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No. 66552

Electronically Filed
Dec 16 2014 08:32 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

v.

Respondent.

10

STEVE WOLFSON
Clark County District Attorney
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89155

CATHERINE CORTEZ MASTO
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(702) 687-3538

Counsel for Respondent

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Case No. 66552

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CLERK OF THE COURT

MOT
Damian R. Sheets, ESQ.
Nevada Bar No. 10755
MAYFIELD GRUBER & SHEETS
726 S. Casino Center Blvd., Suite 211
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Tel: (702) 598-1299
Fax: (702) 598-1266
E-mail: dsheets@defendingnevada.com

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

vs.

PATRICK NEWELL,

Defendants;

CASE NO.: C-12-285825-1
DEPT. NO.: XX

Date:
Time:

**MOTION FOR OR RELEASE OR, IN THE
ALTERNATIVE, MOTION TO REDUCE
BAIL**

COMES NOW, Defendant PATRICK NEWELL, by and through his undersigned
counsel, and respectfully submits the foregoing Motion for OR Release or in the Alternative,
Motion to Reduce Bail.

///

///

///

///

1 This Motion is made and based upon the pleadings and papers on file herein, the attached
2 Memorandum of Points and Authorities, together with such other oral or documentary evidence
3 which may be presented to the Court at the time of the hearing of this matter.
4

5 DATED this 26 day of December 2012.

6 Respectfully submitted,
7 MAYFIELD GRUBER & SHEETS

8
9 BY DR ¹⁰¹⁵⁵ W. M. R. S. DS
10 DAMIAN R. SHEETS, ESQ.
11 Nevada Bar No. 10755
12 726 S. Casino Center Blvd., Suite 211
13 Las Vegas, Nevada 89101
14 (702) 598-1299
15 Attorney for Defendant
16 PATRICK NEWELL

17 NOTICE OF MOTION

18 TO: THE STATE OF NEVADA, Plaintiff; and

19 TO: STEVE WOLFSON, District Attorney, by and through his Deputy District Attorney.

20 YOU WILL PLEASE TAKE NOTICE that the undersigned will bring the foregoing
21 MOTION FOR OR RELEASE OR IN THE ALTERNATIVE, MOTION TO REDUCE
22 BAIL on for hearing on the 08 day of JANUARY 2012 8:30 A.M., or as soon
23 thereafter as counsel may be heard in the above-entitled Court.

24 DATED this 26 day of December 2012.

25 MAYFIELD GRUBER & SHEETS

26 BY DR ¹⁰¹⁵⁵ W. M. R. S. DS
27 DAMIAN R. SHEETS, ESQ.
28 Nevada Bar No. 10755

1
2 MEMORANDUM OF POINTS AND AUTHORITIES

3 Defendant PATRICK NEWELL stands before the Court accused of serious charges.
4 Because the charges do not include Murder in the 1st Degree, Nevada law compels that this
5 Court Set a reasonable bail. Further, these crimes are not so serious that this Court cannot set a
6 reasonable bail or release Defendant on his own recognizance, combined with a condition or set
7 of conditions which will insure the Defendant's presence at scheduled court appearances and
8 prevent any issue coming about as to danger to the community.
9

10 The defense offers the following:

- 11 1. Mr. NEWELL has been a resident of Las Vegas for a year.
12 2. Mr. NEWELL is sixty-one years old, and he was deemed physically disabled by the
13 Social Security Administration six years ago.
14 3. Mr. NEWELL has owned and operated a furniture and antiques business located in
15 Las Vegas since February 2012.
16 4. Mr. NEWELL's wife, Patricia, is a residence of Las Vegas.
17 5. Mr. NEWELL has an extended family support system—four grown children and five
18 grandchildren with whom he keeps in regular contact.
19 6. Mr. NEWELL has no past history of violence.
20 7. Mr. NEWELL has no criminal history for the past 20 years.
21 8. Mr. NEWELL has regularly appeared at his court dates.
22 9. Mr. NEWELL's preliminary hearing was held on 27 November 2012. Testimony and
23 evidence presented during his preliminary hearing indicates that the evidence against
24 Mr. NEWELL is inconclusive and that he has viable defenses to the charges.
25
26
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1 For example:

- 2 a. Testimony of the alleged victim was unclear or contradictory on many details.
- 3 b. The alleged victim admitted drinking the night of the incident and had numerous
- 4 gaps in his memory regarding the events.
- 5 c. Testimony and evidence showed that the alleged victim repeatedly approached
- 6 Mr. Newell despite being asked not to do so.
- 7 d. Testimony and evidence was unclear as to who was the primary aggressor.
- 8
- 9

10 Articles One and Six of the Constitution of the State of Nevada provides that excessive

11 bail shall not be required. In reaching a conclusion as to what is a reasonable bail, a court should

12 consider that the object of bail is simply to assure the presence of the accused for court

13 appearances and trial; also, the nature of the offense charged, the penalty which may be inflicted,

14 the probability of the appearance of the accused, his pecuniary condition, his character and

15 reputation, and the circumstances surrounding the case relative to the likelihood of conviction.

16

17 There are those who deem it proper to fix the bonds of all persons charged with crime in

18 a sum so great as to preclude its being given, but it was the obviation of such a consequence that

19 prompted the provision in our Constitution against excessive bail. In other words, the idea was

20 that the punishment, if there is to be any, should follow conviction, and not both precede and

21 follow it, or be inflicted in spite of possible acquittal.

22

23 See, In the Matter of Jagles, 44 Nev. 370, 195 P. 808, 808-809 (1921). See also, Ex

24 Parte Wheeler, 81 Nev. 495, 406 P.2d 713 (1965) at 81 Nev. 500; State v. Teeter, 65 Nev. 584,

25 200 P.2d 657 (1948).

26

27 NRS 178.498 provides that the amount of bail shall be set by the magistrate and shall be

28 such as will in his judgment insure the presence of the defendant, having regard to (1) the nature

1 CONCLUSION

2 WHEREFORE, Defendant respectfully requests that this Court grant him an OR release
3 or in the alternative, set a bail not more than \$10,000.00 total bail under such conditions as this
4 Court deems appropriate.
5

6 DATED this 26 day of December 2012.

7 Respectfully submitted,
8 MAYFIELD GRUBER & SHEETS

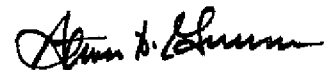
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10 BY 10/95
11 DAMIAN R. SHEETS, ESQ.
12 Nevada Bar No. 10755
13 726 S. Casino Center Blvd., Suite 211
14 Las Vegas, Nevada 89101
15 (702) 598-1299
16 Attorney for Defendant

17 CERTIFICATE OF MAILING

18 A copy of the foregoing MOTION FOR OR RELEASE OR IN THE
19 ALTERNATIVE, REDUCE BAIL, was sent to the below address via US First Class Mail,
20 postage prepaid, this 26 day of December, 2012.
21

22 STEVE WOLFSON
23 DISTRICT ATTORNEY
24 200 Lewis Ave.
25 Las Vegas, Nevada 89155

26
27 BY [Signature]
28 An Employee of Mayfield, Gruber and Sheets


CLERK OF THE COURT

1 **OPPS**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 HETTY O. WONG
6 Deputy District Attorney
7 Nevada Bar #011324
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10
11 Plaintiff,

12 -vs-

13 PATRICK NEWELL,
14 #2861099,
15 Defendant.

CASE NO: C-12-285825-1

DEPT NO: XX

15 **STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR O.R. RELEASE OR, IN**
16 **THE ALTERNATIVE, MOTION TO REDUCE BAIL**

17 DATE OF HEARING: January 8, 2013
18 TIME OF HEARING: 8:30 A.M.

19 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
20 District Attorney, through HETTY O. WONG, Deputy District Attorney, and hereby submits
21 the attached Points and Authorities in Opposition to Defendant's Motion for O.R. Release or,
22 in the Alternative, Motion to Reduce Bail.

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

26 **MEMORANDUM OF POINTS AND AUTHORITIES**

27 NRS 178.498 provides:

28 **NRS 178.498 Amount.** If the defendant is admitted to bail, the bail must be set at an

1 amount which in the judgment of the magistrate will reasonably ensure the appearance of the
2 defendant and the safety of other persons and of the community, having regard to:

- 3 1. The nature and circumstances of the offense charged;
- 4 2. The financial ability of the defendant to give bail;
- 5 3. The character of the defendant; and
- 6 4. The factors listed in NRS 178.4853.

7 NRS 178.4853 provides as follows:

8 **NRS 178.4853 Factors considered before release without bail.** In deciding
9 whether there is good cause to release a person without bail, the court as a minimum shall
10 consider the following factors concerning the person:

- 11 1. The length of his residence in the community;
- 12 2. The status and history of his employment;
- 13 3. His relationship with his spouse and children, parents or other members of
14 his family and with his close friends;
- 15 4. His reputation, character and mental condition;
- 16 5. His prior criminal record, including, without limitation, any record of his
17 appearing or failing to appear after release on bail or without bail;
- 18 6. The identity of responsible members of the community who would vouch
19 for the reliability of the person;
- 20 7. The nature of the offense with which he is charged, the apparent probability
21 of conviction and the likely sentence insofar as these factors relate to the
22 risk of his not appearing;
- 23 8. The nature and seriousness of the danger to the alleged victim, any other
24 person or the community that would be posed by the person's release;
- 25 9. The likelihood of more criminal activity by him after he is released; and
- 26 10. Any other factors concerning his ties to the community or bearing on the
27 risk that he may willfully fail to appear.

28 NRS 178.499 provides:

1 **NRS 178.499 Increase in amount.**

2 1. At any time after a district or justice's court has ordered bail to be set at a specific
3 amount, and before acquittal or conviction, the court may upon its own motion or upon
4 motion of the district attorney and after notice to the defendant's attorney or record or, if
5 none, to the defendant, increase the amount of bail for good cause shown.

6 2. If the defendant has been released on bail before the time when the motion to
7 increase bail is granted, the defendant shall either return to custody or give the additional
8 amount of bail.

9 NRS 178.487 provides as follows:

10 **NRS 178.487 Bail after arrest for felony committed while on bail.** Every release
11 on bail with or without security is conditioned upon the defendant's good behavior while so
12 released, and upon a showing that the proof is evident or the presumption great that the
13 defendant has committed a felony during the period of release, the defendant's bail may be
14 revoked, after a hearing, by the magistrate who allowed it or by any judge of the court in
15 which the original charge is pending. Pending such revocation, the defendant may be held
16 without bail by order of the magistrate before whom he is brought after an arrest upon the
17 second charge.

18 NRS 178.486 provides as follows:

19 **NRS 178.486 When bail is a matter of discretion, notice of application must be**
20 **given to district attorney.** When the admission to bail is a matter of discretion, the court, or
21 officer by whom it may be ordered, shall require such notice of the application therefore as
22 he may deem reasonable to be given to the district attorney of the county where the
23 examination is had.

24 E.D.C.R. 3.20(d) provides as follows:

25 **Rule 3.20. Motions.**

26 (d) Unless otherwise allowed by the court, all motions to increase or decrease bail
27 must be in writing, be supported by an affidavit of the movant or the movant's attorney, and
28 contain a notice of the hearing setting the matter for hearing not less than 2 full judicial days

1 from the date the motion is served and filed. The opponent to the motion may respond orally
2 in open court.

3 **STATEMENT OF THE CASE**

4 On October 10, 2012, a Criminal Complaint was filed against Patrick Newell
5 (hereinafter "Defendant") charging him with Count 1 – Attempt Murder With Use of a
6 Deadly Weapon; Count 2 – Battery With Use of a Deadly Weapon Resulting in Substantial
7 Bodily Harm; and Count 3 – Assault With Use of a Deadly Weapon. Defendant appeared in
8 custody for his initial arraignment on October 12, 2012. A preliminary hearing was
9 scheduled for October 25, 2012.

10 On October 25, 2012, the State requested a continuance because the victim was still
11 hospitalized due to the injuries he sustained as a result of being set on fire in the instant case.
12 Defendant requested an own recognizance release, which was denied. The total bail amount
13 was set at one hundred and twenty thousand dollars (\$120,000.00). Defendant's preliminary
14 hearing was reset to November 8, 2012.

15 On November 8, 2012, the State was ready to go forward with the preliminary
16 hearing. The defense, however, requested a continuance because current counsel, Damian
17 Sheets, substituted in as attorney of record. Defendant made a second request for an own
18 recognizance release or bail reduction, which was again denied. The preliminary hearing
19 was reset to November 27, 2012.

20 On November 26, 2012, the State filed an Amended Criminal Complaint adding an
21 additional count of Performance of Act in Reckless Disregard of Persons or Property. On
22 November 27, 2012, a preliminary hearing was held. Following testimony from two
23 witnesses, Justice of the Peace Deborah Lippis found probable cause to have Defendant
24 answer all charges in the District Court. At the end of the preliminary hearing, the defense
25 made its third request for an own recognizance release or bail reduction. Judge Lippis again
26 denied the request.

27 On November 30, 2012, an Information was filed charging Defendant with Count 1 –
28 Attempt Murder With Use of a Deadly Weapon; Count 2 – Battery With Use of a Deadly

1 Weapon Resulting in Substantial Bodily Harm; Count 3 – Assault With Use of a Deadly
2 Weapon; and Count 4 – Performance of Act in Reckless Disregard of Persons or Property.
3 On December 4, 2012, Defendant entered a plea of not guilty to all charges alleged in the
4 Information. Trial is currently scheduled for January 22, 2012 with a calendar call date of
5 January 15, 2013.

6 On December 26, 2012, Defendant filed the instant Motion for O.R. Release or, in the
7 Alternative, Motion to Reduce Bail. The State's Opposition follows.

8 **STATEMENT OF FACTS**

9 On October 10, 2012, at approximately 12:45am, victim Theodore Bejarno exited the
10 Circle K located at 9487 South Las Vegas Boulevard and approached Defendant, who was
11 standing next to his truck pumping gas. Mr. Bejarno asked Defendant for a ride but
12 Defendant refused. Mr. Bejarno reiterated his request for a ride and offered Defendant
13 money in exchange. Defendant became annoyed with the victim's persistence. As a result,
14 Defendant told Mr. Bejarno that he would cut him if he did not go away and pulled out a
15 pocket knife.

16 When Mr. Bejarno did not leave, Defendant pulled the gasoline nozzle from his truck
17 and sprayed the victim with gasoline. Mr. Bejarno walked away from Defendant while
18 wiping gasoline from his eyes. Mr. Bejarno then approached Defendant to tell him that he
19 had just ruined his new shirt. At that point, Defendant sprayed Mr. Bejarno with gasoline a
20 second time and then pushed the victim onto the ground. Defendant told the victim that if he
21 did not leave him alone, he would light him on fire. When Mr. Bejarno did not leave,
22 Defendant took out a cigarette lighter, flicked the lighter twice, made contact with the
23 victim's shirt, and lit the victim on fire. The victim, who immediately became engulfed in
24 flames, began to scream and stripped off his shirt and shorts.

25 After the victim put out the flames, Mr. Bejarno sat down next to a gas pump stating
26 he had been burned. Defendant then walked around with his knife, waved it around,
27 ridiculed the victim, and then threatened to cut off the victim's penis. South Point Hotel
28 Security Officer Derrick Phillips observed the attack and ordered Defendant to step away

1 from the victim. Police and paramedics arrived shortly thereafter.

2 ARGUMENT

3 For the fourth time in less than three months, Defendant is requesting either an own
4 recognizance release or a bail reduction. Neither request is reasonable for several reasons.

5 First, Defendant is a four-time convicted felon. He has prior felony convictions for
6 the following offenses: (1) 1971 Illinois conviction for Sale of Drugs; (2) 1971 Illinois
7 conviction for Violation of Federal Dangerous Drug Laws; (3) 1975 Oklahoma conviction
8 for Sale of LSD; and (4) 1982 Illinois conviction for False Statement to a Bank. He also has
9 two (2) misdemeanor convictions.

10 Second, Defendant committed an extremely violent offense in the instant case.
11 Defendant's insinuation that the victim was the primary aggressor is moreover belied by the
12 witness testimony and by the video surveillance admitted at the preliminary hearing. At no
13 point did the victim threaten to harm Defendant. Rather, Defendant simply felt pestered by
14 the victim, and in his annoyance, overreacted by setting the victim on fire.

15 Third, Defendant's lack of remorse following his attack on the victim is troubling.
16 Rather than immediately call police to obtain medical treatment for the victim, Defendant
17 instead confronted the victim, took out his pocket knife, told the victim he had a small penis,
18 and threatened to cut off the victim's genitals. Further, during his interview with the police,
19 Defendant minimized the seriousness of his actions, described the victim as "cryin' like a
20 little girl," and insisted the victim did not sustain serious injuries.

21 Fourth, Defendant's rage was directed to more than just the victim on the night of the
22 incident. After Defendant set the victim on fire, an independent witness, Adam Carlos,
23 confronted Defendant and scolded him for having set a man on fire. Defendant responded
24 by walking towards Mr. Carlos with a knife in his hands saying, "You don't fuckin' know."

25 Defendant poses a clear danger to the community. Indeed, Defendant's request for an
26 own recognizance release and bail reduction has been reviewed by two separate judges both
27 prior to and following the preliminary hearing in this case. Judge Joseph Bonaventure, who
28 was sitting in for Justice of the Peace Deborah Lippis, first denied Defendant's request for an

1 own recognizance release on October 25, 2012. Judge Lippis thereafter denied Defendant's
2 request on November 8, 2012. After having the opportunity to hear witness testimonies and
3 view the video surveillance of the October 10, 2012 attack, Judge Lippis again denied the
4 defense's request for an own recognizance release or bail reduction on November 27, 2012.
5 No circumstances have changed to warrant a modification of Defendant's custody status.
6 Defendant's current bail of one hundred and twenty thousand dollars (\$120,000.00) is
7 reasonable in light of Defendant's criminal history and the violent nature of the instant
8 offense.

9 **CONCLUSION**

10 Wherefore, the State respectfully requests that this Court deny Defendant's Motion
11 for O.R. Release or, in the Alternative, Motion to Reduce Bail.

12 DATED this 2nd day of January, 2013.

13 Respectfully submitted,

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

16
17 BY /s/Hetty O. Wong
18 HETTY O. WONG
19 Deputy District Attorney
20 Nevada Bar #011324
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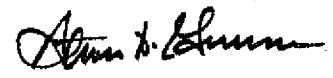
CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that service of State's Opposition to Defendant's Motion for O.R. Release or, in the Alternative, Motion to Reduce Bail, was made this 2nd day of January, 2013, by facsimile transmission to:

DAMIAN R. SHEETS, ESQ.
FAX #598-1266

BY: /s/Theresa Dodson
Theresa Dodson
Employee of the District Attorney's Office

HOW/td/L-4



CLERK OF THE COURT

1 **MOT**
2 DAMIAN R. SHEETS, ESQ.
3 Nevada Bar No. 10755
4 **MAYFIELD, GRUBER & SHEETS**
5 726 S. Casino Center Blvd., Suite 211
6 Las Vegas, Nevada 89101
7 (702) 598-1299
8 PATRICK NEWELL

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EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
vs.
PATRICK NEWELL,
Defendant.

CASE NO. C-12-285825-1
DEPT. NO. 20

MOTION TO WITHDRAW AS
COUNSEL OF RECORD

HEARING DATE:
HEARING TIME:

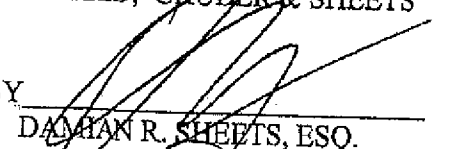
COMES NOW, DAMIAN R. SHEETS, ESQ., of the Law Offices of MAYFIELD, GRUBER & SHEETS, and moves this Honorable Court for its Order allowing the withdrawal of DAMIAN R. SHEET, ESQ., as attorney of record for Defendant, PATRICK NEWELL in the above matter.

This Motion is made and based upon the pleadings and papers on file herein, the attached Memorandum of Points and Authorities and the Affidavit of DAMIAN R. SHEETS, ESQ.

DATED this 26 day of December, 2012.

Respectfully submitted,
MAYFIELD, GRUBER & SHEETS

BY


DAMIAN R. SHEETS, ESQ.
Nevada Bar. No. 10755
726 S. Casino Center Blvd., Suite 211
Las Vegas, NV 89101
(702) 598-1299

1 **NOTICE OF MOTION**

2 TO: THE STATE OF NEVADA, Plaintiff; and

3 TO: STEVEN WOLFSON, District Attorney, by and through his Deputy District Attorney;
4 and

5 TO: PATRICK NEWELL Defendant.

6 PLEASE TAKE NOTICE that the undersigned will bring the foregoing **MOTION TO**
7 **WITHDRAW AS COUNSEL OF RECORD** on for hearing in Department 20 of the above-
8 entitled Court on the 15 day of January ²⁰¹³ ~~2012~~ at the hour of 8:30 A.M., or as soon
9 thereafter as counsel may be heard.
10

11 DATED this 20 day of December, 2012.

12 MAYFIELD, GRUBER & SHEETS.

13
14
15 BY

16 DAMIAN R. SHEETS, ESQ.
17 Nevada Bar No. 10755

18 **MEMORANDUM OF POINTS AND AUTHORITIES**

19 On or about November 2, 2012 counsel was retained to represent Patrick Newell
20 regarding the charges of Attempt of murder with use of deadly weapon, Battery with use of a
21 deadly weapon resulting in substantial bodily harm, Assault with a deadly weapon and
22 Performance of act in reckless disregard of persons or property. Counsel confirmed for Mr.
23 Newell on the instant case, and a preliminary hearing was set for November 27, 2012.
24

25 Eighth Judicial District Court Rule 7.40 states in pertinent part:

26 "Appearances; Substitutions; Withdrawal or Change of Attorney.

27 (b) Counsel in any case may be changed only:
28

1 (2)(I) If the application is made by the attorney, he must
2 include in an affidavit the address or last known address at
3 which the client may be served with notice of further
4 proceedings taken in a case in the event the application for
5 withdrawal is granted, and he must serve a copy of the
6 application upon the client and all other parties to the action
7 or to their attorneys."

8 Defendant PATRICK NEWELL is currently incarcerated at the Clark County Detention
9 Center, 330 S. Casino Center Blvd., Las Vegas, Nevada 89101, ID# 02861099, with a last known
10 residential address of: 9145 Las Vegas Blvd. South No. 3088, Las Vegas Nevada 89123.

11 The attached Affidavit of DAMIAN R. SHEETS, ESQ., describes the compelling
12 necessity to allow withdrawal of present defense counsel at this time.

13 DATED this 20 day of December, 2012.

14 MAYFIELD, GRUBER & SHEETS

15 BY

16 DAMIAN R. SHEETS, ESQ.
17 Nevada Bar No. 10755
18 726 S. Casino Center Blvd., Suite 211
19 Las Vegas, NV 89101
20 (702) 598-1299

21 **AFFIDAVIT DAMIAN R. SHEETS, ESQ.**
22 **IN SUPPORT OF MOTION TO WITHDRAW**

23 STATE OF NEVADA,)
24)§:
25 COUNTY OF CLARK)

26 DAMIAN R. SHEETS, ESQ., being first duly sworn, deposes and states:

27 1. I am an attorney at law duly licensed to practice before all of the Courts of the State
28 of Nevada. I am presently counsel of record for Defendant PATRICK NEWELL in the above-
entitled action. I offer this Affidavit in support of my request to withdraw as attorney of record
on behalf of MR. NEWELL. I have personal knowledge of the facts stated in this Affidavit

1 except as to those matters stated on information and belief and as to such matters; I believe them
2 to be true. I would be competent to testify to the facts, if called upon to do so.

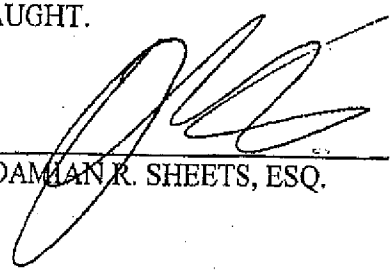
3 2. MR. NEWELL case it is beyond of scope of contract.

4 3. MR. NEWELL has failed to pay the agreed upon attorney fees.

5 4. MR. NEWELL is currently incarcerated at the Clark County Detention Center, 330 S.
6 Casino Center Blvd., Las Vegas, Nevada 89101, ID# 02861099.

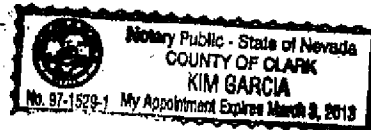
7 5. Defendant NEWELL'S's last known address is 9145 Las Vegas Blvd. South No.
8 3088, Las Vegas Nevada 89123.

9 5. FURTHER YOUR AFFIANT SAITH NAUGHT.

10
11
12 
DAMIAN R. SHEETS, ESQ.

13 SUBSCRIBED and SWORN to before
14 me this 20 day of December, 2012.

15 
16 NOTARY PUBLIC



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RECEIPT OF COPY AND CERTIFICATE OF MAILING

RECEIPT OF COPY of the foregoing MOTION TO WITHDRAW AS COUNSEL
OF RECORD is hereby acknowledged this ____ day of December, 2012.

STEVEN WOLFSON
DISTRICT ATTORNEY

BY _____
Deputy District Attorney
200 Lewis Avenue
Las Vegas, Nevada 89155

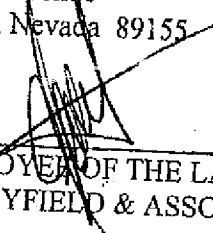
CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 21 day of December, 2012, I mailed a copy of
MOTION TO WITHDRAW AS COUNSEL OF RECORD, first class mail, postage prepaid,
addressed to:

MR. PATRICK NEWELL
9145 Las Vegas Blvd. South No. 3088,
Las Vegas Nevada 89123.

PATRICK NEWELL ID# 02861099
Clark County Detention Center,
330 S. Casino Center Blvd.
Las Vegas, Nevada 89101

Deputy District Attorney
200 Lewis Avenue
Las Vegas, Nevada 89155


AN EMPLOYEE OF THE LAW OFFICES
OF MAYFIELD & ASSOCIATES

BAIL BOND

2861099

In the Las Vegas District

Court, County of Clark, State of Nevada.

NO ICE 2-19-13 @ 1937 CS180P

STATE OF NEVADA

Bail-Bond No. SS-125-00024

(Power of attorney with this number must be attached.)

vs.

2013 FEB 20 A 10:53

Defendant: Newell, PatrickCase No. C285825

CLERK OF THE COURT

Know all men by these presents:

That we, Hollywood Bail Bonds, LLC. As principal and Sun Surety Company as the surety, heretofore authorized to transact Bail Bonds in the State of Nevada. Are held and bound, to the above court, for payment in the sum of: \$ 120,000. -

Dollars,

whereof, we bind ourselves, our heirs, executors, administrators, and successors and assigns, jointly, severally, and firmly, by these presents. The conditions of this obligation is such that the said defendant shall appear from day to day and term of said court to answer the charge(s) of Battery With A Deadly Weapon,

Att. Murder

and not depart the same without leave, then this obligation to be void, else to remain in full force and effect.

This bond shall be in full force and effect until any of the following events:

- 1) Exoneration by court order, 2) Termination of this case by dismissal or conviction

Signed and sealed this 19 day of February, 2013

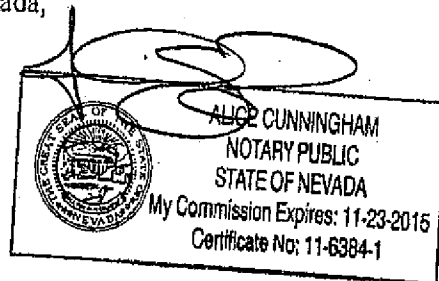
[Signature]
Attorney in fact (signature)

C-12-285826-1

BAB
Bail Bond
2238424

Subscribed and sworn before me, a notary for the State of Nevada,
This 19 day of February, 2013

Place Notary Seal here



RECEIVED
FEB 20 2013
CLERK OF THE COURT
B
Bonding Company Stamp

Approved this _____ day of _____, 20____

Insurance Agency Stamp

HOLLYWOOD BAIL BONDS, LLC.
3116 NORTH LAS VEGAS BLVD
LAS VEGAS, NV 89115
702-838-5245 FAX 702-765-5245

Sun Surety Company
21 Main Street
Rapid City, SD 57701

Sun Surety Insurance Company

21 Main St. Rapid City, South Dakota 57701

Telephone: 605-348-1000

POWER OF ATTORNEY

Mar 31 2013

VOID IF NOT ISSUED BY:

POWER AMOUNT \$ \$125,000.00

POWER NO.

SS-125-00024

KNOW ALL MEN BY THESE PRESENTS that Sun Surety Insurance Company, a corporation duly organized and existing under the laws of the State of South Dakota and by the authority of the Resolution adopted by the Board of Directors at a meeting duly called and held on June 9, 1998 which said Resolution has not been amended or rescinded, does constitute and appoint and by these presents does make, constitute and appoint the named agent

Larry P. Powell

its true and lawful Attorney-in-Fact for it and in its name, place and stead, to execute, seal and deliver for and on its behalf and as its act and deed, as surety, a bail bond only. Authority of such Attorney-in-Fact is limited to appearance bonds and cannot be construed to guarantee defendant's future lawful conduct, adherence to travel limitations, fines, restitution, payments or penalties, or any other condition imposed by a court not specifically related to court appearance.

This Power of Attorney is for use with Bail Bonds only. Not valid if used in connection with Immigration Bonds. This power void if altered or erased, void if used with other powers of this company or in combination with powers from any other surety company, void if used to furnish bail in excess of the stated face amount of this power, and can only be used once. The obligation of the company shall not exceed the sum of

ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$125,000.00)

and provided this Power of Attorney is filed with the bond and retained as a part of the court records. The said Attorney-in-Fact is hereby authorized to insert in this Power of Attorney the name of the person on whose behalf this bond was given.

IN WITNESS WHEREOF, SUN SURETY INSURANCE COMPANY has caused these presents to be signed by its duly authorized officer, proper for the purpose and its corporate seal to be hereunto affixed this 19 day of February, year 2013.

Bond Amount \$ 120,000

Defendant Newell, Patrick

Charges Battery With A Deadly Weapon

Court / Date District

Case No. C285825

City Las Vegas State NV

If rewrite, original P/A No.

Attorney-in-fact Larry P. Powell



By

Patrick Wood

Patrick Wood
President

SSIC-LOA

COURT COPY SSIC-1

Sun Surety Insurance Company

21 Main St., Rapid City, South Dakota 57701

Telephone: 605-348-1000

POWER OF ATTORNEY

VOID IF NOT ISSUED BY:

POWER AMOUNT \$

POWER NO.

KNOW ALL MEN BY THESE PRESENTS that Sun Surety Insurance Company, a corporation duly organized and existing under the laws of the State of South Dakota and by the authority of the Resolution adopted by the Board of Directors at a meeting duly called and held on June 9, 1998 which said Resolution has not been amended or rescinded, does constitute and appoint and by these presents does make, constitute and appoint the named agent

stead, to execute, seal and deliver for and on its behalf and as its act and deed, as surety, a bail bond only. Authority of such Attorney-in-Fact is limited to appearance bonds and cannot be construed to guarantee defendant's future lawful conduct, adherence to travel limitations, fines, restitution, payments or penalties, or any other condition imposed by a court not specifically related to court appearance.

This Power of Attorney is for use with Bail Bonds only. Not valid if used in connection with Immigration Bonds. This power void if altered or erased, void if used with other powers of this company or in combination with powers from any other surety company. Valid to furnish bail in excess of the stated face amount of this power and can only be used once. The obligation of the company shall not exceed the sum of

and provided this Power-of-Attorney is filed with the bond and total fees shall be in the court records. The said Attorney-in-Fact is hereby authorized to insert in this Power-of-Attorney the name of the person on whose behalf this bond is given.

IN WITNESS WHEREOF, SUN SURETY INSURANCE COMPANY has caused these presents to be signed by its duly authorized officer, proper for the purpose and its corporate seal to be hereunto affixed this 11 day of January, year 2000

Bond Amount \$ 10,000.00

Defendant Mr. H. P. Smith

Charges 1st Degree Murder

Court / Date South Dakota

Case No. 100-10000

City Sioux Falls State SD

If rewrite, original P/A No. 100-10000

Attorney-in-fact [Signature]

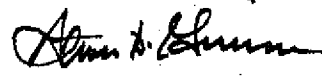
Date of Discharge Att. M. Smith

DISCHARGE COPY

SSIC-LPOA

DISCHARGE COPY SSIC-1

HOLLYWOOD BAIL BONDS, LLC.
3116 North Las Vegas Blvd.
Las Vegas, NV. 89115
Office (702) 838-5245
Fax (702) 765-5245


CLERK OF THE COURT

1 **EXMT**

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 HETTY O. WONG
6 Deputy District Attorney
7 Nevada Bar #11324
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 PATRICK NEWELL,
13 #2861099

14 Defendant.

CASE NO. C-12-285825-1

DEPT NO. XX

EX PARTE MOTION FOR RELEASE OF MEDICAL RECORDS

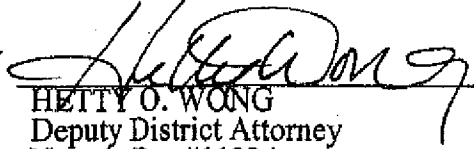
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16 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
17 District Attorney, through HETTY O. WONG, Deputy District Attorney, and moves this
18 Honorable Court for an Order Releasing evidence which includes protected health
19 information being held by Rawson-Neal Psychiatric Hospital consisting of any and all
20 medical records for patient: **THEODORE BEJARANO, DOB: 4/19/75, concerning**
21 **diagnosis, prognosis and/or treatment given or provided on or about March 20, 2013, to**
22 **be released to a representative of the DISTRICT ATTORNEY'S OFFICE for the purpose of**
23 **prosecuting the above referenced case charging the crime of Attempted Murder With Use of**
24 **a Deadly Weapon and Battery With Use of a Deadly Weapon Resulting in Substantial**
25 **Bodily Harm.**

26 Pursuant to 45 CFR 164.512(f), Movant represents that the information sought is
27 relevant and material to a legitimate law enforcement inquiry; that the request is specific and
28 ///

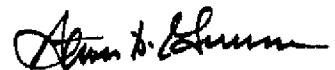
1 limited in scope to the extent reasonably practicable in light of the purpose for which the
2 information is sought; and that de-identified information could not reasonably be used.

3
4 DATED this 5th day of April, 2013.

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

8 BY 
9 HETTY O. WONG
10 Deputy District Attorney
11 Nevada Bar #11324

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CLERK OF THE COURT

ORDR

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
HETTY O. WONG
Deputy District Attorney
Nevada Bar #11324
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

PATRICK NEWELL,
#2861099

Defendant.

CASE NO. C-12-285825-1

DEPT NO. XX

ORDER RELEASING MEDICAL RECORDS

Upon the ex parte application and representation of STEVEN B. WOLFSON, Clark County District Attorney, by and through HETTY O. WONG, Deputy District Attorney, that certain records containing protected health information are necessary for the prosecution of the above-captioned criminal case are being held in the custody of Rawson-Neal Psychiatric Hospital; that said information is relevant and material to a legitimate law enforcement inquiry; that the application was specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and that de-identified information could not reasonably be used;

NOW THEREFORE, pursuant to 45 CFR 164.512(f), and GOOD CAUSE APPEARING, Rawson-Neal Psychiatric Hospital, shall release to a representative of the

///

///

APR - 8 2013

1 DISTRICT ATTORNEY'S OFFICE, any and all medical records concerning diagnosis,
2 prognosis, and/or treatment of THEODORE BEJARANO, whose date of birth is
3 4/19/75, for the time period March 20, 2013.

4 IT IS HEREBY ORDERED.

5 DATED this 8th day of April, 2013.

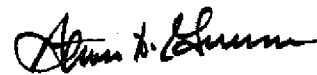
6
7 
8 DISTRICT JUDGE *pw*

9
10 STEVEN B. WOLFSON
11 Clark County District Attorney
12 NEVADA BAR #001565

13 BY 

14 HETTY O. WONG
15 Deputy District Attorney
16 Nevada Bar #11324
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CLERK OF THE COURT

STEVEN K. PARKE, ESQ.
Nevada Bar No.: 12627
Law Firm of PARKE ESQUIRE
5580 S. Decatur Blvd., Ste. 101
Las Vegas, Nevada 89118
(702) 758-4111 Fax- (702) 852-1126
Attorney for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

PATRICK NEWELL

Defendant.

CASE NO.: C-12-285825-1

DEPT NO.: 20

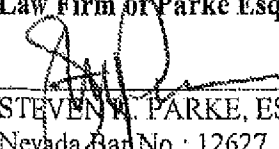
MOTION TO WITHDRAW AS
COUNSEL

COMES NOW, STEVEN K. PARKE, ESQ., of the Law Firm of PARKE ESQUIRE, and
pursuant to Nevada Supreme Court Rule 46, hereby moves this Court for an order allowing the
undersigned to withdraw as counsel for Defendant, PATRICK NEWELL.

This motion is made and based upon the Points and Authorities herein, the Declaration of
STEVEN K. PARKE, ESQ., as attached hereto and Motion to Withdraw, included herewith.

DATED this 9th day of September, 2013.

Law Firm of Parke Esquire




STEVEN K. PARKE, ESQ.
Nevada Bar No.: 12627
Law Firm of Parke Esquire
5580 s. Decatur Blvd., Ste. 101
Las Vegas, NV 89118

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NOTICE OF MOTION

PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion to Withdraw as Counsel for hearing before the above-entitled Court in Department VIII on the 19 day of September, 2013, at 8 : 30 a.m.

Dated this 9th day of September, 2013.



STEVE K. PARKE, ESQ
Nevada Bar No. 12627
Attorney for Defendant

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POINTS AND AUTHORITIES

Supreme Court Rule 46 provides in pertinent part:

The attorney in an action or special proceeding may be changed at any time before judgment or final determination as follows:

1. Upon consent of the attorney, approved by the client; and
2. Upon the order of the court or judge thereof on the application of the attorney or the client.

DECLARATION
(NRS 53.045)

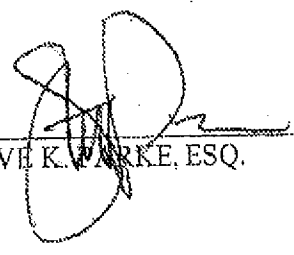
NOW COMES STEVE K. PARKE, ESQ., who says:

1. That I am an attorney licensed to practice in the State of Nevada and am the retained counsel for the Defendant herein;
2. That I have knowledge of the facts contained herein and am competent to testify as to those facts;
3. That I submit this Declaration in support of a Motion to Withdraw as Counsel in the present case;

- 1 4. That I have had difficulties communicating with the Defendant and the Defendant has been unable
2 to abide by the terms of the retainer agreement;
3 5. That Defendant has been personally served with this notice;
4 6. That your Declarant respectfully requests that he be permitted to withdraw as counsel for the
5 Defendant.
6

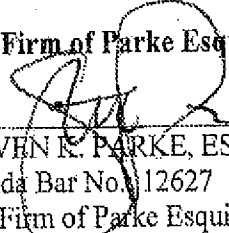
7 I declare under penalty of perjury that the foregoing is true and correct.

8 EXECUTED this 9th day of September, 2013

9
10
11 
STEVE K. PARKE, ESQ.

12 DATED THIS 9th day of September, 2013.

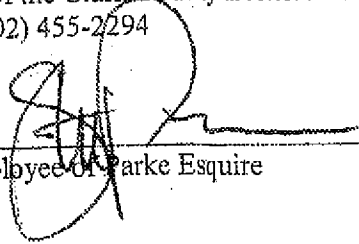
13 Law Firm of Parke Esquire

14
15 
16 STEVEN K. PARKE, ESQ.
17 Nevada Bar No. 12627
18 Law Firm of Parke Esquire
19 5580 s. Decatur Blvd., Ste. 101
20 Las Vegas, NV 89118

21 **CERTIFICATE OF SERVICE OF FACSIMILE**

22 The undersigned certifies that the above MOTION TO WITHDRAW was sent via facsimile to
23 the following on this 9th day of September, 2013.

24
25 Office of the Clark County District Attorney
26 Fax: (702) 455-2294

By: 
Employee of Parke Esquire

OCT 15 2013

DISTRICT COURT
CLARK COUNTY, NEVADA

BY Linda Skinner
LINDA SKINNER, DEPUTY

STATE OF NEVADA

Plaintiff,

vs.

PATRICK NEWELL

Defendant

) Case No.: C285825

) Dept. No.: 20

) Docket No.: _____

MOTION TO DISMISS COUNSEL

AND

PERMIT DEFENDANT TO PROCEED

IN PRO PER

COMES NOW, THE DEFENDANT, PATRICK NEWELL,
AND MOVES THIS HONORABLE COURT TO DISMISS
COUNSEL, CLAUDIA ROMNEY AND THE CLARK
COUNTY OFFICE OF THE PUBLIC DEFENDER, AND
PERMIT DEFENDANT TO PROCEED WITH HIS
REPRESENTATION IN PRO PER.

THIS MOTION IS BASED UPON ALL PAPERS,
PLEADINGS AND DOCUMENTS ON FILE. FACTUAL
STATEMENTS SET FORTH IN THE POINTS AND
AUTHORITIES CONTAINED THEREIN.

DATED THIS 15TH DAY OF OCTOBER, 2013,

PATRICK NEWELL
DEFENDANT

POINTS AND AUTHORITIES

1 IT IS RESPECTFULLY REQUESTED OF THIS
2 COURT TO GRANT THIS MOTION TO DISMISS
3 COUNSEL AND PROCEED IN PRO PER FOR THE
4 REASONS LISTED BELOW:

I. PROCEEDURAL BACKGROUND

5 SINCE CLAUDIA ROMNEY OF THE CLARK
6 COUNTY OFFICE OF THE PUBLIC DEFENDER WAS
7 APPOINTED AS COUNSEL ON SEPTEMBER 24, 2013,
8 DEFENDANT PATRICK NEWELL, HAS BEEN
9 PREJUDICED AND HAS SUFFERED MANIFEST
10 INJUSTICE BASED ON COUNSEL'S REFUSAL OR
11 FAILURE TO:
12

13 1) COMMUNICATE AND/OR VISIT WITH SAID
14 DEFENDANT AT THE CLARK COUNTY DETENTION
15 CENTER (CCDC), LAS VEGAS, NV, WHERE
16 DEFENDANT IS BEING HELD IN CUSTODY

17 2) TALK TO DEFENDANT AT ANY LENGTH
18 REGARDING DEFENDANT'S REQUEST, MADE IN OPEN
19 COURT ON OCTOBER 1, 2013, THAT A MOTION FOR
20 DEFENDANT'S RELEASE FROM CUSTODY ON HIS OWN
21 RECOGNIZANCE OR IN THE ALTERNATIVE A
22 REDUCTION IN DEFENDANT'S BAIL AMOUNT BE FILED
23 AND HEARD BY THIS COURT AND FURTHER DISCUSS
24 POSSIBLE ALTERNATIVES TO A FULL TRIAL BY JURY
25 WHICH COULD EXPEDITE THE FINAL ADJUDICATION
OF DEFENDANT'S CASE BEFORE THIS COURT.

3) MITIGATE OR OTHERWISE SHORTEN THE
EGREGIOUS LENGTH OF TIME GRANTED TO COUNSEL
ON OCTOBER 1, 2013 TO CONTINUE DEFENDANT'S

1 IN RE: CASE NO. _____

2 TRIAL DATE FROM OCTOBER 14, 2013 UNTIL MARCH
3 17, 2014, A PERIOD OF ALMOST SIX (6) MONTHS.
4 DEFENDANT'S COUNSEL REPRESENTED TO THE COURT
5 THE CONTINUANCE WAS NECESSARY PRIMARILY DUE
6 TO CONFLICTS IN HER SCHEDULE. HOWEVER,
7 DEFENDANT APPEARED IN OPEN COURT AND CLEAR-
8 LY EXPRESSED TO THE COURT HIS READINESS FOR
9 TRIAL ON THE DATE AND TIME ORIGINALLY
10 SCHEDULED BY THIS COURT. COUNSEL DID NOT
11 DISCUSS WITH DEFENDANT AND DID NOT
12 RECEIVE DEFENDANT'S AUTHORIZATION OR AGREE-
13 MENT TO REQUEST A CONTINUANCE OF THIS
14 COURT PAST THE ORIGINAL DATE SCHEDULED
15 FOR TRIAL. COUNSEL'S REQUEST FOR A CONTINUANCE
16 WAS THEREFORE A UNILATERAL ACTION TAKEN
17 WITHOUT DEFENDANT'S PRIOR KNOWLEDGE OR
18 CONSENT.

19 II ARGUMENT

20 DEFENDANT, PATRICK NEWELL, ASSERTS HE IS
21 BEING DENIED HIS RIGHT TO REPRESENTATION DUE TO
22 WHOLLY INADEQUATE ACTIONS OF HIS COURT-
23 APPOINTED COUNSEL. FURTHER, COUNSEL'S INNATE
24 ACTION OR LACK THEREOF COMPORTS TO NOTHING
25 MORE THAN A VIOLATION OF DEFENDANT'S RIGHTS
OF DUE PROCESS UNDER THE LAW.

1 IN RE: CASE NO. _____

2 COUNSEL HAS NOT RETURNED ANY OF
3 DEFENDANT'S TELEPHONE CALLS; DEFENDANT HAS
4 LEFT BOTH VOICE MAIL MESSAGES AND MESSAGES
5 WITH INDIVIDUALS WHO HAVE ANSWERED THE
6 PHONE AT THE PUBLIC DEFENDERS' OFFICE.
7 DEFENDANT HAS EVEN SOLICITED FAMILY
8 MEMBERS TO CONTACT COUNSEL ON HIS BEHALF
9 BUT THOSE ATTEMPTS HAVE MET WITH NEGATIVE
10 RESULTS AS WELL. ALSO, DEFENDANT HAS
11 WRITTEN TO SAID COUNSEL AND HAS FAILED TO
12 RECEIVE A RESPONSE.

13 DEFENDANT HAS AN UNQUALIFIED RIGHT TO
14 LEGAL ASSISTANCE THAT EXPRESSES LOYALTY TO
15 SAID DEFENDANT. "THE RIGHT TO COUNSEL IS
16 ALSO THE RIGHT TO EFFECTIVE ASSISTANCE OF
17 COUNSEL," CUYLER V. SULLIVAN 100 S. CT.,
18 1708 (1980); AND FRAZIER V. U.S., 18 F.,
19 3D 728 (9TH CIR., 1994). THUS THE ADVERSARY
20 IAL PROCESS PROTECTED BY THE SIXTH AMENDMENT
21 REQUIRES THAT THE ACCUSED HAVE "COUNSEL
22 ACTING IN THE ROLE OF AN ADVOCATE,"
23 ANDERS V. CALIFORNIA, 87 S. CT. 1396 &
24 1480 (1967).

25 A PARTY WHOSE COUNSEL IS UNABLE TO
PROVIDE EFFECTIVE OR ADEQUATE ASSISTANCE

1 IN RE: CASE NO. _____

2 IS NO BETTER THAN ONE WHO HAS NO COUNSEL
3 AT ALL; AND ANY APPEAL(S) WOULD BE FUTILE
4 IN ITS GESTURE. EVITTS V. LUCEY 105 S. CT.
5 830 (1985); DOUGLAS V. CALIFORNIA, 838.
6 CT. 814 (1983).

7 APPOINTED COUNSEL FOR DEFENDANT HAS DONE
8 NOTHING TO FAIRLY AND PROPERLY REPRESENT HIM
9 AND THIS ALONE IS A VIABLE CLAIM AS TO INEFFECT-
10 IVE COUNSEL. CRANDEL V. BUNNELL NO. 92-5530
11 D.C. NO. CV-90-6419-WJR (5); FILED May
12 25, 1994 (9TH CIR.)

13 THEREFORE, DEFENDANT CONTENDS THAT
14 ALTHOUGH COUNSEL WAS APPOINTED IN THIS CASE, THE
15 ACTIONS OF COUNSEL, OR LACK THEREOF, HAVE CREATED
16 UNFAIR PREJUDICE AND OBSTACLES WHICH DO NOT
17 COMPORT THE FAIR PROCEDURES OWED TO THE
18 DEFENDANT.

19 THE PLURALITY OPINION IN EVITTS AND DOUGLAS,
20 INFRA MADE IT VERY CLEAR THAT:

21 "THERE IS LACKING THAT EQUALITY DEMANDED
22 BY THE FOURTEENTH AMENDMENT, WHERE THE
23 "RICH MAN" ENJOYS THE BENEFIT OF THE LAW BEING
24 RIGHTEOUSLY PRACTICED; IN THAT, COUNSEL'S
25 EXAMINATION STEP BY STEP (INTO THE RECORD OF THE
CASE), AND RESEARCH OF THE LAW, AND A

1 IN RE: CASE NO. _____

2 MARSHALING OF THE FACTS / ARGUMENTS IN
3 HIS BEHALF IS DONE AS SHOULD BEFIT AN
4 ADVOCATE OF DEFENSE; WHILE THE INDIGENT,
5 SO BURDENED BY A PRELIMINARY DETERMINATION
6 THAT HIS CASE IS WITHOUT MERIT, IS FORCED TO
7 SHIFT FOR HIMSELF." 105 S. CT. AT 122;
8 83 S. CT. AT 816-817.

9 NOT WITHSTANDING THE STRONG POLICY
10 FAVORING AUTONOMY, "ETHICAL, PROFESSIONAL
11 AND CONSTITUTIONAL PRINCIPALS ESTABLISH
12 COUNSEL'S STANDARDS OWED TO HER CLIENT,
13 SEES AMERICAN BAR ASSOCIATION (ABA), AND
14 PROFESSIONAL RESPONSIBILITY CODE (CPR).

15 SO, CLEARLY A CONFLICT OF INTEREST NOW
16 EXISTS BETWEEN APPOINTED COUNSEL, THE OFFICE
17 OF THE CLARK COUNTY PUBLIC DEFENDER, AND
18 DEFENDANT PATRICK NEWELL, AS ALL FAITH
19 AND TRUST HAS BEEN DIMINISHED AS A RESULT
20 OF COUNSEL'S ACTIONS OR LACK THEREOF, AND A
21 "SHOWING" OF CONFLICT OF INTEREST REQUIRES
22 NO SHOWING OF PREJUDICE. CUYLER V. SULLIVAN,
23 100 S. CT. AT 1717.

24 THE LAW ADDRESSES ITSELF TO ACTUALITIES.
25 ADJUDICATION IS NOT A MERE MECHANICAL PROCESS,
NOR DOES IT COMPEL ANY EITHER (OR DETERMINATION).

IN RE: CASE NO. _____

1 GRIFFIN V. ILLINOIS, 16 S. CT. 585 592-594
2 (1956).

3 THEREFORE, FUNDAMENTAL FAIRNESS REQUIRES
4 THE ABOLITION OF PREJUDICE WHICH DEFENDANT
5 IS PRESENTLY SUFFERING. THIS IS AN ACTUAL-
6 ITY THAT THE LAW MUST ADDRESS. ANYTHING
7 SHORT OF ABDICATION WOULD FURTHER A
8 MANIFEST OF INJUSTICE. THE "EFFECTIVE-
9 NESS IN ASSISTANCE OF COUNSEL" IS AN
10 INDIVIDUAL'S MOST FUNDAMENTAL RIGHT, FOR
11 WITHOUT IT, EVERY OTHER RIGHT DEFENDANT HAS
12 TO ASSERT BECOMES AFFECTED.

13 DATED THIS 15TH DAY OF OCTOBER, 2013.
14 RESPECTFULLY SUBMITTED,

15  PATRICK NEWELL

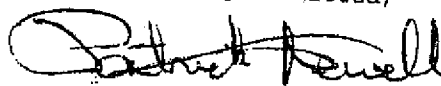
16 DATED THIS 15TH day of OCTOBER, 2013.

17 I, PATRICK NEWELL, do

18 solemnly swear, under the penalty of perjury, that
19 the above ~~TEXT OF MOTION TO DISMISS~~ ^{COUNSEL} is accurate,
20 correct, and true to the best of my knowledge.

21 NRS 171.102 and NRS 208.165.

22 Respectfully submitted,

23 

24 PATRICK NEWELL

25 Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff

-VS-

PATRICK NEWELL Defendant

CASE NO. _____

DEPT. NO. 20

DOCKET NO. _____

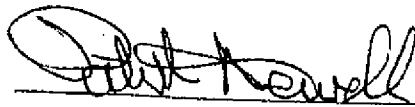
NOTICE OF MOTION

TO: STATE OF NEVADA, Plaintiff and Counterdefendant;

and,

TO: CLARK COUNTY DISTRICT ATTORNEY, His/Her Attorneys:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring the above and foregoing Motion on for hearing before the Court at the Courtroom of the above-entitled Court on the 15th day of OCTOBER, 2013, at 9:00 o'clock A.M. of said day, in Department 20 of said Court.



MC 1
DA 2
PP 2

DISTRICT COURT
CLARK COUNTY, NEVADA

Alan D. Johnson
CLERK OF THE COURT

STATE OF NEVADA,

PLAINTIFF,

VS.

PATRICK NEWELL

DEFENDANT

CASE NO. C-12-2858251

DEPT NO. 20

DOCKET NO.

Hearing Date: 12-03-13 @ 8:30AM

NOTICE OF MOTION

TO: STATE OF NEVADA, PLAINTIFF/COUNTERDEFENDANT

AND,

TO: CLARK COUNTY DISTRICT ATTORNEY, HER ATTORNEY:

YOU, AND EACH OF YOU, WILL PLEASE TAKE

NOTICE THAT THE UNDERSIGNED WILL BRING

THE ABOVE AND FOREGOING MOTION ON FOR

HEARING BEFORE THE COURT AT THE COURTROOM

OF THE ABOVE-ENTITLED COURT ON THE 29TH

DAY OF OCTOBER ~~2013~~²⁰¹⁴, 2013, AT 9:00 O'CLOCK

A.M. OF SAID DAY, IN DEPARTMENT 20 OF

SAID COURT.

Patrick Newell

RECEIVED

PATRICK NEWELL, PROPER

NOV 06 2013

CLERK OF THE COURT

MC
DA,
PP

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
11/06/2013 09:34:33 AM

STATE OF NEVADA,

PLAINTIFF,

VS.

PATRICK NEWELL,

DEFENDANT

CLERK OF THE COURT

CASE NO. C-12-2858251

DEPT NO. 20

DOCKET NO.

Hearing Date: 12-03-13 Time: 8:30AM

MOTION FOR REDUCTION IN BAIL

COMES NOW, THE DEFENDANT, PATRICK
NEWELL, AND MOVES THIS HONORABLE COURT
TO REDUCE BAIL CURRENTLY SET BY THE COURT
AT ONE HUNDRED TWENTY THOUSAND DOLLARS
(\$120,000.00) AND ORDER THE DEFENDANT
RELEASED FROM CUSTODY ON HIS OWN RECOG-
NIZANCE, OR IN THE ALTERNATIVE, REDUCE THE
DEFENDANT'S CASH BAIL REQUIREMENT TO AN
AMOUNT NOT TO EXCEED TWELVE THOUSAND
DOLLARS (\$12,000.00), AND/OR GRANT SUCH
OTHER RELIEF AS IT MAY DEEM APPROPRIATE.

DEFENDANT, PATRICK NEWELL, ASSERTS THE
CURRENT AMOUNT OF BAIL SET BY THE COURT
IN THIS CASE IS BOTH UNREASONABLE AND

RECEIVED

NOV 6 2013
9 00 AM

CLERK OF THE COURT

RECEIVED

NOV 6 2013
3 30 PM

1 IN RE: NEVADA VS. NEWELL

2 UNNECESSARY FOR THE FOLLOWING REASONS:

3
4 DEFENDANT'S ENTIRE FAMILY CONSISTING
5 OF HIS WIFE, FOUR (4) ADULT CHILDREN AND
6 THEIR SPOUSES, SIX (6) GRANDCHILDREN, AND
7 A GREAT-GRANDDAUGHTER JUST BORN IN JUNE,
8 2013, EITHER RESIDE IN THE LOCAL AREA OR
9 JUST A SHORT DISTANCE AWAY IN CALIFORNIA.

10 DEFENDANT HAS TIES TO THE COMMUNITY
11 AS THE CO-OWNER OF A BUSINESS WHICH
12 HAS OPERATED OUT OF THE LAS VEGAS, NEVADA
13 AREA FOR OVER 2 1/2 YEARS. HE IS THE MAIN
14 PROVIDER OF SUPPORT FOR HIS WIFE OF
15 ALMOST THIRTY-FOUR (34) YEARS WHOSE
16 TOTAL MONTHLY INCOME IS ONLY SIX
17 HUNDRED FIFTY FOUR DOLLARS (\$654.00)
18 DERIVED ENTIRELY FROM HER SOCIAL SECURITY
19 BENEFITS. DEFENDANT'S WIFE IS ALSO IN
20 POOR AND FAILING HEALTH AND SUFFERS
21 FROM MEDICAL COMPLICATIONS CAUSED BY
22 COPD.

23 DEFENDANT WAS PREVIOUSLY RELEASED
24 ON BAIL FEBRUARY 20, 2013, AND REMAINED
25 OUT OF CUSTODY FOR SEVEN (7) MONTHS.
DURING THIS TIME, HE RESIDED CONTINUOUSLY

1 IN RE: NEVADA VS. NEVELL
2 WITH HIS WIFE, A DAUGHTER, AND TWO (2) OF
3 HIS GRANDCHILDREN. DEFENDANT HAS BEEN
4 PRESENT BEFORE THIS COURT FOR ALL REQUIRED
5 APPEARANCES AND BY HIS ACTIONS HAS
6 CLEARLY DEMONSTRATED HE DOES NOT PRESENT
7 ANY DANGER TO THE COMMUNITY OR TO HIM-
8 SELF. FURTHER, DEFENDANT HAS NOT HAD ANY
9 ENCOUNTERS WITH LAW ENFORCEMENT ON
10 ANY LEVEL WHILE FREE ON BAIL. DEFENDANT'S
11 HISTORY CLEARLY DOES NOT SUGGEST HE IS
12 OR MAY BE A POTENTIAL FLIGHT RISK WHEN
13 RELEASED FROM CUSTODY.

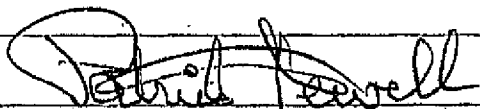
14 DEFENDANT HAS ALREADY SPENT
15 ALMOST TWENTY-FOUR (24) WEEKS IN CUSTODY
16 THUS FAR. THIS COURT RECENTLY SET A NEW
17 TRIAL DATE IN THIS MATTER OF MARCH 17, 2014.
18 SHOULD DEFENDANT REMAIN IN CUSTODY UNTIL
19 THIS DATE, AN ADDITIONAL TWENTY (20) WEEKS
20 WILL HAVE ELAPSED AND DEFENDANT WILL
21 THEN HAVE BEEN HELD FOR A PERIOD OF
22 ALMOST FORTY-FOUR (44) WEEKS WITHOUT
23 A FINDING OF GUILT BY A JURY OF HIS
24 PEERS OR BY THIS COURT. DEFENDANT
25 CONTENDS, BEING HELD IN CUSTODY FOR SO
GREAT A LENGTH OF TIME IS PUNITIVE IN

1 IN RE: NEVADA VS. NEWELL
2 IN ITS NATURE, IS CONTRARY TO HIS RIGHT
3 TO REASONABLE BAIL PENDING A FINAL
4 ADJUDICATION OF HIS CASE, AND DOES NOTHING
5 TO SERVE THE GREATER INTEREST OF
6 JUSTICE IN THIS MATTER.

7
8 THEREFORE, FUNDAMENTAL FAIRNESS
9 REQUIRES THE RELEASE OF DEFENDANT ON
10 HIS OWN RECOGNIZANCE WITH APPROPRIATE
11 CONDITIONS WHILE AWAITING TRIAL. IN
12 THE ALTERNATIVE, A REASONABLE REDUCTION
13 IN THE AMOUNT OF DEFENDANT'S CASH BAIL
14 SHOULD BE GRANTED BY THIS COURT, OR
15 AT THE VERY LEAST, DEFENDANT SHOULD
16 BE ALLOWED TO PARTICIPATE IN A PROGRAM
17 OF "HOUSE ARREST" OR ELECTRONIC
18 MONITORING PENDING THE OUTCOME OF
19 HIS TRIAL IN THIS MATTER.

20
21 DATED THIS 23RD DAY OF OCTOBER, 2013.

22
23 RESPECTFULLY SUBMITTED,

24
25 

PATRICK NEWELL, DEFENDANT IN PRO PER

1 IN RE: NEVADA VS. NEWELL

2

3

4

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6

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8

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11

12

13

14

15

16 DATED THIS 23RD DAY OF OCTOBER, 2013.

17 I, PATRICK NEWELL, DO SOLEMNLY SWEAR,

18 UNDER PENALTY OF PERJURY, THAT THE

19 ABOVE MOTION FOR REDUCTION IN BAIL IS

20 ACCURATE, CORRECT, AND TRUE TO THE BEST

21 OF MY KNOWLEDGE.

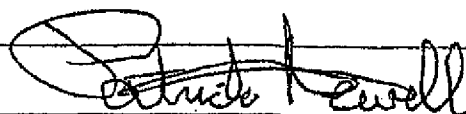
22 NRS 171.102 AND NRS 208.165.

23

24

25

RESPECTFULLY SUBMITTED,



DEFENDANT

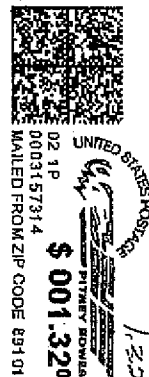
Neuwell, Pat
Name/ID
Clark County Detention Center
330 S. Casino Center Blvd.
Las Vegas, NV 89101

URGENT: TIME SENSITIVE MAIL
MOTION ENCLOSED

**LEGAL
MAIL**

8TH JUDICIAL DISTRICT COURT
DEPT #20
JUDGE JEROME TAO
200 LEWIS AVE, 3RD FL
LAS VEGAS, NV 89101

ATTENTION: CLERK OF THE COURT



MC
DA
PD
PP

DISTRICT COURT
CLARK COUNTY, NEVADA
CLERK OF THE COURT

3 Romery, claudia

4 STATE OF NEVADA,

5 PLAINTIFF

6 CASE NO.: C-12-28582-51

7 VS. DEPT NO.: 20

8 DOCKET NO.:

9 PATRICK NEWELL,

10 DEFENDANT 12-10-13

11 8:30 am

12 NOTICE OF MOTION

13 TO: STATE OF NEVADA, PLAINTIFF AND COUNTERDEFENDANT

14 AND,

15 TO: CLARK COUNTY DISTRICT ATTORNEY, HER ATTORNEYS:

16 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE

17 THAT THE UNDERSIGNED WILL BRING THE ABOVE

18 AND FOREGOING MOTION ON FOR HEARING BEFORE

19 THE COURT AT THE COURTROOM OF THE ABOVE-

20 ENTITLED COURT ON THE 12TH DAY OF NOVEMBER,

21 2013, AT 9:00 O'CLOCK A.M. OF SAID DAY,

22 IN DEPARTMENT 20 OF SAID COURT.

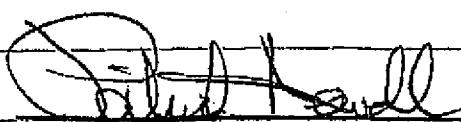
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NOV 12 2013

CLERK OF THE COURT



PATRICK NEWELL, DEFENDANT IN PROPER

ST
DA
PP
PD

1 Romery, Claudia

DISTRICT COURT
CLARK COUNTY, NEVADA

4 STATE OF NEVADA

CASE NO.: C-12-28582-51

5 PLAINTIFF,

DEPT NO.: 20

6 VS.

DOCKET NO.:

Electronically Filed
11/10/2013 02:04:08 PM

7 PATRICK NEWELL,

8 DEFENDANT

Allen L. Quinn

CLERK OF THE COURT

12-10-13

8:30am

11 DEMAND FOR SPEEDY TRIAL

12 COMES NOW, THE DEFENDANT, PATRICK NEWELL,
13 AND FILES THIS, HIS DEMAND FOR SPEEDY TRIAL,
14 PURSUANT TO NRS 178.495 (CF NRS 178.556) AND
15 NCL § 10654 (CF NRS 178.556). DEFENDANT HAS BEEN
16 AND IS READY TO PROCEED TO TRIAL AT THIS TIME,

18 DATED THIS 5TH DAY OF NOVEMBER, 2013.

20 RESPECTFULLY SUBMITTED,

21 *Patrick Newell*

22 PATRICK NEWELL, DEFENDANT IN PROPER

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NOV 12 2013

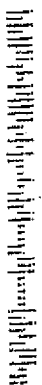
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CLERK OF THE COURT

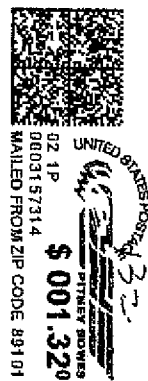
PATRICK NEWELL # 2861099
Name/ID
Clark County Detention Center
330 S. Casino Center Blvd.
Las Vegas, NV 89101

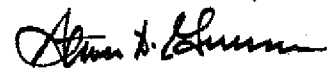
8th Judicial District Court
Department #20-Judge Jerome Tao
Clerk of the Court
200 Lewis Ave. 3rd Floor
Las Vegas, NV 89101



200 P. 20

11/15/20




CLERK OF THE COURT

1 **OPPS**

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

5 HETTY O. WONG

6 Deputy District Attorney
7 Nevada Bar #011324

8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500

11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,

13 Plaintiff,

14 -vs-

15 PATRICK NEWELL,
16 #2861099,

17 Defendant.

CASE NO: C-12-285825-1

DEPT NO: XX

18 **STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR REDUCTION IN BAIL**

19 DATE OF HEARING: December 3, 2013

20 TIME OF HEARING: 8:30 A.M.

21 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
22 District Attorney, through HETTY O. WONG, Deputy District Attorney, and hereby submits
23 the attached Points and Authorities in Opposition to Defendant's Motion for Reduction in
24 Bail.

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

28 **MEMORANDUM OF POINTS AND AUTHORITIES**

NRS 178.498 provides:

NRS 178.498 Amount. If the defendant is admitted to bail, the bail must be set at an amount which in the judgment of the magistrate will reasonably ensure the appearance of the

1 defendant and the safety of other persons and of the community, having regard to:

- 2 1. The nature and circumstances of the offense charged;
- 3 2. The financial ability of the defendant to give bail;
- 4 3. The character of the defendant; and
- 5 4. The factors listed in NRS 178.4853.

6 NRS 178.4853 provides as follows:

7 **NRS 178.4853 Factors considered before release without bail.** In deciding
8 whether there is good cause to release a person without bail, the court as a minimum shall
9 consider the following factors concerning the person:

- 10 1. The length of his residence in the community;
- 11 2. The status and history of his employment;
- 12 3. His relationship with his spouse and children, parents or other members of
13 his family and with his close friends;
- 14 4. His reputation, character and mental condition;
- 15 5. His prior criminal record, including, without limitation, any record of his
16 appearing or failing to appear after release on bail or without bail;
- 17 6. The identity of responsible members of the community who would vouch
18 for the reliability of the person;
- 19 7. The nature of the offense with which he is charged, the apparent probability
20 of conviction and the likely sentence insofar as these factors relate to the
21 risk of his not appearing;
- 22 8. The nature and seriousness of the danger to the alleged victim, any other
23 person or the community that would be posed by the person's release;
- 24 9. The likelihood of more criminal activity by him after he is released; and
- 25 10. Any other factors concerning his ties to the community or bearing on the
26 risk that he may willfully fail to appear.

27 NRS 178.499 provides:

28 **NRS 178.499 Increase in amount.**

1 1. At any time after a district or justice's court has ordered bail to be set at a specific
2 amount, and before acquittal or conviction, the court may upon its own motion or upon
3 motion of the district attorney and after notice to the defendant's attorney or record or, if
4 none, to the defendant, increase the amount of bail for good cause shown.

5 2. If the defendant has been released on bail before the time when the motion to
6 increase bail is granted, the defendant shall either return to custody or give the additional
7 amount of bail.

8 NRS 178.487 provides as follows:

9 **NRS 178.487 Bail after arrest for felony committed while on bail.** Every release
10 on bail with or without security is conditioned upon the defendant's good behavior while so
11 released, and upon a showing that the proof is evident or the presumption great that the
12 defendant has committed a felony during the period of release, the defendant's bail may be
13 revoked, after a hearing, by the magistrate who allowed it or by any judge of the court in
14 which the original charge is pending. Pending such revocation, the defendant may be held
15 without bail by order of the magistrate before whom he is brought after an arrest upon the
16 second charge.

17 NRS 178.486 provides as follows:

18 **NRS 178.486 When bail is a matter of discretion, notice of application must be**
19 **given to district attorney.** When the admission to bail is a matter of discretion, the court, or
20 officer by whom it may be ordered, shall require such notice of the application therefore as
21 he may deem reasonable to be given to the district attorney of the county where the
22 examination is had.

23 E.D.C.R. 3.20(d) provides as follows:

24 **Rule 3.20. Motions.**

25 (d) Unless otherwise allowed by the court, all motions to increase or decrease bail
26 must be in writing, be supported by an affidavit of the movant or the movant's attorney, and
27 contain a notice of the hearing setting the matter for hearing not less than 2 full judicial days
28 from the date the motion is served and filed. The opponent to the motion may respond orally

1 in open court.

2 **STATEMENT OF THE CASE**

3 On October 10, 2012, a Criminal Complaint was filed against Patrick Newell
4 (hereinafter "Defendant") charging him with Count 1 – Attempt Murder With Use of a
5 Deadly Weapon; Count 2 – Battery With Use of a Deadly Weapon Resulting in Substantial
6 Bodily Harm; and Count 3 – Assault With Use of a Deadly Weapon. Defendant appeared in
7 custody for his initial arraignment on October 12, 2012. A preliminary hearing was
8 scheduled for October 25, 2012.

9 On October 25, 2012, the State requested a continuance because the victim was still
10 hospitalized due to the injuries he sustained as a result of being set on fire in the instant case.
11 Defendant requested an own recognizance release, which was denied. The total bail amount
12 was set at one hundred and twenty thousand dollars (\$120,000.00). Defendant's preliminary
13 hearing was reset to November 8, 2012.

14 On November 8, 2012, the State was ready to go forward with the preliminary
15 hearing. The defense, however, requested a continuance because current counsel, Damian
16 Sheets, substituted in as attorney of record. Defendant made a second request for an own
17 recognizance release or bail reduction, which was again denied. The preliminary hearing
18 was reset to November 27, 2012.

19 On November 26, 2012, the State filed an Amended Criminal Complaint adding an
20 additional count of Performance of Act in Reckless Disregard of Persons or Property. On
21 November 27, 2012, a preliminary hearing was held. Following testimony from two
22 witnesses, Justice of the Peace Deborah Lippis found probable cause to have Defendant
23 answer all charges in the District Court. At the end of the preliminary hearing, the defense
24 made its third request for an own recognizance release or bail reduction. Judge Lippis again
25 denied the request.

26 On November 30, 2012, an Information was filed charging Defendant with Count 1 –
27 Attempt Murder With Use of a Deadly Weapon; Count 2 – Battery With Use of a Deadly
28 Weapon Resulting in Substantial Bodily Harm; Count 3 – Assault With Use of a Deadly

1 Weapon; and Count 4 – Performance of Act in Reckless Disregard of Persons or Property.
2 On December 4, 2012, Defendant entered a plea of not guilty to all charges alleged in the
3 Information.

4 On December 26, 2012, Defendant filed a Motion for O.R. Release Or, in the
5 Alternative, Motion to Reduce Bail. On January 15, 2013, this Court denied the Defendant's
6 motion. On the same day, Defendant also waived his right to a speedy trial.

7 On February 5, 2013, former counsel Damien Sheets withdrew as attorney of record.
8 On February 26, 2013, former counsel Steven Parke confirmed as attorney of record.
9 Defendant appeared out of custody having posted a one hundred and twenty thousand dollar
10 (\$120,000.00) bond. Trial was scheduled for October 14, 2013 with a calendar call date of
11 October 8, 2013. On September 9, 2013, Defendant failed to appear in court for the hearing
12 on Mr. Parke's Motion to Withdraw. On September 24, 2013, Defendant appeared in court
13 after having been taken into custody on a bond surrender. On October 15, 2013, Defendant
14 elected to represent himself and a Faretta canvass was conducted. Trial is currently
15 scheduled for March 17, 2014 with a calendar call date of March 11, 2014.

16 On November 6, 2013, Defendant filed the instant Motion for Reduction in Bail. The
17 State's Opposition follows.

18 STATEMENT OF FACTS

19 On October 10, 2012, at approximately 12:45am, victim Theodore Bejarno exited the
20 Circle K located at 9487 South Las Vegas Boulevard and approached Defendant, who was
21 standing next to his truck pumping gas. Mr. Bejarno asked Defendant for a ride but
22 Defendant refused. Mr. Bejarno reiterated his request for a ride and offered Defendant
23 money in exchange. Defendant became annoyed with the victim's persistence. As a result,
24 Defendant told Mr. Bejarno that he would cut him if he did not go away and pulled out a
25 pocket knife.

26 When Mr. Bejarno did not leave, Defendant pulled the gasoline nozzle from his truck
27 and sprayed the victim with gasoline. Mr. Bejarno walked away from Defendant while
28 wiping gasoline from his eyes. Mr. Bejarno then approached Defendant to tell him that he

1 had just ruined his new shirt. At that point, Defendant sprayed Mr. Bejarno with gasoline a
2 second time and then pushed the victim onto the ground. Defendant told the victim that if he
3 did not leave him alone, he would light him on fire. When Mr. Bejarno did not leave,
4 Defendant took out a cigarette lighter, flicked the lighter twice, made contact with the
5 victim's shirt, and lit the victim on fire. The victim, who immediately became engulfed in
6 flames, began to scream and stripped off his shirt and shorts.

7 After the victim put out the flames, Mr. Bejarno sat down next to a gas pump stating
8 he had been burned. Defendant then walked around with his knife, waved it around,
9 ridiculed the victim, and then threatened to cut off the victim's penis. South Point Hotel
10 Security Officer Derrick Phillips observed the attack and ordered Defendant to step away
11 from the victim. Police and paramedics arrived shortly thereafter.

12 ARGUMENT

13 For the fifth time since the inception of these proceedings, Defendant is requesting
14 either an own recognizance release or a bail reduction. Neither request is reasonable for
15 several reasons.

16 First, Defendant is a four-time convicted felon. He has prior felony convictions for
17 the following offenses: (1) 1971 Illinois conviction for Sale of Drugs; (2) 1971 Illinois
18 conviction for Violation of Federal Dangerous Drug Laws; (3) 1975 Oklahoma conviction
19 for Sale of LSD; and (4) 1982 Illinois conviction for False Statement to a Bank. He also has
20 two (2) misdemeanor convictions.

21 Second, Defendant committed an extremely violent offense in the instant case. On
22 the night of the incident, Defendant felt pestered by the victim, and in his annoyance,
23 overreacted by setting the victim on fire.

24 Third, Defendant's lack of remorse following his attack on the victim is troubling.
25 Rather than immediately calling police to obtain medical treatment for the victim, Defendant
26 instead confronted the victim, took out his pocket knife, told the victim he had a small penis,
27 and threatened to cut off the victim's genitals. Further, during his interview with the police,
28 Defendant minimized the seriousness of his actions, described the victim as "cryin' like a

1 little girl," and insisted the victim did not sustain serious injuries.

2 Fourth, Defendant's rage was directed to more than just the victim on the night of the
3 incident. After Defendant set the victim on fire, an independent witness, Adam Carlos,
4 confronted Defendant and scolded him for having set a man on fire. Defendant responded
5 by walking towards Mr. Carlos with a knife in his hands saying, "You don't fuckin' know."

6 Defendant poses a clear danger to the community. Indeed, Defendant's request for an
7 own recognizance release and bail reduction has been reviewed by three separate judges both
8 prior to and following the preliminary hearing in this case. Judge Joseph Bonaventure, who
9 was sitting in for Justice of the Peace Deborah Lippis, first denied Defendant's request for an
10 own recognizance release on October 25, 2012. Judge Lippis thereafter denied Defendant's
11 request on November 8, 2012. After having the opportunity to hear witness testimonies and
12 view the video surveillance of the October 10, 2012 attack, Judge Lippis again denied the
13 defense's request for an own recognizance release or bail reduction on November 27, 2012.
14 Finally, this Honorable Court also denied Defendant's request for a bail reduction and/or
15 own recognizance release on January 15, 2013. No circumstances have changed to warrant a
16 modification of Defendant's custody status.

17 In fact, contrary to Defendant's claim that he is not a potential flight risk, the State
18 has every reason to believe Defendant will flee the jurisdiction if released. Most recently,
19 Defendant failed to appear in court on September 19, 2013. Based upon the undersigned's
20 conversation with former counsel, Defendant was in fact aware of the court date but elected
21 not to show up. Further, information was later relayed to the undersigned that Defendant
22 was getting ready to leave for California when he was taken into custody by the bond
23 company.

24 Defendant's current bail of one hundred and twenty thousand dollars (\$120,000.00) is
25 reasonable in light of Defendant's criminal history, the violent nature of the instant offense,
26 and Defendant's recent conduct suggesting a desire to flee.

27 ///

28 ///

1 CONCLUSION

2 Wherefore, the State respectfully requests that this Court deny Defendant's Motion
3 for Reduction in Bail.

4 DATED this 20th day of November, 2013.

5 Respectfully submitted,

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

9 BY 

10 HENRY O. WONG
11 Deputy District Attorney
12 Nevada Bar #011324

13 CERTIFICATE OF MAILING

14 I hereby certify that service of the above and foregoing State's Opposition to
15 Defendant's Motion for Reduction in Bail, was made this 21st day of November, 2013,
16 by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

17 Patrick Newell, #2861099
18 Clark County Detention Center
19 330 S. Casino Center Blvd.
20 Las Vegas, NV 89101

21 
22 Secretary for the District Attorney's Office

23
24
25
26
27
28 HOW/td/dvu

MC
PP
DA

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA

Plaintiff,

vs.

PATRICK NEWELL

Defendant

Case No.: C-12-28582-51

Dept. No.: 20

Docket No.: _____

1-16-14

8:30am

Electronically Filed
12/26/2013 12:43:53 PM

[Signature]
CLERK OF THE COURT

MOTION FOR SUMMARY JUDGEMENT
TO COMPEL DISCOVERY

COMES NOW THE DEFENDANT, IN PROPER,
AND MOVES THIS HONORABLE COURT FOR SUMMARY
JUDGEMENT AND AN ORDER REQUIRING THE
PLAINTIFF TO REVEAL, PRODUCE AND PERMIT THE
DEFENDANT TO INSPECT AND COPY ALL INFORMATION
AND MATERIAL FAVORABLE TO HIS DEFENSE (INCLUDING
ALL BOOKS, PAPERS, RECORDS, DOCUMENTS AND OBJECTS
AND ALL FACTS OR INFORMATION OF WHATEVER SOURCE
OR FORM IN THE POSSESSION OF, OR KNOWN TO, THE
PLAINTIFF OR ANY OF ITS AGENTS), WHICH MATERIAL
AND INFORMATION ARE OR MAY BECOME OF BENEFIT
TO THE DEFENDANT, EITHER ON THE MERITS OF HIS
CASE OR ON THE QUESTION OF THE CREDIBILITY
OF WITNESSES.

RECEIVED

20 DEC 26 2013

CLERK OF THE COURT

1
2 ON OCTOBER 18, 2013, THE DEFENDANT MADE
3 A WRITTEN REQUEST THAT HE BE PROVIDED WITH
4 THE AFOREMENTIONED MATERIAL. REQUEST WAS
5 SENT VIA THE UNITED STATES MAIL AND ADDRESS-
6 ED TO THE CLARK COUNTY NEVADA DISTRICT
7 ATTORNEY, ATTENTION MS. HETTY WONG, AS WELL
8 AS TO THE CLARK COUNTY NEVADA PUBLIC
9 DEFENDER, ATTENTION MS. CLAUDIA ROMNEY.
10 THE DEFENDANT FAILED TO RECEIVE A REPLY
11 FROM THE DISTRICT ATTORNEY BUT WAS CONTACTED
12 VIA PHONE BY MS. ROMNEY ON NOVEMBER 5,
13 2013. AT THAT TIME MS. ROMNEY INDICATED
14 TO DEFENDANT THAT HE WOULD RECEIVE
15 COPIES OF DISCOVERY NO LATER THAN NOVEMBER
16 8, 2013, HOWEVER, DEFENDANT FAILED TO
17 RECEIVE THE COPIES PROMISED ON THAT DATE.
18 THE DEFENDANT HAD AGAIN REQUESTED THE
19 MATERIAL FROM THE PUBLIC DEFENDER IN
20 A WRITTEN REQUEST AS WELL AS FROM THE
21 DISTRICT ATTORNEY. A COPY OF THE SECOND
22 REQUEST SENT VIA THE UNITED STATES
23 MAIL AND ADDRESSED TO THE CLARK COUNTY
24 NEVADA DISTRICT ATTORNEY, ATTENTION MS. HETTY
25 WONG, IS ATTACHED HERETO AND LABELED EXHIBIT
26 "A". AGAIN, DEFENDANT FAILED TO RECEIVE A RESPONSE

1
2 TO HIS REQUEST.

3 DEFENDANT STATES THAT INSPECTION AND COPIES
4 OF THE AFOREMENTIONED MATERIAL IS NECESSARY FOR
5 THE PREPARATION OF HIS DEFENSE AND FOR HIM TO
6 OBTAIN A FAIR TRIAL, ARGUE MOTIONS THAT MAY
7 COME BEFORE THE COURT, AND OTHERWISE PROVIDE HIS
8 CONSTITUTIONAL RIGHT TO DUE PROCESS OF LAW.

9 FURTHER, DEFENDANT REQUESTS THIS HONOR-
10 ABLE COURT TO ENTER AN ORDER REQUIRING THE
11 PLAINTIFF TO FURNISH THE DEFENDANT WITH
12 (1) A LIST OF WITNESSES KNOWN TO THE PLAINTIFF
13 TO HAVE KNOWLEDGE OF THIS CAUSE, FAVORABLE TO
14 THE DEFENDANT AND HIS DEFENSE, AND A COPY OF
15 THE STATEMENT OF ANY SUCH WITNESS; (2) A LIST
16 OF ALL PERSONS INTERVIEWED BY THE PLAINTIFF
17 RELATING TO HIS CASE BUT WHO WILL NOT BE
18 CALLED AS WITNESSES BY THE PLAINTIFF AND (3),
19 ALL DOCUMENTS RELATING TO THE INVESTIGATION
20 OF HIS CASE OF OF THE DEFENDANT HIMSELF
21 WHICH WILL OR WILL NOT BE INTRODUCED INTO
22 EVIDENCE BY THE PLAINTIFF AND (4) A LIST OF ALL
23 FORMER OR PRESENT AGENTS OF PLAINTIFF WHO
24 HAVE PARTICIPATED TO ANY EXTENT WHATSOEVER
25 IN THE INVESTIGATION AND PROSECUTION OF HIS CASE
26 WHO MAY OR MAY NOT BE CALLED AS PLAINTIFF'S WITNESSES.

1
2 DEFENDANT AGAIN STATES THE INSPECTION AND
3 COPIES OF THE AFOREMENTIONED MATERIAL IS
4 NECESSARY FOR THE DEFENSE OF THE DEFENDANT
5 AND IN THE PREPARATION OF SAID DEFENSE TO
6 INSURE THAT HE OBTAINS A FAIR TRIAL, ARGUE
7 MOTIONS THAT MAY COME TO BE HEARD BY THE
8 COURT, AND OTHERWISE PROVIDE DEFENDANT
9 WITH HIS CONSTITUTIONAL RIGHT TO DUE
10 PROCESS OF LAW.

11
12 POINTS AND AUTHORITIES
13 IN SUPPORT OF MOTION FOR SUMMARY
14 TO COMPEL DISCOVERY
15

16 1. NRS 174.235 DEFENDANT'S STATEMENTS OR
17 CONFESSIONS, REPORTS OF EXAMINATIONS AND
18 TESTS. UPON MOTION OF A DEFENDANT THE
19 COURT MAY ORDER THE DISTRICT ATTORNEY
20 TO PERMIT THE DEFENDANT TO INSPECT AND COPY
21 OR PHOTOGRAPH ANY RELEVANT:

22 (1) WRITTEN OR RECORDED STATEMENTS OR
23 CONFESSIONS MADE BY THE DEFENDANT, OR COPIES
24 THERE OF, WITHIN THE POSSESSION, CUSTODY OR
25 CONTROL OF THE STATE, THE EXISTANCE OF WHICH
26 IS KNOWN, OR BY THE EXPERIENCE OF DUE DILIGENCE

1
2 MAY BECOME KNOWN TO THE DISTRICT ATTORNEY;
3 AND

4 (2) RESULTS OR REPORTS OF PHYSICAL
5 OR MENTAL EXAMINATIONS, AND OF SCIENTIFIC
6 TESTS OR EXPERIMENTS MADE IN CONNECTION WITH
7 THE PARTICULAR CASE, OR COPIES THEREOF, WITHIN
8 THE POSSESSION, CUSTODY OR CONTROL OF THE
9 STATE, THE EXISTENCE OF WHICH IS KNOWN, OR
10 BY THE EXERCISE OF DUE DILIGENCE MAY BECOME
11 KNOWN TO THE DISTRICT ATTORNEY.

12 2. NRS 174.245. OTHER BOOKS, PAPERS,
13 DOCUMENTS, TANGIBLE OBJECTS OR PLACES, UPON
14 MOTION OF A DEFENDANT THE COURT MAY ORDER
15 THE DISTRICT ATTORNEY TO PERMIT THE DEFENDANT
16 TO INSPECT AND COPY OR PHOTOGRAPH BOOKS,
17 PAPERS, DOCUMENTS, TANGIBLE OBJECTS,
18 BUILDINGS OR PLACES, OR COPIES OR PORTIONS
19 THEREOF, WHICH ARE WITHIN THE POSSESSION,
20 CUSTODY OR CONTROL OF THE STATE, UPON A
21 SHOWING OF MATERIALITY TO THE PREPARATION
22 OF HIS DEFENSE AND THAT THE REQUEST IS
23 REASONABLE. EXCEPT AS PROVIDED IN SUBSECTION
24 2 OF NRS 174.235 AND NRS 174.087,
25 THIS SECTION DOES NOT AUTHORIZE THE DISCOVERY
26 OR INSPECTION OF REPORTS, MEMORANDA OR

1
2 OTHER INTERNAL STATE DOCUMENTS MADE BY
3 STATE AGENTS IN CONNECTION WITH THE
4 INVESTIGATION OR PROSECUTION OF THE CASE
5 OR OF STATEMENTS MADE BY WITNESSES
6 OR PROSPECTIVE STATE WITNESSES (OTHER
7 THAN DEFENDANT) TO AGENTS OF THE STATE.

8 3. THE PROSECUTION HAS THE DUTY TO
9 DISCLOSE TO THE DEFENDANT ALL EXCUL-
10 PATORY EVIDENCE. BRADY V. MARYLAND,
11 373 U.S. 83 (1963); SEE ALSO, GILES V.
12 MARYLAND, 386 U.S. 66 (1967); DENNIS
13 V. U.S., 384 U.S. 855, 873 (1966).

14 4. A DEFENDANT HAS THE RIGHT TO
15 ANY PRIOR STATEMENTS GIVEN BY WITNESSES
16 WHO TESTIFY AGAINST HIM. MEARS V. STATE,
17 83 NEV., 3, 422 P., 2D 230 (1967). THE
18 BETTER PRACTICE IS TO FURNISH THE
19 DEFENDANT WITH THE STATEMENTS PRIOR
20 TO TRIAL TO AVOID TRIAL DELAY AND
21 DISRUPTION. MEARS V. STATE, SUPRA.

22 5. THE TRIAL COURT HAS WIDE
23 DISCRETION IN PERMITTING DISCOVERY.
24 SEE, MARSHALL V. DISTRICT COURT, 80 NEV.
25 478, 396 P. 2D 680 (1964); MARSHALL V.
26 DISTRICT COURT, 79 NEVADA 280, 382 P.

2D 214 (1963).

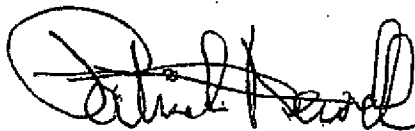
DATED THIS 15TH day of DECEMBER 2013.

I, PATRICK NEWELL, do
solemnly swear, under the penalty of perjury, that

the above MOTION FOR SUMMARY is accurate,
JUDGMENT TO COMPEL DISCOVERY
correct, and true to the best of my knowledge.

NRS 171.102 and NRS 208.165.

Respectfully submitted,



Defendant

EXHIBIT

"A"

PATRICK NEWELL
0002861099 TB/12L
CCDC
330 SOUTH CASINO CENTER BLVD
LAS VEGAS, NV 89101

04 NOVEMBER, 2013

DISTRICT ATTORNEY'S OFFICE
CLARK COUNTY NEVADA
200 LEWIS AVENUE, THIRD FLOOR
LAS VEGAS, NV 89101

ATTENTION: HETTY WONG RE: C-12-28582-51

DEAR MS. WONG:

REFERENCE TO MY PREVIOUS CORRESPONDENCE DATED 18 OCTOBER, 2013 IS HEREBY MADE. IN MY LETTER, I RESPECTFULLY REQUESTED THAT I BE PROVIDED WITH COPIES OF ALL DISCOVERY IN YOUR POSSESSION OR IN THE POSSESSION OF THE DISTRICT ATTORNEY'S OFFICE AS IT MAY RELATE TO MY CASE C-12-28582-51 BEING PROSECUTED BY YOUR DEPARTMENT. HOWEVER, TO DATE I HAVE NOT RECEIVED A REPLY FROM YOU OR YOUR OFFICE WITH RESPECT TO MY REQUEST.

FURTHER, IN MY LETTER I MADE REFERENCE TO THE SEVERAL PLEA OFFERS YOU STATED BEFORE JUDGE TAO HAD BEEN MADE TO ME THUS FAR. AS I MENTIONED IN

7

MY LETTER, I HAVE NOT BEEN PRESENTED WITH ANY SUCH OFFER(S) EITHER THROUGH THE PUBLIC DEFENDERS OFFICE, FORMER COUNSEL DAMIEN SHEETS AND STEVE PARKE, OR TO MYSELF IN PRO PER. I REQUESTED IN MY LETTER OF 18 OCTOBER, 2013, THAT I BE MADE AWARE OF THE AFORESAID OFFER(S) BUT I ONCE AGAIN DID NOT RECEIVE A REPLY FROM EITHER YOU OR YOUR OFFICE. WHILE I UNDERSTAND THAT BOTH YOURSELF AND THOSE IN YOUR DEPARTMENT ARE BURDENED WITH A VERY HEAVY CASELOAD, I STILL FEEL IT IS BOTH EXTREMELY IMPORTANT AND CERTAINLY IN THE INTEREST OF JUSTICE AND THE COURT THAT WE MOVE MY CASE ALONG AS EXPEDIENTLY AS POSSIBLE. WE MUST KEEP OUR LINES OF COMMUNICATION OPEN AND RESPOND TO EACH OTHER'S CORRESPONDENCE IF THIS IS TO HAPPEN.

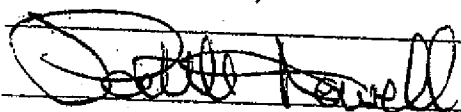
I AM WRITING THIS LETTER NOT ONLY AS A REMINDER OF MY PREVIOUS REQUEST FOR COPIES OF DISCOVERY, BUT ALSO TO INFORM YOU AND YOUR DEPARTMENT OF MY SINCERE DESIRE TO EVALUATE ANY PLEA AGREEMENT OFFERS YOU STATED YOU HAVE PRESENTED THUS FAR. FURTHER TO THAT, I WILL DISCUSS ANY OTHER OFFERS YOUR DEPARTMENT MAY SEE FIT TO SUBMIT TO ME. AS YOU ARE AWARE, I AM PROCEEDING IN MY DEFENSE IN PRO PER, AND AS SUCH, I UNDERSTAND I AM ABLE TO DISCUSS AND AGREE ON ANY PLEA I MAY ENTER.

INTO BEFORE THE COURT WITH A VIEW TOWARDS REACHING AN AGREEMENT AS TO A PLEA OF NOLO CONTENDERE OR GUILTY TO EITHER A CHARGED OFFENSE OR TO A LESSER OR RELATED OFFENSE IN WHICH YOUR OFFICE WOULD AGREE TO A SPECIFIC SENTENCE IN MY MATTER.

ALTHOUGH I AM NOT GUILTY OF THE OFFENSES I AM CHARGED WITH, IT MAY BE IN MY BEST INTEREST TO ENTER INTO A PLEA AGREEMENT AND SENTENCE AGREEMENT WITH YOU. HOWEVER, PLEASE DO NOT CONSIDER THIS LETTER AS AN ADMISSION OF GUILT TO ANY OF THE COUNTS WHICH HAVE BEEN CHARGED AGAINST ME, IT IS SIMPLY A "STATEMENT MADE IN CONNECTION WITH" PLEA NEGOTIATIONS AND, THEREFORE, INADMISSIBLE AS EVIDENCE SHOULD I PROCEED TO TRIAL.

I SHALL LOOK FORWARD TO YOUR PROMPT RESPONSE TO THIS LETTER AND RECEIPT OF COPIES OF DISCOVERY AS MENTIONED HEREIN. THANK YOU IN ADVANCE FOR YOUR TIME AND KIND CONSIDERATION.

SINCERELY,



PATRICK NEWELL, DEFENDANT IN PROPER

CCF FILE ✓

JUDGE JEROME TAO
CLERK OF THE COURT

DA
PP

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA

Plaintiff,

vs.

PATRICK NEWELL

Defendant

) Case No.: C-12-28582-5

) Dept. No.: 20 Electronically Filed 12/26/2013 12:40:50 PM

) Docket No.: _____
) *[Signature]*

CLERK OF THE COURT

REBUTTAL TO STATE'S OPPOSITION
TO DEFENDANT'S MOTION FOR A
REDUCTION IN BAIL AMOUNT
AND MEMORANDUM

COMES NOW, THE DEFENDANT, PATRICK
NEWELL, IN PRO PER, AND HEREBY SUBMITS
THE ATTACHED REBUTTAL TO THE STATES
OPPOSITION TO DEFENDANT'S MOTION FOR A
REDUCTION IN BAIL AMOUNT.

THIS REBUTTAL AND MEMORANDUM IS
BASED UPON ALL THE PAPERS AND PLEADINGS
ON FILE HEREIN AND ORAL ARGUMENT AT
THE TIME OF HEARING, IF DEEMED NECESSARY
BY THIS HONORABLE COURT.

ARGUMENT

RECEIVED
26 DEC 26 2013

CLERK OF THE COURT

1 THE STATE, IN IT'S WRITTEN OPPOSITION
2 TO THE DEFENDANT'S MOTION WOULD HAVE THIS
3 HONORABLE COURT BELIEVE THAT THE DEFENDANT
4 IS BOTH A DANGER TO THE COMMUNITY AND
5 PRESENTS A POTENTIAL FLIGHT RISK IF HE IS
6 RELEASED FROM CUSTODY UNDER ANY TERMS
7 AND/OR CONDITIONS AND AT ANY AMOUNT OF
8 BAIL OTHER THAN THAT WHICH WAS SET BY
9 THE CLARK COUNTY JUSTICE COURT WELL
10 OVER ONE (1) YEAR AGO. TO THAT END, THE
11 STATE, IN ITS OPPOSITION HAS RESORTED
12 TO QUATING VERBIAGE WHICH IT HAS EITHER
13 TAKEN OUT OF CONTEXT FROM THE STATEMENT
14 VOLUNTARILY GIVEN BY DEFENDANT TO ARRESTING
15 OFFICERS OR FROM THE STATEMENT OF WITNESSES.
16 IN FACT, THE STATE HAS ACTUALLY QUATED
17 VERBIAGE IT CLAIMS TO BE ATTRIBUTED TO THE
18 DEFENDANT THAT ACCORDING TO DISCOVERY
19 PROVIDED TO THE DEFENDANT DOES NOT APPEAR
20 AT ALL, OR IN ANY FORM, IN ANY STATEMENT
21 FROM THE DEFENDANT OR WITNESSES, IN
22 DOING SO, THE STATE HAS ENDEAVORED TO
23 "COLOR" DEFENDANT'S STATEMENT AND THOSE
24 OF THE WITNESSES IN A MANNER DESIGNED
25 TO CONFUSE THE FACTS IN THE INSTANT CASE,
26

1
2 PRESENT THE DEFENDANT AS A VIOLENT AND
3 DANGEROUS INDIVIDUAL, AND THEREBY PERSUADE
4 THIS COURT BY ANY MEANS POSSIBLE TO
5 DECIDE THIS MATTER IN ITS FAVOR BY
6 DENYING THE DEFENDANT'S MOTION. DEFENDANT
7 CONTENTS THAT BY ITS ACTIONS, THE STATE
8 SEEKS TO USE THIS BOND HEARING AND THIS
9 HONORABLE COURT TO TRY THE INSTANT CASE
10 YET TO BE HEARD BY THE COURT AND A JURY.

11
12 THE EVIDENCE IN THE INSTANT CASE WILL
13 CLEARLY POINT TO THE ACTIONS OF THE
14 DEFENDANT AS THOSE HE USED IN THE DEFENSE
15 OF HIS PERSON AND PROPERTY AND WILL FURTHER SHOW
16 THAT THE DEFENDANT MADE EVERY REASONABLE EFFORT
17 TO AVOID A CONFRONTATION WITH THE ALLEGED
18 VICTIM, THEODORE BEJARANO, WHO AT THE TIME OF
19 THE INCIDENT WAS UNDER THE INFLUENCE OF
20 ALCOHOL AND ENRAGED. THE EVIDENCE WILL
21 SHOW THE DEFENDANT, WHO WAS OVER SIXTY-ONE (61)
22 YEARS OLD AND LEGALLY DISABLED, ASKED THE CLERK
23 ON DUTY AT THE CIRCLE K FOR HELP AND PLEADED
24 WITH HIM TO IMMEDIATELY PHONE LAW ENFORCEMENT
25 AND SUMMON THEM TO THE SCENE TO INTERCEDE,
26 PRIOR TO ANY FURTHER CONFRONTATION, BUT THE CLERK

1
2 FAILED TO DO SO. IN FACT, THE EVIDENCE WILL
3 SHOW THAT JUST MINUTES BEFORE THE ALLEGED
4 VICTIM BEGAN HIS CONFRONTATION OF THE
5 DEFENDANT AND BEGAN TO THREATEN HIM IN THE
6 PARKING LOT OF THE CIRCLE K, THE ALLEGED
7 VICTIM HAD BEEN REMOVED BY CIRCLE K
8 EMPLOYEES FROM THE PREMISES FOR DRINKING
9 ALCOHOL. THE ALLEGED VICTIM, BY HIS OWN
10 ADMISSION, WHICH APPEARS IN SEVERAL
11 PSYCHIATRIC REPORTS PROVIDED BY THE STATE
12 IN DISCOVERY, ADMITS TO BEING AN
13 ALCOHOL ABUSER AND HAS HAD A SERIOUS
14 PROBLEM WITH HIS HEAVY USE OF ALCOHOL FOR
15 A LONG TIME PRIOR TO HIS CONFRONTATION
16 WITH THE DEFENDANT.

17
18 THE STATE, IN ITS OPPOSITION OF THE
19 DEFENDANT'S MOTION, HAS FAILED IN ITS
20 ATTEMPT TO BRING FORTH AND PROVIDE TO THIS
21 HONORABLE COURT, ANY MEANINGFUL REASONS
22 WHY THE DEFENDANT SHOULD BE CONSIDERED
23 BY THE COURT AS A DANGER TO THE COMMUNITY.
24 OTHER THAN THE STATE'S "BOILERPLATE" REASONING
25 CITING THE INSTANT CASE FOR WHICH DEFENDANT
26 IS BEING HELD IN CUSTODY, THERE IS NOTHING

1
2 IN THE DEFENDANT'S BACKGROUND, NOR A
3 HISTORY OF CRIMINAL VIOLENCE, THAT WOULD
4 SUBSTANTIATE OR EVEN SUGGEST A PROPENSITY
5 FOR VIOLENCE, OR IN ANY WAY SUBSTANTIATES OR
6 SUGGESTS THAT THE DEFENDANT HAS A VIOLENT
7 PERSONALITY. THE DEFENDANT HAS NO HISTORY
8 OF ALCOHOL OR DRUG ABUSE AND NO HISTORY OF
9 ANY MENTAL ILLNESS. FURTHER TO THAT, THE
10 DEFENDANT WAS OUT OF CUSTODY ON BAIL FOR
11 OVER SEVEN (7) MONTHS WITHOUT INCIDENT OR
12 ANY INVOLVEMENT WITH LAW ENFORCEMENT
13 WHATSOEVER.

14
15 THE STATE, IN ITS OPPOSITION OF THE
16 DEFENDANT'S MOTION FURTHER CITES THE
17 DEFENDANT'S PAST CRIMINAL ACTIVITY, WHICH
18 AS THE RECORD WILL SHOW, CEASED OVER
19 THIRTY (30) TO FORTY (40) YEARS AGO. THE
20 DEFENDANT'S CONVICTIONS WERE ALL NON-VIOLENT
21 AND DRUG RELATED. AT CLOSER SCRUTINY, THE
22 COURT WILL NOTE THAT TWO (2) OF THE CONVICTIONS
23 THE STATE POINTS TO IN ITS WRITTEN OPPOSITION
24 ARE ACTUALLY DUPLICIOUS, THUS MAKING THE
25 DEFENDANT APPEAR TO THE COURT AS HAVING
26 LIVED A LIFE OUTSIDE THE LAW. IN FACT, IT IS

1
2 THE EXACT OPPOSITE THAT IS ACTUALLY TRUE. THE
3 DEFENDANT HAS LED AN EXEMPLARY LIFE SINCE
4 HIS TROUBLE WITH THE LAW SO MANY YEARS AGO.
5 HE HAS SPENT THE LAST THIRTY-FOUR (34) YEARS
6 HAPPILY MARRIED AND RAISING HIS FAMILY OF
7 FOUR (4) CHILDREN AND IS NOW A GRANDFATHER
8 OF (6) SIX AND A GREAT-GRANDFATHER OF
9 ONE (1). THE DEFENDANT HAS SPENT TWENTY-
10 EIGHT OF THE PAST THIRTY-FOUR (34) YEARS
11 GAINFULLY EMPLOYED WITH SEVERAL FORTUNE 500
12 COMPANIES IN A MANAGEMENT CAPACITY AND
13 AS A BUSINESS OWNER HIMSELF FOR THE PAST
14 SIX (6) YEARS.

15
16 THE STATE, IN IT'S OPPOSITION TO THE
17 DEFENDANT'S MOTION, WOULD HAVE THE COURT
18 BELIEVE THAT DEFENDANT, IF RELEASED, PRESENTS
19 A POTENTIAL FLIGHT RISK. AGAIN, THIS HONORABLE
20 COURT SHOULD NOTE THAT THE DEFENDANT WAS
21 OUT OF CUSTODY FOR OVER SEVEN (7) MONTHS
22 AND DURING THAT TIME HAD AMPLE TIME AND
23 OPPORTUNITY TO FLEE IF THAT WERE THE CASE. THE
24 DEFENDANT'S BACKGROUND, HIS TIES TO FAMILY AND
25 THE COMMUNITY, AND HIS PRIOR HISTORY CLEARLY
26 SHOWS NO POTENTIAL FOR FLIGHT. THE DEFENDANT

1
2 HAS NEVER FAILED TO APPEAR BEFORE THIS COURT
3 OR ANY OTHER. THE STATE CITES IN ITS
4 OPPOSITION, THE DATE OF SEPTEMBER 9, 2013
5 AND SEPTEMBER 19, 2013 AS DATES IN WHICH
6 IT CLAIMS THE DEFENDANT FAILED TO APPEAR
7 BEFORE THIS COURT. THE DEFENDANT DOES
8 HEREBY STATE HE DOES NOT HAVE, NOR HAS
9 HE EVER HAD, KNOWLEDGE OF EITHER DATE,
10 AND FURTHER TO THAT, DEFENDANT WAS NOT
11 ADVISED OF A REQUIRED APPEARANCE OF
12 HIS PERSON ON THOSE DATES BY THE COURT
13 OR BY HIS FORMER COUNSEL STEVE PARKE.
14 THE DEFENDANT WOULD HAVE HIS FORMER
15 COUNSEL GIVE TESTIMONY BEFORE THIS COURT
16 SHOULD SUCH TESTIMONY BE DEEMED NECESSARY
17 BY THE COURT IN ITS DESIRE TO REACH A
18 FAIR AND JUST DECISION ON DEFENDANT'S
19 MOTION.
20

21 IN SUMMATION, THE COURT IN REACHING A
22 DECISION ON THE DEFENDANT'S MOTION, MUST
23 TAKE NOTICE OF DEFENDANT'S APPEARANCE
24 BEFORE THIS HONORABLE COURT ON MARCH 26,
25 2013. AT THAT TIME, WITH THE DEFENDANT
26 HAVING BEEN OUT OF CUSTODY FOR OVER ONE (1)

1
2 MONTH PRIOR TO HIS APPEARANCE, THE
3 DEFENDANT APPEARED BEFORE THIS COURT
4 REPRESENTED BY FORMAL COUNSEL, STEVE PARKE.
5 WITH BOTH THE STATE AND THE DEFENDANT
6 IN MUTUAL AGREEMENT, THIS HONORABLE
7 COURT CONTINUED THE INSTANT CASE UNTIL
8 OCTOBER 8, 2013 FOR A CALENDAR CALL AND
9 OCTOBER 14, 2013 FOR TRIAL. IN LIGHT OF
10 THE RATHER LENGTHY CONTINUANCE AND
11 PURSUANT TO NRS 178.498 AND NRS 178.499,
12 AT NO TIME, WHETHER AT THAT APPEARANCE NOR
13 ANY TIME SUBSEQUENT TO SAID APPEARANCE,
14 DID THE STATE RAISE ANY CONCERNS AS TO THE
15 CUSTODY STATUS OF THE DEFENDANT, THE
16 DEFENDANT'S BAIL, OR WHETHER THE DEFENDANT
17 MIGHT PRESENT A DANGER TO TO THE COMMUNITY
18 OR SHOW POTENTIAL TO BE A POTENTIAL FLIGHT
19 RISK. THE STATE, BY ITS LACK OF ANY ACTION
20 IN THIS REGARD WOULD APPEAR TO HAVE BEEN
21 SECURE WITH THE CUSTODY STATUS OF THE
22 DEFENDANT. THE COURT MUST NOTE THAT
23 THERE IS NOTHING IN THE DEFENDANT'S
24 HISTORY THAT HAS CHANGED NOR HAVE THE
25 CHARGES THE DEFENDANT IS FACING IN THE
26 INSTANT CASE, YET NOW THE STATE HAS

1
2 CHOSEN TO OPPOSE HIS MOTION FOR A REDUCTION
3 IN BAIL. THE DEFENDANT CONTENDS THAT SUCH
4 SELECTIVE OPPOSITION ON THE PART OF THE
5 STATE IS CONTRARY TO THE LAW AND IS NOT
6 IN THE INTEREST OF JUSTICE AND THE RIGHTS
7 OF DUE PROCESS UNDER THE LAW.

8
9 WHEREFORE, DEFENDANT PRAYS THIS
10 HONORABLE COURT GRANT THE RELIEF ASKED
11 FOR IN HIS MOTION, AND/OR ANY OTHER
12 RELIEF THE COURT MAY FIND APPROPRIATE IN
13 THIS MATTER.

14
15
16 DATED THIS 4TH day of DECEMBER, 20 13.

17 I, PATRICK NEWELL, do

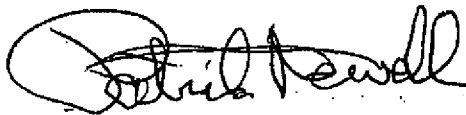
18 solemnly swear, under the penalty of perjury, that

19 the above REBUTAL TO STATE'S OPPOSITION is accurate,

20 correct, and true to the best of my knowledge.

21 NRS 171.102 and NRS 208.165.

22 Respectfully submitted,

23 

24 PATRICK NEWELL, IN PRO PER
25 Defendant

MC
PP
DA

DISTRICT COURT *Alan D. Shuman*
CLARK COUNTY, NEVADA CLERK OF THE COURT

STATE OF NEVADA,

Plaintiff

-vs-

PATRICK NEWELL

Defendant

CASE NO. C-12-28582-

DEPT. NO. 20

DOCKET NO. _____

NOTICE OF MOTION

TO: STATE OF NEVADA, Plaintiff and Counterdefendant;
and,

TO: Clark County District Attorney, His/Her Attorneys:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring the above and foregoing Motion on for hearing before the Court at the Courtroom of the above-entitled Court on the 17th day of DECEMBER, 2013 at 9:00 o'clock A.M. of said day, in Department 20 of said Court.

Patrick Newell

PATRICK NEWELL
DEFENDANT IN PRO PER

RECEIVED
DEC 26 2013

CLERK OF THE COURT

MC
PP
DA

DISTRICT COURT
CLARK COUNTY, NEVADA

Allen J. Blum
CLERK OF THE COURT

STATE OF NEVADA,

Plaintiff

-vs-

PATRICK NEWELL

Defendant

CASE NO. C-12-28582-51

DEPT. NO. 20

DOCKET NO. _____

NOTICE OF MOTION

TO: THE STATE OF NEVADA, Plaintiff and Counterdefendant;

and,

TO: CLARK COUNTY DISTRICT ATTORNEY, His/Her Attorneys:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring the above and foregoing Motion on for hearing before the Court at the Courtroom of the above-entitled Court on the 17TH day of DECEMBER, 2013, at 9:00 o'clock A.M. of said day, in Department 20 of said Court.

Patrick Newell

PATRICK NEWELL, DEFENDANT

IN PRO PER

RECEIVED

26 DEC 26 2013

CLERK OF THE COURT

Lowell Patrick #2861099

e/10

County Detention Center
S. Casino Center Blvd.
Vegas, NV 89101

1-10-12

8th Judicial District
Clark County Clerk of Court
200 Lewis Ave.
PO Box 551604
Las Vegas, NV 89155

RECEIVED
DEC 12 2013
CLERK OF COURT

RECEIVED
MAIL

02 1P
000357516
MAILED FROM ZIP CODE 89101

1
2 IN THE 8TH JUDICIAL DISTRICT COURT OF THE
3 STATE OF NEVADA IN AND FOR
4 THE COUNTY OF CLARK
5

FILED

JAN 02 2014

CLERK OF COURT

6 STATE OF NEVADA

7 PLAINTIFF,

8 VS.

9 PATRICK NEWELL,

10 DEFENDANT

CASE NO.: C-12-28582-51

DEPT. NO.: 20

C-12-28582-51
NOASC
Notice of Appeal (criminal)
3318288



11
12
13 NOTICE OF APPEAL

14
15 NOTICE IS HEREBY GIVEN THAT PATRICK NEWELL,
16 DEFENDANT ABOVE NAMED, HEREBY APPEALS TO THE
17 SUPREME COURT OF NEVADA FROM THE ORDER
18 DENYING DEFENDANT'S DEMAND FOR SPEEDY TRIAL
19 ENTERED IN THIS ACTION ON THE 17TH DAY OF
20 DECEMBER, 2013.

21
22

23 PATRICK NEWELL

DEFENDANT IN PRO PER

#0002861099

CCDC

350 CASINO CENTER BLVD
LAS VEGAS, NV 89101

CLERK OF THE COURT

JAN 02 2014

RECEIVED

PATRICK NEWELL
0002661099 3A/109
Clark County Detention Center
330 S. Casino Center Blvd.
Las Vegas, NV 89101



CLARK COUNTY CLERK OF COURT
REGIONAL JUSTICE CENTER
200 LEWIS AVENUE, 3RD FLOOR
LAS VEGAS, NV 89101



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UNITED STATES POSTAGE
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ZIP CODE 89101

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NEVADA SUPREME COURT

FILED ENCLOSED

LEGAL
MAIL

**LEGAL
MAIL**

DISTRICT COURT *Alan L. Blum*
CLARK COUNTY, NEVADA CLERK OF THE COURT

MC
PP
DA

STATE OF NEVADA,

PLAINTIFF

VS.

PATRICK NEWELL,

DEFENDANT

C-12-285825-1
CASE NO.: ~~C-12-28582-~~ 51

DEPT NO.: 20

DOCKET NO.:

NOTICE OF MOTION

TO: STATE OF NEVADA, PLAINTIFF AND COUNTERDEFENDANT

AND,

TO: CLARK COUNTY DISTRICT ATTORNEY, HER ATTORNEYS:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE

THAT THE UNDERSIGNED WILL BRING THE ABOVE

AND FOREGOING MOTION ON FOR HEARING BEFORE

THE COURT AT THE COURTROOM OF THE ABOVE-

ENTITLED COURT ON THE ²⁸ ~~7th~~ DAY OF JANUARY

2014, AT ~~9:00~~ ^{8:30 am} O'CLOCK A.M. OF SAID DAY,

IN DEPARTMENT 20 OF SAID COURT.

RECEIVED

CLERK OF THE COURT

Patrick Newell

RECEIVED

PATRICK NEWELL, DEFENDANT IN PRO PER

JAN 06 2014

CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

C-12-285825-1

~~C-12-285825-1~~

STATE OF NEVADA

Case No.:

Plaintiff,

Dept. No.:

20

Electronically Filed
01/06/2014 09:12:37 AM

vs.

Docket No.:

PATRICK NEWELL,

Defendant

Alvin D. Quinn

CLERK OF THE COURT

Date: 1-28-14
Time: 8:30 am

MOTION TO SHORTEN TIME

COMES NOW, THE DEFENDANT, PATRICK
NEWELL, IN PROPER, AND MOVES THIS
HONORABLE COURT TO SHORTEN THE TIME AND
DATE HERETOFORE SET BY THE COURT FOR TRIAL
AND/OR GRANT OTHER SUCH RELIEF AS IT MAY
DEEM APPROPRIATE.

THIS MOTION IS BASED UPON ALL PAPERS,
PLEADINGS AND DOCUMENTS ON FILE. FACTUAL
STATEMENTS ARE SET FORTH IN THE POINTS
AND AUTHORITIES CONTAINED HEREIN.

POINTS AND AUTHORITIES

THE DEFENDANT RESPECTFULLY REQUESTS

RECEIVED

- 1 -

JAN 06 2014

CLERK OF THE COURT

DEC 31 2013

1
2 THIS HONORABLE COURT TO GRANT THIS MOTION
3 TO SHORTEN TIME FOR THE REASONS LISTED
4 BELOW:

5 I. PROCEDURAL BACKGROUND

6 ON OCTOBER 1, 2013, THIS COURT SET
7 A DATE FOR DEFENDANT'S TRIAL OF MARCH
8 17, 2014. THE DEFENDANT IS SUFFERING
9 MANIFEST INJUSTICE AND PUNISHMENT
10 BASED UPON HIS CUSTODY STATUS AND
11 THE LENGTHY DELAY IN THE DATE SET BY
12 THIS COURT FOR TRIAL.

13 II. ARGUMENT

14 DEFENDANT, PATRICK NEWELL ASSESTS HE
15 BEING UNFAIRLY PUNISHED AND HIS RIGHT
16 OF DUE PROCESS UNDER THE LAW HAS BEEN
17 AND CONTINUES TO BE VIOLATED.

18 THE DEFENDANT HAS SPENT A TOTAL OF
19 TWO HUNDRED THIRTY (230) DAYS IN
20 CUSTODY AT THE CLARK COUNTY DETENTION
21 CENTER (CCDC) AS OF THE DATE OF THIS
22 MOTION. DURING THIS TIME, THE DEFENDANT
23 HAS MOTIONED THE COURT NO LESS THAN
24 FIVE (5) TIMES FOR A REDUCTION IN BAIL
25 AMOUNT OR OTHER BAIL MODIFICATION, EACH
26 MOTION BEING ULTIMATELY DENIED BY THE

1 COURT. DEFENDANT'S MOST RECENT MOTION
2 FOR A REDUCTION IN BAIL AMOUNT WAS
3 DENIED BY THIS COURT ON DECEMBER
4 17, 2013 EVEN THOUGH IT PRESENTED THE
5 COURT WITH A MYRIAD OF OPTIONS. THE
6 MOTION WAS SUMMARILY DENIED WITHOUT
7 ALLOWING THE DEFENDANT BENEFIT OF
8 ORAL ARGUMENT BEFORE THIS HONORABLE
9 COURT.

10
11 DEFENDANT HAS ORALLY REQUESTED
12 THIS COURT TO SHORTEN THE LENGTHY
13 DELAY IN DEFENDANT'S TRIAL DATE ON
14 SEVERAL OCCASSIONS. THE RECORDS WILL
15 SHOW EACH OF THOSE ORAL REQUESTS WERE
16 DENIED BY THE COURT IN ITS EFFORTS TO
17 ACCOMMODATE THE INFLEXIBLE SCHEDULE
18 OF THE ASSISTANT DISTRICT ATTORNEY
19 ASSIGNED TO THE INSTANT CASE, OR DUE
20 TO THIS COURT BEING RELUCTANT TO ALLOW
21 THE INSTANT CASE TO BE REASSIGNED TO
22 ANOTHER DEPARTMENT FOR AN EARLIER
23 TRIAL DATE.

24 THE DEFENDANT CONTENTS THE RECORD(S)
25 WILL SHOW NO COMPELLING REASON(S) WHY
26 THE DISTRICT ATTORNEY CANNOT OR WILL NOT

1
2 ASSIGN A SUBSTITUTE OR ALTERNATE ASSISTANT
3 TO REPRESENT THE STATE IN ITS PROSECUTION
4 OF DEFENDANT IN THE INSTANT CASE NOR
5 WHY THIS HONORABLE COURT SHOULD NOT
6 ORDER HIM TO DO SO. THE DEFENDANT
7 FURTHER CONTENTS THERE EXISTS NO
8 COMPELLING REASONS WHY THE COURT SHOULD
9 NOT ALLOW THE INSTANT CASE TO BE
10 REASSIGNED TO ANOTHER DEPARTMENT WITH
11 FLEXIBILITY TO SCHEDULE AN EARLIER DATE
12 AND TIME FOR DEFENDANT'S TRIAL.

13 ANY ACTION(S) TAKEN BY THIS COURT TO
14 SHORTEN THE DATE AND TIME FOR THE
15 DEFENDANT'S TRIAL WOULD BE IN THE HIGHEST
16 INTEREST OF FAIRNESS AND JUSTICE UNDER
17 LAW. FURTHER, ANY ACTION(S) TAKEN BY THE COURT
18 WOULD NOT PREJUDICE EITHER THE PLAINTIFF
19 OR THE DEFENDANT IN ANY WAY.

20 SHOULD THIS HONORABLE COURT ALLOW THE
21 EXISTING DATE AND TIME FOR THE
22 DEFENDANT'S TRIAL TO REMAIN UNMODIFIED,
23 DEFENDANT WILL HAVE BEEN HELD IN
24 CUSTODY FOR A TOTAL OF THREE HUNDRED
25 THIRTEEN DAYS (313). FOR THE COURT TO
26 ALLOW SUCH A LENGTHY DELAY TO MANIFEST,

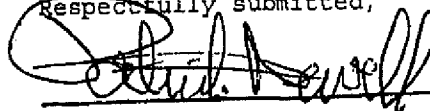
1 IN LIGHT OF THE ALTERNATIVE ACTION(6)
2 AVAILABLE TO REMEDY, WOULD BE BOTH
3 PREJUDICIAL AND PUNITIVE TO DEFENDANT.
4 WHEREFORE, DEFENDANT PRAYS THIS
5 HONORABLE COURT TO GRANT THE RELIEF ASKED
6 FOR HEREIN AND/OR OTHER RELIEF AS THE
7 COURT MAY DEEM FAIR AND JUST.

8
9
10
11
12
13
14
15
16 DATED THIS 24TH day of DECEMBER, 2013.

17 I, PATRICK NEWELL, do
18 solemnly swear, under the penalty of perjury, that
19 the above MOTION TO SHORTEN TIME is accurate,
20 correct, and true to the best of my knowledge.

21 NRS 171.102 and NRS 208.165.

22 Respectfully submitted,

23 

24 PATRICK NEWELL

25 Defendant, IN PRO PER

P
Clark County Detention Center
330 S. Casino Center Blvd.
Las Vegas, NV 89101

CLARK COUNTY CLERK OF COURT
REGIONAL JUSTICE CENTER
DEPARTMENT 20 - JUDGE TAO
200 LEWIS AVENUE, 3RD FLOOR
LAS VEGAS, NV 89101

LEGAL
MAIL

TIME SENSITIVE LEGAL FILING
ENCLOSED



MC
PP
DA

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
01/13/2014 12:08:53 PM

STATE OF NEVADA,

Plaintiff

-vs-

PATRICK NEWELL

Defendant

Alvin B. Quinn C-12-285825-1
CLERK OF THE COURT CASE NO. G-12-285825-1
DEPT. NO. 20
DOCKET NO. _____

NOTICE OF MOTION

TO: STATE OF NEVADA, Plaintiff and Counterdefendant;
and,
CLARK COUNTY NEVADA
TO: DISTRICT ATTORNEY, His/Her Attorneys:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring the above and foregoing Motion on for hearing before the Court at the Courtroom of the above-entitled Court on the 04 day of February, 2014, at 8:30 o'clock A.M. of said day, in Department 20 of said Court.

Patrick Newell
PATRICK NEWELL
DEFENDANT IN PRO PER

RECEIVED
47 JAN 13 2014
CLERK OF THE COURT

MC
PP
DADISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA

Plaintiff,

vs.

PATRICK NEWELL,

Defendant

Case No.:

285825-1
~~C-12-285825-1~~

Electronically Filed

Dept. No.:

20

01/13/2014 12:12:02 PM

Docket No.:

Allen D. Schuman

CLERK OF THE COURT

Date: 02/04/14

Time 8:30 AM

MOTION TO DISMISS STANDBY COUNSEL
AND APPOINT ALTERNATE STANDBY COUNSEL

COMES NOW, THE DEFENDANT, PATRICK NEWELL IN PROPER AND MOVES THIS HONORABLE COURT TO DISMISS STANDBY COUNSEL CLAUDIA ROMNEY AND THE CLARK COUNTY NEVADA PUBLIC DEFENDER AND APPOINT ALTERNATE STANDBY COUNSEL TO REPRESENT THE DEFENDANT SHOULD THE DEFENDANT'S SELF REPRESENTATION BE TERMINATED BY THE COURT FOR ANY REASON.

THIS MOTION IS BASED UPON ALL PAPERS, PLEADINGS AND DOCUMENTS ON FILE. FACTUAL STATEMENTS ARE SET FORTH IN THE POINTS AND AUTHORITIES CONTAINED HEREIN.

RECEIVED

JAN 13 2014

CLERK OF THE COURT

-1-

POINTS AND AUTHORITIES

THE DEFENDANT RESPECTFULLY REQUESTS
THIS HONORABLE COURT TO GRANT THIS MOTION
TO DISMISS STANDBY COUNSEL AND APPOINT
ALTERNATE STANDBY COUNSEL FOR THE REASONS
LISTED BELOW:

I. PROCEDURAL BACKGROUND

ON OCTOBER 15, 2013, THE DEFENDANT MOVED
THIS HONORABLE COURT TO DISMISS COUNSEL CLAUDIA
ROMNEY AND THE CLARK COUNTY NEVADA PUBLIC
DEFENDER AND FOR LEAVE TO PROCEED IN PRO PER.
AT THAT TIME, THE COURT CONDUCTED A "FARETTA
CANVASS" PURSUANT TO NEV. S.C.R. 253 (2013) IN
ORDER TO DETERMINE THE DEFENDANT'S UNDERSTANDING
OF THE INSTANT CASE, PROCEEDINGS, THE CHARGES
LODGED AGAINST THE DEFENDANT BY THE
PLAINTIFF, AS WELL AS THE VOLUNTARINESS OF
HIS DECISION TO REPRESENT HIMSELF. THE
DEFENDANT'S MOTION TO DISMISS COUNSEL AND
LEAVE TO PROCEED IN PRO PER WAS GRANTED BY
THIS COURT FOLLOWING SAID HEARING AND
CANVASS. THE COURT FURTHER ACTED TO APPOINT
STANDBY COUNSEL FOR THE DEFENDANT PURSUANT
TO NEV. S.C.R. 253, 2 (J), IN THE EVENT THE
DEFENDANT'S SELF REPRESENTATION SHOULD BE
TERMINATED FOR ANY REASON.

1
2 NOTWITHSTANDING ANYTHING TO THE
3 CONTRARY CONTAINED IN THE DEFENDANT'S
4 MOTION TO DISMISS COUNSEL AND PROCEED IN
5 PRO PER, THIS COURT ELECTED TO APPOINT
6 CLAUDIA ROMNEY, DEFENDANT'S FORMER
7 COUNSEL AND THE CLARK COUNTY NEVADA
8 PUBLIC DEFENDER AS STANDBY COUNSEL FOR
9 THE DEFENDANT. THE AFORESAID APPOINTMENT
10 BY THIS COURT OF DEFENDANT'S FORMER
11 COUNSEL AS STANDBY COUNSEL WAS MADE
12 WITHOUT REGARD TO THE ARGUMENTS
13 DEFENDANT RAISED IN HIS MOTION AND
14 WITHOUT REGARD TO THE COURT'S RULING TO
15 DISMISS DEFENDANT'S FORMER COUNSEL.

16 SINCE OCTOBER 15, 2013, WHEN THIS
17 COURT APPOINTED FORMER COUNSEL AS
18 STANDBY COUNSEL, DEFENDANT PATRICK
19 NEWELL HAS BEEN PREJUDICED AND HAS
20 SUFFERED MANIFEST INJUSTICE BASED UPON
21 FORMER COUNSEL'S RELATIONSHIP WITH THE
22 DEFENDANT AND THE CONFLICTS THAT
23 EXISTED BETWEEN THE DEFENDANT AND HIS
24 FORMER COUNSEL WHICH WERE THE BASIS FOR
25 DEFENDANT'S MOTION TO DISMISS COUNSEL
26 PREVIOUSLY GRANTED BY THIS COURT. THE SAME

1
2 CONFLICTS AND ISSUES WHICH EXISTED AT THE
3 TIME THIS COURT GRANTED THE DEFENDANT'S
4 MOTION TO DISMISS FORMER COUNSEL STILL
5 EXIST TO THIS VERY TIME. IN FACT, ON
6 DECEMBER 31, 2013, THE DEFENDANT'S
7 FORMER COUNSEL, IN RESPONSE TO THE
8 COURT'S QUESTIONING HER WITH RESPECT
9 TO HER RESPONSIBILITIES AS BACKUP
10 COUNSEL FOR DEFENDANT, SUGGESTED IN
11 ANSWER TO THE COURT'S QUERY THAT NEITHER
12 SHE NOR HER OFFICE HAVE ANY DESIRE OR
13 PLANS TO PROCEED IN THE DEFENSE OF THE
14 DEFENDANT SHOULD HIS SELF REPRESENTA-
15 TION BE TERMINATED FOR ANY REASON. THIS
16 STATEMENT IN AND BY ITSELF IS IN
17 DIRECT CONFLICT WITH THIS COURT AND IN
18 DIRECT OPPOSITION WITH NEV. S.C.R.
19 253.2 (1), "DEFENDANT'S UNDERSTANDING
20 THAT THE COURT MAY APPOINT STANDBY
21 COUNSEL WHO, IN THE EVENT THAT THE
22 COURT TERMINATES THE DEFENDANT'S
23 SELF REPRESENTATION, WOULD BECOME
24 APPOINTED COUNSEL AND REPRESENT THE
25 DEFENDANT IN THE REMAINING PROCEEDINGS; //

26 II. ARGUMENT

1 THE DEFENDANT HAS AN UNQUALIFIED RIGHT
2 TO LEGAL ASSISTANCE SHOULD DEFENDANTS
3 SELF REPRESENTATION BE TERMINATED, LEGAL
4 ASSISTANCE THAT EXPRESSES LOYALTY TO
5 THE DEFENDANT. A PARTY WHOSE COUNSEL IS
6 UNABLE OR UNWILLING TO PROVIDE EFFECTIVE OR
7 ADEQUATE ASSISTANCE IS NO BETTER THAN ONE
8 WHO HAS NO COUNSEL AT ALL; AND ANY
9 APPEAL(S) WOULD BE FUTILE IN IT'S GESTURE.
10 EVITTES V LUCEY 105 S. CT. 830 (1985);
11 DOUGLAS V. CALIFORNIA, 83 S. CT. 814 (1963).

12 THE FORMER APPOINTED COUNSEL FOR THE
13 DEFENDANT DID NOTHING TO PROPERLY REPRESENT
14 HIM PRIOR TO DISMISSAL BY THIS HONORABLE
15 COURT AND HAS DONE NOTHING SINCE THE
16 APPOINTMENT BY THIS COURT AS STANDBY
17 COUNSEL. STANDBY COUNSEL GOES EVEN
18 FURTHER BY STATING IN OPEN COURT THAT SHE
19 IN HER OFFICE WOULD PROCEED IN THE
20 DEFENDANT'S DEFENSE SHOULD HIS SELF
21 REPRESENTATION BE TERMINATED. THIS
22 STATEMENT IN AND BY ITSELF CONSTITUTES
23 GROUNDS SUFFICIENT AND SEVERE ENOUGH
24 TO DISMISS DEFENDANT'S STANDBY COUNSEL
25 AND APPOINT ALTERNATE COUNSEL TO STANDBY
26

1 AND BECOME THE DEFENDANT'S COUNSEL SHOULD
2 DEFENDANT'S SELF REPRESENTATION BE TERMINATED.

3 WHEREFORE, DEFENDANT PATRICK NEWELL
4 PRAYS THIS HONORABLE COURT DISMISS
5 STANDBY COUNSEL, CLAUDIA ROMNEY, AND THE
6 CLARK COUNTY NEVADA PUBLIC DEFENDER'S
7 OFFICE AND APPOINT ALTERNATE STANDBY
8 COUNSEL TO REPRESENT THE DEFENDANT IN
9 THE EVENT HIS SELF REPRESENTATION IS
10 TERMINATED.

11
12
13
14
15
16 DATED THIS 3RD day of JANUARY, 2014.

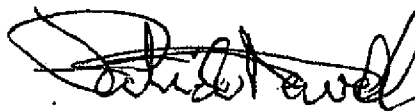
17 I, PATRICK NEWELL, do

18 solemnly swear, under the penalty of perjury, that

19 the above MOTION TO DISMISS STANDBY is accurate,
20 COUNSEL & APPOINTMENT OF ALTERNATE STANDBY COUNSEL
correct, and true to the best of my knowledge.

21 NRS 171.102 and NRS 208.165.

22 Respectfully submitted,

23 

24 PATRICK NEWELL

25 Defendant IN PROPER.

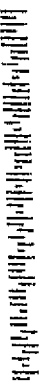
PATRICK NEWELL

Name/ID
Clark County Detention Center
330 S. Casino Center Blvd.
Las Vegas, NV 89101

0002061099 3N/10

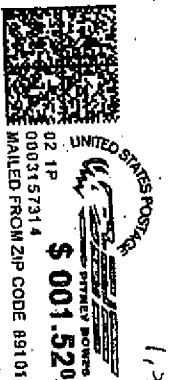
STEVEN D GRIERSON
CLERK OF THE COURT
DEPARTMENT 20, JUDGE TAO
200 LEWIS AVENUE, 3RD FLOOR
LAS VEGAS, NV 89155-1160

TIME SENSITIVE LEGAL DOCUMENTS ENCLOSED
FOR IMMEDIATE FILING



8 8 8 8 8 8

LEGAL



PP
DA

DISTRICT COURT
CLARK COUNTY, NEVADA

285825-1

STATE OF NEVADA

) Case No.: C-12-28582-51

Plaintiff,

) Dept. No.: 20

Electronically Filed
01/13/2014 12:13:54 PM

vs.

) Docket No.: _____

PATRICK NEWELL,

Alvin L. Quinn

Defendant

CLERK OF THE COURT

MEMORANDUM TO DEFENDANT'S
MOTION FOR SUMMARY JUDGEMENT
TO COMPEL DISCOVERY

DATE OF HEARING: JANUARY 16, 2014
TIME OF HEARING: 8:30 AM

COMES NOW, THE DEFENDANT, PATRICK
NEWELL, IN PRO PER, AND HEREBY SUBMITS THE
ATTACHED MEMORANDUM TO DEFENDANT'S MOTION
FOR SUMMARY JUDGEMENT TO COMPEL DISCOVERY.

IN ADDITION TO THE INFORMATION AND
MATERIAL SET FORTH IN THE DEFENDANT'S MOTION,
A SPECIFIC REQUEST FOR THE FOLLOWING
INFORMATION, STATEMENTS, DOCUMENTS, PAPERS
RECORDS, OBJECTS AND NOTES IN WHATEVER
SOURCE OR FORM IN THE POSSESSION OF OR KNOWN

RECEIVED

✓ JAN 13 2014

CLERK OF THE COURT

- 1 -

RECEIVED

JAN 08 2014

CLERK OF THE COURT

1
2 TO PLAINTIFF, TO WIT:

3 A) THE AFOREMENTIONED MATERIAL WHICH WAS
4 RELIED UPON AND USED IN PLAINTIFF'S OPPOSITION
5 TO DEFENDANT'S MOTION FOR REDUCTION IN BAIL
6 DATED NOVEMBER 20, 2013, MORE SPECIFICALLY
7 CITED ON PAGE 6, LINES 16 THROUGH 20, IN
8 WHICH PLAINTIFF ALLEGES DEFENDANT "ISA
9 FOUR TIME CONVICTED FELON" AND GOES ON TO
10 FURTHER CITE OFFENSES AND TWO (2)
11 MISDEMEANOR CONVICTIONS, AND,

12 B) THE AFOREMENTIONED MATERIAL WHICH WAS
13 RELIED UPON AND USED IN PLAINTIFF'S OPPOSITION
14 TO DEFENDANT'S MOTION FOR REDUCTION IN BAIL
15 DATED NOVEMBER 20, 2013, MORE SPECIFICALLY
16 CITED ON PAGE 7, LINES 2 THROUGH 5, IN
17 WHICH PLAINTIFF STATES THAT ADAM CHARLES,
18 AN INDEPENDENT WITNESS, MADE CERTAIN
19 OBSERVATIONS AS TO THE DEFENDANT'S ACTIONS
20 AND VERBALIZED TO HIM, "YOU DON'T FUKIN'
21 KNOW," AND,

22 C) ALL AFOREMENTIONED MATERIAL ON WHICH
23 THE PLAINTIFF RELIED UPON AND USED IN ITS
24 OPPOSITION TO DEFENDANT'S MOTION FOR
25 REDUCTION IN BAIL DATED NOVEMBER 20, 2013,
26 MORE SPECIFICALLY CITED ON PAGE 7, LINES 17

1 THROUGH 23, IN WHICH PLAINTIFF ALLEGES
2 CERTAIN INFORMATION WAS GIVEN TO PLAINTIFF BY
3 DEFENDANT'S FORMER COUNSEL, STEVEN PARKE, AND
4 THAT " INFORMATION WAS LATER RELAYED TO THE
5 UNDERSIGNED THAT DEFENDANT WAS GETTING READY
6 TO LEAVE FOR CALIFORNIA WHEN HE WAS TAKEN INTO
7 CUSTODY."

8 DEFENDANT HEREBY REFERENCES THE POINTS
9 AND AUTHORITIES SET FORTH IN HIS MOTION FOR
10 SUMMARY JUDGEMENT TO COMPEL DISCOVERY
11 DATED DECEMBER 1, 2013 AND FILED WITH THE CLERK
12 ON DECEMBER 26, 2013.

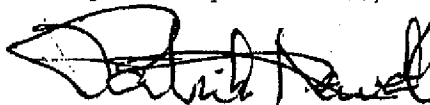
13
14
15
16 DATED THIS 3RD day of JANUARY, 2014.

17 I, PATRICK NEWELL, do

18 solemnly swear, under the penalty of perjury, that
19 the above MEMORANDUM TO DEFENDANT'S MOTION
20 FOR SUMMARY JUDGEMENT TO is accurate,
21 COMPEL DISCOVERY
correct, and true to the best of my knowledge.

22 NRS 171.102 and NRS 208.165.

23 Respectfully submitted,

24 

25 PATRICK NEWELL
26 Defendant IN PROPER

Allen L. Colman
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA

PLAINTIFF,

VS.

PATRICK NEWELL

DEFENDANT

CASE No.: C-12-285825-1

DEPT. No.: 20

DOCKET No.: _____

NOTICE OF MOTION

TO: STATE OF NEVADA, PLAINTIFF AND COUNTERDEFENDANT,
AND

TO: CLARK COUNTY DISTRICT ATTORNEY, IT'S ATTORNEYS:
YOU AND EACH OF YOU, WILL PLEASE TAKE NOTICE

THAT THE UNDERSIGNED WILL BRING THE ABOVE AND FORE-
GOING MOTION ON FOR HEARING BEFORE THE COURT AT THE
COURT ROOM OF THE ABOVE ENTITLED COURT ON THE ~~28TH~~
DAY OF ^{February} ~~JANUARY~~, 2014 AT 8:30 AM OF SAID DAY, IN
DEPARTMENT 20 OF SAID COURT.

Patrick Newell

PATRICK NEWELL

DEFENDANT

0002861099 3N/10

CCDC

330 CASINO CENTER BLVD

LAS VEGAS, NV 89101

CLERK OF THE COURT

RECEIVED
JAN 21 2014

DISTRICT COURT
CLARK COUNTY, NEVADA

Ann L. Quinn
CLERK OF THE COURT

STATE OF NEVADA

PLAINTIFF,

VS.

PATRICK NEWELL

DEFENDANT

CASE No.: C-12-285825-1

DEPT. No.: 20

DOCKET No.: _____

Date: 02/11/14

Time: 8:30 AM

MOTION TO APPOINT COUNSEL

COMES NOW, THE DEFENDANT, PATRICK NEWELL, IN PRO PER, AND MOVES THIS HONORABLE COURT TO TERMINATE THE DEFENDANT'S SELF REPRESENTATION AND APPOINT INDEPENDENT OUTSIDE COUNSEL TO REPRESENT DEFENDANT.

I. PROCEDURAL BACKGROUND

ON OCTOBER 15, 2013, DEFENDANT'S MOTION TO DISMISS COUNSEL AND LEAVE TO PROCEED IN PRO PER CAME TO BE HEARD BEFORE THIS HONORABLE COURT.

ON THAT DAY, THIS COURT GRANTED THE DEFENDANT'S MOTION AND DISMISSED COUNSEL

MC
PP
DA
PD

RECEIVED

26 JAN 21 2014

CLERK OF THE COURT

1 FOR DEFENDANT, CLAUDIA ROMNEY AND THE
2 CLARK COUNTY PUBLIC DEFENDER, THE COURT
3 HAVING FOUND SUFFICIENT ARGUMENT RAISED
4 BY THE DEFENDANT. A "FARETTA HEARING"
5 WAS HELD, AND THE DEFENDANT CANVASSSED BY
6 THE COURT, TO DETERMINE DEFENDANT'S ABILITY
7 AND UNDERSTANDING OF THE INSTANT CASE.
8 LEAVE TO PROCEED IN PRO PER WAS GRANTED
9 BY THIS COURT TO DEFENDANT AFTER THE
10 COMPLETION OF IT'S CANVASS.
11

12 II. ARGUMENT

13 SINCE THE DEFENDANT WAS GRANTED
14 LEAVE TO PROCEED IN PRO PER BY THE
15 COURT, DEFENDANT HAS ENCOUNTERED
16 NUMEROUS OBSTACLES AND DIFFICULTIES IN
17 THE RESEARCH AND PREPARATION NEEDED TO
18 EFFECTUATE A MEANINGFUL REPRESENTATION
19 OF HIMSELF AT TRIAL. ALTHOUGH DEFENDANT
20 HAS ATTEMPTED TO WORK AROUND SAID
21 OBSTACLES AND DIFFICULTIES, IT HAS BECOME
22 CLEAR TO THE DEFENDANT, HIS CUSTODY STATUS
23 IS PREVENTING HIM FROM PROCEEDING IN
24 PRO PER WITH HIS SELF REPRESENTATION IN
25 THE INSTANT CASE.
26

1 WHEREFORE, THE DEFENDANT PRAYS
2 THIS HONORABLE COURT TO TERMINATE
3 DEFENDANT'S REPRESENTATION IN PROPER
4 AND IMMEDIATELY APPOINT INDEPENDENT
5 OUTSIDE COUNSEL TO PROCEED ON THE
6 BEHALF OF DEFENDANT IN THE INSTANT
7 CASE.

8
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10
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14
15
16 DATED THIS 14TH day of JANUARY, 2014.

17 I, PATRICK NEWELL, do

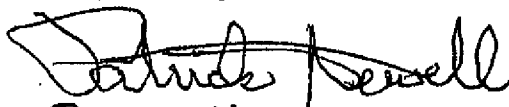
18 solemnly swear, under the penalty of perjury, that

19 the above MOTION TO APPOINT COUNSEL is accurate,

20 correct, and true to the best of my knowledge.

21 NRS 171.102 and NRS 208.165.

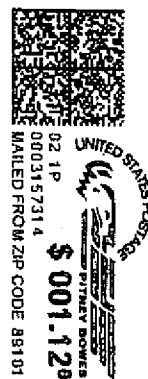
22 Respectfully submitted,

23 

24 PATRICK NEWELL

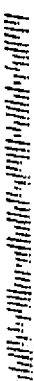
25 Defendant IN PROPER

PATRICIA NEWELL
0002861079 3N/10
Name/ID
Clark County Detention Center
330 S. Casino Center Blvd.
Las Vegas, NV 89101



STENEN D GRIERSON
CLERK OF THE COURT
200 LEWIS AVENUE, 3RD FLOOR
LAS VEGAS, NV 89155-1160

TIME SENSITIVE LEGAL DOCUMENT
FOR IMMEDIATE FILING



LEGAL
AIR


CLERK OF THE COURT

NWEW
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
HETTY O. WONG
Deputy District Attorney
Nevada Bar #011324
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

PATRICK NEWELL,
#2861099,

Defendant.

CASE NO: C-12-285825-1

DEPT NO: XX

NOTICE OF WITNESSES
[NRS 174.234(1)(a)]

TO: PATRICK NEWELL, Defendant; and

TO: SETH GUTIERREZ, Deputy Public Defender, Counsel of Record:

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

<u>NAME</u>	<u>ADDRESS</u>
AQUINO, MAYRIE C.	LVMPD #13993
BEJARNO, THEODORE	C/O DISTRICT ATTORNEY'S OFFICE
CARLOS, ADAM	9457 S. Las Vegas Blvd. S. #143, LVN 89103
COREA, BRYANT	LVMPD #9389
CUSTODIAN OF RECORDS	CCDC
CUSTODIAN OF RECORDS	CIRCLE K

1	CUSTODIAN OF RECORDS	LVMPD COMMUNICATIONS
2	CUSTODIAN OF RECORDS	LVMPD DISPATCH
3	CUSTODIAN OF RECORDS	LVMPD RECORDS
4	CUSTODIAN OF RECORDS	Southern Nevada Adult Mental Health or
5		Francisco Viado or Designee,
6	CUSTODIAN OF RECORDS	616 W. Charleston Blvd., LVN 89146
7		UMC - Ki Washington or Designee,
8	GACH, AARON	1800 W. Charleston Blvd, LVN 89102
9	GRIGGS, BRYAN	11686 Stivali Ave., LVN 89183
10	JOHNSON, KEVIN C.	ADDRESS UNKNOWN
11	JONES, S.	LVMPD #2892
12		AMR - PARAMEDIC #2723,
13	KNUDSON, BRETT JAMES	1130 Martin Luther King Blvd., LVN 89102
14	KOWALSKI, BRIAN D.	LVMPD #13903
15	LEWIS, WILLIAM	LVMPD #8550
16	MARRIOTT, DEBORAH	1454 Pebble Rd. #2059, LVN 89123
17	MARTINDALE, R.	District Attorney Investigator
18		AMR - PARAMEDIC
19	OZOBIA, NATHAN, DR.	1130 Martin Luther King Blvd., LVN 89102
20		UMC, 1800 W. Charleston Blvd., LVN
21	PATTERSON, DEBRA	89102
22	PHILLIPS, DERRICK,	District Attorney Process Server
23	RANDALL, CHAD W.	ADDRESS UNKNOWN
24	ROBERTS, VINCENT D.	LVMPD #13427
25	ROMERO, ARTHUR, DR.	LVMPD 5714
26		UMC, 1800 W. Charleston Blvd., LVN
27	SADEGHI, NICK, DR.	89102
28		UMC, 1800 W. Charleston Blvd., LVN
		89102

1 SHAMIRZA, ALFRED

District Attorney Process Server

2 SHEA, CHARLENE

District Attorney Process Server

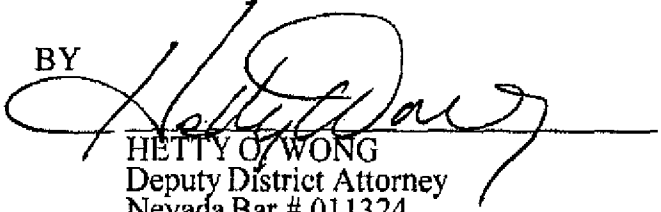
3 WEBER, RACHEL, DR.

UMC, 1800 W. Charleston Blvd., LVN
89102

4
5 These witnesses are in addition to those witnesses endorsed on the Information and
6 any other witness for which a separate Notice has been filed.
7

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

10
11 BY


12 
13 HETTY O. WONG
14 Deputy District Attorney
15 Nevada Bar # 011324

16 CERTIFICATE OF FACSIMILE TRANSMISSION

17 I hereby certify that service of Notice of Witnesses, was made this 31st day of
18 January, 2014, by facsimile transmission to:

19 SETH GUTIERREZ, Deputy Public Defender
20 FAX #366-1177

21 BY:

22 
23 Theresa Dodson
24 Secretary for the District Attorney's Office
25
26
27

28 td/dvu


CLERK OF THE COURT

NWEW
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
HETTY O. WONG
Deputy District Attorney
Nevada Bar #011324
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-VS-

PATRICK NEWELL,
#2861099,

Defendant.

CASE NO: C-12-285825-1

DEPT NO: XX

NOTICE OF EXPERT WITNESSES
[NRS 174.234(2)]

TO: PATRICK NEWELL, Defendant; and

TO: SETH GUTIERREZ, Deputy Public Defender, Counsel of Record:

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

1. OZOBIA, NATHAN, MD, A medical doctor who will testify to his
observations, treatment, diagnosis, and prognosis of the injuries sustained by the victim.

2. ROMERO, ARTHUR, MD, A medical doctor who will testify to his
observations, treatment, diagnosis, and prognosis of the injuries sustained by the victim.

3. SADEGHI, NICK, MD, A medical doctor who will testify to his
observations, treatment, diagnosis, and prognosis of the injuries sustained by the victim.

4. WEBER, RACHEL, MD, A medical doctor who will testify to her
observations, treatment, diagnosis, and prognosis of the injuries sustained by the victim.

///

1 The substance of each expert witness' testimony and a copy of all reports made by or
2 at the direction of the expert witness has been provided in discovery.

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

4
5 STEVEN B. WOLFSON
6 Clark County District Attorney
7 Nevada Bar #001565

8 BY 

9 HETTY O. WONG
10 Deputy District Attorney
11 Nevada Bar #011324

12 CERTIFICATE OF FACSIMILE TRANSMISSION

13 I hereby certify that service of Notice of Expert Witnesses, was made this 31st day of
14 January, 2014, by facsimile transmission to:

15 SETH GUTIERREZ, Deputy Public Defender
16 FAX #366-1177

17 BY: 

18 Theresa Dodson
19 Employee of the District Attorney's Office
20
21
22
23
24
25
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28

td/dvu

MC
PP
DA

DISTRICT COURT *Allen B. Quinn*
CLARK COUNTY, NEVADA CLERK OF THE COURT

STATE OF NEVADA,

Plaintiff

-vs-

PATRICK NEWELL

Defendant

CASE NO. C-12-285825-1

DEPT. NO. 20

DOCKET NO. _____

NOTICE OF MOTION

TO: STATE OF NEVADA, Plaintiff and Counterdefendant;

and,

TO: CLARK COUNTY DISTRICT ATTOR His/Her Attorneys:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring the above and foregoing Motion on for hearing before the Court at the Courtroom of the above-entitled Court on the ¹³25th day of ^{March}FEBRUARY, 2014, at 8:30 o'clock A.M. of said day, in Department 20 of said Court.

Patrick Newell

PATRICK NEWELL

DEFENDANT IN PRO PER

#0002861099

CCDC

330 CASINO CENTER BLVD.

LAS VEGAS, NV 89101

RECEIVED

FEB 18 2014

CLERK OF THE COURT

MC
PP
DA

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA

Plaintiff,

vs.

PATRICK NEWELL

Defendant

Case No.: C-12-285825-1

Dept. No.: 20 Electronically Filed
02/18/2014 04:22:45 PM

Docket No.: _____

Date: 3-13-14
Time: 8:30 am

Ann L. Sullivan

CLERK OF THE COURT

MOTION TO DISMISS COUNSEL

AND

APPOINTMENT OF ALTERNATE COUNSEL

COMES NOW, THE DEFENDANT, PATRICK
NEWELL AND MOVES THIS HONORABLE COURT
TO DISMISS COUNSEL, CLARK COUNTY PUBLIC DEFENDER,
AND APPOINT ALTERNATE COUNSEL TO REPRESENT THE DEFENDANT.

THIS MOTION IS BASED UPON ALL
PAPERS, PLEADINGS AND DOCUMENTS ON
FILE. FACTUAL STATEMENTS ARE SET
FORTH IN THE POINTS AND AUTHORITIES
CONTAINED HEREIN.

POINTS AND AUTHORITIES

RECEIVED

W FEB 18 2014

CLERK OF THE COURT

1
2 THE DEFENDANT RESPECTFULLY
3 REQUESTS THIS HONORABLE COURT TO
4 GRANT THIS MOTION TO DISMISS COUNSEL
5 FOR THE REASONS LISTED BELOW:

6 I. PROCEDURAL BACKGROUND

7 SINCE THE CLARK COUNTY PUBLIC DEFENDER WAS
8 APPOINTED BY THIS COURT ON JANUARY 14,
9 2014, DEFENDANT PATRICK NEWELL HAS
10 BEEN PREJUDICED AND HAS SUFFERED MANI-
11 FEST INJUSTICE BASED ON COUNSEL'S
12 REFUSAL OR FAILURE TO:

13 1) COMMUNICATE WITH AND/OR VISIT WITH
14 THE DEFENDANT WHO IS CURRENTLY BEING HELD IN
15 CUSTODY AT THE CLARK COUNTY DETENTION CENTER.

16 2) INVESTIGATE, AS TO THE DEFENDANT'S
17 ORAL REQUESTS, A DEFENSE THAT MAY HELP TO
18 MITIGATE OR REDUCE HIS POSSIBLE SENTENCE.

19 3) SPEAK WITH THE DEFENDANT AT A
20 REASONABLE LENGTH AS TO ANY PLEA AGREE-
21 MENT BEING CONTEMPLATED BY HIM.

22 4) FORMULATE A MEANINGFUL DEFENSE
23 STRATEGY WITH THE DEFENDANT.

24 5) THOROUGHLY TAKE ALL POSSIBLE INVES-
25 TIGATIVE MEASURES IN THE INSTANT CASE AND NOT
26 USING ALL AVAILABLE RESOURCES TO ASSIST IN

1
2 OBTAINING A "FAIR" AND "EQUITABLE"
3 SENTENCE FOR DEFENDANT.

4 II. ARGUMENT

5 DEFENDANT, PATRICK NEWELL ASSERTS
6 HE IS BEING DENIED HIS RIGHT TO EFFECTIVE
7 REPRESENTATION DUE TO THE WHOLLY INADE-
8 QUATE ACTIONS OF HIS COURT-APPOINTED
9 COUNSEL. FURTHER, THE INNATE ACTION BY
10 COUNSEL COMPORTS TO NOTHING MORE THAN A
11 VIOLATION OF THE DEFENDANT'S RIGHT OF DUE
12 PROCESS UNDER LAW.

13 COUNSEL HAS FAILED TO COMMUNICATE
14 WITH THE DEFENDANT EITHER IN PERSON, BY
15 TELEPHONE OR BY MAIL. IN FACT, THE DEFENDANT
16 HAS HAD NO KNOWLEDGE OF WHICH COUNSEL, IF
17 ANY, HAS BEEN ASSIGNED TO HIS CASE.

18 DEFENDANT HAS TRIED NUMEROUS TIMES
19 TO CONTACT DIANNE DIXON, TEAM CHIEF TRACK 1,
20 AT THE OFFICE OF THE PUBLIC DEFENDER BY
21 TELEPHONING HER AT THE TELEPHONE NUMBER
22 SHE PROVIDED TO DEFENDANT ON JANUARY 14,
23 2014. THE DEFENDANT HAS BEEN UNABLE TO
24 REACH MS. DIXON TO ASCERTAIN WHO, IF ANY-
25 ONE, IS REPRESENTING HIM IN THE INSTANT
26 CASE. NO CONTACT RESULTED AFTER SO MANY ATTEMPTS.

1 THE COURT IS WELL-AWARE OF THE
2
3 DEFENDANT'S TRIAL DATE OF MARCH 17, 2014
4 AND QUERIED THE AFOREMENTIONED DIANNE
5 DIXON IN OPEN COURT AT THE TIME THE
6 COURT APPOINTED THE CLARK COUNTY PUBLIC
7 DEFENDER AS TO WHETHER HER OFFICE COULD
8 BE READY FOR TRIAL ON THE SAID DATE. MS.
9 DIXON AT THAT TIME STATED TO THE COURT THAT
10 "THERE SHOULDN'T BE ANY PROBLEM." AT THIS
11 TIME IT WOULD APPEAR UNLIKELY A DEFENSE
12 COULD BE MOUNTED WITH ONLY A SHORT
13 PERIOD OF TIME AVAILABLE ESPECIALLY IN
14 LIGHT OF MS. DIXON'S OFFICE FAILING TO
15 EVEN MAKE CONTACT WITH THE DEFENDANT.

16 THE DEFENDANT RAISED MANY OF THE
17 SAME ISSUES AND CONFLICTS BEFORE THIS
18 COURT WHEN HE ASKED THE COURT TO APPOINT
19 INDEPENDENT OUTSIDE COUNSEL TO
20 REPRESENT HIM IN THE INSTANT CASE.

21 ALTHOUGH THE COURT DENIED THE DEFENDANT'S
22 REQUEST TO APPOINT COUNSEL OUTSIDE OF
23 THE CLARK COUNTY PUBLIC DEFENDERS'
24 OFFICE, IT IS CLEARLY ENCUMBRANT UPON
25 THE COURT TO DO SO AT THIS TIME. THE
26 OFFICE OF THE CLARK COUNTY PUBLIC DEFENDER

1
2 HAS SHOWN NO INTEREST OR DESIRE TO SEE THE
3 DEFENDANT TO TRIAL WITHIN A REASONABLE LENGTH
4 OF TIME ALTHOUGH THIER OFFICE IS WELL AWARE
5 THAT THE DEFENDANT HAS SPENT ALMOST ONE (1)
6 YEAR IN CUSTODY AS OF MAY 3, 2014 AND THE
7 DEFENDANT HAS MADE EVERY EFFORT ON HIS OWN
8 TO MOVE HIS TRIAL TO A SWIFT RESOLUTION.

9 THE DEFENDANT HAD PREVIOUSLY FILED MOTIONS
10 WITH THIS HONORABLE COURT PRIOR TO THE
11 COURT APPOINTING THE CLARK COUNTY PUBLIC
12 DEFENDER TO REPRESENT THE DEFENDANT.

13 ALTHOUGH THE DEFENDANT'S MOTIONS WERE
14 PLACED ON THE COURT'S CALENDAR FOR A HEARING
15 BEFORE THIS HONORABLE COURT, THE DEFENDANT'S
16 MOTIONS WERE TAKEN OFF THE COURT'S
17 CALENDAR BY THE CLARK COUNTY PUBLIC
18 DEFENDER WHOSE ACTION WAS UNILATERAL
19 AND WAS TAKEN WITHOUT CONSULTING WITH
20 THE DEFENDANT OR OBTAINING HIS EXPRESSED
21 PERMISSION TO DO SO. BY TAKING UNILATERAL
22 ACTION, THE CLARK COUNTY PUBLIC DEFENDER
23 HAS BREACHED THIER RESPONSIBILITY TO THE
24 DEFENDANT AND HAS VIOLATED ANY ATTORNEY-
25 CLIENT RELATIONSHIP THAT MAY HAVE EXIST-
26 ED.

1
2 THE DEFENDANT HAS AN UNQUALIFIED RIGHT TO
3 LEGAL ASSISTANCE THAT EXPRESSES LOYALTY TO
4 SAID DEFENDANT. "THE RIGHT TO COUNSEL IS ALSO
5 THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL."
6 GUYLER V. SULLIVAN 100 S. CT. 1708 (1980); AND
7 FRAZIER V. U.S. 18 F. 3D 778 (9TH CIR. 1994).
8 THUS, THE ADVERSARIAL PROCESS PROTECTED BY THE
9 SIXTH AMENDMENT REQUIRES THAT THE ACCUSED
10 HAVE "COUNSEL ACTING IN THE ROLE OF AN ADVOCATE."
11 ANDERS V. CALIFORNIA, 87 S. CT. 1396 AND
12 1480 (1967).

13 A PARTY WHOSE COUNSEL IS UNABLE TO
14 PROVIDE EFFECTIVE OR ADEQUATE ASSISTANCE IS
15 NO BETTER THAN ONE WHO HAS NO COUNSEL AT ALL;
16 AND ANY APPEAL(S) WOULD BE FUTILE IN IT'S
17 GESTURE. EVITS V. LUCEY 105 S. CT. 830 (1985);
18 DOUGLAS V. CALIFORNIA, 83 S. CT. 814 (1963).

19 THE APPOINTED COUNSEL FOR THE
20 DEFENDANT HAS DONE NOTHING TO PROPERLY
21 REPRESENT HIM AND ON FEBRUARY 10, 2014,
22 AFTER ENLISTING THE ASSISTANCE OF HIS WIFE
23 WHO WAS FINALLY ABLE TO REACH MS. DIANNE
24 DIXON AT THE CLARK COUNTY PUBLIC DEFENDER'S
25 OFFICE, THE DEFENDANT WAS INFORMED
26 BY HIS WIFE THAT MS. DIXON HAD STATED

2 TO HER "DON'T WORRY, WE WERE JUST
3 APPOINTED AND THE JUDGE WILL GIVE US A
4 CONTINUANCE." THIS STATEMENT IS IN
5 DIRECT CONFLICT WITH THE REPRESENTATION
6 MS. DIXON MADE TO THIS COURT WHEN
7 QUERIED AS TO WHETHER OR NOT HER OFFICE
8 WOULD HAVE AN ADEQUATE AMOUNT OF TIME
9 TO PREPARE FOR THE DEFENDANT'S TRIAL
10 DATE. IT WOULD CERTAINLY SEEM THAT THE
11 SIXTY-ONE (61) DAYS BETWEEN THE TIME OF THE
12 COURT'S APPOINTMENT AND THE DEFENDANT'S
13 TRIAL DAY WOULD HAVE AND SHOULD HAVE BEEN
14 SUFFICIENT ESPECIALLY GIVEN THE FACT THE
15 CLARK COUNTY PUBLIC DEFENDERS' OFFICE HAD
16 PREVIOUSLY DONE, OR SHOULD HAVE DONE, A
17 SUBSTANTIAL AMOUNT OF WORK ON THE
18 INSTANT CASE IN THE MONTHS PRIOR TO THE
19 COURT'S APPOINTMENT IN JANUARY, 2014.

20 THEREFORE, FUNDAMENTAL FAIRNESS
21 REQUIRES THE ABOLITION OF PREJUDICE
22 WHICH THE DEFENDANT IS PRESENTLY
23 SUFFERING. THIS IS AN ACTUALITY THAT
24 THE LAW AND THIS HONORABLE COURT
25 MUST ADDRESS. ANYTHING SHORT OF
26 ABDICATION WOULD FURTHER A MANIFEST

1 OF INJUSTICE. THE "EFFECTIVENESS" OF
2 COUNSEL" IS AN INDIVIDUAL'S MOST
3 FUNDAMENTAL RIGHT, FOR WITHOUT IT,
4 EVERY OTHER RIGHT THE DEFENDANT HAS TO
5 ASSERT BECOMES AFFECTED.


6 WHEREFORE, THE DEFENDANT
7 PRAYS THIS HONORABLE COURT TO DISMISS
8 COUNSEL, CLARK COUNTY PUBLIC DEFENDER'S
9 OFFICE AND APPOINT ALTERNATE COUNSEL
10 TO REPRESENT THE DEFENDANT IN THE
11 INSTANT CASE.

12
13
14
15
16 DATED THIS 13TH day of FEBRUARY, 2014.

17 I, PATRICK NEWELL, do
18 solemnly swear, under the penalty of perjury, that
19 the above MOTION TO DISMISS COUNSEL is accurate,
20 correct, and true to the best of my knowledge.

21 NRS 171.102 and NRS 208.165.

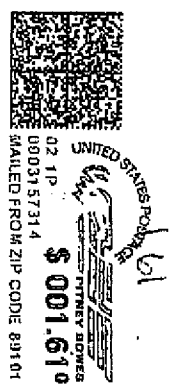
22 Respectfully submitted,

23 
24 PATRICK NEWELL
25 Defendant, IN PRO PER
26

PATRICK NEWELL
0002861099 7A/6L
Name/ID
Clark County Detention Center
330 S. Casino Center Blvd.
Las Vegas, NV 89101

STEVEN D GRIERSON
CLERK OF THE COURT
200 LEWIS AVENUE, 3RD FLOOR
LAS VEGAS, NV 89155-1160

TIME SENSITIVE LEGAL DOCUMENTS
FOR IMMEDIATE FILING



LEGAL
MAIL

IN THE SUPREME COURT OF THE STATE OF NEVADA

PATRICK NEWELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 64737
District Court Case No. C285825

FILED

FEB 26 2014

Tracie Lindeman
CLERK OF COURT

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Tracie Lindeman, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"ORDER this appeal DISMISSED."

Judgment, as quoted above, entered this 27th day of January, 2014.

C-12-285825-1
CCJD
NV Supreme Court Clerks Certificate/Judgm
3518312



IN WITNESS WHEREOF, I have subscribed
my name and affixed the seal of the Supreme
Court at my Office in Carson City, Nevada this
February 21, 2014.

Tracie Lindeman, Supreme Court Clerk

By: Rory Wunsch
Deputy Clerk



IN THE SUPREME COURT OF THE STATE OF NEVADA

PATRICK NEWELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 64737

FILED

JAN 27 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY [Signature]
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a purported district court order denying a pretrial demand for a speedy trial and a district court order denying a pretrial motion for bail reduction. Eighth Judicial District Court, Clark County; Jerome T. Tao, Judge.

We lack jurisdiction to consider this appeal because no statute or court rule provides for an appeal from such orders. *Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990). Therefore, we

ORDER this appeal DISMISSED.

[Signature], J.
Hardesty

[Signature], J.
Douglas

[Signature], J.
Cherry

cc: Hon. Jerome T. Tao, District Judge
Patrick Newell
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

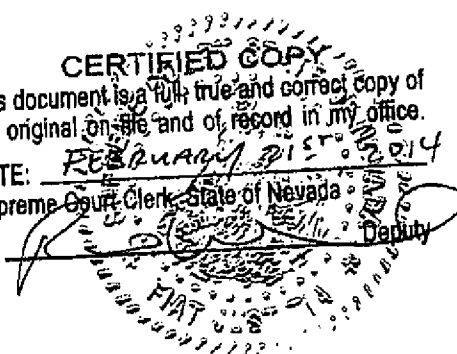


SUPREME COURT
OF
NEVADA

(C) 1974

14-02726

CERTIFIED COPY
This document is a full, true and correct copy of
the original on file and of record in my office.
DATE: FEBRUARY 21, 2014
Supreme Court Clerk, State of Nevada
By [Signature] Deputy



IN THE SUPREME COURT OF THE STATE OF NEVADA

PATRICK NEWELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 64737
District Court Case No. C285825

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.
Receipt for Remittitur.

DATE: February 21, 2014

Tracie Lindeman, Clerk of Court

By: Rory Wunsch
Deputy Clerk

cc (without enclosures):

Hon. Jerome T. Tao, District Judge
Clark County Public Defender
Clark County District Attorney
Attorney General/Carson City

RECEIPT FOR REMITTITUR

Received of Tracie Lindeman, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on FEB 26 2014.

HEATHER UNGERMANN

Deputy District Court Clerk


CLERK OF THE COURT

0026
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
SETH GUTIERREZ, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 12974
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
(702) 455-4685
Attorney for Defendant

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

PATRICK NEWELL,

Defendant.

CASE NO. C-12-285825-1

DEPT. NO.: XX

DATE: March 11, 2014

TIME: 8:30 A.M.

MOTION TO CONTINUE TRIAL DATE

COMES NOW the Defendant, PATRICK NEWELL, by and through his attorney, SETH GUTIERREZ, Deputy Public Defender, and respectfully moves this court for an order vacating the March 17, 2014 trial date and requesting a new trial setting on a date convenient to the court.

This Motion is made based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, Memorandum of Points and Authorities in support hereof, and oral argument at the time set for hearing this Motion.

DATED this 27th day of February, 2014.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By /s/ Seth Gutierrez
SETH GUTIERREZ, #12974
Deputy Public Defender

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DECLARATION

SETH GUTIERREZ makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and I am familiar with the facts and circumstances of this case.
2. That additional discover through our recent appointment to this case has revealed the need to subpoena additional medical records and obtain an expert witness to testify concerning those records.
3. That preparation for trial would be incomplete and potentially ineffective without the introduction of said records and testimony by the expert witness.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 27th day of February, 2014.

/s/ Seth Gutierrez
SETH GUTIERREZ

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NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff.

YOU WILL PLEASE TAKE NOTICE that the foregoing Motion to Continue Trial Date will be heard on March 11, 2014, at 8:30 a.m. in the Eighth Judicial District Court.

DATED this 27th day of February, 2014.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By /s/ Seth Gutierrez
SETH GUTIERREZ, #12974
Deputy Public Defender

CERTIFICATE OF SERVICE

I hereby certify that service of the above and foregoing Motion to Continue Trial Date was made via e-filing to Motions@clarkcountynyda.com, on this 27th day of February, 2014.

CLARK COUNTY PUBLIC DEFENDER

By /s/ Carolyn Gray
An employee of the Clark County Public Defender


CLERK OF THE COURT

1 **CARL E.G. ARNOLD, ESQ.**
2 Nevada Bar No. 008358
3 LVCEGA1@yahoo.com
4 1148 S. Maryland Parkway
5 Las Vegas, NV 89104
6 (702) 358-1138

7 *Attorney for Defendant*

8 DISTRICT COURT

9 COUNTY OF CLARK, STATE OF NEVADA

10 THE STATE OF NEVADA,

11 Plaintiff,

12 vs.

13 PATRICK NEWELL

14 Defendant.

Case No: C286T099

C285825X

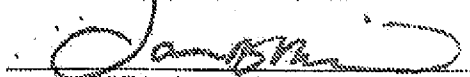
SUBSTITUTION OF ATTORNEY

15
16 Defendant PATRICK NEWELL hereby substitutes CARL E.G. ARNOLD, ESQ.,
17 Nevada Bar No. 008358, 1148 S. Maryland Parkway, Las Vegas, Nevada 89104, (702) 358-
18 1138, as attorney of record in place and stead of PUBLIC DEFENDER.
19

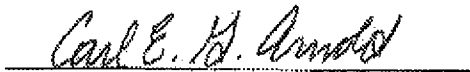
20
21 DATED this 3 day of APRIL, 2014


PATRICK NEWELL

22
23 DATED this 4 day of APRIL, 2014


PUBLIC DEFENDER

24
25 DATED this 3 day of APRIL, 2014


CARL E.G. ARNOLD, ESQ.

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STEVEN B. WOLFSON
Clark County District Attorney
Regional Justice Center
200 Lewis Avenue
P.O. Box 552212
Las Vegas, Nevada 89155


Employee of CARL E. G. ARNOLD

MC
DA
PP
Carl Arnold

DISTRICT COURT
CLARK COUNTY, NEVADA

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STATE OF NEVADA

Plaintiff,

vs.

PATRICK NEWELL

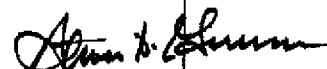
Defendant

) Case No.: C-12-285825-1

) Dept. No.: 20

) Docket No.: _____

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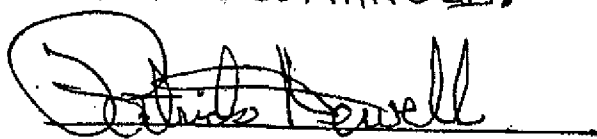
CLERK OF THE COURT

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NOTICE OF DISMISSAL
OF COUNSEL

NOTICE IS HEREBY GIVEN THAT PATRICK NEWELL, THE DEFENDANT ABOVE NAMED, HEREBY DISMISSES COUNSEL CARL E.G. ARNOLD, ESQ. AS DEFENDANT'S COUNSEL OF RECORD EFFECTIVE APRIL 18, 2014 AT 12:01 AM. DEFENDANT HEREBY STATES UNDER OATH THAT CARL E.G. ARNOLD HAS RECEIVED A VERBAL DISMISSAL AS OF APRIL 18, 2014 AND HAS INFORMED THE OFFICE OF THE PUBLIC DEFENDER OF THE DISMISSAL OF CARL E.G. ARNOLD.

DATED THIS 18TH DAY OF
APRIL, 2014.



PATRICK NEWELL, DEFENDANT
#0002861099 CCDC
330 CASINO CENTER BLVD
LAS VEGAS, NV 89101

RECEIVED

APR 29 2014

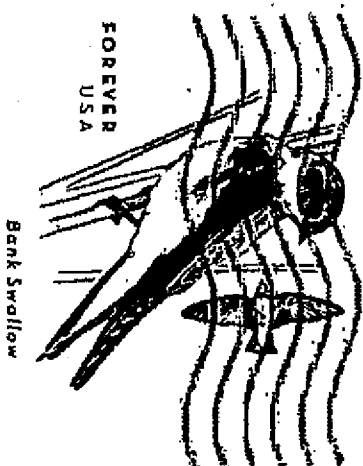
CLERK OF THE COURT

PATRICK NEWELL
#0002861099 4P/23
ECDC
350 CASINO CENTER BULD
LAS VEGAS, NV 89101

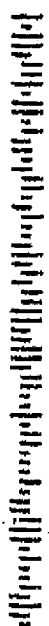
LEGAL MAIL

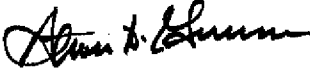
STEVEN D GRIERSON
CLERK OF THE COURT
200 LEWIS AVENUE, 3RD Floor
LAS VEGAS, NV 89155-1160

LAS VEGAS, NV 89155
24 APR 2014 PM 5 L



TIME-SENSITIVE DOCUMENTS
FOR IMMEDIATE FILING 01630000




CLERK OF THE COURT

1 **SLOW**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **HETTY O. WONG**
6 **Deputy District Attorney**
7 **Nevada Bar #011324**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 PATRICK NEWELL,
13 #2861099,
14 Defendant.

CASE NO: C-12-285825-1

DEPT NO: XX

SUPPLEMENTAL NOTICE OF WITNESSES
[NRS 174.234(1)(a)]

17 TO: PATRICK NEWELL, Defendant; and

18 TO: SETH GUTIERREZ, Deputy Public Defender, Counsel of Record:

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

21 <u>NAME</u>	<u>ADDRESS</u>
22 AQUINO, MAYRIE C.	LVMPD #13993
23 BEJARNO, THEODORE	C/O DISTRICT ATTORNEY'S OFFICE
24 CARLOS, ADAM	9457 S. Las Vegas Blvd. S. #143, LVN 89103
25 CHANDLER, JENNIFER	C/O DISTRICT ATTORNEY'S OFFICE
26 COREA, BRYANT	LVMPD #9389
27 CUSTODIAN OF RECORDS	CCDC
28	


1	CUSTODIAN OF RECORDS	CIRCLE K
2	CUSTODIAN OF RECORDS	LVMPD COMMUNICATIONS
3	CUSTODIAN OF RECORDS	LVMPD DISPATCH
4	CUSTODIAN OF RECORDS	LVMPD RECORDS
5	CUSTODIAN OF RECORDS	Southern Nevada Adult Mental Health or
6		Francisco Viado or Designee,
		616 W. Charleston Blvd., LVN 89146
7	CUSTODIAN OF RECORDS	UMC - Ki Washington or Designee,
8		1800 W. Charleston Blvd, LVN 89102
9	ESTRADA, CARLOS	CIRCLE K, 1130 W. Warner Rd. #B,
10		Tempe, AZ 85284
11	GACH, AARON	11686 Stivali Ave., LVN 89183
12	GRIGGS, BRYAN	AMR, 1130 S. Martin Luther King Blvd.,
13		LVN 89102
14	JACKSON, FLO	CIRCLE K, LVN
15	JOHNSON, KEVIN C.	LVMPD #2892
16	JONES, S.	AMR - PARAMEDIC #2723,
17		1130 Martin Luther King Blvd., LVN 89102
18	KNUDSON, BRETT JAMES	LVMPD #13903
19	KOWALSKI, BRIAN D.	LVMPD #8550
20	LEWIS, WILLIAM	1454 Pebble Rd. #2059, LVN 89123
21	MARRIOTT, DEBORAH	District Attorney Investigator
22	MARTINDALE, R.	AMR - PARAMEDIC
23		1130 Martin Luther King Blvd., LVN 89102
24	OZOBIA, NATHAN, DR.	UMC, 1800 W. Charleston Blvd., LVN
25		89102
26	PATTERSON, DEBRA	District Attorney Process Server
27	PHILLIPS, DERRICK,	SOUTHPOINT CASINO,
28		9777 Las Vegas Blvd. South, LVN 89183

1 RANDALL, CHAD W. LVMPD #13427
2 ROBERTS, VINCENT D. LVMPD 5714
3 ROMERO, ARTHUR, DR. UMC, 1800 W. Charleston Blvd., LVN
4 89102
5 SADEGHI, NICK, DR. UMC, 1800 W. Charleston Blvd., LVN
6 89102
7 SHAMIRZA, ALFRED District Attorney Process Server
8 SHEA, CHARLENE District Attorney Process Server
9 VIADO, FRANCISCA SO NV ADULT MENTAL HEALTH,
10 6161 W. Charleston Blvd., LVN 89146
11 WASHINGTON, KI OR DESIGNEE UMC, 1800 W. Charleston Blvd., LVN
12 89102
13 WEBER, RACHEL, DR. UMC, 1800 W. Charleston Blvd., LVN
14 89102
15 WHITMIRE, MARK CIRCLE K, 1130 W. Warner Rd. #B
16 Tempe, AZ 85284

17 These witnesses are in addition to those witnesses endorsed on the Information and any
18 other witness for which a separate Notice has been filed.
19

20 STEVEN B. WOLFSON
21 Clark County District Attorney
22 Nevada Bar # 001565

23 BY

24 
25 HETTY O. WONG
26 Deputy District Attorney
27 Nevada Bar # 011324
28

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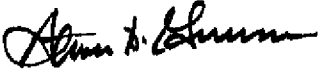
CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that service of Supplemental Notice of Witnesses, was made this
5th day of June, 2014, by facsimile transmission to:

SETH GUTIERREZ, Deputy Public Defender
FAX #702-366-1177

BY: Theresa Dodson
Theresa Dodson
Secretary for the District Attorney's Office

td/dvu


CLERK OF THE COURT

1 NOTC
2 PHILIP J. KOHN, PUBLIC DEFENDER
3 NEVADA BAR NO. 0556
4 SETH GUTIERREZ, DEPUTY PUBLIC DEFENDER
5 NEVADA BAR NO. 12974
6 309 South Third Street, Suite #226
7 Las Vegas, Nevada 89155
8 (702) 455-4685
9 Attorney for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,)
11)
12 Plaintiff,)
13)
14 v.)
15 PATRICK NEWELL,)
16)
17 Defendant.)

CASE NO. C-12-285825-1
DEPT. NO. XX

DEFENDANT'S NOTICE OF WITNESSES, PURSUANT TO NRS 174.234

TO: CLARK COUNTY DISTRICT ATTORNEY:

You, and each of you, will please take notice that the Defendant, PATRICK NEWELL, intends to call, in addition to those previously noticed by the State, the following witness in his case in chief:

<u>NAME</u>	<u>ADDRESS</u>
Newell, Patricia	C/O Public Defender Office
All Officers and Witnesses Identified under LVMPD Event #: 960329-0108	

DATED this 9th day of June, 2014.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Seth Gutierrez
SETH GUTIERREZ, #12974
Deputy Public Defender

CERTIFICATE OF SERVICE

I hereby certify that service of the above and foregoing Notice was made via e-filing to Motions@clarkcountyda.com on this 9th day of June, 2014.

CLARK COUNTY PUBLIC DEFENDER

By: /s/ Carolyn Gray
An employee of the Clark County Public Defender

Case Name: Patrick Newell
Case No.: C-14-285825-1
Dept. No.: XX

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Defendant.

DISTRICT COURT JUDGE

309

ORIGINAL

INFM
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
HETTY O. WONG
Deputy District Attorney
Nevada Bar #011324
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

JUN 16 2014

BY Linda Skinner
LINDA SKINNER, DEPUTY

I.A. 12/04/12
10:30 AM
D. SHEETS

DISTRICT COURT
CLARK COUNTY, NEVADA

C-12-285825-1
AINF
Amended Information
3916580



THE STATE OF NEVADA,
Plaintiff,

Case No: C-12-285825-1
Dept No: XX

-vs-

PATRICK NEWELL,
#2861099,

Defendant.

AMENDED
INFORMATION

STATE OF NEVADA }
COUNTY OF CLARK } ss.

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

That PATRICK NEWELL, the Defendant(s) above named, having committed the crimes of **ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165); BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony - NRS 200.481.2e); ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471) and PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS OR PROPERTY (Category C Felony - NRS 202.595)**, on or about the 10th day of October, 2012, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and

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dignity of the State of Nevada,

COUNT 1 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

did then and there, without authority of law, and malice aforethought, willfully and feloniously attempt to kill THEODORE BEJARANO, a human being, by spraying the said THEODORE BEJARANO with gasoline and using a lighter to ignite the said THEODORE BEJARANO and/or set the said THEODORE BEJARANO on fire, with a deadly weapon, to-wit: gasoline and a lighter/open flame.

COUNT 2 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM

did then and there wilfully, unlawfully and feloniously use force or violence upon the person of another, to-wit: THEODORE BEJARANO, with use of a deadly weapon, to-wit: gasoline and/or lighter/open flame, by spraying gasoline on the said THEODORE BEJARANO and using a lighter to ignite the said THEODORE BEJARANO on fire, resulting in substantial bodily harm to the said THEODORE BEJARANO.

COUNT 3 - ASSAULT WITH A DEADLY WEAPON

did then and there wilfully, unlawfully, feloniously and intentionally place another person in reasonable apprehension of immediate bodily harm and/or did unlawfully attempt to use physical force against another person, to-wit: THEODORE BEJARANO, with use of a deadly weapon, to-wit: a knife, by brandishing said knife and threatening to cut the said THEODORE BEJARANO.

COUNT 4 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS OR PROPERTY

did then and there willfully and unlawfully perform an act in willful or wanton disregard of the safety of persons or property, in the following manner, to-wit: by spraying the said THEODORE BEJARANO with gasoline and igniting a fire in close proximity to the

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1 body of said THEODORE BEJARANO, causing the said THEODORE BEJARANO to
2 become engulfed in flames, resulting in substantial bodily harm to the said THEODORE
3 BEJARANO.

4
5 STEVEN B. WOLFSON
6 Clark County District Attorney
7 Nevada Bar #001565

8 BY /s/Hetty O. Wong
9 HETTY O. WONG
10 Deputy District Attorney
11 Nevada Bar #011324
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26 DA#12F16477X/td/L-4
27 LVMPD EV#1210100143
28 (TK1)

ORIGINAL

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

JUN 19 2014

BY Linda Skinner
LINDA SKINNER, DEPUTY

AINF
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
HETTY O. WONG
Deputy District Attorney
Nevada Bar #011324
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

I.A. 12/04/12
10:30 AM
D. SHEETS

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

Case No: C-12-285825-1
Dept No: XX

-vs-

PATRICK NEWELL,
#2861099,

SECOND AMENDED
INFORMATION

Defendant.

STATE OF NEVADA }
COUNTY OF CLARK } ss.

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

That PATRICK NEWELL, the Defendant(s) above named, having committed the crimes of ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165); BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony - NRS 200.481.2e); ATTEMPT ASSAULT WITH A DEADLY WEAPON (Category C Felony - NRS 200.471) and PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS OR PROPERTY (Category C Felony - NRS 202.595), on or about the 10th day of October, 2012, within the County of Clark, State of Nevada,

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C-12-285825-1
AINF
Amended Information
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contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

COUNT 1 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

did then and there, without authority of law, and malice aforethought, willfully and feloniously attempt to kill THEODORE BEJARANO, a human being, by spraying the said THEODORE BEJARANO with gasoline and using a lighter to ignite the said THEODORE BEJARANO and/or set the said THEODORE BEJARANO on fire, with a deadly weapon, to-wit: gasoline and a lighter/open flame.

COUNT 2 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM

did then and there wilfully, unlawfully and feloniously use force or violence upon the person of another, to-wit: THEODORE BEJARANO, with use of a deadly weapon, to-wit: gasoline and/or lighter/open flame, by spraying gasoline on the said THEODORE BEJARANO and using a lighter to ignite the said THEODORE BEJARANO on fire, resulting in substantial bodily harm to the said THEODORE BEJARANO.

COUNT 3 - ATTEMPT ASSAULT WITH A DEADLY WEAPON

did then and there wilfully, unlawfully, feloniously and intentionally attempt to place another person in reasonable apprehension of immediate bodily harm, to-wit: THEODORE BEJARANO, with use of a deadly weapon, to-wit: a knife, by brandishing said knife and threatening to cut the said THEODORE BEJARANO.

COUNT 4 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS OR PROPERTY

did then and there willfully and unlawfully perform an act in willful or wanton disregard of the safety of persons or property, in the following manner, to-wit: by spraying the said THEODORE BEJARANO with gasoline and igniting a fire in close proximity to the

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///

1 body of said THEODORE BEJARANO, causing the said THEODORE BEJARANO to
2 become engulfed in flames, resulting in substantial bodily harm to the said THEODORE
3 BEJARANO.

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

7
8 BY. /s/Hetty O. Wong
9 HETTY O. WONG
Deputy District Attorney
Nevada Bar #011324

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26 DA#12F16477X/td/L-4
LVMPD EV#1210100143
27 (TK1)

1 INST

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

JUN 19 2014

4 BY Linda Skinner
LINDA SKINNER, DEPUTY 5:38 PM

6 DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 PATRICK NEWELL,

12 Defendant.

CASE NO: C-12-285825-1

DEPT NO: XX

13 INSTRUCTIONS TO THE JURY (INSTRUCTION NO. 1)

14 MEMBERS OF THE JURY:

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

18 You must not be concerned with the wisdom of any rule of law stated in these
19 instructions. Regardless of any opinion you may have as to what the law ought to be, it
20 would be a violation of your oath to base a verdict upon any other view of the law than that
21 given in the instructions of the Court.
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C-12-285825-1
INST
Instructions to the Jury
3934811



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 order in which the instructions are given has no significance as to their relative importance.

A Second Amended Information is but a formal method of accusing a person of a crime and is not of itself any evidence of his guilt.

In this case, it is charged in a Second Amended Information that on or about the 10th day of October, 2012, the Defendant committed the offenses of ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Felony - NRS 200.010, 200.030, 193.330, 193.165); BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Felony - NRS 200.481.2e); ATTEMPT ASSAULT WITH A DEADLY WEAPON (Felony - NRS 200.471) and PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS OR PROPERTY (Felony - NRS 202.595), at and within the County of Clark, State of Nevada contrary to the form, force, and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada, as follows:

COUNT 1 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

did then and there, without authority of law, and malice aforethought, willfully and feloniously attempt to kill THEODORE BEJARANO, a human being, by spraying the said THEODORE BEJARANO with gasoline and using a lighter to ignite the said THEODORE BEJARANO and/or set the said THEODORE BEJARANO on fire, with a deadly weapon, to-wit: gasoline and a lighter/open flame.

COUNT 2 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM

did then and there wilfully, unlawfully and feloniously use force or violence upon the person of another, to-wit: THEODORE BEJARANO, with use of a deadly weapon, to-wit: gasoline and/or lighter/open flame, by spraying gasoline on the said THEODORE BEJARANO and using a lighter to ignite the said THEODORE BEJARANO on fire, resulting in substantial bodily harm to the said THEODORE BEJARANO.

COUNT 3 - ATTEMPT ASSAULT WITH A DEADLY WEAPON

1 did then and there wilfully, unlawfully, feloniously and intentionally attempt to
2 place another person in reasonable apprehension of immediate bodily harm, to-wit:
3 THEODORE BEJARANO, with use of a deadly weapon, to-wit: a knife, by brandishing
4 said knife and threatening to cut the said THEODORE BEJARANO.

5 COUNT 4 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS OR
6 PROPERTY

7 did then and there willfully and unlawfully perform an act in willful or wanton
8 disregard of the safety of persons or property, in the following manner, to-wit: by spraying
9 the said THEODORE BEJARANO with gasoline and igniting a fire in close proximity to the
10 body of said THEODORE BEJARANO, causing the said THEODORE BEJARANO to
11 become engulfed in flames, resulting in substantial bodily harm to the said THEODORE
12 BEJARANO.

13
14 It is the duty of the jury to apply the rules of law contained in these instructions to the
15 facts of the case and determine whether or not the Defendant is guilty of the offense charged.

16 Each charge and the evidence pertaining to it should be considered separately. The
17 fact that you may find the Defendant guilty or not guilty as to one of the offenses charged
18 should not control your verdict as to any other offense charged.

1
2 To constitute the crime charged, there must exist a union or joint operation of an act
3 forbidden by law and an intent to do the act.

4 The intent with which an act is done is shown by the facts and circumstances
5 surrounding the case.

6 Do not confuse intent with motive. Motive is what prompts a person to act. Intent
7 refers only to the state of mind with which the act is done.

8 Motive is not an element of the crime charged and the State is not required to prove a
9 motive on the part of the Defendant in order to convict. However, you may consider
10 evidence of motive or lack of motive as a circumstance in the case.

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2 The Defendant is presumed innocent until the contrary is proved by competent
3 evidence beyond a reasonable doubt. This presumption places upon the State the burden of
4 proving beyond a reasonable doubt every material element of the crime charged and that the
5 Defendant is the person who committed the offense.

6 A reasonable doubt is one based on reason. It is not mere possible doubt but is such a
7 doubt as would govern or control a person in the more weighty affairs of life. If the minds of
8 the jurors, after the entire comparison and consideration of all the evidence, are in such a
9 condition that they can say they feel an abiding conviction of the truth of the charge, there is
10 not a reasonable doubt. Doubt to be reasonable must be actual, not mere possibility or
11 speculation.

12 If you have a reasonable doubt as to the guilt of the Defendant, he is entitled to a
13 verdict of not guilty.
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2 The evidence which you are to consider in this case consists of the testimony of the
3 witnesses, the exhibits, and any facts admitted or agreed to by counsel.

4 There are two types of evidence; direct and circumstantial. Direct evidence is the
5 testimony of a person who claims to have personal knowledge of the commission of the
6 crime which has been charged, such as an eyewitness. Circumstantial evidence is the proof
7 of a chain of facts and circumstances which tend to show whether the Defendant is guilty or
8 not guilty. The law makes no distinction between the weight to be given either direct or
9 circumstantial evidence. Therefore, all of the evidence in the case, including the
10 circumstantial evidence, should be considered by you in arriving at your verdict.

11 Statements, arguments and opinions of counsel are not evidence in the case.
12 However, if the attorneys stipulate to the existence of a fact, you must accept the stipulation
13 as evidence and regard that fact as proved.

14 You must not speculate to be true any insinuations suggested by a question asked a
15 witness. A question is not evidence and may be considered only as it supplies meaning to
16 the answer.

17 You must disregard any evidence to which an objection was sustained by the court
18 and any evidence ordered stricken by the court.

19 Anything you may have seen or heard outside the courtroom is not evidence and must
20 also be disregarded.

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2 In deciding what the facts are, you may have to decide what testimony you believe
3 and what testimony you do not believe. You may believe all of what a witness said, or only
4 part of it, or none of it.

5 In deciding what testimony to believe, consider the witness' intelligence, the
6 opportunity the witness had to have seen or heard the things testified about, the witness'
7 memory, any motives that witness may have for testifying a certain way, the manner of the
8 witness while testifying, whether that witness said something different at an earlier time, the
9 general reasonableness of the testimony, and the extent to which the testimony is consistent
10 with any other evidence that you believe.

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

15 If you believe that a witness has lied about any material fact in the case, you may
16 disregard the entire testimony of that witness or any portion of his testimony which is not
17 proved by other evidence.
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INSTRUCTION NO. 8

Attempt murder is the performance of an act or acts which tend, but fail, to kill a human being, when such acts are done with express malice, namely, with the deliberate intention unlawfully to kill.

INSTRUCTION NO. 9

Malice aforethought, as used in the definition of Attempt Murder, means the intentional attempt to kill another human being without legal cause, legal excuse or what the law considers adequate provocation.

It is not necessary to prove the elements of premeditation and deliberation in order to prove attempt murder.

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INSTRUCTION NO. 11

The intention to kill may be ascertained or deduced from all the facts and circumstances, such as the use of a weapon calculated to produce death, the manner of its use, and the attendant circumstances characterizing the act.

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INSTRUCTION NO. 12

If the state has failed to prove beyond a reasonable doubt the specific intent to kill then the Defendant is entitled to a verdict of not guilty as to the charge of attempted murder.

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INSTRUCTION NO. 13

If you find the Defendant guilty of Attempt Murder, you must also determine whether or not a deadly weapon was used in the commission of a crime.

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2 "Deadly weapon" means any instrument which, if used in the ordinary manner
3 contemplated by its design and construction, will or is likely to cause substantial bodily harm
4 or death; any weapon, device, instrument, material, or substance which, under the
5 circumstances in which it is used, attempted to be used, or threatened to be used, is readily
6 capable of causing substantial bodily harm or death.
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“Substantial bodily harm” is:

- (1) bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ; or
- (2) prolonged physical pain.

The phrase "prolonged physical pain" encompass some physical suffering or injury that lasts longer than the pain immediately resulting from the wrongful act.

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2 If you find beyond a reasonable doubt that the Defendant committed Attempt Murder
3 with the Use of a Deadly Weapon, then you are instructed that the verdict of Attempt Murder
4 with the Use of a Deadly Weapon is the appropriate verdict.

5 If, however, you find that a deadly weapon was not used in the commission of the
6 Attempt Murder, but you do find that an Attempt Murder was committed, then you are
7 instructed that the verdict of Attempt Murder without the Use of a Deadly Weapon is the
8 appropriate verdict.

9 You are instructed that you cannot return a verdict of both Attempt Murder with the
10 Use of a Deadly Weapon and Attempt Murder without the Use of a Deadly Weapon.
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Battery means any willful and unlawful use of force or violence upon the person of another.

Any harmful or offensive unconsented touching, however slight, constitutes sufficient force or violence upon the person of another.

Battery With Use of a Deadly Weapon means any willful and unlawful use of force or violence upon the person of another with the use of a deadly weapon.

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2 If you find beyond a reasonable doubt that the Defendant committed Battery With
3 Use of a Deadly Weapon Resulting in Substantial Bodily Harm, then you are instructed that
4 the verdict of Battery With Use of a Deadly Weapon Resulting in Substantial Bodily Harm is
5 the appropriate verdict.

6 If you find that substantial bodily harm did not result, but that a battery with use of a
7 deadly weapon was committed, then you are instructed that the appropriate verdict is Battery
8 With Use of a Deadly Weapon.

9 If you find that a deadly weapon was not used in the commission of the Battery, but
10 that substantial bodily harm resulted, then you are instructed that the verdict of Battery
11 Resulting in Substantial Bodily Harm is the appropriate verdict.

12 If you find that a battery occurred, but a deadly weapon was not used and the battery
13 did not result in substantial bodily harm, then you are instructed that the appropriate verdict
14 is Battery.

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The elements of an attempt to commit a crime are:

- 1) The intent to commit the crime;
- 2) Performance of some act towards its commission; and
- 3) Failure to consummate its commission.

An Assault is the unlawful and intentional placing of another person in reasonable apprehension of immediate bodily harm.

To constitute an assault, it is not necessary that any actual injury be inflicted.

An Assault With a Deadly Weapon is the unlawful and intentional placing of another person in reasonable apprehension of immediate bodily harm, with the use of a deadly weapon.

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2 If you find beyond a reasonable doubt that the Defendant committed Attempt Assault
3 With the Use of a Deadly Weapon, then you are instructed that the verdict of Attempt
4 Assault With the Use of a Deadly Weapon is the appropriate verdict.

5 If, however, you find that a deadly weapon was not used in the commission of the
6 Attempt Assault, but you do find that an Attempt Assault was committed, then you are
7 instructed that the verdict of Attempt Assault is the appropriate verdict.

8 You are instructed that you cannot return a verdict of both Attempt Assault With the
9 Use of a Deadly Weapon and Attempt Assault.
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INSTRUCTION NO. 23

A person who performs any act or neglects any duty imposed by law in willful or wanton disregard of the safety of persons or property that results in substantial bodily harm or death is guilty of Performance of Act in Reckless Disregard of Persons or Property.

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The word "wanton", as used in these instructions, includes the elements of consciousness of conduct, intent to do or omit the act in question, realization of the probable injury to another, and reckless disregard of the consequences.

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If evidence of self-defense is present, the State must prove beyond a reasonable doubt that the Defendant did not act in self-defense. If you find that the State has failed to prove beyond a reasonable doubt that the Defendant did not act in self-defense, you must find the Defendant not guilty.

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The use of force as contemplated in these instructions includes the immediate threat of force as well as actual physical force

INSTRUCTION NO. 27

Use of force against another person in self-defense is justified and not unlawful when the person who uses or attempts to use force actually and reasonably believes:

1. That there is imminent danger that the assailant will either kill him or cause him great bodily injury; and

2. That it is absolutely necessary under the circumstances for him to use in self-defense force or means that might cause substantial bodily harm or death of the other person, for the purpose of avoiding death or great bodily injury to himself or others.

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2 The Defendant is not entitled to the right of self-defense if the State has proven
3 beyond a reasonable doubt that he was the original aggressor, that is a person who has
4 sought a quarrel with the design to force a deadly issue and thus, through his fraud,
5 contrivance, or fault, to create a real or apparent necessity for making a felonious assault.

6 However, where a person without voluntarily seeking, provoking, inviting, or
7 willingly engaging in a difficulty of his own free will, is attacked by an assailant, he has the
8 right to stand his ground and need not retreat when faced with the threat of deadly force.
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The law does not justify the use of a greater degree of force than is reasonably necessary nor does it justify a person who has been acting in self-defense in the infliction of further injuries upon his assailant after there is no longer any apparent danger.

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The right of self-defense exists only as long as the real or apparent threatened danger continues to exist. When such danger ceases to appear to exist, the right to use force in self-defense ends.

A bare fear of death or great bodily injury is not sufficient to justify a battery. To justify battering another in self-defense, the circumstances must be sufficient to excite the fears of a reasonable person placed in a similar situation. The person battering must act under the influence of those fears alone and not in revenge.

Actual danger is not necessary to justify a battery with use of deadly weapon in self-defense. A person has a right to defend from apparent danger to the same extent as he would from actual danger. The person battering is justified if:

1. He is confronted by the appearance of imminent danger which arouses in his mind an honest belief and fear that he is about to be killed or suffer great bodily injury; and
2. He acts solely upon these appearances and his fear and actual beliefs; and
3. A reasonable person in a similar situation would believe himself to be in like danger.

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2 If a person acts in self-defense, it must appear that the danger was so urgent and
3 pressing that, in order to save his own life, or to prevent his receiving great bodily harm, the
4 battering of the other with a use of a deadly weapon was absolutely necessary; and the
5 person battered was the assailant, or that the batterer had really, and in good faith,
6 endeavored to decline any further struggle before the deadly blow was given.
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Justifiable battery is the battery of a human being, which does not result in death and is necessary for self-defense, when there is reasonable ground to apprehend a design on the part of the person injured to do some great personal injury to the person inflicting the injury.

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1 The use or attempt to use force or violence upon or towards the person of another is
2 not unlawful, when committed by a person preventing or attempting to prevent a trespass or
3 other unlawful interference with real or personal property in his lawful possession, provided
4 the force or violence used is not more than sufficient to prevent such offense, or more than
5 seemed to a reasonable man under the circumstances to be necessary.
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2 A private person may arrest another person for a public offense which was committed
3 or attempted in the arrestor's presence. A private person may only use such force as is
4 reasonable and necessary under the circumstances to effect the arrest, but under no
5 circumstances may actual deadly force be used unless the arrestee poses a threat of serious
6 bodily injury to the private arrestor or others.
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2 Justifiable battery is the battery of a human being when there is reasonable ground to
3 apprehend a design on the part of the person battered to commit a felony and there is
4 imminent danger of such a design being accomplished. This is true even if deadly force is
5 used. The amount of force used to effectuate the battery must be reasonable and necessary
6 under the circumstances. Deadly force cannot be used unless the person battered poses a
7 threat of serious bodily injury.

8 The felony that the Defendant alleges occurred was the crime of Coercion, which is
9 defined as follows:

10 It is unlawful for a person to use the immediate threat of physical force, with the
11 intent to compel another to do or abstain from doing an act which the other person has a right
12 to do or abstain from doing, to:

13 (a) Use violence or inflict injury upon the other person or any of the other person's
14 family, or upon the other person's property, or threaten such violence or injury;

15 (b) Deprive the person of any tool, implement or clothing, or hinder the person in the
16 use thereof.

17 (c) Attempt to intimidate the person by threats or force.
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with respect
to Count 4
INSTRUCTION NO. 38

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2 The Defendant contends that he acted out of necessity. Necessity legally excuses the
3 crime charged.

4 The Defendant must prove necessity by a preponderance of the evidence. A
5 preponderance of the evidence means that you must be persuaded that the things the
6 Defendant seeks to prove are more probably true than not true. This is a lesser burden of
7 proof than the government's burden to prove beyond a reasonable doubt each element of the
8 crimes charges.

9 A Defendant acts out of necessity only if at the time of the crime charged:

- 10 (1) the Defendant was faced with a choice of evils and chose the lesser evil;
11 (2) the Defendant acted to prevent imminent harm;
12 (3) the Deendant reasonably anticipated his conduct would prevent such harm;
13 (4) there were no other legal alternatives to violating the law; and
14 (5) the Defendant surrendered to authorities as soon as it was safe to do so.

15 If you find that each of these things have be^en proved by a preponderance of the evidence, you
16 must find the Defendant not guilty.
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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 sympathy, prejudice or public opinion. Your
9 decision should be the product of sincere judgment and sound discretion in accordance with
10 these rules of law.
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INSTRUCTION NO. 40

In your deliberation you may not discuss or consider the subject of punishment, as that is a matter which lies solely with the court. Your duty is confined to the determination of whether the Defendant is guilty or not guilty.

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When you retire to consider your verdict, you must select one of your number to act as foreperson who will preside over your deliberation and will be your spokesperson here in court.

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. As soon as you have agreed upon a verdict, have it signed and dated by your foreperson and then return with it to this room.

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2 If, during your deliberation, you should desire to be further informed on any point of
3 law or hear again portions of the testimony, you must reduce your request to writing signed
4 by the foreperson. The officer will then return you to court where the information sought
5 will be given you in the presence of, and after notice to, the district attorney and the
6 defendant and his counsel.

7 Playbacks of testimony are time-consuming and are not encouraged unless you deem
8 it a necessity. Should you require a playback, you must carefully describe the testimony to
9 be played back so that the court recorder can arrange his/her notes. Remember, the court is
10 not at liberty to supplement the evidence.

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

GIVEN:


DISTRICT JUDGE

JUNE 19, 2014

PATRICK NEWELL,) No. 66552
)
 Appellant,)
)
 vi.)
)
 THE STATE OF NEVADA,)
)
 Respondent.)

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