to look at the file yet?

13 MS. LEMCKE: No.

14 THE COURT: Okay. So, I want, you know, obviously you to do that because
15 that would help formulate your specific request so that they wouldn't be overbroad
16 because then you wouldn't have to ask for things that are already there and you
17 know about.

18 So, a lot of these requests are boilerplate. I know that because I -- you
19 have another case on today for discovery motion and the discovery motions are
20 virtually identical. So -- and I, you know, I understand your position but what I'd like
21 you to do, you know, in the future -- this motion is untimely pursuant to 174.285
22 which says you're supposed to file these motions within 30 days of arraignment
23 unless the Court otherwise grants, and then there's a showing of good cause, justice
24 requiring, et cetera, et cetera. So, these motions should be made earlier after
25 you've kind of gone and looked at the discovery you've been given. You should be

1 making your contemporaneous oral motions for discovery which I assume you're
2 doing at lower level anyway, but I don't know. But that might alleviate some of the
3 need to have these things that maybe you wouldn't otherwise ask for because you
4 either already have them or you know it's not relevant.

5 That being said, number one, all right, I'm ordering the -- the State will
6 be required to comply with NRS 174.235 despite the fact that the request was
7 untimely pursuant to NRS 174.285. Insofar as the request seeks discovery beyond
8 that which is required by statute, it's denied unless the evidence amounts to *Brady*
9 material. And when I say *Brady* material throughout this motion, I mean *Brady* and
10 its progeny, so I don't have to say that every time.

11 All right. Number two -- is there any further discussion on that?

12 MS. LEMCKE: No.

13 THE COURT: Okay. Number two, which is any and all statements of any and
14 all potential witnesses, et cetera, et cetera. That is basically the same as number
15 one in my ruling that you're required to comply with NRS 174.235. That's denied
16 insofar as it seeks discovery beyond that required by the statute unless it amounts
17 to *Brady* material.

18 Number three, which is again request of reports of crimes scene
19 analysis, evidence collection, forensic testing, et cetera, et cetera, et cetera, again,
20 same ruling as for one and two.

21 Number four. Access to and preservation of any and all material
22 collected in the investigation of the case, et cetera, et cetera. All right. So, have
23 you arranged at all -- well let me ask you first. Do you want to inspect the evidence?
24 I'm not sure what you really want here. So, I need to know what you really want.

25 MS. LEMCKE: Well I want to make sure that if there's anything -- if there's

1 any hard evidence that they have that there may be some forensic testing done on.
2 Like, for example, I was just informed this morning that they were going to do some
3 DNA testing on the gun. And if I may beg the Court's indulgence for just a minute
4 just to back up to. I know that 174.285 requires that these motions be brought within
5 30 days, and Your Honor makes a really good point with respect to the untimeliness
6 of the motion. However, sometimes by design I'll hold off on filing them until I kind
7 of have a better feel for what information is going to come forward in the case. And I
8 probably shouldn't have done that. I should have gone ahead and filed it early
9 knowing that some discovery kind of comes in on a more rolling basis, and in the
10 future I'll go ahead and file it with the 30 day time period.

11 THE COURT: So, if you have -- there's the provision that if you have some --
12 if you want to do it later you just need -- I mean, really what you would require would
13 be that you file a motion and ask leave for it to be filed later if there was a particular
14 reason to do that. So, all I'm saying is you didn't do that, but there's also the justice
15 requires. So, I'm going to allow it.

16 MS. LEMCKE: Right. And I appreciate that. I just want Your Honor to know
17 now that kind of going forward, and from here on out I'll file them early and if we
18 need to we'll just deal with ongoing discovery issues as they arise.

19 With respect to this -- getting back to this. If there's any hard evidence,
20 such as the gun that I was informed of this morning that they're going to submit for --
21 or have submitted for DNA testing, I'm just asking that that -- all of that need be
22 preserved and maintained in the evidence vault to the extent that it has been already
23 so that if we need to do any subsequent testing on it to the extent that that's
24 possible that opportunity is available to us.

25 THE COURT: Okay. So, you're not asking to inspect the evidence? That's

1 why I was asking.

2 MS. LEMCKE: But we may at some point, but this is mostly a preservation
3 and make sure that we have the ability to if there was an issue at some point in the
4 future. Sometimes when they like, for example, when they do DNA testing they
5 might destroy part or all of what's going to be submitted. I'm just saying that I'd like
6 them to preserve whatever is possible for them to preserve so that if we have any
7 questions as to the accuracy of the test results we can do testing later. I don't know
8 that that's an issue at least right now here, but I just want to make sure that if there's
9 anything else that I'm unaware of that is going to be submitted for testing that it
10 preserved as best as possible so that if we have any follow-up inquiry we can do
11 that.

12 THE COURT: Well they're going to swab the whole gun in order to do the
13 appropriate DNA testing. I've heard enough testimony from the forensic scientist
14 and the lab now to know how they do it and they're going to -- there's no way to --
15 like blood where you can preserve a sample or other types of evidence where you
16 can preserve part of it so that it could be retested. With this you're going to be
17 swabbing the entire -- something like a gun you're going to swab the entire gun to
18 get whatever you can, and that's by its nature going to destroy how it was when it
19 was collected; right?

20 MS. LEMCKE: Well I don't know exactly how they actually go about
21 swabbing, and maybe Your Honor's correct in that they're going to swab the whole
22 gun. But with other types of testing sometimes they will, sometimes they won't
23 necessarily destroy the entire piece of evidence, be it like a piece of paper or
24 clothing or whatever that's been submitted. I'm just asking that whatever they have
25 now that's in evidence that that be preserved to the best of their ability.

1 THE COURT: All right. Well -- I don't know what the evidence is. Do you
2 know, Mr. Bateman?

3 MR. BATEMAN: I would think in this case probably the evidence that Ms.
4 Lemcke's referring to that was collected such as DNA might be the only -- I'm trying
5 to think if there's anything else.

6 MS. LEMCKE: I think there's clothing probably.

7 MR. BATEMAN: There's clothing. Here's my problem. And I certainly won't
8 be suggesting to LVMPD that they get rid of anything. My only problem is it's hard
9 for me -- let's assume there's some DNA over here and some blood over there and,
10 you know, a fingerprint over there. If the Court orders them not to destroy anything
11 -- let's say in the instance of a DNA -- some DNA that you've obtained.

12 Sometimes in doing the testing you use up all the DNA. So, I don't
13 know whether that's the case. And if the Court orders me to kind of go track all this
14 stuff down, communicate with the forensic lab and find out what they have, and tell
15 'em the Court's order is you can't do X, Y and Z, I mean, that's where I think it
16 becomes overly burdensome for the State. I'm certainly not going to call them up
17 and say, hey, test it and get rid of it. But anything more than that creates a burden
18 on the State to call up all and figure out what all the evidence is, call up everybody
19 and say before you do anything with anything give me a call. I mean, if the Court
20 orders that, then I'll do it. But I just -- I've never seen -- unless there's a specific
21 instance, right.

22 THE COURT: I'm not doing that because, like I say, I know how they're going
23 to treat the gun. Obviously, anything that is collected and booked into evidence as
24 far as hard items, clothing, guns, you know, they're not going to, quote, destroy that.
25 That would be a problem. But insofar as they may in forensically testing and

1 examining these items for evidence, for instance, fiber analysis, they're going to take
2 the fiber off the item of clothing. I don't think you have fiber in this case but I'm just
3 using it as an example. They're going to preserve that in a separate, you know,
4 slide or whatever means they preserve it and rebook that as evidence that'll come in
5 just like when they left latent prints. They don't take the coffee table, you know, and
6 bring that to Court. They lift the latent prints. So, what I don't want is an order that
7 is overly broad. So, I'm going to deny this without prejudice to you to give me
8 something specific -- you had a specific concern.

9 Now as far as your having access to evidence collected, you know,
10 that's granted in that you can arrange through the District Attorney's office for an
11 inspection of any evidence if in fact you'd like to have it taken out in a controlled
12 setting, out of the impound envelopes. If you feel that's necessary, you can certainly
13 do that using the protocol that's set for that and coordinate that through the DA's
14 office. Or if you merely wanted to inspect the chain of custody on the envelopes
15 also, I would expect that you would do that. So, it's granted to that extent. But
16 without more, I need from you as to specific items of evidence which you should
17 know because there should be reports that show what was impounded as evidence.
18 So, maybe you could come back and narrow your request so we can deal with it
19 specifically if there's a concern on your part.

20 MS. LEMCKE: Okay.

21 THE COURT: Okay. Thank you.

22 Number five. All intercepted electronic and oral communications, et
23 cetera, et cetera. All right. So, I think this, again, is overbroad because --

24 MR. BATEMAN: I can tell the Court I'm not aware of any at this time.

25 THE COURT: That's what I was going to ask. Do you know --

1 MR. BATEMAN: If there are I will turn them over.

2 MS. LEMCKE: May I have the Court's indulgence?

3 THE COURT: These are only intercepted, right, communication.

4 MS. LEMCKE: It's everything.

5 MR. BATEMAN: Court's indulgence.

6 THE COURT: Okay.

7 MS. LEMCKE: Judge, this includes any kind of communication that they have
8 intercepted, you know, be it through PIN registers or otherwise. Some of that we
9 don't necessarily know about and that's why I understand Your Honor's position as it
10 seems like it's broad. The problem is is that we don't always know about these --
11 what they have and what they have not intercepted so I make the request. And
12 there may be some, for example, jail phone calls that my client has made that the
13 jail has recorded and provided to the District Attorney's office. At least at this
14 juncture I have reason to believe that some of those calls may have been recorded
15 and do and have been turned over to the prosecutor's office. That kind of material is
16 encompassed in this request.

17 So, to the extent that there's any kind of communication that they have
18 listened to, recorded or otherwise intercepted, I'm asking that material be turned
19 over. And I have no reason to doubt that Mr. Bateman will do so to the extent that
20 he's made aware of it. I just want to make sure that there's an order in place
21 obligating that discovery.

22 THE COURT: Well recorded statements of the Defendant come in under
23 Chapter 170 -- you know, you're entitled to discover under Chapter 174. So, if they
24 were recorded in that manner then you would get those. Also you might get them if
25 it was *Brady* material potentially depending on what types of interceptions were

1 made. But that's what you're looking for here is just interceptions.

2 Now the only other thing that concerned me about this request was that
3 it says including Federal authorities. Well if there were interceptions by Federal
4 authorities who are not the investigators of this case -- and, again, you're not entitled
5 to that. If they turn something over to the State then obviously -- and it's in the
6 possession of the State and the State has knowledge of it, then it's *Brady* material,
7 you get it. If they're going to use, you get it. So, is that clear that -- otherwise it's
8 kind of overbroad when it just says including Federal authority. It has to be in
9 connection with this case, and we don't necessarily always know what the Feds are
10 doing. It may be on something completely different.

11 MR. BATEMAN: And like you say, I'm not aware of any.

12 THE COURT: Okay.

13 MR. BATEMAN: But if I am I'll --

14 THE COURT: Right. You know your obligation --

15 MR. BATEMAN: If I can even get them, yes.

16 THE COURT: -- under *Brady* and its progeny. Okay.

17 Number six. Any and all data, recordings, reports, documentation of
18 voice monitoring devices, geographic tracking devices, PIN register, trap and trace.
19 This seems like the same as number five to me because it seems like all of these
20 things would be included in that. So, again, you're saying, Mr. Bateman, you don't
21 have any knowledge of anything at this point; is that correct?

22 MR. BATEMAN: That's correct. To the extent that's something recorded and
23 it becomes a written statement of a witness under 174.235, if that's the case I'll
24 absolutely turn it over. I just don't -- I'll turn that over to the extent I have it.

25 THE COURT: Okay. And of course and if it's *Brady* material.

1 MR. BATEMAN: Correct.

2 THE COURT: Of course. Okay. That's the order on six.

3 Number seven is all 9-1-1 and 3-1-1 calls which -- and then it goes on
4 to include but not limited to car to car audio, car to dispatch radio and unit log
5 incident print out related to the event. So, the State's indicating that they're willing to
6 give you the 9-1-1 and 3-1-1 calls associated with the subject event number. And
7 so that'll be the order for that part unopposed.

8 As far as the other request, I would like you to first review the unit log.
9 There's another name for that.

10 MR. BATEMAN: The CAD log.

11 THE COURT: The CAD log.

12 MR. BATEMAN: And I'll provide that as well.

13 THE COURT: Review the CAD log first. If there are -- if there's something
14 within the CAD log where you want something specific then bring that to the Court's
15 attention. I'm going to deny it at this time as being overly broad but without
16 prejudice because once you review that CAD log, you may be to articulate a reason
17 for wanting the actual recording. But they're not kept as one piece under the event
18 number. So, it's very time consuming for them to find all of these, and if they're not
19 relevant you don't really want them. I'm not going to put Metro to all of that work for
20 no reason. So, look at the CAD log first. There may be something that you see in
21 the CAD log that will trigger a need for a specific recording. So, that's denied
22 without prejudice.

23 Okay. Number eight. Any and all information which shows the
24 Defendant did not commit the crimes, et cetera, et cetera. All right.

25 So, obviously the State has an obligation under *Brady* which

1 acknowledges -- and its progeny. So, I guess that the State's just kind of puzzled
2 that you're asking for these things. The problem is when you don't ask for anything
3 specific then it's pretty difficult to say provide anything and everything which falls
4 under *Brady*. But to the extent you're asking for the State to comply with the law, I'll
5 order that. Comply with the law. I don't think they're objecting to that so not
6 opposed.

7 MS. LEMCKE: And let me make the record very clear on this. Sometimes
8 with respect to the *Brady* request we don't know what's out there. And I'm going to
9 tell Your Honor that I've actually had a case where the State obtained information
10 that exculpated by client, that corroborated his alibi, and they sat on it. Now the
11 problem is I didn't know the information was out there until we got to the post-
12 conviction setting. I'm not saying Mr. Bateman would do that. I don't think in a
13 million years he would. However, the problem is and Your Honor kind of suggests
14 that well this -- it's general, it's overbroad, there's no specificity, and Your Honor
15 makes a good point. However, please understand the predicament that we're in.

16 Sometimes there's information out there of which they or another law
17 enforcement agency is aware and it's our position they're constructively in
18 possession of everything that any other law enforcement agency maintains on this
19 particular incident. And so if we're not aware of it, it's hard to make the specific
20 request for it. So, we've got to make at least some request for it and have Your
21 Honor adjudicate the request one way or the other so if that information is
22 discovered in the post-conviction setting, there's a good remedy in place. And that's
23 the problem. And I understand Your Honor's concern.

24 Please understand that it's not because I just, you know, I just want to
25 make this as general as possible to be as troublesome as I can to everybody. It's

1 just that sometimes we don't know what exists until somewhere down the road, and
2 if we haven't made the request at least at some point in some very general fashion
3 before trial, it makes it very difficult for our clients to get relief in a post-conviction
4 setting.

5 So, I just wanted to explain that going forward because I think Your
6 Honor's going to see these type of motions from me with regularity, and I'll try to
7 tailor them as much as possible but I beg the Court's indulgence in that respect
8 where it comes to that information.

9 THE COURT: I understand. I don't think you're trying to be troublesome.
10 You're just doing your job and protecting your client's rights, and you're commended
11 for doing that.

12 To the extent you may later also have some reason to believe there's
13 something specific then feel free to make a specific, a more specific request.

14 MS. LEMCKE: I will.

15 THE COURT: Because I'm not sure that making a really broad and general
16 request does protect you, but to the extent you think it does that's fine. But if you
17 have something in the future remember that you can always renew a motion for a
18 specific request. As far as any law enforcement agency, that kind of -- I'm taking
19 that from your oral argument just now -- that kind of implies in the world and that
20 would not be required; obviously only government agencies who are investigating
21 this case or related to the investigation of this case.

22 MS. LEMCKE: Correct.

23 THE COURT: It's not the State's obligation to go out and try and investigate
24 your case for you. Okay. All right.

25 So, number nine. All statements of identification or witness interviewed

1 who did not identify the Defendant. This isn't an identification case; right?

2 MS. LEMCKE: It is not. Your know, I toyed with whether or not I should even
3 have it in there and I probably -- it's probably not all that necessary, but it's just one
4 of those things where, you know, if by some chance there was, you know, some
5 identification of somebody else; again, not that, you know, we are suggesting that it
6 is an identification case. I would at least like to know it, I suppose. But, again, this
7 is one of the requests that I left in somewhat with some consternation. I just would
8 like to know if that information exists, if it's out there. I don't have any reason to
9 believe it does and I think Mr. Bateman can represent to the Court what he knows
10 relative to this request, but I would like to have it at least in there and have some
11 kind of --

12 THE COURT: It would tend to fly in the face of your statement of the facts.

13 MS. LEMCKE: Correct. And I know that, I know that.

14 THE COURT: Okay.

15 MR. BATEMAN: I don't have anything else at this point, but if something pops
16 up I'll certainly

17 THE COURT: Okay.

18 MR. BATEMAN: I think it would constitute *Brady* material --

19 THE COURT: Yes; right.

20 MR. BATEMAN: -- if I had information that it was somebody else.

21 THE COURT: If there's any *Brady* material that shows that somebody else
22 did this case, did this crime, alleged crime, then you'll turn that over.

23 Number ten. All relevant reports of chain of custody including reports of
24 any destruction of any evidence. The State's response is that they were unclear as
25 to what would be included in the request. I kind of addressed this already earlier

1 that insofar as any evidence is impounded and the chain of custody is kept on the
2 evidence impound envelopes themselves, then you need to coordinate with the
3 District Attorney's office for that inspection because otherwise they're not going to
4 be able to give that to you. If there is any report of destruction of evidence in the
5 case the State will provide that. All right.

6 Number eleven. Any documents used to prepare State's witnesses for
7 preliminary hearing or trial including any and all notes and reports of any experts, et
8 cetera, et cetera, et cetera. All right.

9 So, to the extent that there is a request for -- I mean, 174.235 requires
10 any reports of expert witnesses. If so, the State is to comply with NRS 174.235. So,
11 the request is denied unless it's *Brady* material in which case -- and obviously you
12 need to produce that. So, if there are notes of your -- an expert that is completely
13 contradictory to the report that was prepared then obviously that could be *Brady*
14 material and needs to be disclosed; otherwise that's denied.

15 Number twelve. All updated witness contact information to include last
16 known address and phone number. The State is to comply with the noticed statutes
17 which does not include phone numbers. So, that's not required and that won't be
18 ordered.

19 Number thirteen. Any and all records of any Las Vegas Metropolitan
20 Police Department or any other law enforcement agencies involved in the
21 investigation of this or any related matter including et cetera, et cetera.

22 So, the only -- or any related matter struck me as overly broad. I don't
23 know what that could potentially encompass, but I can't order that. It's granted in
24 two ways. Obviously the State, again, is ordered to comply with NRS 174.235. It's
25 also granted as to government agencies investigating this case to the extent the

1 request is for *Brady* material.

2 Number fourteen. Any and all information obtained by the use of
3 confidential informants for any aspect of the investigation.

4 The State's indicating that they're unaware of any confidential
5 informants in the case. So, to the extent there are confidential informants and it
6 amounts to *Brady* material or that it would be required to be provided under
7 174.235, it must be produced.

8 Number fifteen. General impeachment. Disclosure of any and all
9 compensation, express or implied, promises of favorable treatment or leniency, et
10 cetera, et cetera. Okay. Are there any out of state witnesses?

11 MR. BATEMAN: I don't believe so at this time. If there are, I'll alert Ms.
12 Lemcke.

13 THE COURT: Okay. So, it's denied unless -- okay -- unless the benefit is
14 beyond the statutory witness fees and the normal travel and lodging expense. The
15 defense can inquire on cross-examination if you want to even about those things,
16 obviously. But I'm not going to start having the DA's office produce invoices and
17 documentation of witness fees, lodging and meal expense which they have to. You
18 can always ask them on the stand, so where'd you stay. You know, was it a free
19 vacation and that's why, you know, you're coming here to testify. You can always
20 do that. But I think it's over burdensome to make them produce these documents.

21 Number sixteen. Disclosure of any of all statements, tangible or
22 intangible, recorded or unrecorded, made by any witness that are in any manner
23 consistent or inconsistent with the written or recorded statements previously
24 provided, et cetera, et cetera. Okay.

25 So, the State's indicating that of course they're going to provide written

1 or recorded statements under NRS 174.235 which would be part of my order and to
2 comply with *Brady*, and that's also part of my order. I'm not going to order
3 unrecorded statements made to people that are consistent with written and recorded
4 statements. That's silly. But materially inconsistent statements, of course, would
5 amount to *Brady* material and absolutely must be provided. So, those should be
6 provided otherwise it's denied.

7 Number seventeen.

8 MS. LEMCKE: And, Your Honor, may I just stop --

9 THE COURT: Sure.

10 MS. LEMCKE: -- because I foresee this becoming an issue going forward
11 because I'll make a lot of the same requests going forward. With respect to the
12 consistent component, there are some witnesses who will actually give statements
13 that are helpful to the defense. That's why I put the consistent and inconsistent.
14 You know, sometimes they'll give statements, they'll give recorded statements that
15 are actually helpful to support our defense theory in whatever capacity --

16 THE COURT: Then it's *Brady* material.

17 MS. LEMCKE: Okay. But I just wanted you to understand why because Your
18 Honor kind of suggested it was silly for me to bring that. But I wanted you to know
19 that's why I put it in there because --

20 THE COURT: I wasn't -- I didn't mean that. I meant it's silly -- if you interpret
21 it as meaning if they say the same thing as is in their written statement that the
22 prosecutor needs to come in and say, oh, I had an interview with the witness and
23 she testified the same way as what's in the statement. Because it could be
24 interpreted in that way. That is not required.

25 MS. LEMCKE: Okay. And I understand that. I just want you to know that like

1 to the extent that there's -- that there are consistent or inconsistent statements that a
2 witness has made, if we have a situation where we have a witness whose given a
3 statement to the police that is supportive of our defense, and there's other
4 information out there to show that they gave similar accountings of what they
5 witnessed or whatever and the prosecutor is aware of that, it's always good for us to
6 know it. Because if the prosecutor then impeaches the witness either if it's their own
7 witness on direct or on cross-examination, if we call the witness, it's nice to know
8 that the prior consistent statement exists because we might be able to do some
9 redirect with that and we have the witness's credibility with those consistent
10 statements. So, that's why I put that request in there. I just want Your Honor to
11 know. So, that's why it includes both the consistent and the inconsistent.

12 I understand the Court's position. I just want you to know why because
13 I think it seems a little counter intuitive to the Court and reasonably so when you
14 read it, but that's why. Because sometimes we get statements a lot of times from
15 witnesses that are hurtful to our defense and every once in a while we get some that
16 are helpful and it's like nice to know if the witness has kind of given us an
17 accounting from time time. That's all.

18 THE COURT: All right. So, *Brady* material absolutely needs to be provided in
19 whatever form that takes.

20 All right. Number seventeen. Any and all impeachment information
21 located in the personnel files of any police witness, et cetera, et cetera.

22 MS. LEMCKE: Your Honor, if I may interrupt on this one. This was one of
23 those also like one of the previous requests that I left in there. And this is what I told
24 counsel and I believe your law clerk as well on number 17.

25 This case, and neither is my other one for that matter, a case in which I

1 believe that there's any official misconduct. Typically this is a request that I make
2 when I think that there's some official misconduct that actually plays a role in our
3 defense. It doesn't happen very often but every once in a while it does. I left this in
4 there. And what I told the prosecutor and I believe your law clerk as well as is that
5 to the extent that there's some glaring issue that they're aware of without doing the
6 search in the IAB file regarding the voracity of a particular law enforcement witness,
7 I would like to know that.

8 Again, I don't have reason as I stand here right now to believe that
9 that's the case. But if there was something of which they were aware I would like to
10 know it. But this is not a case in which I'm asking them to go pull the IAB file. So,
11 again, this was one of those requests where I understand its relevance is probably
12 very limited in this particular instance, but I felt I should at least leave it in there and
13 at least make the request so if there is anything of which they're aware they would
14 let me know.

15 THE COURT: Okay. All right. Just for the record. Communicating with my
16 law clerk about motions that are going to be before the Court will probably most
17 certainly not ever reach my ears because it would be considered an ex parte
18 communication. If you wanted to communicate something to the Court, you would
19 do that maybe via an email copied to the State, and that would be fine. But
20 otherwise he's probably not going to tell me things that I shouldn't hear.

21 MS. LEMCKE: Okay.

22 THE COURT: All right. I mean, that's going to be always the case in my
23 department with any of my staff if that happens. I just want you to know that.

24 Obviously *Brady* material. If there is any that surfaces in this case
25 regarding some kind of improper conduct or that would be material to the defense

1 has to be provided. So, if the State was aware of something like that, then you need
2 to provide that, and if at some point in time there's a specific item that you think
3 potentially then you'd bring that as a specific request.

4 Number eighteen is the criminal history information on all the witnesses,
5 et cetera, et cetera. Okay. There's lengthy responses, you know, arguments on
6 both sides.

7 So, my inclination is to deny that except for felony convictions within the
8 past ten years, crimes of dishonesty or moral turpitude. There should not be any
9 NCIC disclosure unless it's already in the possession of the State and amounts to
10 *Brady* material; otherwise the defense needs to comply with FBI procedures for
11 obtaining such kind of -- such records where it asked for them; that there would be
12 then a request for the Court and in camera review, et cetera, et cetera. Okay.

13 Next one is 19 -- well 19 through 34 which you kind of grouped together
14 -- thank you very much -- as the U Visa and related information. And I think again
15 that was sort of put in there in the abundance of caution. We don't think there are
16 any immigration issues here and if there are, if those are discovered, then the State
17 would comply with that but otherwise -- because it might amount to *Brady* material.
18 But otherwise it's denied.

19 Then pursuant to NRS 174.245 the State is -- basically I treat it as a
20 countermotion requesting reciprocal discovery under the statute, and that's granted.
21 That's a countermotion for reciprocal discovery, 174.245. Okay.

22 Did I cover everything? Anything further you need me to address?

23 MR. BATEMAN: Could we incorporate all that by reference into the next case
24 with Ms. Lemcke?

25 THE COURT: Yeah. It's pretty much the same. Okay. Let's see. There was

1 -- oh, the petition for writ of habeas corpus. Did you want to do that today or did you
2 want to -- it was on status check --

3 MS. LEMCKE: Oh, it was.

4 THE COURT: -- it was set.

5 MS. LEMCKE: I'm ready.

6 THE COURT: I've read it. You ready?

7 MS. BATEMAN: We can -- I don't know that there's a ton of argument.

8 THE COURT: Do you want to hear what my thoughts are on it?

9 MS. LEMCKE: Sure.

10 THE COURT: Okay. And then you can tailor your argument.

11 All right. So, it's very interesting. In fact, I brought the statute. So, the
12 State has charged murder and then alleged in a part of that challenge to fight under
13 -- they haven't -- they didn't actually put the statutory designation which is 200.450
14 subsection (3). But the defense argument is that it's a separate crime, and I
15 disagree with that.

16 The statute is pretty specific. It says: Should death ensue to a person
17 in such a fight or should a person die from any injuries received in such a fight, the
18 person causing or having any agency in causing the death, either providing or by
19 giving or sending for himself or herself or for any other person or in receiving for
20 himself or herself or for any other person, the challenge to fight, is guilty of murder in
21 the first degree and shall be punished. So, it doesn't say that you're guilty of
22 challenge to fight. If a death results it is murder in the first degree. It's not a
23 separate offense. I'd like it -- and it kind of to how forgery, you know, there are all
24 those statutes that say you can commit forgery this way, and then there's another
25 statute you can commit forgery but it's all forgery. And I think that the pleading

1 certainly is sufficient to put you on notice that that's what they're charging. I think
2 that there should be an amendment which the State's requesting that they amend it.

3 Now at trial you're absolutely correct that they're going to have to prove
4 up the elements of the way to get to first degree murder just like they would have to
5 prove up felony murder elements. And you'll be entitled to jury instructions and to
6 completely argue that there was -- either that there wasn't a challenge to fight or that
7 they didn't meet the elements, what have you. But that's a matter for a jury
8 instruction. So, that's kind of my tentative ruling. Would you like to argue further?

9 MS. LEMCKE: Your Honor -- and I certainly understand. The challenge to
10 fight liability theory is a very clever one for the State. It, you know, enables them to
11 move forward with the first degree murder prosecution in a little bit more expedient
12 fashion I think in some ways. However, the Legislature, if they wanted to adopt the
13 reading that the Court or the prosecutor has urged to the Court and the Court seems
14 inclined to do, they would have put that challenge to fight liability theory in 200.030,
15 which is the first degree murder statute, which includes the felony murder
16 ~~delineations within that statute. Because they left it as a separate offense, it is our~~
17 position that it should be charged as a separate offense much like, for example, the
18 prosecutors will do when you have a murder by child abuse. A lot of times they'll
19 charge the first degree murder but they'll also charge kind of an attendant, you
20 know, child abuse resulting in substantial bodily harm that is death or a child
21 endangerment resulting in substantial bodily harm or death. And I think this is more
22 analogous to those types of situations.

23 Now I'm not conceding, number one, that at this late date they could
24 amend to add a whole separate charge or, number two, that there wouldn't be a
25 double jeopardy or redundancy issue that arises if they did -- if they charged the

1 case in such a way. But in order to ensure that they have to actually plead and then
2 prove up those elements to a jury, I think it needed to be charged in that separate
3 fashion. Again, if the Legislature wanted it to be read as like a felony murder like
4 liability theory which is, again, kind of what the State is urging the Court to adopt,
5 they would have put that provision within the felony murder statute itself. So, that
6 was our position on that, and other than that, I think we can submit it.

7 THE COURT: And the State's response.

8 MR. BATEMAN: I'll submit it, Your Honor.

9 THE COURT: Okay. I think you give the Legislature more credit than maybe
10 -- they do this all the time. They come in and put statutes in, change statutes, and
11 they don't even realize because unless somebody brings it to their attention that
12 there may be a conflict, there's kind of a conflict frankly in the existing statutes that
13 defines murder in the first degree. And then right below it where it defines the ways
14 to get to first degree murder puts in felony murder which doesn't -- isn't -- doesn't
15 require the premeditation, et cetera, that's in the other statute.

16 So, there's a lot of -- they could certainly tweak this to make it better,
17 but I think it's pretty clear. They're saying that if you do this it's you're guilty of
18 murder in the first degree. And so to me it's the same as felony murder. It's murder
19 in the first degree. It will be addressed in jury instructions. There won't be, of
20 course -- you know, there's no danger of double jeopardy or duplicative. But good
21 lawyering, good lawyering because, you know, it was a good argument, and I spent
22 a lot of time looking at the statutes.

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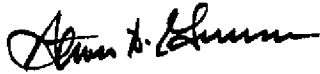
So, thank you. So, petition's denied. The writ's discharged.

Thank you.

[Proceedings concluded at 10:15 a.m.]

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.


PATRICIA SLATTERY
Court Transcriber


CLERK OF THE COURT

1 **ORDR**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **SAMUEL G. BATEMAN**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #008764**
8 **200 Lewis Avenue**
9 **Las Vegas, NV 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

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

10 **THE STATE OF NEVADA,**

11 **Plaintiff,**

12 **-vs-**

CASE NO: C-14-296234-1

13 **LUIS PIMENTEL, aka,**
14 **Luis Godofredo Pimentel, III,**
15 **#1444838**

DEPT NO: V

16 **Defendant.**

17 **ORDER DENYING DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS**

18 **DATE OF HEARING: AUGUST 11, 2014**

19 **TIME OF HEARING: 9:00 A.M.**

20 **THIS MATTER** having come on for hearing before the above entitled Court on the
21 **11th day of August, 2014,** the Defendant being present, represented by **NANCY M.**
22 **LEMCKE, DEPUTY PUBLIC DEFENDER,** the Plaintiff being represented by **STEVEN B.**
23 **WOLFSON, District Attorney,** through **SAMUEL G. BATEMAN, Chief Deputy District**
24 **Attorney,** and the Court having heard the arguments of counsel and good cause appearing
25 **therefor,**

26 **///**

27 **///**

28 **///**

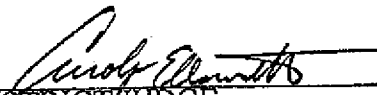
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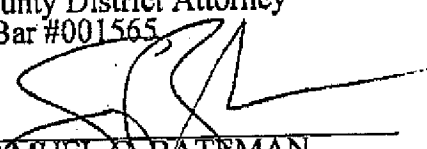
2 IT IS HEREBY ORDERED that the Defendant's Petition for Writ of Habeas Corpus,
3 shall be, and it is DENIED. The Court finds that Challenge to Fight under NRS 200.450 is
4 properly included as a theory of 1st Degree Murder in a count of Open Murder and that the
5 Count 1 as pled gives Defendant sufficient notice as to the charges against him. It is further
6 ORDERED that the State is granted leave of court to file an Amended Information adding
7 reference to NRS 200.450 as this amendment does not add a new charge or substantially
8 affect Defendant's rights.

9 DATED this 21st day of August, 2014.

10
11 
12 DISTRICT JUDGE

13 STEVEN B. WOLFSON
14 Clark County District Attorney
15 Nevada Bar #001565

16 BY


17 SAMUEL G. BATEMAN
18 Chief Deputy District Attorney
19 Nevada Bar #008764
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VS.

THE STATE OF NEVADA,
Real Party In Interest.

No. 66304
(District Ct. No. C14-296234-1)

CATHERINE CORTEZ MASTO
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BY /s/ Carrie M. Connolly
Employee, Clark County Public Defender's Office