

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

2
3 PATRICK NEWELL,)

No. 66552

4 Appellant,)

5 v.)

6 THE STATE OF NEVADA,)

7 Respondent.)

Electronically Filed
Dec 16 2014 08:33 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

8
9)
10)
11)
12)
13)
14)
15)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)
26)
27)
28)
APPELLANT'S APPENDIX VOLUME III PAGES 360-525

11 PHILIP J. KOHN
12 Clark County Public Defender
13 309 South Third Street
14 Las Vegas, Nevada 89155-2610

15 Attorney for Appellant

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

INDEX
PATRICK NEWELL
Case No. 66552

	<u>PAGE NO.</u>
Amended Criminal Complaint filed 11/26/2012	003-004
Amended Information filed 06/16/2014	310-312
Bail Bond filed 02/20/2013	192-195
Criminal Complaint filed 10/11/2012.....	001-002
Defendant's Notice of Witnesses, Pursuant to NRS 174.234 filed 06/09/2014	307-308
Demand for a Speedy Trial filed 11/19/2013	219-220
District Court Minutes from 12/04/2012 through 08/21/2014	368-405
Ex Parte Motion for Release of Medical Records filed 12/18/2012.....	170-171
Ex Parte Motion for Release of Medical Records filed 04/08/2013.....	196-197
Ex Parte Order for Release of Records filed 06/10/2014	309
Information filed 11/30/2012.....	005-008
Instructions to the Jury filed 06/16/2014	316-359
Judgment of Conviction filed 08/29/2014.....	362-363
Justice Court Minutes from 10/12/2012 through 11/27/2012	009-013
Memorandum to Defendant's Motion for Summary Judgment to Compel Discovery filed 01/13/2014.....	269-271
Motion for OR Release or, in the Alternative, Motion to Reduce Bail filed 11/07/2012	018-023
Motion for OR Release or, in the Alternative, Motion to Reduce Bail filed 12/26/2012	174-178
Motion for Reduction in Bail filed 11/06/2013	212-217
Motion for Summary Judgment to Compel Discovery filed 12/26/2013	229-238
Motion to Appoint Counsel filed 01/21/2014.....	273-276
Motion to Continue Trial Date filed 02/27/2014.....	296-298
Motion to Dismiss Counsel and Appointment of Alternate Counsel filed 02/18/2014....	283-291
Motion to Dismiss Counsel and Permit Defendant to Proceed in Pro Per filed 10/15/2013.....	203-210
///	

1	Motion to Dismiss Standby Counsel and Appoint Alternate Standby Counsel filed 01/13/2014..	262-268
2	Motion to Shorten Time filed 01/06/2014.....	255-260
3	Motion to Withdraw as Counsel filed 09/09/2013	200-202
4	Motion to Withdraw as Counsel of Record filed 01/03/2013	187-191
5	Notice of Appeal filed 01/02/2014.....	251-253
6	Notice of Appeal filed 09/19/2014.....	364-367
7	Notice of Confirmation of Counsel filed 11/05/2012.....	014
8	Notice of Dismissal of Counsel filed 04/29/2014	301-302
9	Notice of Expert Witnesses filed 01/31/2014.....	280-281
10	Notice of Motion filed 11/06/2013.....	211
11	Notice of Motion filed 11/19/2013	218
12	Notice of Motion filed 12/26/2013.....	248
13	Notice of Motion filed 12/26/2013.....	249-250
14	Notice of Motion filed 01/06/2014.....	254
15	Notice of Motion filed 01/13/2014.....	261
16	Notice of Motion filed 01/21/2014.....	272
17	Notice of Motion filed 02/18/2014.....	282
18	Notice of Witnesses filed 01/31/2014	277-279
19	Notice to Place on Calendar filed 11/19/2012.....	024
20	Order Releasing Medical Records filed 12/18/2012	172-173
21	Order Releasing Medical Records filed 04/11/2013	198-199
22	Rebuttal to State's Opposition to Defendant's Motion for a Reduction in Bail Amount filed	
23	12/26/2013	239-247
24	Reporter's Transcript of Preliminary Hearing heard 11/27/2012.....	025-169
25	Second Amended Information filed 06/19/2014.....	313-315
26	State's Opposition to Defendant's Motion for OR Release or, in the Alternative, Motion to	
27	Reduce Bail filed 01/02/2013	179-186
28	State's Opposition to Defendant's Motion for Reduction in Bail filed 11/21/2013.....	221-228
	///	

1	Substitution of Attorney filed 04/04/2014	299-300
2	Substitution of Attorneys filed 11/07/2012	015-017
3	Supplemental Notice of Wintesses filed 06/05/2014	303-306
4	Supreme Court Order Dismissing Appeal filed 02/26/2014	292-295
5	Verdict filed 06/19/2014.....	360-361

TRANSCRIPTS

8	Recorder's Rough Draft Transcript of Proceedings, Jury Trial—Day One	
9	Date of Hrg: 06/16/2014.....	583-767
10	Recorder's Rough Draft Transcript of Proceedings, Jury Trial—Day Two	
11	Date of Hrg: 06/17/2014.....	768-936
12	Recorder's Rough Draft Transcript of Proceedings, Jury Trial—Day Three	
13	Date of Hrg: 06/18/2014.....	937-1169
14	Recorder's Rough Draft Transcript of Proceedings, Jury Trial—Day Four	
15	Date of Hrg: 06/19/2014.....	1170-1278
16	Recorder's Transcript of Hearing, Arraignment	
17	Date of Hrg: 12/04/2012.....	406-408
18	Rough Draft Recorder's Transcript, Calendar Call	
19	Date of Hrg: 06/10/2014.....	526-535
20	Rough Draft Recorder's Transcript, Calendar Call and Defendant's Motion to Continue Trial Date	
21	Date of Hrg: 03/11/2014.....	504-506
22	Rough Draft Recorder's Transcript, Calendar Call and Motion in Limine	
23	Date of Hrg: 06/12/2014.....	536-582
24	Rough Draft Recorder's Transcript, Damian R. Sheets, Esq's Motion to Withdraw as Counsel of Record	
25	Date of Hrg: 02/05/2013.....	419-422
26	Rough Draft Recorder's Transcript, Damian R. Sheets, Esq's Motion to Withdraw as Counsel of Record; Defendant's Motion for OR Release or, in the Alternative, Motion to Reduce Bail; and Calendar Call	
27	Date of Hrg: 01/15/2013.....	409-418
28		

1	Rough Draft Recorder's Transcript, Defendant's Pro Se Demand for Speedy Trial; Status Check: Discovery	
2	Date of Hrg: 12/31/2013.....	481-493
3	Rough Draft Recorder's Transcript, Defendant's Pro Se Demand for Speedy Trial; Status Check: Discovery; and Defendant's Pro Se	
4	Motion for Reduction in Bail	
5	Date of Hrg: 12/03/2013.....	473-476
6	Rough Draft Recorder's Transcript, Defendant's Pro Se Demand for Speedy Trial; Status Check: Discovery; and Defendant's Pro Se	
7	Motion for Reduction in Bail	
8	Date of Hrg: 12/17/2013.....	477-480
9	Rough Draft Recorder's Transcript, Sentencing	
10	Date of Hrg: 08/21/2014.....	1279-1300
11	Rough Draft Recorder's Transcript, State's Request: Address Status of Deft Counsel/Trial Setting	
12	Date of Hrg: 04/29/2014.....	507-516
13	Rough Draft Recorder's Transcript, State's Request: To Address Trial Setting	
14	Date of Hrg: 05/08/2014.....	517-525
15	Rough Draft Recorder's Transcript, Status Check: Confirmation of Counsel	
16	Date of Hrg: 02/19/2013.....	423-426
17	Rough Draft Recorder's Transcript, Status Check: Confirmation of Counsel	
18	Date of Hrg: 02/26/2013.....	427-429
19	Rough Draft Recorder's Transcript, Status Check: Discovery	
20	Date of Hrg: 10/15/2013.....	450-472
21	Rough Draft Recorder's Transcript, Status Check: Discovery; Defendant's Pro Se Demand for Speedy Trial; Motion for Summary	
22	Judgment to Compel Discovery; and Defendant's Motion to Shorten Time	
23	Date of Hrg: 01/14/2014.....	494-503
24	Rough Draft Recorder's Transcript, Status Check: Discovery/Trial Readiness	
25	Date of Hrg: 10/01/2013.....	443-449
26	Rough Draft Recorder's Transcript, Status Check: Trial Readiness	
27	Date of Hrg: 03/26/2013.....	430-432
28	Rough Draft Recorder's Transcript, Steven K. Parke, Esq's Motion to Withdraw as Counsel	
	Date of Hrg: 09/19/2013.....	433-435
	///	

1	Rough Draft Recorder's Transcript,	
	Steven K. Parke, Esq's Motion to Withdraw as Counsel	
2	Date of Hrg: 09/24/2013	436-442

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

FILED IN OPEN COURT

STEVEN D. GRIERSON

CLERK OF THE COURT

JUN 19 2014

BY Linda Skinner
LINDA SKINNER, DEPUTY S, 38 pm

DISTRICT COURT

CLARK COUNTY, NEVADA

1 VER

2

3

4

5

6

7

8

9

10

11

THE STATE OF NEVADA,

Plaintiff,

-vs-

PATRICK NEWELL,

Defendant.

CASE NO: C-12-285825-1

DEPT NO: XX

VERDICT

13

14

We, the jury in the above entitled case, find the Defendant, PATRICK NEWELL, as follows:

15

COUNT 1 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

16

(please check the appropriate box, select only one)

17

☒ Not Guilty

18

☐ Guilty of Attempt Murder

19

☐ Guilty of Attempt Murder With Use of a Deadly Weapon

20

///

21

///

22

///

23

///

24

25

///

26

///

27

///

28

C-12-285825-1

VER

Verdict

3834806



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

(please check the appropriate box, select only one)

☐ Not Guilty

☐ Guilty of Battery

☐ Guilty of Battery Resulting in Substantial Harm

☐ Guilty of Battery With Use of a Deadly Weapon

☒ Guilty of Battery With Use of a Deadly Weapon Resulting in Substantial
Bodily Harm

COUNT 3 - ATTEMPT ASSAULT WITH A DEADLY WEAPON

(please check the appropriate box, select only one)

☐ Not Guilty

☐ Guilty of Attempt Assault

☒ Guilty of Attempt Assault With a Deadly Weapon

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

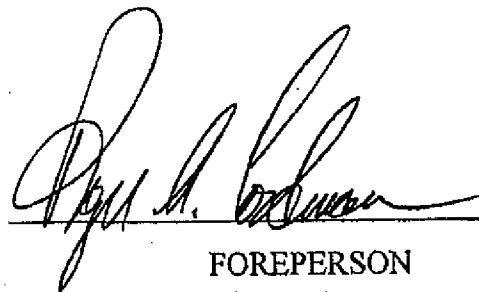
(please check the appropriate box, select only one)

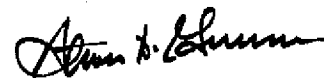
☐ Not Guilty

☐ Guilty of Performance of Act in Reckless Disregard of Persons
or Property (not resulting in substantial bodily harm)

☒ Guilty of Performance of Act in Reckless Disregard of Persons
or Property (resulting in substantial bodily harm)

DATED this 19th day of June, 2014.


FOREPERSON


CLERK OF THE COURT

JOC

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

PATRICK NEWELL
aka Matteo Caprani
#2861099

Defendant.

CASE NO. C285825-1

DEPT. NO. XX

JUDGMENT OF CONVICTION
(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1
- ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony) in
violation of NRS 200.010, 200.030, 193.330, 193.165, COUNT 2 - BATTERY WITH
USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM
(Category B Felony) in violation of NRS 200.481.2e, COUNT 3 - ATTEMPT ASSAULT
WITH A DEADLY WEAPON (Category C Felony) in violation of NRS 200.471, COUNT
4 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS OR
PROPERTY (Category C Felony) in violation of NRS 202.595; and the matter having

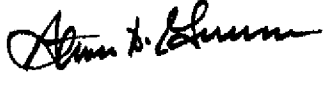
1 been tried before a jury and the Defendant having been found guilty of the crimes of
2 COUNT 2 – BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
3 SUBSTANTIAL BODILY HARM (Category B Felony) in violation of NRS 200.481.2e,
4 COUNT 3 – ATTEMPT ASSAULT WITH A DEADLY WEAPON (Category C Felony) in
5 violation of NRS 200.471, COUNT 4 – PERFORMANCE OF ACT IN RECKLESS
6 DISREGARD OF PERSONS OR PROPERTY (Category C Felony) in violation of NRS
7 202.595; thereafter, on the 21st day of August, 2014, the Defendant was present in court
8 for sentencing with his counsel, SCOTT COFFEE, Deputy Public Defender, and good
9 cause appearing,
10
11

12 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in
13 addition to the \$25.00 Administrative Assessment Fee and \$150.00 DNA Analysis Fee
14 including testing to determine genetic markers plus \$3.00 DNA Collection Fee, the
15 Defendant is SENTENCED to the Nevada Department of Corrections (NDC) as follows:
16 as to COUNT 2 - to a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS with a
17 MINIMUM parole eligibility of SEVENTY-TWO (72) MONTHS, as to COUNT 3 - to a
18 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWENTY-
19 FOUR (24) MONTHS, CONCURRENT with COUNT 2; with FOUR HUNDRED SIXTY-
20 EIGHT (468) DAYS credit for time served. COUNT 1 – NOT GUILTY and COUNT 4 -
21 DISMISSED
22
23

24 DATED: AUG 27 2014

25
26
27
28

JEROME TAO
DISTRICT COURT JUDGE


CLERK OF THE COURT

1 NOAS
2 PHILIP J. KOHN, PUBLIC DEFENDER
3 NEVADA BAR No. 0556
4 309 South Third Street, Suite 226
5 Las Vegas, Nevada 89155
6 (702) 455-4685
7 Attorney for Defendant

8
9 DISTRICT COURT

10 CLARK COUNTY, NEVADA

11 THE STATE OF NEVADA,

12 Plaintiff,

13 v.

14 PATRICK NEWELL,

15 Defendant.

CASE NO. C285825X

DEPT. NO. XX

NOTICE OF APPEAL

16
17 TO: THE STATE OF NEVADA

18 STEVEN B. WOLFSON, DISTRICT ATTORNEY, CLARK COUNTY,
19 NEVADA and DEPARTMENT NO. XX OF THE EIGHTH JUDICIAL
20 DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE
21 COUNTY OF CLARK.

22 NOTICE is hereby given that Defendant, Patrick Newell,
23 presently incarcerated in the Nevada State Prison, appeals to the
24 Supreme Court of the State of Nevada from the judgment entered
25 against said Defendant on the 29th day of August, 2014, whereby he
26 was convicted of Ct. 2 - Battery With Use of a Deadly Weapon
27 Resulting in Substantial Bodily Harm; Ct. 3 - Attempt Assault With
28 a Deadly Weapon; Ct. 4 - Performance of Act in Reckless Disregard
of Persons or Property and sentenced to \$25 Admin. fee; \$150 DNA
analysis fee; genetic testing; \$3.00 DNA collection fee; Ct. 2 -

1 72-180 months in prison; Ct. 3 - 24-60 months in prison;
2 Concurrent with Ct. 2- 468 days CTS; Ct. 1 - Not guilty and Ct. 4
3 - Dismissed.

4 DATED this 19th day of September, 2014.

5 PHILIP J. KOHN
6 CLARK COUNTY PUBLIC DEFENDER

7 By: /s/ Scott L. Coffee
8 SCOTT L. COFFEE, #5607
9 Deputy Public Defender
10 309 S. Third Street, Ste. 226
11 Las Vegas, Nevada 89155
12 (702) 455-4685
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF MAILING

Carrie Connolly, an employee with the Clark County Public Defender's Office, hereby declares that she is, and was when the herein described mailing took place, a citizen of the United States, over 21 years of age, and not a party to, nor interested in, the within action; that on the 19th day of September, 2014, declarant deposited in the United States mail at Las Vegas, Nevada, a copy of the Notice of Appeal in the case of the State of Nevada v. Patrick Newell, Case No. C285825X, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to Patrick Newell, c/o High Desert State Prison, P.O. Box 650, Indian Springs, NV 89018. That there is a regular communication by mail between the place of mailing and the place so addressed.

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

EXECUTED on the 19th day of September, 2014.

/s/ Carrie M. Connolly
An employee of the Clark County
Public Defender's Office

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of the above and foregoing
was made this 19th day of September, 2014, by Electronic Filing
to:

District Attorneys Office
E-Mail Address:

PDMotions@clarkcountyda.com

Jennifer.Garcia@clarkcountyda.com

Eileen.Davis@clarkcountyda.com

/s/ Carrie M. Connolly
Secretary for the
Public Defender's Office

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 04, 2012

C-12-285825-1 State of Nevada
 vs
 Patrick Newell

December 04, 2012 10:30 AM Initial Arraignment

HEARD BY: De La Garza, Melisa

COURTROOM: RJC Lower Level
Arraignment

COURT CLERK: Phyllis Irby

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

PRESENT:	Benedict, Susan M	Attorney for the State
	Newell, Patrick	Defendant
	Sheets, Damian R.	Attorney for the Deft
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFT. NEWELL ARRAIGNED, PLED NOT GUILTY and INVOKED THE 60-DAY RULE. COURT ORDERED, matter set for trial. COURT ORDERED, counsel has 21 days after the filing of the Preliminary Hearing Transcript or today s date, whichever is later, to file the Writ. State reserves all procedural objections in relation to the filing of the Writ.

CUSTODY

1-15-13 8:30 AM CALENDAR CALL (DEPT. XX)

1-22-13 9:00 AM JURY TRIAL (DEPT. XX)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES January 10, 2013

C-12-285825-1 State of Nevada
vs
Patrick Newell

January 10, 2013 8:30 AM Deft's Motion for Own Recognizance Release, or
in the Alternative, Motion to Reduce Bail

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 03F

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT: Newell, Patrick
State of Nevada
Wong, Hetty O.

Defendant
Plaintiff
Attorney for Plaintiff

JOURNAL ENTRIES

Due to the Court's schedule and Mr. Sheets being detained in another Court, COURT ORDERED,
matter CONTINUED.

CUSTODY

... CONTINUED 1/15/13 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 15, 2013

C-12-285825-1

State of Nevada

vs

Patrick Newell

January 15, 2013

8:30 AM

All Pending Motions

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 03F

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES**PRESENT:**

Newell, Patrick

Defendant

Schwartzter, Michael J.

Attorney for Plaintiff

Sheets, Damian R.

Attorney for Defendant

State of Nevada

Plaintiff

JOURNAL ENTRIES

DAMIAN R. SHEETS, ESQ.'S MOTION TO WITHDRAW AS COUNSEL OF RECORD...DEFT'S MOTION FOR O.R. RELEASE OR, IN THE ALTERNATIVE, MOTION TO REDUCE BAIL...CALENDAR CALL

Mr. Sheets advised he is not ready to proceed with trial as he has not received the Preliminary Transcript yet. Colloquy as to Mr. Sheets continuing representation of Defendant. Mr. Sheets advised he has spoken to Defendant's wife several times to advise her that he was going to withdraw as they have not met their financial obligations. Defendant advised his wife made a payment the other day to Mr. Sheets. Mr. Sheets advised due to the pending motion, he did not accept the payment. Conference at the Bench. Pursuant to that conference, MATTER TRAILED.

MATTER RECALLED: AS TO THE MOTION TO WITHDRAW: Mr. Sheets advised he is discussing with Defendant if he is going to continue to represent him and requested this matter be continued a few weeks. COURT SO ORDERED.

AS TO MOTION FOR BAIL: Arguments in support of the Motion by Mr. Sheets. Mr. Schwartzter

PRINT DATE: 01/16/2013

Page 1 of 2

Minutes Date: January 15, 2013

argued that Judge Lippis heard an own recognizance release motion right after the Preliminary Hearing which was denied; Defendant has not been in the Las Vegas area that long and is not happy with the community. Additionally, Mr. Schwartzer advised Judge Lippis heard an own recognizance release motion three different times and denied all of them. Arguments by Mr. Sheets. Following, Court noted there is a factual dispute as to what happened, however, based on his history and the length of time he has been here, COURT ORDERED, Motion DENIED WITHOUT PREJUDICE.

AS TO CALENDAR CALL: As Mr. Sheets needs the Preliminary Hearing Transcript, upon inquiry, Defendant WAIVED the sixty day rule. COURT ORDERED, trial date VACATED and RESET in ordinary course.

CUSTODY

2/5/13 8:30 AM DAMIAN R. SHEETS, ESQ.'S MOTION TO WITHDRAW AS COUNSEL OF RECORD

5/28/13 8:30 AM CALENDAR CALL

6/3/13 9:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 05, 2013

C-12-285825-1

State of Nevada

vs

Patrick Newell

February 05, 2013

8:30 AM

**Motion to Withdraw as
Counsel**

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Roshonda Mayfield

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:

Jimenez, Sonia V.

Newell, Patrick

Rauls, Norman

Thoman, Charles W.

Attorney for the State

Defendant

Attorney for the Defendant

Attorney for the State

JOURNAL ENTRIES

- Following a conference at the bench, COURT ORDERED, motion GRANTED; matter set for status check.

CUSTODY

2/19/13 8:30 A.M. STATUS CHECK: CONFIRMATION OF COUNSEL

PRINT DATE: 02/08/2013

Page 1 of 1

Minutes Date:

February 05, 2013

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 19, 2013

C-12-285825-1 State of Nevada
 vs
 Patrick Newell

February 19, 2013 8:30 AM Status Check: Confirmation of Counsel

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Arnold, Carl E.	Possible Attorney for Defendant
	Chen, Alexander G.	Attorney for Plaintiff
	Newell, Patrick	Defendant
	Parke, Steve	Possible Attorney for Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

Mr. Arnold advised that he is still talking with Defendant as to representation and requested a one week continuance. COURT SO ORDERED.

Mr. Parke appeared after matter was called and advised he is also speaking with Defendant as to representation. Defendant concurred. Mr. Parke was given next date.

CUSTODY

... CONTINUED 2/26/13 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 26, 2013

C-12-285825-1 State of Nevada
vs
Patrick Newell

February 26, 2013 8:30 AM Status Check: Confirmation of Counsel

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Newell, Patrick	Defendant
	Parke, Steve	Attorney for Defendant
	Schwartzner, Michael J.	Attorney for Plaintiff
	State of Nevada	Plaintiff

JOURNAL ENTRIES

Upon Court's inquiry, Mr. Parke advised he will confirm as counsel of record. COURT SO ORDERED. Colloquy as to trial set in June. Mr. Parke stated he has not received discovery, so at this point, does not know if he will be ready. Following colloquy, COURT ORDERED, matter set for status check in 30 days.

BOND

3/26/13 8:30 AM STATUS CHECK: TRIAL READINESS

PRINT DATE: 02/27/2013

Page 1 of 1

Minutes Date: February 26, 2013

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 26, 2013

C-12-285825-1 State of Nevada
 vs
 Patrick Newell

March 26, 2013 8:30 AM Status Check: Trial Readiness

HEARD BY: Tao, Jerome T. **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Newell, Patrick	Defendant present out of custody
	Parke, Steve	Attorney for Defendant
	State of Nevada	Plaintiff
	Wong, Hetty O.	Attorney for Plaintiff

JOURNAL ENTRIES

Court noted Mr. Parke recently confirmed as counsel of record and upon inquiry, Mr. Parke advised he would not be prepared for trial on 6/3. Mr. Parke explained it was extremely difficult obtaining discovery from the previous attorney and feels he is still missing some things. Mr. Parke requested the trial date of 6/3 be vacated and reset. Ms. Wong had no objection. COURT ORDERED, trial date VACATED and RESET.

BOND

10/8/13 8:30 AM CALENDAR CALL

10/14/13 9:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 19, 2013

C-12-285825-1 State of Nevada
 vs
 Patrick Newell

September 19, 2013 8:30 AM Steven K. Parke's Motion to Withdraw as
 Counsel

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Parke, Steve	Attorney for Defendant
	State of Nevada	Plaintiff
	Wong, Hetty O.	Attorney for Plaintiff

JOURNAL ENTRIES

Upon Court's inquiry, Mr. Parke advised he has not been able to reach Defendant. Court noted Defendant must be present and ORDERED, matter CONTINUED. Ms. Wong advised if Defendant is not present next date, she will be requesting a bench warrant.

BOND

... CONTINUED 9/24/13 8:30 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

September 24, 2013

C-12-285825-1 State of Nevada
 vs
 Patrick Newell

September 24, 2013 8:30 AM Steven K. Parke's Motion to Withdraw as Counsel

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Dania Batiste

RECORDER: Sara Richardson

PARTIES

PRESENT:	Newell, Patrick	Defendant
	Parke, Steve	Attorney for Defendant
	Schwartz, Michael J.	Deputy District Attorney

JOURNAL ENTRIES

- Upon the Court's inquiry, Mr. Parke advised Defendant does not have the funds to hire private counsel. Mr. Schwartz noted Defendant has 3 previous attorneys represent him in this matter, one being a Deputy Public Defender. Statement by Defendant, indicating he lacks the finances to hire counsel, and requested one be appointed to him.

Court NOTED Defendant qualifies for the Public Defender's Office; and ORDERED, the Office of the Public Defender shall be APPOINTED as counsel for Defendant; Mr. Parke's Motion to Withdraw as Counsel is GRANTED; Mr. Parke to provide the Public Defender's Office with Defendant's file. COURT FURTHER ORDERED, trial date VACATED; matter SET for a Status Check regarding discovery and trial readiness.

BOND

10/1/2013 8:30 AM STATUS CHECK: Discovery/Trial Readiness

PRINT DATE: 09/25/2013

Page 1 of 1

Minutes Date: September 24, 2013

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 01, 2013

C-12-285825-1 State of Nevada
 vs
 Patrick Newell

October 01, 2013 8:30 AM Status Check: Discovery / Trial Readiness

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Newell, Patrick	Defendant present in custody
	Public Defender	
	Romney, Claudia	Attorney for Defendant
	Schwartzner, Michael J.	Attorney for Plaintiff
	State of Nevada	Plaintiff

JOURNAL ENTRIES

Ms. Romney advised they have not received any discovery, found out there is a bankers box of medical records and would request a trial setting in March. Statements by Defendant including that he wants to go to trial before March. Ms. Romney advised without even having received discovery and due to their schedules, they will not be ready for trial until March. Following colloquy, COURT ORDERED, matter set for trial in March with a status check in TWO (2) WEEKS to see if they have received the discovery. Defendant requested to revisit his bail. Court advised a written motion is required. Ms. Romney advised she will proffer a Motion if it is appropriate.

CUSTODY

10/15/13 8:30 AM STATUS CHECK: DISCOVERY

3/11/14 8:30 AM CALENDAR CALL

3/17/14 9:00 AM JURY TRIAL

PRINT DATE: 10/02/2013

Page 1 of 2

Minutes Date: October 01, 2013

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 15, 2013

C-12-285825-1

State of Nevada

vs

Patrick Newell

October 15, 2013

8:30 AM

Status Check: Discovery

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES**PRESENT:**

Newell, Patrick
Public Defender
Romney, Claudia
State of Nevada
Wong, Hetty O.

Defendant present in custody

Attorney for Defendant (stand-by)
Plaintiff

Attorney for Plaintiff

JOURNAL ENTRIES

Ms. Romney advised she has not received the medical records yet. Defendant advised he has a Motion to Dismiss Counsel, is ready for trial and would like to proceed sooner than March. COURT ORDERED, matter TRAILED for Ms. Wong to be present and for a Faretta Canvass.

MATTER RECALLED: Ms. Wong now present. Deft's Motion to Dismiss Counsel and Permit Defendant to Proceed in Pro Per FILED IN OPEN COURT. Faretta canvass. Following, COURT ORDERED, Defendant MAY REPRESENT himself and that Ms. Romney is stand-by counsel. Defendant requested the trial date be moved up into the January stack. Court explained that due to a murder trial that he has been told is going forward, that will not be possible. Statements by Ms. Wong. Defendant requested his bail be reduced. Court advised a written Motion is required. Following colloquy, Court advised a status check will be set as to discovery in 45 days. Upon Court's inquiry, Ms. Wong advised that an offer had been extended earlier, does not remember what it was, however, will look into it and discuss it with Defendant next date.

CUSTODY

PRINT DATE: 10/16/2013

Page 1 of 2

Minutes Date: October 15, 2013

C-12-285825-1

12/3/13 8:30 AM STATUS CHECK: DISCOVERY

PRINT DATE: 10/16/2013

Page 2 of 2

Minutes Date: October 15, 2013

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 03, 2013

C-12-285825-1

State of Nevada

vs

Patrick Newell

December 03, 2013

8:30 AM

Deft's Pro Se Demand For Speedy Trial...Status Check:
Discovery...Status Check: Discovery

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Andrea Davis

RECORDER: Sara Richardson

PARTIES Newell, Patrick
PRESENT: Romney, Claudia
State of Nevada
Wong, Hetty O.

Defendant
Standby Attorney for Deft.
Plaintiff
Attorney for State

JOURNAL ENTRIES

- DEFT'S PRO SE DEMAND FOR SPEEDY TRIAL...STATUS CHECK: DISCOVERY...STATUS CHECK: DISCOVERY

Deft. present in custody. Upon Court's inquiry, Ms. Wong stated additional discovery had been provided; Ms. Romney stated there were over 700 pages of discovery documents provided which was printed and provided to the Defendant this morning. Deft. requested the motions be continued noting he just received the discovery today and did not have sufficient time to argue the motion. COURT NOTED, it was too late to file a demand for speedy trial; however, noted the calendar had an opening the week of 1/13/14. Ms. Wong stated the 1/13/14 date would not work with her trial schedule. COURT ORDERED, all matters CONTINUED for Deft. to review the discovery.

CUSTODY

CONTINUED TO: 12/17/13 8:30 AM

PRINT DATE: 12/03/2013

Page 1 of 1

Minutes Date: December 03, 2013

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 17, 2013

C-12-285825-1 State of Nevada
 vs
 Patrick Newell

December 17, 2013 8:30 AM All Pending Motions

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Carole D'Aloia

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Newell, Patrick	Defendant
	Schwartz, Michael J.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFENDANT'S PRO SE DEMAND FOR SPEEDY TRIAL...STATUS CHECK;
DISCOVERY...DEFENDANT'S PRO SE MOTION FOR REDUCTION IN BAIL

Defendant present, Pro Se. Court noted that at the last court hearing Defendant was given additional discovery and he now believes Defendant has everything the State has in their file. Court advised Ms. Romney is stand-by counsel. Court directed Defendant to speak to Ms. Romney regarding this matter. As to Defendant's Pro Se Motion for Reduction in Bail, COURT ORDERED, motion DENIED as the trial is set for March 17, 2014. Defendant inquired if he could waive the jury for his trial and Court advised he could, but again advised him to speak to Ms. Romney. COURT ORDERED, matter CONTINUED and set for STATUS CHECK on waiving a jury.

CUSTODY

12/31/13 8:30 AM DEFENDANT'S PRO SE DEMAND FOR SPEEDY TRIAL...
STATUS CHECK: DISCOVERY...STATUS CHECK: WAIVER OF JURY AT TRIAL

PRINT DATE: 12/27/2013

Page 1 of 2

Minutes Date:

December 17, 2013

C-12-285825-1

PRINT DATE: 12/27/2013

Page 2 of 2

Minutes Date: December 17, 2013

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES December 31, 2013

C-12-285825-1 State of Nevada
vs
Patrick Newell

December 31, 2013 8:30 AM All Pending Motions

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Keri Cromer/kc; Shelly Landwehr

RECORDER: Sara Richardson

PARTIES	Miles, Dedree S, ESQ	Public Defender
PRESENT:	Newell, Patrick	Defendant
	Romney, Claudia	Public Defender
	State of Nevada	Plaintiff
	Wong, Hetty O.	Attorney for the State of Nevada

JOURNAL ENTRIES

- DEFT'S PRO SE DEMAND FOR SPEEDY TRIAL...STATUS CHECK: DISCOVERY

Upon Court's inquiry, Deft. stated he had tried to reach Ms. Romney but he was unable to reach her; requested outside counsel be appointed. Ms. Miles advised Ms. Romney was presently in Justice Court, and explained what stand-by counsel's role was. Ms. Wong stated a jury trial was needed, and Deft. was not entitled to a bench trial. Deft. stated there were missing statements and documents from his file. Ms. Wong advised she had turned everything over to counsel in regard to medical and psychiatric records. Court directed Deft. to put in writing what documents were missing and to speak with Ms. Romney. Colloquy regarding the role of stand-by counsel. Court advised Ms. Miles that Ms. Romney could file a motion if she felt there was a serious conflict of counsel. COURT ORDERED, matters CONTINUED. Matter recalled. Ms. Romney present and Court provided her with an overview of the earlier proceedings. Ms. Romney stated she could not pick up a new case mid-trial per office policy. Statement by Deft. Court requested Ms. Romney explain the role of stand-by counsel to Deft. Colloquy regarding the video surveillance disc and missing file information.

CUSTODY

PRINT DATE: 01/02/2014

Page 1 of 2

Minutes Date:

December 31, 2013

C-12-285825-1

CONTINUED TO: 1/14/14 8:30 AM

PRINT DATE: 01/02/2014

Page 2 of 2

Minutes Date: December 31, 2013

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor COURT MINUTES January 14, 2014

C-12-285825-1 State of Nevada vs Patrick Newell

January 14, 2014 8:30 AM All Pending Motions

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Dania Batiste

RECORDER: Sara Richardson

PARTIES

PRESENT:

Campbell, Donishia L.
Dickson, Dianne M
Gutierrez, Seth
Newell, Patrick
Wong, Hetty O.

Deputy Public Defender
Deputy Public Defender
Deputy Public Defender
Defendant
Deputy District Attorney

JOURNAL ENTRIES

- STATUS CHECK: DISCOVERY.....DEFT.'S PRO SE DEMAND FOR SPEEDY TRIAL.....MOTION FOR SUMMARY JUDGMENT TO COMPEL DISCOVERY.....DEFT.'S MOTION TO SHORTEN TIME

Statements by Defendant. Ms. Hong provided the Court with a synopsis of the status of this case, what Defendant requested in his Motions, and where the State obtained its information from. Upon the Court's inquiry, Defendant advised he wishes to have an alternate Deputy Public Defender or outside counsel assigned to him. Ms. Dickson advised the Court if the Public Defender's Office is reappointed, she will reassign it to a different Deputy; additionally, if there are issues with the trial date, the defense will inform the Court.

COURT ORDERED, the Office of the Public Defender is REAPPOINTED as counsel for Defendant; counsel to obtain Discovery from Defendant and review any Motions he has prepared.

CUSTODY

3/11/2014 8:30 am Calendar Call
3/17/2014 9:00 am Jury Trial

PRINT DATE: 01/15/2014

Page 1 of 1

Minutes Date: January 14, 2014

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 11, 2014

C-12-285825-1 State of Nevada
 vs
 Patrick Newell

March 11, 2014 8:30 AM All Pending Motions

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Albritton, Alicia A.	Attorney for Plaintiff
	Gutierrez, Seth	Attorney for Defendant
	Newell, Patrick	Defendant present in custody
	Public Defender	
	State of Nevada	Plaintiff

JOURNAL ENTRIES

CALENDAR CALL...DEFT'S MOTION TO CONTINUE TRIAL DATE

Upon Court's inquiry, Mr. Gutierrez advised additional discovery is needed and requested this matter be set for status check next week as to the new trial date. Ms. Albritton had no objection. Following colloquy, COURT ORDERED, Deft's Motion is GRANTED, trial date VACATED and set for status check. Further, Mr. Gutierrez advised Defendant wants to withdraw the matter set for hearing on 3/13/14. Upon Court's inquiry, Defendant concurred. COURT ORDERED, hearing date of 3/13/14 is VACATED as WITHDRAWN.

CUSTODY

3/18/14 8:30 AM STATUS CHECK: RESET TRIAL DATE

PRINT DATE: 03/12/2014

Page 1 of 1

Minutes Date: March 11, 2014

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 18, 2014

C-12-285825-1 State of Nevada
 vs
 Patrick Newell

March 18, 2014 8:30 AM Status Check: Reset Trial Date

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Gutierrez, Seth	Attorney for Defendant
	Newell, Patrick	Defendant present in custody
	Public Defender	
	State of Nevada	Plaintiff
	Wong, Hetty O.	Attorney for Plaintiff

JOURNAL ENTRIES

Mr. Gutierrez requested this matter be set for trial in the May stack. Ms. Wong concurred. COURT SO ORDERED and noted this matter may be referred to Overflow.

CUSTODY

5/13/14 8:30 AM CALENDAR CALL

5/19/14 9:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 29, 2014

C-12-285825-1

State of Nevada
vs
Patrick Newell

April 29, 2014

8:30 AM

State's Request: Address Status of Deft Counsel/
Trial Setting

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES**PRESENT:**

Arnold, Carl E.
Gutierrez, Seth
Newell, Patrick
Public Defender
State of Nevada
Wong, Hetty O.

Attorney for Defendant
Attorney for Defendant
Defendant present in custody

Plaintiff
Attorney for Plaintiff

JOURNAL ENTRIES

Mr. Arnold made an oral Motion to Withdraw as Counsel and advised the family does not have the funds to pay him. Defendant concurred and requested Mr. Gutierrez represent him again. Conference at the Bench. Defendant interviewed as to his assets. Following, COURT ORDERED, Mr. Arnold's oral Motion to Withdraw is GRANTED and the Public Defender is APPOINTED. Mr. Gutierrez advised he may not be ready for trial on 5/19. Objections stated by Ms. Wong as to a continuance. Defendant stated he did not want the trial continued either. Court noted that Mr. Arnold was only counsel for a few weeks and following colloquy, directed the Public Defender's Office try and be ready for the trial date already set.

CUSTODY

PRINT DATE: 05/05/2014

Page 1 of 1

Minutes Date: April 29, 2014

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 08, 2014

C-12-285825-1 State of Nevada
 vs
 Patrick Newell

May 08, 2014 8:30 AM State's Request: Address Trial Setting

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES**PRESENT:**

Gutierrez, Seth
Newell, Patrick
Public Defender
State of Nevada
Stephens, Robert
Wong, Hetty O.

Attorney for Defendant
Defendant present in custody

Plaintiff
Attorney for Plaintiff
Attorney for Plaintiff

JOURNAL ENTRIES

Mr. Gutierrez advised he cannot be ready for trial on 5/19/14. Conference at the Bench. Mr. Gutierrez stated there is additional discovery and they need to locate and speak with the witnesses. Upon Court's inquiry, Mr. Gutierrez advised he is in trial next week, which would prohibit him getting ready for this trial. Counsel advised the trial will take 4 days. Ms. Wong objected to a continuance and noted this would be the 6th trial setting. Defendant stated he is not happy about the continuance, but Mr. Gutierrez has stated he would be ineffective, so he has no choice. Following additional colloquy, COURT ORDERED, trial date VACATED and RESET.

CUSTODY

6/10/14 8:30 AM CALENDAR CALL

6/16/14 9:00 AM JURY TRIAL

PRINT DATE: 05/12/2014

Page 1 of 2

Minutes Date: May 08, 2014

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 10, 2014

C-12-285825-1

State of Nevada

vs

Patrick Newell

June 10, 2014

8:30 AM

Calendar Call

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES**PRESENT:**

Coffee, Amy A.
Gutierrez, Seth
Newell, Patrick
Public Defender
State of Nevada
Stephens, Robert
Wong, Hetty O.

Attorney for Defendant
Attorney for Defendant
Defendant present in custody

Plaintiff
Attorney for Plaintiff
Attorney for Plaintiff

JOURNAL ENTRIES

Conference at the Bench. Upon Court's inquiry as to trial readiness, Mr. Gutierrez learned that they did represent the named victim back in 1996, however, does not feel it is a conflict at this time, as they cannot find any information on him. Additionally, Mr. Gutierrez advised he is waiting for a Police Report from the State. Ms. Wong handed the report to Mr. Gutierrez in Open Court. Finally, Mr. Gutierrez advised they want to admit the 911 tape, however, the State is objecting as to hearsay. Statements by Ms. Wong, Mr. Stephens and Ms. Coffee. Following, Court advised it needs to hear this recording and ORDERED, matter CONTINUED to Thursday for calendar call and Motion in Limine. Further, Court advised this matter would be heard after the morning calendar.

CUSTODY

6/12/14 10:00 AM CALENDAR CALL...MOTION IN LIMINE

PRINT DATE: 06/10/2014

Page 1 of 2

Minutes Date: June 10, 2014

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 12, 2014

C-12-285825-1

State of Nevada

vs

Patrick Newell

June 12, 2014

10:00 AM

All Pending Motions

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES**PRESENT:**

Coffee, Scott L.
Gutierrez, Seth
Newell, Patrick
Public Defender
State of Nevada
Stephens, Robert
Wong, Hetty O.

Attorney for Defendant
Attorney for Defendant
Defendant present in custody

Plaintiff
Attorney for Plaintiff
Attorney for Plaintiff

JOURNAL ENTRIES

CALENDAR CALL...MOTION IN LIMINE

Mr. Coffee advised he would like to use the 911 call, however, the person who made the 911 call is not available as he had surgery. Arguments by Ms. Wong including that it is not a presence sense impression and that the 911 tape contains false information. Colloquy as to a rebuttal witness being the State's Investigator as she spoke with this witness. Colloquy as to a possible continuance. Following continued arguments by Mr. Coffee, Ms. Wong and Mr. Stephens, Ms. Wong advised they want to proceed with trial and has no objection to the 911 call coming in and will not offer a rebuttal witness. COURT ORDERED, RESOLVED.

Counsel advised they were ready for trial with 11 witnesses and trial lasting 3-4 days. Due to schedules of counsel, COURT ORDERED, Jury selection will begin at 10:00 A.M. on Monday.

PRINT DATE: 06/12/2014

Page 1 of 2

Minutes Date: June 12, 2014

Mr. Coffee requested any Police calls to this Circle K store involving the victim. Following objections by Ms. Wong and statements by Mr. Coffee and Mr. Gutierrez, COURT ORDERED, GRANTED as Ms. Wong advised she can check for any reports. Mr. Gutierrez advised he will be picking up the remaining medical records this afternoon and will provide them to the State. Court so noted.

H. WONG - R. STEPHENS / S. GUTIERREZ - S. COFFEE / 3-4 DAYS / 11 WITNESSES

6/16/14 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 16, 2014

C-12-285825-1 State of Nevada
 vs
 Patrick Newell

June 16, 2014 10:00 AM Jury Trial

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Coffee, Scott L.	Attorney for Defendant
	Gutierrez, Seth	Attorney for Defendant
	Newell, Patrick	Defendant present
	Public Defender	
	State of Nevada	Plaintiff
	Stephens, Robert	Attorney for Plaintiff
	Wong, Hetty O.	Attorney for Plaintiff

JOURNAL ENTRIES

10:00 AM OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Mr. Stephens requested to FILE IN OPEN COURT an Amended Information that corrects the spelling of the victim's name. Mr. Coffee had no objection. COURT SO ORDERED. Colloquy as to Court procedures. Mr. Coffee requested that both he and Mr. Gutierrez be allowed to ask questions of the prospective Jurors. Court advised it would be fine as long as they are not duplicate questions. Court advised side bars are not recorded, however, will be memorialized at the next break. Counsel agreed the Alternates would be Jurors #13 and #14 and they agreed to 5 total peremptory challenges. 10:30 AM PROSPECTIVE JURORS PRESENT: Introductions by Court and counsel. Jury selection begins. 12:52 PM LUNCH BREAK. 2:02 PM OUTSIDE PRESENCE OF PROSPECTIVE JURORS: Mr. Stephens advised they stipulate that Prospective Juror #176 can be dismissed. Mr. Coffee concurred. PROSPECTIVE JURORS PRESENT: Jury selection continues. 3:08 PM Jury with 2 Alternates selected and sworn. Instructions by Court. Amended Information read by Clerk. 3:39 PM JURY EXCUSED with Juror #7 remaining in the Courtroom. Court noted pursuant to a sidebar prior to the evening break, Counsel

PRINT DATE: 06/20/2014

Page 1 of 2

Minutes Date: June 16, 2014

stipulated that Juror #7 can be dismissed, that they would proceed with 13 Jurors with having 1 Alternate. COURT SO ORDERED. Defendant admonished of his right to testify. EVENING RECESS.

... CONTINUED 6/17/14 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 17, 2014

C-12-285825-1

State of Nevada

vs

Patrick Newell

June 17, 2014

10:00 AM

Jury Trial

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES**PRESENT:**

Coffee, Scott L.

Attorney for Defendant

Gutierrez, Seth

Attorney for Defendant

Newell, Patrick

Defendant present

Public Defender

State of Nevada

Plaintiff

Stephens, Robert

Attorney for Plaintiff

Wong, Hetty O.

Attorney for Plaintiff

JOURNAL ENTRIES

10:45 AM JURY PRESENT: Counsel stipulated to the presence of the Jury. Opening statements by Mr. Stephens and Mr. Gutierrez. Testimony and exhibits presented (see worksheets). 12:10 PM OUTSIDE PRESENCE OF JURY: Sidebar memorialized as to the objection by Mr. Stephens during the opening statement by Mr. Gutierrez and to the lunch break. LUNCH 1:20 PM OUTSIDE PRESENCE OF JURY: Mr. Coffee inquired as to the procedure for Jurors to ask questions and whether the Court asked if any of the Jurors had any questions. Court advised it does not ask. 1:23 PM JURY PRESENT: Counsel stipulated to the presence of the Jury. Testimony and exhibits continued (see worksheets). 4:31 PM EVENING RECESS.

... CONTINUED 6/18/14 10:00 AM

PRINT DATE: 06/20/2014

Page 1 of 1

Minutes Date: June 17, 2014

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 18, 2014

C-12-285825-1 State of Nevada
 vs
 Patrick Newell

June 18, 2014 10:00 AM Jury Trial

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Coffee, Scott L. Gutierrez, Seth Newell, Patrick Public Defender State of Nevada Stephens, Robert Wong, Hetty O.	Attorney for Defendant Attorney for Defendant Defendant present Plaintiff Attorney for Plaintiff Attorney for Plaintiff
-----------------	--	--

JOURNAL ENTRIES

10:17 AM OUTSIDE PRESENCE OF THE JURY: Mr. Stephens advised he has 4 witnesses this morning that need to be finished by lunch. Court so noted. JURY PRESENT: Counsel stipulated to the presence of the Jury. Testimony and exhibits continued (see worksheets). 11:33 AM OUTSIDE PRESENCE OF THE JURY: Ms. Wong advised that they would like to amend Count 3 to Attempt Assault with a Deadly Weapon and file an Amended Information to comport with the evidence presented yesterday. Arguments by Mr. Coffee in objection to this. Following, Court advised it would like to think about this over the break. LUNCH BREAK.

12:58 PM OUTSIDE PRESENCE OF THE JURY: Court advised it did some research as to the oral Motion to Amend Information from Assault With a Deadly Weapon to Attempt Assault With a Deadly Weapon, that several States feel an assault can be attempted but several others do not. Court stated the statute appears to be extremely broad and does not exclude the crime of assault and ORDERED, oral request to file an Amended Information is GRANTED. Statements by Mr. Coffee.

PRINT DATE: 06/23/2014

Page 1 of 2

Minutes Date: June 18, 2014

1:14 PM JURY PRESENT: Counsel stipulated to the presence of the Jury. Testimony and exhibits continued (see worksheets). 2:27 PM OUTSIDE PRESENCE OF THE JURY: Sidebar memorialized as to objection during Det. Kowalski's testimony. Mr. Coffee requested to ask the Detective about the victim's record. Objections by Ms. Wong. Court advised Mr. Coffee should have asked the victim during his testimony and ORDERED, request DENIED. 2:48 PM JURY PRESENT: Counsel stipulated to the presence of the Jury. Testimony and exhibits continued (see worksheets). 3:22 PM STATE RESTS.

3:39 PM OUTSIDE PRESENCE OF THE JURY: Mr. Coffee advised Defendant is going to testify. JURY PRESENT: Counsel stipulated to the presence of the Jury. Testimony and exhibits continued (see worksheets). 5:02 PM DEFENSE RESTS. JURY EXCUSED. OUTSIDE PRESENCE OF THE JURY: Sidebar memorialized as to a questions from Jurors after Defendant's testimony. Due to the nature of the question from Juror #11, colloquy as to making him the Alternate. Following arguments by counsel, Court advised it would consider this overnight. EVENING RECESS.

... CONTINUED 6/19/14 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 19, 2014

C-12-285825-1

State of Nevada

vs

Patrick Newell

June 19, 2014

12:00 AM

Jury Trial

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES**PRESENT:**

Coffee, Scott L.
Gutierrez, Seth
Newell, Patrick
Public Defender
State of Nevada
Stephens, Robert
Wong, Hetty O.

Attorney for Defendant
Attorney for Defendant
Defendant present

Plaintiff
Attorney for Plaintiff
Attorney for Plaintiff

JOURNAL ENTRIES

9:44 AM OUTSIDE PRESENCE OF JURY AND DEFENDANT: Jury Instructions settled on the record. Colloquy as to Juror #11 being removed and made the Alternate. Statements by Ms. Wong. Objections by Mr. Coffee. Court noted that due to there being some evidence that Juror #11 performed an experiment, he will be made the Alternate. 12:13 PM JURY PRESENT: Counsel stipulated to the presence of the Jury. Juror #10 submitted more questions for Defendant, however, Court advised they would not be asked/answered as Defendant is no longer under oath. Jury Instructions read by Court. Closing arguments by Ms. Wong and Mr. Coffee. 2:23 PM OUTSIDE PRESENCE OF THE JURY: Sidebar memorialized as to the objections by Mr. Coffee at the end of State's closing and requested a curative instruction. Statements by Ms. Wong. Court DENIED request for a curative instruction and advised the Jury will be instructed to review the Instructions they have been given. 2:35 PM JURY PRESENT: Counsel stipulated to the presence of the Jury: Rebuttal closing by Mr. Stephens. 3:13 PM Alternate revealed and Jury retired to deliberate. Court thanked and excused the Alternate. 5:38 PM JURY PRESENT: Counsel stipulated to the presence of

PRINT DATE: 06/23/2014

Page 1 of 2

Minutes Date: June 19, 2014

the Jury. Jury Foreperson advised a verdict had been reached. Clerk read the following into the record: VERDICT

COUNT 1 - Attempt Murder with Use of a Deadly Weapon - NOT GUILTY.

COUNT 2 - Battery with Use of a Deadly Weapon Resulting in Substantial Bodily Harm - GUILTY.

COUNT 3 - Attempt Assault with a Deadly Weapon - GUILTY.

COUNT 4 - Performance of Act in Reckless Disregard of Persons or Property - GUILTY (resulting in substantial bodily harm).

Court thanked and excused the Jury. Defendant REMANDED into custody. Court REFERRED matter to the Division of Parole and Probation for a Pre-sentence Investigation Report and ORDERED, matter set for sentencing.

FURTHER, the parties have agreed that Defendant will not be adjudicated as to Count 4.

CUSTODY

8/21/14 8:30 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 21, 2014**

C-12-285825-1 State of Nevada
 vs
 Patrick Newell

August 21, 2014 8:30 AM Sentencing

HEARD BY: Tao, Jerome T. **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Coffee, Scott L.	Attorney for Defendant
	Newell, Patrick	Defendant present in custody
	Public Defender	
	State of Nevada	Plaintiff
	Wong, Hetty O.	Attorney for Plaintiff

JOURNAL ENTRIES

Mr. Coffee advised there is an issue with the PSI (Pre-sentence Report) in that on page 3 under INCARCERATIONS it lists 1, Defendant has never been in prison, however, was in YCA. Mr. Coffee objected to Defendant being sentenced on Count 3 and as to Count 4, there was an agreement not to sentence on this Count as it is a lesser included of Count 2. Ms. Wong concurred as to Count 4. Court noted Defendant had his name changed in 2012 to Matteo Caprani and upon inquiry, Defendant advised he goes by Patrick Newell. However, pursuant to the Order filed 4/25/12, COURT ORDERED, the name of Matteo Caprani is to be added as an A.K.A.

By virtue of the Jury's findings and the Order of this Court, DEFENDANT ADJUDGED GUILTY of COUNT 2 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (F) and COUNT 3 - ATTEMPT ASSAULT WITH A DEADLY WEAPON (F). Statements by Ms. Wong, Defendant and Mr. Coffee. COURT ORDERED, in addition to the \$25 Administrative Assessment fee, \$150 DNA Analysis fee including testing to determine genetic markers and the \$3.00 DNA Analysis fee, DEFENDANT SENTENCED to the Nevada Department of

PRINT DATE: 08/21/2014

Page 1 of 2

Minutes Date: August 21, 2014

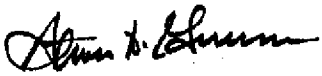
Corrections as follows:

COUNT 2 - a MAXIMUM term of ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM parole eligibility of SEVENTY-TWO (72) MONTHS, and;

COUNT 3 - a MAXIMUM term of SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS, to run CONCURRENT with Count 3, with 468 days credit for time served. FURTHER, COUNT 4 is DISMISSED. BOND, if any, EXONERATED.

Counsel have agreed that if an appeal is successful and Count 2 is dismissed, that Count 4 will be reinstated without double jeopardy.

NDC



CLERK OF THE COURT

1 TRAN

2

3

4

5

DISTRICT COURT
CLARK COUNTY, NEVADA

6

7

8

THE STATE OF NEVADA,

) CASE NO. C-12-285825-1

9

Plaintiff,

) DEPT. XX

10

vs.

) (ARRAIGNMENT HELD IN DEPT. LLA)

11

PATRICK NEWELL,

12

Defendant.

13

14

BEFORE THE HONORABLE MELISA DE LA GARZA, HEARING MASTER
TUESDAY, DECEMBER 04, 2012

15

16

**RECORDER'S TRANSCRIPT OF HEARING RE:
ARRAIGNMENT**

17

18

APPEARANCES:

19

For the State:

SUSAN BENEDICT, ESQ.,
Chief Deputy District Attorney

20

21

For the Defendant:

DAMIAN R. SHEETS, ESQ.,
Attorney at Law

22

23

24

25

RECORDED BY: KIARA SCHMIDT, COURT RECORDER

1 TUESDAY, DECEMBER 04, 2012

2 * * * * *

3 P R O C E E D I N G S
4

5 THE COURT: All right. Mr. Sheets, this is page eight, State of Nevada
6 versus Patrick Newell, C285825. He is present in custody. Counsel?

7 MR. SHEETS: Good morning, your Honor. Damian Sheets on behalf of
8 Mr. Newell. We have received of a copy of the Information, would waive its reading,
9 enter a not-guilty plea, and invoke the right to a speedy trial.

10 THE COURT: Sir, you received a copy of the Information stating the charges
11 against you?

12 THE DEFENDANT: Yes, I did, your Honor.

13 THE COURT: You read through it and understood it?

14 THE DEFENDANT: Yes, I did, your Honor.

15 THE COURT: You want to waive a formal reading of the charges?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: How do you plead?

18 THE DEFENDANT: Absolutely not guilty.

19 THE COURT: You do have a right to a trial within 60 days. Do you want to
20 waive or invoke that right?

21 THE DEFENDANT: I want to go on record and invoke that right.

22 THE COURT: Speedy trial. All of this is on the record, sir.

23 THE DEFENDANT: Thank you.

24 THE CLERK: Yes, your Honor. That'll be calendar call, January 15th
25 at 8:30 a.m. Jury trial, January 22nd at 9:00 a.m., Department 20.

1 MR. SHEETS: Thank you, your Honor.

2 THE COURT: And, counsel, pursuant to statute you have 21 days from today
3 for the filing of any writs. If the transcript has not been filed as of today, you have 21
4 days from the filing.

5 THE COURT: Thank you, your Honor.

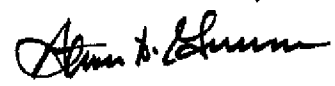
6 THE COURT: Thank you.

7 (Whereupon, the proceedings concluded.)

8 * * * * *

9 ATTEST: Pursuant to Rule 3C(d) of the Nevada Rules of Appellate Procedure, I
10 certify that this is a rough draft transcript, expeditiously prepared, not proofread,
11 corrected, or certified to be an accurate transcript.

12 
13 _____
14 Kiara Schmidt, Court Recorder/Transcriber
15
16
17
18
19
20
21
22
23
24
25



CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 STATE OF NEVADA,

6 Plaintiff(s),

7 vs.

8 PATRICK NEWELL,

9 Defendant(s).

CASE NO. C285825

DEPT. NO. XX

10
11 BEFORE THE HONORABLE JEROME T. TAO, DISTRICT COURT JUDGE

12
13 TUESDAY, JANUARY 15, 2013

14 **ROUGH DRAFT**
15 **RECORDER'S TRANSCRIPT OF**
16 **DAMIAN R. SHEETS, ESQ.'S MOTION TO WITHDRAW AS COUNSEL OF**
17 **RECORD; DEFENDANT'S MOTION FOR O.R. RELEASE OR, IN THE**
18 **ALTERNATIVE, MOTION TO REDUCE BAIL; AND CALENDAR CALL**

19 APPEARANCES:

20 For the State:

MICHAEL J. SCHWARTZER
Deputy District Attorney

21
22 For the Defendant:

DAMIAN R. SHEETS, ESQ.

23
24
25 RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 LAS VEGAS, NEVADA, TUESDAY, JANUARY 15, 2013, 8:59 A.M.

2 * * * * *

3 THE COURT: State versus Patrick Newell, C285825. All right. Have you
4 guys cleared up what's going -- there was some miscommunication, obviously, but --
5 so what's going on now?

6 MR. SHEETS: I think we have -- may I approach briefly, Your Honor?

7 THE COURT: Sure.

8 [Bench conference -- not recorded]

9 THE COURT: All right. So there is a -- there are a couple motions going on
10 here. There's a motion for a reduction of bail. There's a motion to withdraw. And
11 we're also on for the calendar call. It's my understanding that because of -- they
12 kind of interlock, it's my understanding that Mr. Sheets is discussing with Mr. Newell
13 whether or not he is going to continue to represent him.

14 In addition to that, it was also my understanding that Mr. Sheets, who
15 as of right now, is counsel of record, was going to ask for a continuance because
16 the -- he previously indicated the grand jury tran -- or the prelim transcripts are not
17 available which obviously is a pretty solid reason for not being ready for trial.

18 Mr. Newell, you previously invoked your right to have a trial set within
19 60 days. It's my understanding based on conversation you just had with Mr. Sheets
20 you now want to waive that right so that we can reset the trial so you can continue to
21 have conversations with Mr. Sheets about what's going on; is that true?

22 THE DEFENDANT: Yes. Yes. I'm actually in a position where I realize that
23 Mr. Sheets cannot represent me without the preliminary hearing transcript.

24 THE COURT: Right.

25 THE DEFENDANT: So I really have no choice.

1 THE COURT: All right. And in addition to that, it sounds like what Mr. Sheets
2 informed me is that he is negotiating with you about possibly staying on the case.
3 But you need time to do that?

4 THE DEFENDANT: That is correct.

5 THE COURT: Right?

6 THE DEFENDANT: That is correct. That is my desire.

7 THE COURT: All right, so we'll waive -- note the waiver of the speedy trial
8 rights.

9 And let's see then, and the motion to withdraw, based on the
10 conversations, I'm going to hold in abeyance because Mr. Sheets may be staying on
11 this case, so I'm not going to grant that motion as of right now.

12 The motion -- there's a motion for O.R. release or, in the alternative, for
13 reduction of bail. I have a written opposition by the defense.

14 Mr. Sheets, anything to add to your motion?

15 MR. SHEETS: Yes, Your Honor. I would just note that the victim's testimony
16 was -- was quite all over the place. There was quite a bit of contradictory testimony.
17 Some of that testimony, if the transcripts were available and if Your Honor's not
18 inclined to grant it today, I'd ask Your Honor to have the ability to bring it back
19 forward once the -- the transcripts come.

20 THE COURT: Yeah, we're in this -- we're in this catch-22 for the exact same
21 reason that you're not ready for trial, I don't have the prelim transcript either. So I
22 can't, you know, usually I'd like to look it over and see what happened, but I can't.
23 So I'm in this kind of bind right now, the same boat that you're in right now. I know
24 you're saying that the State's evidence is kind of weak, but I have no way to check
25 that.

1 MR. SCHWARTZER: Judge, if I could respond to that, Your Honor?

2 THE COURT: Sure.

3 MR. SCHWARTZER: The State's evidence is absolutely, I mean,
4 Judge Lippis heard an O.R. motion right after the preliminary hearing and denied
5 any reduction of bail. There's a video. I can tell Your Honor as a person who was a
6 participant in the preliminary hearing, as soon as we showed that video of what this
7 man lighting another, the victim on fire, the entire courtroom went, Whoa, including
8 the court staff, the people who were watching the preliminary hearing. It's very clear
9 what happened in this case. Here -- this is an individual who got annoyed at
10 someone, and instead of treated it like a rational human being, decided to pour --

11 THE DEFENDANT: I wouldn't have called it annoyed, I'd call it afraid.

12 THE COURT: Hang on, hang on, hang on, hang on. You don't get to
13 interrupt people, all right, only one person at a time.

14 MR. SCHWARTZER: Instead of acting like a rational human being, he pours
15 gasoline on this person twice and goes up to him and tries to light him once, doesn't
16 work; lights him a second time and he goes up like a Roman candle. And then
17 amidst to the whole thing, to the detective, call -- says he's crying like a little girl.

18 On top of that, Your Honor, this is an individual who has very little
19 contacts with Las Vegas. He's only been here 19 months. His view of Las Vegas,
20 as he told the detective, is, I've been here for 19 months, I've come to realize this
21 town is inhabited by a bunch of kooks, weirdoes, drug addicts, and every other kind
22 of nasty-ass person I've ever run across.

23 Obviously, this is an individual who has no contacts really with this
24 community, lit a man on fire at a gas station, a crowded gas station where there
25 other people getting gas as well, that could have led to a much bigger tragedy than

1 what actually occurred, clearly a danger to this community, Your Honor.

2 I would ask you to agree with Judge Lippis as she denied this motion
3 three separate times including after hearing everything in the preliminary hearing
4 and to deny this motion once again.

5 MR. SHEETS: Well, in -- since we're making a record, I think it's important,
6 Your Honor, the transcript to show that that victim was drunk, that victim was asked
7 to leave that store, that gasoline establishment. He was not allowed to be there. He
8 was asked to leave. He was sitting outside, leaning on my client's truck. The video
9 will show that my client sits there and talks to him and is very clearly telling him to
10 leave several times, that this individual, and the transcripts will make clear, then
11 comes at my client. He is approaching my client several times. At least five times
12 before any gasoline involvement occurs. And at that point, when my client turns to
13 get in the driver's seat of this car, this individual runs at my client.

14 And I think -- well, the transcripts will make it clear. And he even admits
15 to it, the victim admits to it as he's watching the video right there during the
16 transcripts. That's why the transcripts are so very important in this case. We have
17 an instance where the individual is approaching my client, by his own admission, as
18 he's watching the video, and he has to watch the video to testify because he can't
19 remember because he was so drunk the night it happened.

20 THE COURT: All right.

21 MR. SHEETS: And that's the problem.

22 MR. SCHWARTZER: Or maybe he doesn't remember because he was lit on
23 fire and put in a medically-induced coma --

24 THE COURT: All right, hang on.

25 MR. SCHWARTZER: -- for two weeks.

1 THE COURT: All right, stop. All right, here's what's going on, obviously,
2 there's a factual dispute about what happened, I don't have any way to resolve that
3 because I don't have the transcript.

4 But looking at Mr. Newell's history, he's got a significant record,
5 although some of the -- most of the offenses are older. But he's only been in
6 Nevada, it sounds like, a very brief time. So his contacts are kind of tenuous. I'm
7 not even sure what state he's from, but because his contacts are tenuous and, in
8 addition, he's facing some pretty serious charges, obviously, you're disputing
9 whether or not those charges are true, but there is certainly some incentive to flee
10 back to wherever he lived only 19 months ago.

11 So the motion is denied. However, what I'm going to do, is I'll deny it
12 without prejudice. If you think, when the transcript comes in, that there's something
13 in there that I need to look at, you can re-file the motion. But as of right now, based
14 on his criminal history, his lack of contact with Nevada, and the charges filed against
15 him, I'm denying the motion. All right?

16 In terms of resetting the trial, let's do this, I know, Mr. Sheets, that
17 you're continuing to negotiate with Mr. Newell about your representation, let's set
18 this out, the hearing on the motion to withdraw for three weeks and see if you guys
19 are able to work something out financially or not. Is that enough time for you, you
20 think, or not?

21 MR. SHEETS: If we could do -- I think three weeks should be fine,
22 Your Honor.

23 THE COURT: All right. And then in terms of resetting the trial, do you want
24 me to reset it now or do you want me to wait until you see whether you're going to
25 stay on the case or not and address it in three weeks?

1 MR. SCHWARTZER: I would ask to reset it, Your Honor.

2 MR. SHEETS: I think that's probably best. That way whether or not we can
3 work it out, he is --

4 THE COURT: He's got a date.

5 MR. SHEETS: -- he's still coming back to trial quickly.

6 THE COURT: All right. So in terms of resetting then, we've got -- we've
7 March, we've got June. Any range of dates work for you guys?

8 MR. SCHWARTZER: March is pretty rough for both me and Ms. Wong,
9 Your Honor. I have a murder case starting March 11th. It looks like she's in trial
10 March 11th as well. She's in trial March 18th.

11 THE COURT: Is this going to be a one-week trial or more than one week for
12 scheduling purposes?

13 MR. SCHWARTZER: Should be a one-week trial, Your Honor.

14 THE COURT: All right. So --

15 MR. SCHWARTZER: So I would ask for some time after March.

16 THE COURT: All right. Mr. Sheets, have you thought about a range of
17 dates?

18 MR. SHEETS: Do we have anything prior to June, Your Honor?

19 THE COURT: I'm sorry?

20 MR. SHEETS: Do we have anything that's kind of in between the two?
21 Sometime in April or May?

22 THE COURT: Anything in between March and June? I don't think we have
23 stack in between there.

24 THE CLERK: No

25 THE COURT: So it's either March or June basically.

1 MR. SHEETS: I know March would be tough for myself as well, Your Honor.
2 THE CLERK: Well, we could do April 8th.
3 MR. SHEETS: But I prefer not to wait 'til June.
4 THE COURT: What's April 8th?
5 THE CLERK: That's the last week of our stack.
6 THE COURT: All right. We can squeeze you in April 8th if that works for
7 everybody.
8 MR. SHEETS: I think that's good.
9 MR. SCHWARTZER: Judge, I'm actually in trial on April 8th on a case that's
10 already been continued twice and it's in custody.
11 THE COURT: All right. And then we're looking at June, essentially.
12 Mr. Sheets, is June okay with you or not?
13 MR. SHEETS: June's open for me, Your Honor. I was just trying to expedite.
14 THE COURT: The other thing is, you know, that'll give you time, in the event
15 that you guys are not able to work out your representation and he has to go look for
16 another attorney, that might give him some more time to find one as well.
17 MR. SHEETS: True.
18 THE COURT: All right.
19 THE CLERK: How about June 3rd for trial?
20 MR. SHEETS: Very well.
21 MR. SCHWARTZER: Thank you.
22 THE CLERK: Okay. Calendar call would be May 28th at 8:30.
23 MR. SCHWARTZER: I'm sorry, Madam Clerk, what was that date?
24 THE CLERK: May 28th at 8:30 for calendar call; June 3rd, 9:00 a.m. for trial;
25 and the motion to withdraw is continued to February 5th at 8:30.

1 THE COURT: All right. And then we'll figure out if you are staying on the
2 case or not, if you're not staying --

3 Mr. Newell, I don't know what your financial situation is, but if by
4 February 5th, you're not able to work it out with Mr. Sheets, then you need to at least
5 for another attorney. If you're not able to afford another attorney, then we can
6 address it then, but we'll, you know, hopefully, we'll be able to work out something
7 by then, all right.

8 THE DEFENDANT: Part of the problem, Your Honor, is that -- I -- my wife
9 and I own our own business and I'm pretty much the nuts-and-bolts of that. And
10 being locked up for, you know, almost four months now is -- is really causing
11 tremendous financial hardships.

12 THE COURT: Well, I don't know what to tell you about that. I mean, you
13 know, I don't know the situation. You'll just have to, you know, I mean, maybe you
14 can do some kind of power of attorney with Mr. Sheets, I'm not, you know, that's up
15 to him whether he wants to assume that obligation or not --

16 MR. SHEETS: And I think -- think that's something I'll work on.

17 THE COURT: -- but you guys can talk about that, all right?

18 MR. SHEETS: But additionally, is there a way that we can get an order from
19 Your Honor actually asking the transcriber to expedite these transcripts? The
20 preliminary hearing was -- was November 27th.

21 THE COURT: Yeah, the problem is the -- it's the Justice Court, either
22 recorder or reporter, I'm not sure which department you guys are in. So I'm not sure
23 I can do anything about that because it's, technically speaking, Justice Court, so --

24 MR. SHEETS: It's been six weeks almost, Your Honor.

25 THE COURT: -- I mean, we can maybe -- yeah. Well, I mean, I'm not sure

1 what else to tell you. I guess, if you don't have anything by February 5th, which is
2 three weeks from now, I mean, hopefully you'll get it by then, but if you don't then I
3 don't know if there's something we can maybe make a phone call or something, but
4 I can't really order, you know, a reporter in another court system to do anything is
5 the problem.

6 MR. SHEETS: Thank you.

7 THE COURT: Sorry.

8 MR. SHEETS: Okay.

9 PROCEEDING CONCLUDED AT 9:12 A.M.

10 * * * * *

11

12

13

14

15

16

17

18

19

20

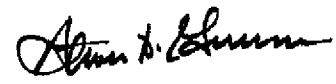
21 ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.

23

24

25


SARA RICHARDSON
Court Recorder/Transcriber



CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 STATE OF NEVADA,

6 Plaintiff(s),

7 vs.

8 PATRICK NEWELL,

9 Defendant(s).

CASE NO. C285825

DEPT. NO. XX

10
11 BEFORE THE HONORABLE JEROME T. TAO, DISTRICT COURT JUDGE

12
13 TUESDAY, FEBRUARY 5, 2013

14 **ROUGH DRAFT**
15 **RECORDER'S TRANSCRIPT OF**
16 **DAMIAN R. SHEETS, ESQ.'S**
17 **MOTION TO WITHDRAW AS COUNSEL OF RECORD**

18 APPEARANCES:

19 For the State:

SONIA V. JIMENEZ
Chief Deputy District Attorney
CHARLES W. THOMAN
Deputy District Attorney

22 For the Defendant:

N. MARK RAULS, ESQ.

23
24
25 RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 LAS VEGAS, NEVADA, TUESDAY, FEBRUARY 5, 2013, 9:24 A.M.

2 * * * * *

3 THE COURT: Three, State versus Patrick Newell, C285825. This is on for --
4 it was originally -- let's see, Mr. Newell's present in custody with Mr. Sheets, this
5 was originally on for a motion to withdraw and then I kind of status-checked it for
6 today to see what's going on. Any update on what's going on?

7 MR. RAULS: Just to enter appearance, Your Honor, Mark Rauls, R-A-U-L-S,
8 bar 10195, from Damian Sheets' office. Your Honor, if we could approach?

9 THE COURT: Sure.

10 [Bench conference -- not transcribed]

11 THE COURT: All right. So Mr. Sheets's office has filed a motion to withdraw
12 as counsel of record. I had status --

13 THE DEFENDANT: That's fine with me, Your Honor.

14 THE COURT: All right. I had status-checked it because at the time you said
15 that you still had some hope of maybe paying them, but it sounds like things are not
16 going to go in that direction.

17 THE DEFENDANT: It's -- it's -- it's --

18 THE COURT: So I'm going to grant -- hang on. Hang on --

19 THE DEFENDANT: -- more than a matter of --

20 THE CORRECTION OFFICER: Stop talking.

21 THE COURT: -- hang on. Only one of us can talk at a time.

22 I'm going to grant the motion to withdraw. So here's my question for
23 you, Mr. Newell, are you in the process of talking with someone else about hiring
24 them or what's going on?

25 THE DEFENDANT: Your Honor, as you might recall, I sent a letter to you

1 dated the 15th.

2 THE COURT: I don't look at those letters --

3 THE DEFENDANT: Okay.

4 THE COURT: -- because when you're represented by counsel, I can't look at
5 your letters.

6 THE DEFENDANT: At the time, just let me tell you what it said, at the time I
7 was asking that Cynthia -- or Claudia Romney from the Public Defender's Office be
8 brought into the case, and she was on the case originally. That not being possible, I
9 would then -- my family is looking for a alternate counsel right now.

10 THE COURT: All right, well --

11 THE DEFENDANT: As a matter of fact -- as a matter of fact, they've talked to
12 a Steven Parke and I have not had -- Parker, I'm sorry -- have not had a chance to
13 meet with him yet, so I do not know. He can't legally meet with me until the
14 withdrawal of --

15 THE COURT: No, I understand exactly the problem. All right, so I'm going to
16 grant the withdrawal today. So now you don't have an attorney, so you can meet
17 with whoever you want to, so how much time do you think you need to finish things
18 up with him? Is a couple weeks enough time or -- I mean, I don't what -- I don't what
19 he's charging, I don't need to know, that's between you and him, but --

20 THE DEFENDANT: Okay, I -- I have already, my family already knows that.

21 THE COURT: Okay.

22 THE DEFENDANT: And I would say a week would be more than sufficient.

23 THE COURT: Okay. Let's set this for status check, possible confirmation of
24 counsel or substitution of counsel for one week. So let's try -- you want to try next
25 Tuesday or do you want to try next Thursday to give you -- to give you an extra

1 couple of days?

2 THE DEFENDANT: Tuesday is fine.

3 THE COURT: All right, let's do next Tuesday then.

4 THE CLERK: February 19th 8:30 a.m.

5 THE COURT: All right. And what I would ask is if you're able to finalize
6 things with whoever this person is, whether it's him or someone else, if you can
7 have him here if he's going to confirm. If he's not going to confirm and you need
8 more time because you're still negotiating, obviously, I get that, but if you do have
9 him signed up, if you can tell him about that date and have him here, all right?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: That'd be great. See you next week.

12 THE DEFENDANT: Thank you.

13 MR. RAULS: Thank you, Your Honor.

14 PROCEEDING CONCLUDED AT 9:27 A.M.

15 * * * * *

16

17

18

19

20

21 ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.

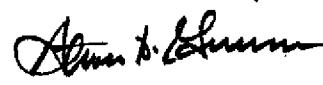
23

24

25



SARA RICHARDSON
Court Recorder/Transcriber


CLERK OF THE COURT

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff(s),

vs.

PATRICK NEWELL,

Defendant(s).

CASE NO. C285825

DEPT. NO. XX

BEFORE THE HONORABLE JEROME T. TAO, DISTRICT COURT JUDGE

TUESDAY, FEBRUARY 19, 2013

ROUGH DRAFT
RECORDER'S TRANSCRIPT OF
STATUS CHECK: CONFIRMATION OF COUNSEL

APPEARANCES:

For the State:

ALEXANDER D. CHEN
Deputy District Attorney

For the Defendant:

CARL E.G. ARNOLD, ESQ.
STEVE PARKE, ESQ.

RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 LAS VEGAS, NEVADA, TUESDAY, FEBRUARY 19, 2013, 8:37 A.M.

2 * * * * *

3 THE COURT: Top of six, State versus Patrick Newell, C285825. This is on
4 for a status check confirmation of counsel. He's present in custody.

5 MR. ARNOLD: Good morning, Your Honor.

6 THE COURT: Good morning.

7 MR. ARNOLD: Carl Arnold for Mr. Newell. We're not able to confirm as yet. I
8 still need to talk to his wife. So if you want to pass it a week, Your Honor, we'll be
9 able to know for sure by then.

10 THE COURT: All right. So you guys are still negotiating then?

11 MR. ARNOLD: Yes, Your Honor.

12 THE COURT: There's still a possibility?

13 MR. ARNOLD: Yes, Your Honor.

14 THE COURT: All right. Let's do a week then.

15 THE CLERK: Okay. February 26th.

16 THE COURT: All right. See you then.

17 MR. ARNOLD: Thank you, Your Honor.

18 THE COURT: Thanks.

19 (Proceeding concluded at 8:37 a.m.; matter was recalled at 8:49 a.m.)

20 THE COURT: State versus Patrick Newell, C285825. Mr. Arnold was just
21 here and said that he was talking with Mr. Newell. Is that -- are you confirming? Or
22 what's going on here?

23 MR. PARKE: Say that again, I'm sorry, Your Honor.

24 THE COURT: Carl Arnold was here a few minutes ago and said that he was
25 in negotiations with Mr. Newell to represent him.

1 MR. PARKE: Possibly, yeah, I'm not -- I'm not -- is that -- is that true?

2 THE DEFENDANT: Mr. Parke is also. It's narrowed down to two people.

3 MR. PARKE: Okay, well, if he was -- yeah, yeah, I got called last night saying
4 that --

5 THE COURT: Well, maybe he'll hire both of you.

6 MR. PARKE: -- that guy -- I better be here, but I wasn't -- I wasn't sure if I'm
7 representing Mr. Newell yet. So in that case before --

8 THE COURT: Well, he -- well, Mr. Arnold didn't confirm. He just said he's
9 talking with him, so we set this for a status check on February 26th to see. So why
10 don't we keep that date, and then whichever one of you --

11 MR. PARKE: And one of us will be here.

12 THE COURT: Yeah, one of you, whichever one of you ends up gets hired or
13 both of you, I guess --

14 MR. PARKE: Okay. Okay.

15 THE COURT: -- I need whichever one it is to be here then on that date then.

16 THE CLERK: Mr. Parke --

17 THE COURT: All right.

18 THE CLERK: -- may I have your bar number?

19 MR. PARKE: Sure, 12627.

20 THE CLERK: Thank you.

21 MR. PARKE: February 26th, what time was that?

22 THE COURT: 8:30. But obviously, if you're not retained you don't have to be
23 here.

24 MR. PARKE: Yeah.

25 THE COURT: All right. I guess we'll figure out on the 26th which one of

1 them -- or if there's someone else that you're talking to is going to be your attorney
2 then.

3 All right, let's see, what else do we have?

4 MR. PARKE: Thank you, Your Honor.

5 THE COURT: Thanks, is that all you have?

6 PROCEEDING CONCLUDED AT 8:50 A.M.

7 * * * * *

8

9

10

11

12

13

14

15

16

17

18

19


20

21 ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.

23

24

25


SARA RICHARDSON
Court Recorder/Transcriber


CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 STATE OF NEVADA,

6 Plaintiff(s),

7 vs.

8 PATRICK NEWELL,

9 Defendant(s).

CASE NO. C285825

DEPT. NO. XX

10
11 BEFORE THE HONORABLE JEROME T. TAO, DISTRICT COURT JUDGE

12
13 TUESDAY, FEBRUARY 26, 2013

14 **ROUGH DRAFT**
15 **RECORDER'S TRANSCRIPT OF**
16 **STATUS CHECK: CONFIRMATION OF COUNSEL**

17
18
19
20 APPEARANCES:

21 For the State:

MICHAEL J. SCHWARTZER
Deputy District Attorney

22
23 For the Defendant:

STEVE PARKE, ESQ.

24
25 RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 LAS VEGAS, NEVADA, TUESDAY, FEBRUARY 26, 2013, 8:51 A.M.

2 * * * * *

3 THE COURT: State versus Patrick Newell, C285825. Is Mr. Newell here or
4 not?

5 MR. PARKE: He is.

6 THE DEFENDANT: Yes, I'm right here.

7 THE COURT: Oh, he's right there. So are you confirming or what? I know
8 he was talking with a couple different attorneys.

9 MR. PARKE: Yeah, we're here to confirm counsel.

10 THE COURT: All right. So, we'll note your confirmation. We have a couple
11 dates coming up. There's a trial date set June 3rd, do you think -- what do you want
12 to do about that? You think that's enough time or, you know, I know you're just
13 getting on the case.

14 MR. PARKE: You know, I haven't even taken a look at the -- I haven't
15 received a copy of the discovery yet. I haven't even requested, so. Yeah, we're still
16 waiting to get everything. But I guess tentatively we could set it for June 3rd, but we
17 possibly may end up pushing that back depending on --

18 MR. SCHWARTZER: Judge, we're going to be ready June 3rd, so we would
19 ask Mr. Parke to let us know as far in advance as possible if he's not going to be
20 ready. We do have -- I mean, besides the discovery we've given over to Mr. Sheets,
21 which I'm sure Mr. Parke will acquire from Mr. Sheets, we will -- we do have the
22 medical records and will provide them to Mr. Parke as soon as possible.

23 THE COURT: All right, let's do this, do you want to set it -- do you want me to
24 just leave it out there? Do you want me to set it for a status check to see -- on trial
25 readiness? It's up to you. Either way is fine.

1 MR. PARKE: Let's set it for a status check just to be safe.

2 THE COURT: Or do you want to just vacate the trial date now and set it for a
3 status check? There's three different ways we can do it.

4 MR. PARKE: That's what I would prefer.

5 MR. SCHWARTZER: I'd rather we not vacate the trial date, Your Honor.

6 THE COURT: All right, let's do this, let's set this for a 30-day status check on
7 trial readiness and we'll see where things stand. If you've got the discovery and --
8 once you have a chance to look at it, if you think you're going to be ready in June or
9 not then, all right?

10 MR. PARKE: Sounds good, thank you, Your Honor.

11 THE CLERK: March 26th at 8:30.

12 THE COURT: All right. See you guys then.

13 MR. PARKE: Thank you.

14 PROCEEDING CONCLUDED AT 8:53 A.M.

15 *****

16

17

18

19

20

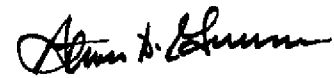
21 ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.

23

24

25


SARA RICHARDSON
Court Recorder/Transcriber



CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 STATE OF NEVADA,

6 Plaintiff(s),

7 vs.

8 PATRICK NEWELL,

9 Defendant(s).

CASE NO. C285825

DEPT. NO. XX

10
11 BEFORE THE HONORABLE JEROME T. TAO, DISTRICT COURT JUDGE

12
13 TUESDAY, MARCH 26, 2013

14 **ROUGH DRAFT**
15 **RECORDER'S TRANSCRIPT OF**
16 **STATUS CHECK: TRIAL READINESS**

17
18
19
20 APPEARANCES:

21 For the State:

HETTY O. WONG
Deputy District Attorney

22
23 For the Defendant:

STEVE PARKE, ESQ.

24
25 RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 LAS VEGAS, NEVADA, TUESDAY, MARCH 26, 2013, 8:48 A.M.

2 * * * * *

3 THE COURT: Top of seven, State versus Patrick Newell, C285825. This is
4 on for a status check. It looks like Mr. Newell is present out of custody. This is on
5 for a status check on trial readiness. I know you had just confirmed in and we have
6 trial date set in the beginning or early June. So how do things look?

7 MR. PARKE: Judge, we -- we had a extremely difficult time getting any --
8 anything from Mr. Newell's previous attorney. We did get some discovery. I believe
9 we're missing some pieces of it. We don't have the minutes from the preliminary
10 hearing, first and foremost. So we're asking that we vacate that trial date and we
11 reset a new date.

12 THE COURT: Has the transcript even been filed from the prelim or are we
13 still waiting for one to be filed? Does anyone know?

14 State, do you have a copy of the prelim transcript?

15 MS. WONG: I don't, Judge.

16 THE COURT: Okay. When was the prelim held?

17 THE DEFENDANT: I believe it was November the 27th, Your Honor.

18 MS. WONG: November 27th, that's correct.

19 THE COURT: Okay. And no transcript yet, huh?

20 THE CLERK: Huh-uh.

21 THE COURT: Okay. Well, all right, so in terms of resetting it then, what do
22 you guys want to do? Want to set it for a status check? Do you want me to pick a
23 trial date now or what?

24 MS. WONG: I prefer to set a trial date now, Judge.


25 MR. PARKE: That would be fine.

1 THE COURT: All right. Sometime in the fall you think or what?
2 MR. PARKE: Yeah, the fall would be fine.
3 THE COURT: Okay. We have, like, October, right?
4 THE CLERK: Yeah. October.
5 THE COURT: Is this -- how many days is this going to be? Is this going to be
6 more than one week for scheduling purposes or not?
7 MR. PARKE: I suspect it'll be a week.
8 MS. WONG: About a week.
9 MR. PARKE: About a week, yeah.
10 THE COURT: Okay.
11 THE CLERK: Okay. How about October 14th for trial?
12 THE COURT: Does that work for everybody?
13 MS. WONG: Yes, Judge.
14 MR. PARKE: That's fine.
15 THE CLERK: And that's at 9:00 o'clock; calendar call is October 8th at 8:30.
16 THE COURT: All right. See you guys then.
17 Mr. Newell, you need to stay in touch with your attorney, all right?
18 THE DEFENDANT: Thank you, Your Honor.

19 PROCEEDING CONCLUDED AT 8:50 A.M.

20 * * * * *

21 ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.

23 

24 SARA RICHARDSON
25 Court Recorder/Transcriber


CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 STATE OF NEVADA,

6 Plaintiff(s),

7 vs.

8 PATRICK NEWELL,

9 Defendant(s).

CASE NO. C285825

DEPT. NO. XX

10
11 BEFORE THE HONORABLE JEROME T. TAO, DISTRICT COURT JUDGE

12
13 THURSDAY, SEPTEMBER 19, 2013

14 **ROUGH DRAFT**
15 **RECORDER'S TRANSCRIPT OF**
16 **STEVEN K. PARKE, ESQ.'S MOTION TO WITHDRAW AS COUNSEL**

17
18
19
20 APPEARANCES:

21 For the State:

HETTY O. WONG
Deputy District Attorney

22
23 For the Defendant:

STEVEN K. PARKE, ESQ.

24
25 RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 LAS VEGAS, NEVADA, THURSDAY, SEPTEMBER 19, 2013, 8:38 A.M.

2 * * * * *

3 THE COURT: Bottom of six, State versus Patrick Newell, C285825. Is your
4 client present or not?

5 MR. PARKE: Good morning, Your Honor. No, he's not. I'm not -- not sure if
6 he's just didn't get the correct date or what, I've been trying to contact him this
7 morning and last night, but so far I've been unsuccessful.

8 THE COURT: This is on for your motion to withdraw, I mean, the problem is
9 his trial date's coming up in, like, three weeks. And if he's not even here, I can't
10 even ask him are you -- if he's hiring a new attorney or what he's going to do. I can't
11 appoint him anybody, so he's just going to be kind of attorney-less for a little while.
12 So let's do this, let's set this over for maybe next Tuesday because I need him here
13 to at least have a conversation with him.

14 MR. PARKE: Sure.

15 THE COURT: And see if he can afford an attorney or not, and if he can't
16 we'll, you know, he needs to fill out an affidavit to see if he qualifies for the P.D., so
17 I'm not going to grant your motion yet because obviously, I'm just not sure what's
18 going on. Let's try this next Tuesday. I'm going to need him here. Can you keep
19 trying to get a hold of him and get him over here?

20 MR. PARKE: Yes, Your Honor. I will.

21 THE COURT: Okay.

22 MS. WONG: And, Your Honor, I did speak with Mr. Parke about a week or
23 two ago and he asked me not to subpoena the case, so we don't have any
24 witnesses subpoenaed for the trial because we knew that new counsel would have
25 to be appointed. I imagine the Public Defender's Office would be appointed.

1 THE COURT: Right.

2 MS. WONG: And if the defendant's not here on Tuesday, the State would be
3 asking for a bench warrant.

4 THE COURT: All right. Well, let's see where we are on Tuesday then.
5 Obviously, you know, the problem is I can't do anything without him here, so, all
6 right. Let's see if you can get a hold of him and if not, you know, maybe you can,
7 you know, at least tell us on Tuesday what your -- what effort's been made and all
8 that kind of stuff. All right?

9 MR. PARKE: Great.

10 THE CLERK: September 24th at 8:30.

11 MR. PARKE: Thank you, Your Honor.

12 THE COURT: All right. See you then.

13 PROCEEDING CONCLUDED AT 8:50 A.M.

14 * * * * *

15

16

17

18

19


20

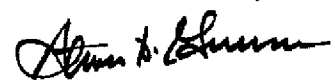
21 ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.

23

24

25


SARA RICHARDSON
Court Recorder/Transcriber


CLERK OF THE COURT

1 **RTRAN**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5 **STATE OF NEVADA,**

6
7 **Plaintiff(s),**

8 **vs.**

9 **PATRICK NEWELL,**

10 **Defendant(s).**

CASE NO. C285825

DEPT. NO. XX

11 **BEFORE THE HONORABLE JEROME T. TAO, DISTRICT COURT JUDGE**

12 **TUESDAY, SEPTEMBER 24, 2013**

13
14 ***ROUGH DRAFT***
15 **RECORDER'S TRANSCRIPT OF**
16 **STEVEN K. PARKE, ESQ.'S MOTION TO WITHDRAW AS COUNSEL**

17
18
19 **APPEARANCES:**

20 **For the State:**

MICHAEL J. SCHWARTZER
Deputy District Attorney

21 **For the Defendant:**

STEVEN K. PARKE, ESQ.

22 **Also Present:**

DIANNE M. DICKSON
Deputy Public Defender

23
24
25 **RECORDED BY: SARA RICHARDSON, COURT RECORDER**

1 LAS VEGAS, NEVADA, TUESDAY, SEPTEMBER 24, 2013, 8:40 A.M.

2 * * * * *

3 THE COURT: State versus Patrick Newell, C285825.

4 MR. SCHWARTZER: Good morning, Your Honor, Mike Schwartzer for the
5 State. I believe we're waiting for Mr. Parke.

6 THE COURT: Yeah, is -- let's see, is Mr. Newell here? Is this him coming
7 up?

8 MR. SCHWARTZER: Yes.

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: You're Mr. Newell? Yeah, I haven't seen him yet. He hasn't
11 checked in, has he?

12 MR. SCHWARTZER: Your Honor, I have other court appearances in District
13 Court 12, can I run up to that and then come back down?

14 THE COURT: Yeah, that's fine. We have to -- we need Mr. Parke here
15 anyway. He's trying to withdraw, but obviously the question is what is going to
16 happen with his, you know, any new attorney. So we'll just kind of trail that for a few
17 minutes, yeah, that's fine.

18 MR. SCHWARTZER: Thank you, Your Honor.

19 THE COURT: It's a pretty short calendar, so -- let's see here, yeah, it's only
20 like 10 pages, 11 pages, but, all right, I guess we'll trail that for a minute, all right.

21 [Proceeding trailed until 9:00 a.m.]

22 THE COURT: State versus Patrick Newell, C285825. Mr. Newell is present
23 in custody. This is on for Mr. Parke's motion to withdraw. Morning.

24 MR. PARKE: Good morning, Judge.

25 THE COURT: All right. So what is going on with Mr. Newell, is he hiring a

1 new attorney, or what's he doing? Because the calendar call's coming up in, like,
2 three weeks or four weeks.

3 MR. PARKE: I don't think he has the money to hire an attorney. I think he'll
4 need a public defender appointed to him.

5 THE COURT: Well, hang on here.

6 MR. SCHWARTZER: This is going to be Mr. Newell's fourth attorney,
7 Your Honor.

8 THE COURT: Fourth what?

9 MR. SCHWARTZER: Fourth attorney. He originally had the public defender,
10 hired Damian Sheets. Damian Sheets did the preliminary hearing. Then Mr. Parke
11 took over when it came into District Court and now we're here.

12 THE COURT: Right. I mean, at some point my concern is we're only weeks
13 away from trial. And, you know, basically --

14 Mr. Newell, are you in the process of hiring another attorney, or what is
15 the situation?

16 THE DEFENDANT: Unfortunately, Your Honor, I don't have the funds to hire
17 an outside attorney. So I would ask that the Court appoint one for me.

18 THE COURT: Well, all right, Mr. Parke, let me ask you this, when you on to
19 the case, you got on after prelim, I mean, what was your expectation? Did you not
20 expect that you were going to do the trial in this case?

21 MR. PARKE: I was expecting to -- to be compensated for the trial. We just
22 don't have the money to hire all the particular people that we need to hire to give
23 Mr. Newell a fair shake.

24 THE COURT: Well, I mean, the fact that he previously had the public
25 defender, first of all, and then secondly, had a previous attorney who withdraw

1 because he couldn't pay, that wasn't a red flag to you that maybe he wasn't going to
2 pay you either?

3 MR. PARKE: Well, Mr. Newell had some issues with his bail bonds man
4 which money was going to be there, money wasn't there, the money was going to
5 be there, the money wasn't there, so it's been a lot of back and forth. We're just too
6 close now.

7 THE COURT: All right. Well --

8 THE DEFENDANT: Your Honor, may I say something?

9 THE COURT: All right, Mr. Newell, are you married? Do you have any kids?

10 THE DEFENDANT: I'm married. I've got four grown children, five
11 grandchildren, and I just became a great granddad two months ago.

12 THE COURT: All right. So what does your wife do? Does she work for a
13 living?

14 THE DEFENDANT: No, she's on social security, Your Honor.

15 THE COURT: Do you have a house? Do you have a car?

16 THE DEFENDANT: I've got a vehicle. But we don't have a house.

17 THE COURT: Okay. Do you receive -- does your wife receive any financial
18 support from your adult kids?

19 THE DEFENDANT: From time to time, but like all of us in today's economic
20 situation, they're hurting as well.

21 THE COURT: All right. Any other assets? Stocks? Bonds? Retirement
22 account? Anything like that?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: Roughly how much -- ballpark, how much money do you have
25 in your bank accounts, cash?

1 THE DEFENDANT: I would have to say in my, again, my wife takes care of
2 that, I would say at the moment there's probably less than \$100.

3 THE COURT: All right. Where is -- Ms. Dickson, on Mr. Newell, here's what's
4 happening, Mr. Parke is withdrawing because Mr. Newell's been unable to make his
5 financial obligations. Based on what he's said to me in court it sounds like he would
6 qualify for the public -- services of the Public Defender. It looks like in the past he
7 previously had the Public Defender at some point. So I'm going to assume there's
8 no conflict from that. So do you need time to -- do you want me to set, like, a status
9 check, confirmation of counsel see if you can accept the case?

10 MS. DICKSON: You're asking me, Your Honor?

11 THE COURT: Yeah.

12 MS. DICKSON: If we had it before, chances are we can have it again.

13 THE COURT: Right.

14 MS. DICKSON: I mean, we'll certainly check and if there's any conflicts bring
15 it to the Court's attentions, but I'm assuming if we had it before it's okay.

16 THE COURT: Yeah, because I know you had it at one point and then he
17 hired somebody who substituted in just for the prelim basically is what happened.
18 Yeah.

19 MR. SCHWARTZER: Ms. Romney was actually ready to go forward with the
20 preliminary hearing, Your Honor.

21 THE COURT: Right.

22 THE DEFENDANT: Your Honor, may I say something?

23 THE COURT: Hang on.

24 We have -- the thing is we have a calendar call date on October 8th.
25 Yeah, I'm assuming you're not going to be ready for that.

1 MS. DICKSON: No, absolutely not.

2 THE COURT: But, yeah, I mean, that's a concern. I mean, I'll be honest with
3 you, Mr. Parke, sometimes I don't grant these motions two weeks before trial
4 because you shouldn't have taken --

5 MR. PARKE: I understand, Your Honor.

6 THE COURT: -- the case after prelim if you aren't ready to go to trial
7 honestly. But this isn't -- how many trial settings have we had in this case? I think
8 this is, like, the first or second trial setting, right?

9 MR. SCHWARTZER: This would be --

10 THE COURT: It's pretty -- it's pretty early in the case.

11 MR. SCHWARTZER: This is either the second or the third. There's been a
12 defense continuance on the past, I know that.

13 THE COURT: All right. So I'll appoint the P.D. unless the P.D. indicates that
14 there's some kind of conflict.

15 Mr. Parke, can you get the -- the copy of your file over to the Public
16 Defender's Office?

17 MR. PARKE: I'll have it over today, Your Honor.

18 THE COURT: All right. Do you want me to, Ms. Dickson, do you want me to
19 set it for a status check, confirmation of counsel?

20 MS. DICKSON: Could we, just to make sure we get the file? Because I've
21 got a couple other cases where we've never gotten the file and we're still trying to --

22 THE COURT: Right.

23 MS. DICKSON: -- get the files. So I just, no offense to Mr. Parke.

24 MR. PARKE: None taken.

25 MS. DICKSON: I want the file before we take the case.

1 THE COURT: All right. So let's do this, why don't we set it for a status check
2 in a week on discovery for the P.D. and also trial readiness, all right?

3 THE CLERK: October 1st at 8:30.

4 MR. SCHWARTZER: Judge, do you not want to set a new trial date while
5 we're all here? Or do you want to wait for the confirmation of counsel?

6 THE COURT: Well, I mean, Ms. Dickson doesn't have the file yet. I'm sure --
7 I'm going to guess as she's standing here right now she doesn't even know what the
8 charges are, right?

9 MS. DICKSON: I can see what it says on the calendar, but that's as much as
10 I know about it.

11 THE COURT: Right. That's why I'm not sure, you know, if they come in and
12 say, you know -- well, let's try it in a week and see.

13 All right. That'll be the order.

14 PROCEEDING CONCLUDED AT 9:05 A.M.

15 * * * * *

16
17
18
19
20
21 ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.

23 
24 SARA RICHARDSON
25 Court Recorder/Transcriber


CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 STATE OF NEVADA,

6 Plaintiff(s),

7 vs.

8 PATRICK NEWELL,

9 Defendant(s).

CASE NO. C285825

DEPT. NO. XX

10
11 BEFORE THE HONORABLE JEROME T. TAO, DISTRICT COURT JUDGE

12
13 TUESDAY, OCTOBER 1, 2013

14 **ROUGH DRAFT**
15 **RECORDER'S TRANSCRIPT OF**
16 **STATUS CHECK: DISCOVERY/TRIAL READINESS**

17
18
19
20 APPEARANCES:

21 For the State:

MICHAEL J. SCHWARTZER
Deputy District Attorney

22
23 For the Defendant:

CLAUDIA L. ROMNEY
Deputy Public Defender

24
25 RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 LAS VEGAS, NEVADA, TUESDAY, OCTOBER 1, 2013, 9:11 A.M.

2 * * * * *

3 THE COURT: State versus Patrick Newell, C285825. This is on for a status
4 check on discovery and trial readiness. Mr. Newell is present in custody.

5 THE DEFENDANT: Good morning, Your Honor.

6 THE COURT: At the last hearing date I appointed the Public Defender.

7 All right, Ms. Romney, what do you want to do on Mr. Newell then?

8 MS. ROMNEY: Well, Your Honor, unfortunately, we haven't received any
9 discovery whatsoever at this point from I believe it was Mr. Parke who was --

10 THE COURT: Yeah, I think so.

11 MS. ROMNEY: -- the prior attorney of record. And it's my understanding that
12 there is about a banker's box worth of medical records in this case. I don't know if
13 Your Honor would prefer to set this over for another status check before setting a
14 trial. It seems that discovery's going to be pretty extensive, so I'm a little hesitant to
15 set a trial date without it, but we did talk about a potential trial date and would be
16 looking to be set about mid-March just because of our trial schedules.

17 THE COURT: Right.

18 MS. ROMNEY: So, you know, I'm hoping that if we do get the -- the discovery
19 soon that, you know, mid-March would still be plenty of time, but obviously that
20 would be conditioned on --

21 THE COURT: Right, if you guys --

22 MS. ROMNEY: -- us receiving it and --

23 THE COURT: Some item soon, right.

24 MS. ROMNEY: I mean, so --

25 THE COURT: Let's do this, let's set this tentatively for a trial date in March

1 just so there's a trial date out there. And then I'll also set a status check maybe in a
2 week or two just to see if -- if you don't have discovery in, let's say, a couple of
3 weeks, then we may have to revisit the trial date. But I just don't want him custody
4 without a trial date hanging out there, all right?

5 MS. ROMNEY: Of course.

6 THE DEFENDANT: Your Honor, it was my understanding that discovery was
7 completed. We had a court date -- a trial date set for the 8th of October.

8 THE COURT: Right.

9 THE DEFENDANT: As far as I'm concerned, I'm ready for that date. This is
10 not a complicated case. It's very simple. The entire incident is on video. I don't
11 think that a date set off into sometime next year is required in this matter.

12 THE COURT: All right. Well, here's the problem, you're right that discovery
13 was given, your previous attorney had it, the problem is Ms. Romney is now your
14 new attorney, and she doesn't have it. I know the discovery's been done and it's
15 there, but it's still in the hands of -- what I'm being told -- of your previous attorney.
16 So she has no idea -- I'm assuming she --

17 You've not even seen this videotape, right, because you haven't gotten
18 anything?

19 MS. ROMNEY: I've seen it. I had the case initially.

20 THE COURT: Okay.

21 MS. ROMNEY: And private -- it was actually a different, I think it was
22 Mr. Sheets who substituted in prior to preliminary hearing.

23 THE COURT: Yeah. Right.

24 MS. ROMNEY: So I didn't have it long enough to really -- I didn't have any of
25 the medical records.

1 THE COURT: I mean, the problem is, sir --

2 MS. ROMNEY: So the --

3 THE COURT: -- here's the situation, it's not that there's -- the discovery
4 hasn't been done, it has, it's just that --

5 MS. ROMNEY: I don't have it.

6 THE COURT: --Ms. Romney standing here doesn't physically have it, it's still
7 in Mr. Parke's hands. He needs to get it to her is the situation.

8 THE DEFENDANT: Yes, Your Honor. I do understand that, and I'm sure
9 Mr. Parke is willing to fully cooperate. As a matter of fact, my wife spoke to him
10 yesterday, she mentioned nothing to me about any documents that had not been
11 turned over, however. And, again, we're looking at a very simple matter here. The
12 entire incident is on videotape. There isn't a whole lot that can be left to the
13 imagination.

14 THE COURT: All right. So hang on. So here's the --

15 THE DEFENDANT: I feel an earlier date --

16 THE COURT: -- all right, here's the situation, our next stack is January, then
17 March. Ms. Romney, it sounds like he really wants an earlier trial date. Is any time
18 in January better for -- work for you or not? Are you just booked up in January?

19 MS. ROMNEY: The problem is we are booked up because with the holidays,
20 everything else is being set in January. I don't have really any flexibility. I don't
21 know that the State does either. But that's why we looked at it beforehand and
22 March was the best we could do.

23 And I fully appreciate Mr. Newell's position. I certainly don't want him to
24 be in custody any longer than he has to be waiting for trial. I just, without discovery,
25 I can't really do much about it.

1 THE COURT: Right.

2 MS. ROMNEY: And I can't change other trials that have already been set.
3 It's unfortunate that Mr. Newell is back in custody. I know he was out of custody for
4 a brief period of time on this case, but I'm trying to do the best I can under the
5 circumstances.

6 MR. SCHWARTZER: That is correct, Your Honor. Ms. Romney and I did go
7 over our trial schedules and we were booked up in January.

8 THE COURT: Right. And I might not -- I mean, I have a murder case in
9 January that everybody is telling looks like it's going to go, so this might not have
10 gone in January anyway, to be honest with you.

11 All right, well, I mean, I understand, Mr. Newell, your concern, but the
12 problem is your attorney doesn't even have the discovery yet and she's saying she's
13 all booked up in January with other trials, so we'll set it -- what's the first week in
14 March? We'll set it as early as possible and try it then.

15 MS. ROMNEY: Could we do -- we were looking for mid-March, like maybe
16 the week of the 17th.

17 THE COURT: Mid-March? Okay.

18 MS. ROMNEY: Does that work? Okay.

19 THE DEFENDANT: Your Honor, under the circumstances, I would ask the
20 Court to revisit my bail amount. I had previously been out on bail, there has been no
21 incidents, there is no problems.

22 THE COURT: Well, hang on. Hang on. Mr. Newell, here's the situation, I
23 don't really entertain oral bail motions. I used to. But the problem is we're
24 paperless now, so your file is this, it's one piece of paper. Normally, I used to be
25 able to do that because I could flip open your file, look at, you know, what's going

1 on. I can't do that right now.

2 So, Ms. Romney, he wants you to file a bail motion, you're welcome to
3 file one. That'll give me a chance to look at it, look at the file, all that kind of stuff.
4 You want to file one, you can file one, all right?

5 MS. ROMNEY: Thank you.

6 THE COURT: So let's trial -- let's set it in, what, March 17th was the date you
7 guys were talking about?

8 MS. ROMNEY: Please.

9 MR. SCHWARTZER: That would be fine, Your Honor.

10 THE CLERK: Calendar call would be March 11th at 8:30; jury trial March 17th
11 at 9:00 a.m.

12 THE COURT: And let's also set a status check date maybe in two weeks just
13 to make sure Ms. Romney's got the banker's box of documents out there. And if
14 not, then I might have to order Mr. Parke to come in here and just make sure you
15 get it.

16 THE CLERK: That would be October 15th at 8:30.

17 Is defendant in custody on our case then?

18 MR. SCHWARTZER: Yes, Your Honor.

19 MS. ROMNEY: I believe he's in on -- he was in on a bond surrender. So he
20 should be in custody now on this case.

21 THE COURT: Okay.

22 MR. SCHWARTZER: There's been three O.R. motions, all been denied by
23 you, Your Honor.

24 THE COURT: Yeah, I don't, you know, that's the problem is I don't even
25 remember that off the top of my head without the file here, so.

1 MS. ROMNEY: And if it's appropriate, I'll put something back on calendar.

2 THE COURT: Okay. All right.

3 THE DEFENDANT: I trust Ms. Romney implicitly. We have had
4 conversations --

5 THE COURT: No, I understand that. I just can't do it with -- just orally
6 because, like I said, I just don't -- even the fact that there was previous motions, I
7 don't have the file. I can't flip it open and look at that stuff, so, all right?

8 THE DEFENDANT: Thank you, Your Honor.

9 MR. SCHWARTZER: Your Honor, for the record, the trial is obviously
10 vacated, right?

11 THE COURT: Yeah, obviously, right. Okay.

12 MS. ROMNEY: Thank you.

13 PROCEEDING CONCLUDED AT 9:19 A.M.

14 * * * * *

15

16

17

18

19

20

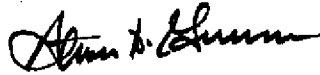
21 ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.

23

24

25


SARA RICHARDSON
Court Recorder/Transcriber


CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 STATE OF NEVADA,

CASE NO. C285825

6 Plaintiff(s),

7 vs.

DEPT. NO. XX

8 PATRICK NEWELL,

9 Defendant(s).

10
11 BEFORE THE HONORABLE JEROME T. TAO, DISTRICT COURT JUDGE

12
13 TUESDAY, OCTOBER 15, 2013

14 **ROUGH DRAFT**
15 **RECORDER'S TRANSCRIPT OF**
16 **STATUS CHECK: DISCOVERY**

17
18
19 APPEARANCES:

20 For the State:

HETTY O. WONG
NICOLE J. CANNIZZARO
Deputies District Attorney

21
22 For the Defendant:

CLAUDIA L. ROMNEY
Deputy Public Defender

23
24
25 RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 LAS VEGAS, NEVADA, TUESDAY, OCTOBER 15, 2013, 9:57 A.M.

2 * * * * *

3 THE COURT: State versus Patrick Newell, C285825. This is on for a status
4 check. The Public Defender was appointed recently. Mr. Newell is present in
5 custody. This was a status check to see if you got the discovery from -- I forget who
6 his prior counsel was.

7 MS. ROMNEY: It was Mr. Parke.

8 THE DEFENDANT: Morning.

9 THE COURT: Good morning.

10 MS. ROMNEY: And unfortunately, I haven't gotten any of the medical records
11 from him.

12 THE COURT: Okay.

13 MS. ROMNEY: I'm not sure exactly what the communication has been
14 between our team secretary and his office. But apparently there is about a banker's
15 box worth of medical records that he received that we have not yet received. I'm
16 certainly happy to request it of the D.A. if they can make another copy. I'm not really
17 sure --

18 THE DEFENDANT: Your Honor --

19 MS. ROMNEY: -- how you want to go about it, but someone's got to give it to
20 me.

21 THE COURT: Right. Obviously.

22 THE DEFENDANT: Your Honor, before we go any further, I have a motion
23 here to dismiss counsel and proceed in pro per.

24 THE COURT: Hang on, can you take a half step back, your chain's rubbing
25 on the mic and it's just causing --

1 THE DEFENDANT: Excuse me.

2 THE COURT: -- I can't even -- it's all -- all I hear is bang, bang, bang, so
3 okay.

4 THE DEFENDANT: Excuse me. I have here a motion to dismiss counsel and
5 proceed in pro per. And I would ask the Court if this motion is granted, that we reset
6 the court date which is now -- or trial date rather, which is now set for March 17th,
7 2014, to a short date. I am ready for trial, and I am completely prepared.

8 THE COURT: All right, so you want to represent yourself at trial?

9 THE DEFENDANT: Absolutely, Your Honor.

10 THE COURT: All right, let's do this, since we don't have anything -- it's a
11 relatively short calendar, let me keep him for a minute, there's a canvass I have to
12 do, it's called a *Faretta* canvass to make sure you understand what you're getting
13 into.

14 THE DEFENDANT: I understand, Your Honor.

15 THE COURT: Ms. Romney, can you hang out, I'm going to probably keep
16 you as stand-by counsel.

17 MS. ROMNEY: Uh-huh. That's fine.

18 THE COURT: But let's at least have that conversation then. So let me recall
19 your case, let me just kind of cycle through some --

20 MS. ROMNEY: And I haven't seen his motion, so I can look over it.

21 THE COURT: Do you want to take a look at it?

22 MS. ROMNEY: Sure.

23 THE COURT: Okay. Thanks.

24 THE CLERK: Page 17.

25 THE COURT: Do you know, for the D.A.'s office, who's going to be trying this

1 case?

2 MS. CANNIZZARO: Yes, Your Honor. It will be Ms. Wong and
3 Mr. Schwartzer.

4 THE COURT: Okay. All right. So we'll recall your case in a minute,
5 Mr. Newell.

6 [Proceeding trailed until 10:11 a.m.]

7 THE COURT: State versus Patrick Newell, case number C285825.
8 Mr. Newell is present in custody.

9 So, Mr. Newell, I have your written motion here. Let me just see here,
10 motion to dismiss counsel and permit to defendant to proceed in pro per. I have not
11 had time to read this entire motion, but I've just kind of skimmed it. It looks like you
12 want to represent yourself at trial; is that correct?

13 THE DEFENDANT: That is correct, Your Honor.

14 THE COURT: All right. I have some questions I need to ask you, first of all,
15 how old are you for the record?

16 THE DEFENDANT: I'm 60 -- almost 63 years old.

17 THE COURT: Okay. And what's your highest educational level? How far did
18 you go in school?

19 THE DEFENDANT: I went through three years of college and I also did
20 some -- some outside graduate work. So I think I have a fairly decent education.

21 THE COURT: Okay. What did you study in college? I'm just curious.

22 THE DEFENDANT: I'm sorry?

23 THE COURT: What did you study in college?

24 THE DEFENDANT: Business.

25 THE COURT: What has your profession been for the last few years?

1 THE DEFENDANT: For 28 years I was in middle and upper management
2 with a large Fortune 500 homebuilder here in the United States, and after that I
3 had -- well, I had a major automobile accident in 2006. I could no longer -- I could
4 no longer function in that capacity. And so I went into business for myself along with
5 my wife, doing the only thing we knew how to do. When I was in college I sold
6 furniture, so I went into the furniture business.

7 THE COURT: Okay. So let me ask you some questions, I want to -- I need to
8 make sure that you actually understand what is going on here. Do you know what
9 you're charged with?

10 THE DEFENDANT: Yes, I do.

11 THE COURT: Okay. Can you name the charges? I know you don't have the
12 piece of paper with you, but can you at least name some of them?

13 THE DEFENDANT: Yes, attempted murder, assault with a deadly weapon,
14 assault with a deadly weapon resulting in grievous bodily harm, and a gross
15 misdemeanor which is -- it escapes me, but it's something to the effect of an act that
16 put -- that was detrimental to myself and those around me.

17 THE COURT: Close enough, performance of act in reckless disregard of
18 persons or property; do you remember reading that?

19 THE DEFENDANT: That is correct, Your Honor.

20 THE COURT: All right, do you know what the element -- do you know -- when
21 I say -- when people refer to the element of a crime; do you know what that means?

22 THE DEFENDANT: I believe so, Your Honor.

23 THE COURT: What do you think it means?

24 THE DEFENDANT: It means is whether or not there was an intent there to
25 commit the crime.

1 THE COURT: The elements of the crime are the things the State has to
2 prove in order to prove you guilty, all right. Do you know what the elements of the
3 offense of attempt murder are?

4 THE DEFENDANT: Yes.

5 THE COURT: What do you think the State has to do to prove that you are
6 guilty of that crime?

7 THE DEFENDANT: Yes. The State would have to show that I acted with
8 malice and aforethought in attempting to take someone's life, but failed to do so.

9 THE COURT: All right, and what about the battery with use of a deadly
10 weapon resulting in substantial bodily harm?

11 THE DEFENDANT: That means that I assaulted an individual using a
12 weapon, not necessarily a gun or a knife, but a weapon to cause substantial bodily
13 harm to them.

14 THE COURT: And what kind of weapon does that have to be? Is there a
15 definition for that weapon; do you know?

16 THE DEFENDANT: There really is no definition, could virtually be anything.

17 THE COURT: What about assault with a deadly weapon? Do you know what
18 the different between assault and battery are?

19 THE DEFENDANT: Yes, assault is attempting or coming on to somebody
20 with a deadly weapon. Battery is actually using it.

21 THE COURT: All right. Do you know what the possible sentence is that
22 you're facing for each charge are?

23 THE DEFENDANT: Yes, I do, Your Honor.

24 THE COURT: And what are they? What do you think they are?

25 THE DEFENDANT: On attempted murder it's 2 to 20 years. On the assault,

1 they're 1 to 10 years, I believe. And the misdemeanor I believe is one year plus
2 fines.

3 THE COURT: Well, assault with a deadly weapon is actually 1 year to 6
4 years. What about the battery with use of a deadly weapon resulting in substantial
5 bodily harm?

6 THE DEFENDANT: I believe that's 1 to 10 years, Your Honor.

7 THE COURT: It's actually -- it's 2 to 15, right? I'm pretty sure. It's 2 to 15
8 actually; do you understand that?

9 THE DEFENDANT: Yes. Yes, Your Honor. They're all serious charges,
10 Your Honor. I'm fully aware of that.

11 THE COURT: Okay. Do you have any prior convictions?

12 THE DEFENDANT: Yes. I -- but the last time I was in trouble I was in my
13 20s.

14 THE COURT: How many prior felony convictions do you have?

15 THE DEFENDANT: I've got several drug charges.

16 THE COURT: How many is several? Can you give me a -- is it -- are we
17 talking two or ten?

18 THE DEFENDANT: I think it might be two or three when I was in my 20s. I
19 got married 34 years ago. I haven't had anything on my record since.

20 THE COURT: Okay. I don't know what your felonies are. I don't when they
21 were. I don't know what state they're from. But do you understand that if you have
22 a certain number of felonies, the State could ask that you be sentenced under the
23 habitual sentencing scheme. Do you know what that means?

24 THE DEFENDANT: Yes.

25 THE COURT: You probably heard me today sentence -- go through this with

1 somebody else, but depending on the number of felonies, what kinds they are, those
2 kinds of things, the State can ask for it and then I have to look at what the felonies
3 are, and if they qualify and depending on my discretion, I can sentence you to an
4 enhanced sentence.

5 If it's under the small habitual sentencing scheme, it would be between
6 minimum 5 years, maximum of up to 20 years. If it's a large habitual, depending on
7 how many felonies you have, I can sentence you to either life without the possibility
8 of parole or life with the life possibility of parole after 10 years or a definite term of
9 10 to 25 years. So depending on how many prior convictions have, if the State asks
10 for it and if I deem that you actually qualify, you could actually be, in theory, serving
11 a life-without-the-possibility-of-parole; do you understand that?

12 THE DEFENDANT: I understand that, Your Honor.

13 THE COURT: Okay. Do you understand that you have a constitutional and
14 statutory right to be represented by competent counsel free of charge if you cannot
15 afford to retain your attorney?

16 THE DEFENDANT: Yes, I do, Your Honor.

17 THE COURT: Do you understand that the attorney assigned to you is a
18 member of the State Bar of Nevada and has trial experience in handling criminal jury
19 trials?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: All right, do you know that you have the right to call witnesses
22 on your behalf?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: How do you intend to do that?

25 THE DEFENDANT: I would call them through subpoena.

1 THE COURT: How would you issue a subpoena, just out of curiosity?

2 THE DEFENDANT: I'm not quite certain, Your Honor. I believe most of the
3 witnesses, if not all of the witnesses that would be called, would already be called by
4 the State. However, if there is someone that I need to call, which again, I don't
5 believe there is, I would certainly find out the correct procedure to do that.

6 THE COURT: All right. Do you understand that the court doesn't prepare or
7 serve subpoenas for any witnesses? That's something you have to find a way to do
8 either through you or your counsel?

9 THE DEFENDANT: Yes.

10 THE COURT: But I gather you don't actually know how to do that now, you
11 said that's something that you would have to look into?

12 THE DEFENDANT: No, but I will -- I will definitely learn the procedure, the
13 proper procedure to make that happen.

14 THE COURT: Okay. Do you understand that you have the right to confront
15 and cross-examine witnesses called against you by the State of Nevada?

16 THE DEFENDANT: Yes, I do, Your Honor.

17 THE COURT: All right. Do you understand that you will not be given any
18 special privileges in court or any extra or special library privileges in jail just because
19 you represent yourself?

20 THE DEFENDANT: That's -- yes, Your Honor.

21 THE COURT: All right. Do you know that it's almost always unwise and may
22 be to your severe criminal detriment to represent yourself at trial?

23 THE DEFENDANT: No, I don't. However, there's a possibility of that. I
24 believe I know my case inside out. I have a firm belief in my innocence and I have a
25 firm belief that if the evidence be put before 12 of my peers, they would reach a --

1 the same decision I've reached.

2 THE COURT: Well, let me ask you this, you heard earlier that Ms. Romney
3 was saying that the -- your previous counsel and the State apparently have some
4 kind of medical records, apparently it's a banker's box full of records, okay?

5 THE DEFENDANT: Yes.

6 THE COURT: And I don't know what else is out there. Let's hypothetically
7 say there's other documentation, other records, other discovery, maybe witness
8 statements, maybe other witnesses out there, how do you intend to do things like
9 that? Get documents? Talk to witnesses? Do any kind of investigation?

10 THE DEFENDANT: I'm fairly certain that if Ms. Romney will turn over what
11 documents she has, I believe the State has already completed their end of the
12 discovery. I do need to review these medical records. The first I've ever heard of
13 them was on the first of October when they were brought up. Mr. Parke, who was
14 previous counsel, never mentioned anything to me about them. I don't know if
15 they're my medical records, if they're the alleged victim's medical records, I have no
16 idea. So I do need to review them.

17 THE COURT: All right. But what I'm talking about is, I'm using that as an
18 example, what if there's other stuff out there that you don't have? How are you
19 going to get that? Or how about this, you know, when the State investigates a case,
20 they've got their officers, their detectives that'll go out, they investigate the case,
21 they talk to witnesses, but let's hypothetically say, and I have no idea whether this is
22 true in this case, I'm just talking hypothetically, let's hypothetically say there's
23 another witness out there, an eyewitness, I don't know who it would be, that the
24 police didn't know about or didn't get a witness statement from, okay, if you had an
25 attorney, the attorney could have their investigator go and track down this person,

1 but without an attorney, how do you intend to do any kind of investigation like that?

2 THE DEFENDANT: I would have to rely on my family and business
3 associates that I know to perhaps step in and help me.

4 THE COURT: So, but they -- they don't, I mean, are any of them trained
5 investigators? Any of them have any kind of law enforcement investigation training?

6 THE DEFENDANT: No, they're not, Your Honor. But I firmly believe that any
7 witness that, to this particular incident, is already either in the police report or the
8 State's listed them as a potential witness to be called at trial.

9 THE COURT: Well, I mean, how would you know that? I mean, that's what
10 everybody assumes, but -- and that may be true, but how would you -- again, I don't
11 know what you know, I don't know exactly what happened at the scene, but that's
12 exactly the catch-22 that I'm driving at, which is the State believes they have
13 everything, but hypothetically, let's say there was another witness, some neighbor or
14 something like that that they didn't talk to, how would you even find out if that person
15 exists?

16 THE DEFENDANT: That would be through discovery. And I believe there
17 was mutual discovery in this case.

18 THE COURT: But if the State doesn't know, they're not going to tell you, you
19 would have to find that yourself.

20 THE DEFENDANT: Correct. And if I did find that out it would be --

21 THE COURT: You know, and at least -- at least Ms. Romney has an
22 investigator who hypothetically could go and knock on doors and that kind of thing,
23 how would you do that?

24 THE DEFENDANT: I would have to rely on -- on my family and whatever
25 resources they were able to muster on the outside.

1 THE COURT: Okay.

2 THE DEFENDANT: Unfortunately, I'm, you know, in a position where I, you
3 know, I would love to be able to have my hands on a law library, and it's very
4 minimal at CCDC to say the least. The only reason that I contemplate and I want to
5 move forward representing myself is because this is not a complex case, it is -- it
6 really boils down to 14 minutes of video. And it can't be slanted one way or the
7 other, it certainly can't be slanted too much in any direction, either to the State's or
8 to mine.

9 THE COURT: Okay.

10 THE DEFENDANT: It is what it is, Your Honor.

11 THE COURT: All right. Do you understand that the State will be represented
12 by an experienced, professional attorney who will give you no breaks just because
13 you don't happen to have the same skills and experience as she does or as they
14 do?

15 THE DEFENDANT: Yep, absolutely.

16 THE COURT: All right. You also understand that in this case there probably
17 are going to be two prosecutors and it's just going to be you, right? You understand
18 that?

19 THE DEFENDANT: That is correct.

20 THE COURT: All right. Do you know -- do you understand that you are
21 responsible for presenting any written jury instructions that you wish to have read to
22 the jury at the end of the trial if you disagree with any proposed by the State?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: All right. Do you have any method of investigating what are or
25 are not proper jury instructions in the state of Nevada?

1 THE DEFENDANT: No, Your Honor. But I certainly will research that.

2 THE COURT: Okay. Have you ever participated in any jury trial before?

3 THE DEFENDANT: No, Your Honor.

4 THE COURT: Have you ever watched one?

5 THE DEFENDANT: Oh, yes.

6 THE COURT: Where and when? Were they civil trials? Criminal trials? Or
7 what?

8 THE DEFENDANT: Most recently the criminal trial down in Florida with --
9 what's his name -- George Zimmerman.

10 THE COURT: Oh, you're talking about on TV. I'm talking about have you
11 ever actually participated --

12 THE DEFENDANT: Oh, no, actually --

13 THE COURT: -- in --

14 THE DEFENDANT: -- actually been physically in a courtroom?

15 THE COURT: Right.

16 THE DEFENDANT: No, no, no, Your Honor.

17 THE COURT: Because, you know, on the TV trials, they don't show all the
18 boring stuff, they only show the interesting stuff.

19 THE DEFENDANT: No.

20 THE COURT: And the boring stuff is, frankly, when I say boring, what I mean
21 is boring for purposes of TV, not to the case. Some of the most important stuff in a
22 case happens on things that they don't play on TV. Do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: Okay.

25 THE DEFENDANT: A lot of it's procedural and I like to call it housekeeping.

1 THE COURT: All right. Do you understand that if I grant your motion to
2 represent yourself, your present counsel, Ms. Romney, will continue as stand-by or
3 advisory counsel on your case. They'll sit with you at counsel table and they will be
4 available to -- for you to ask any questions during the trial that you may wish to ask,
5 but they will not offer you any assistance or take any part in the proceedings unless
6 you specifically request them to do so?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Okay. Do you understand that at any time if your
9 representation of yourself becomes disruptive in court or causes any kind of undue
10 delays in the trial that I could terminate your right to self-representation?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Okay. Do you understand that if you represent yourself at trial
13 and you are convicted of these crimes, you cannot later complain that you were
14 ineffective in representing yourself and that I should not have let you do that?

15 THE DEFENDANT: Yes.

16 THE COURT: All right. Now, I'm not going to -- if you wish to represent
17 yourself, I must be satisfied that you clearly understand all of your rights, that you
18 clearly understand your obligations in trial, that you freely and voluntarily waive your
19 right to counsel. Now, without telling me what your defense is because the D.A.'s
20 standing right there, I don't want you to tell her exactly what you intend to do at trial,
21 but do you understand what possible defenses exist to these charges? And do you
22 have in mind some specific defense?

23 THE DEFENDANT: Oh, yes, I do, Your Honor.

24 THE COURT: Okay. If you are convicted of any of the charges against you,
25 do you know how much time you have thereafter to file a notice of appeal to the

1 Nevada Supreme Court?

2 THE DEFENDANT: No, I do not, Your Honor. But I would certainly -- I would
3 certainly look into that if -- if and when the case arose.

4 THE COURT: Okay. I want to make sure I understand, so your right to
5 represent yourself, your decision to represent yourself, you're -- you are making that
6 decision of your own free will?

7 THE DEFENDANT: That's correct, Your Honor.

8 THE COURT: Okay. No one has coerced you? No one is pushing you?
9 You're not getting some guy calling you, some family member, anything like that,
10 pushing you to do it? You want to do this of your own free will?

11 THE DEFENDANT: No, this was solely my -- my decision, and I did get my
12 wife involved in it, and she acquiesced in that decision.

13 THE COURT: All right. Do you believe that it is in your best interest to
14 represent yourself instead of having an attorney represent you?

15 THE DEFENDANT: Yes.

16 THE COURT: Okay. Can you just give me a -- tell me why?

17 THE DEFENDANT: Because there's not a counsel on the face of this earth
18 that knows these charges and this incident as well as I do having lived through it. I
19 believe I can present a very, very good defense to all the charges that I'm facing. If I
20 fail in that, then the jury will obviously see that, and I will be sentenced accordingly.

21 THE COURT: Okay. Do you also understand an attorney has an
22 understanding of the rules of evidence, so during the trial if the D.A. asks questions
23 of a witness that, for example, may not be admissible or if a witness blurts
24 something out, normally your attorney would make an objection under the rules of
25 evidence. Now, she's not going to make those objections for you because you're

1 representing yourself. Do you -- do you understand what an objection is? Do you
2 understand what the rules of evidence are?

3 THE DEFENDANT: Yes.

4 THE COURT: Okay. How do you know those things? Did you read 'em in
5 the law library or what?

6 THE DEFENDANT: I've read some in the law library, but pretty much they're
7 what I consider to be common sense. Okay, if it doesn't relate --

8 THE COURT: I'm not sure I would agree with that, but okay.

9 THE DEFENDANT: -- if it's not a part of -- you know, if it goes off in the
10 wrong direction, that's a reason to object.

11 THE COURT: And also I'm not going to tell -- make you tell me or the D.A.
12 whether you intend to testify at trial yourself, but if you do, do you understand that if
13 you take the stand and testify the D.A. will be allowed to cross-examine you?

14 THE DEFENDANT: Yes.

15 THE COURT: Okay. And the cross-examination is not necessarily limited
16 just to what you say, they can go into your prior convictions, they can go into
17 anything that bears on your credibility outside the case; do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: Okay. Ms. Romney, do you have any questions for your
20 former client -- or your client?

21 MS. ROMNEY: No. I mean, I think he satisfied the requirements of *Faretta*,
22 that his decision is knowingly and intelligently made and voluntarily made. I think he
23 certainly understands that he's not going to be given any, you know, special
24 treatment, and, you know, I think he understands that -- what the standard is. I quite
25 frankly, think that he's going to do as good a job as anyone would in representing

1 themselves.

2 THE DEFENDANT: Thank you.

3 THE COURT: Yeah, I mean, compared to a typical person in the criminal
4 justice system, he's -- he's much more educated, he's had a much more successful
5 career than a lot of these, you know, 18-, 19-year-olds that we see. It seems like
6 you have -- you've made a -- you've thought this out and you've made a decision
7 here. So I'm going to let you represent yourself.

8 THE DEFENDANT: Thank you, Your Honor.

9 THE COURT: I'm going to appoint Ms. Romney as stand-by counsel, okay.

10 THE DEFENDANT: Thank you, Your Honor.

11 THE COURT: So she'll sit next to you. She can answer questions for you,
12 but she's not really going to do anything unless you ask her to; do you understand
13 that?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Now, in terms of -- you said you wanted to move the trial date
16 up?

17 THE DEFENDANT: Yes, I'd like to -- I'd like to get as short a date as
18 possible. I've been in custody a total of almost six months now. The trial date that
19 we have set currently is for March the 17th which we were looking at approximately
20 another six months. It's quite a bit of time. You know, I have my beliefs as to -- as
21 to my guilt or innocence. I feel that I've spent a great deal of time away from my
22 family.

23 THE COURT: All right, hang on. So here's the thing is in January, you may
24 have heard me say this earlier today, I have a murder trial that everyone is telling
25 me is going to go and it's going to go about three weeks. I'm not going to send a

1 case to overflow where Mr. Newell is representing himself. So I'm not sure I can
2 move you up to January.

3 THE DEFENDANT: Well, Your Honor, I can take an earlier date than that.
4 And as a matter of fact, I would ask --

5 THE COURT: Well, the problem is there is no earlier date than that. We get
6 into, you know, I'm going into what's called a civil stack where I hear only civil trials
7 for a few weeks, so.

8 State, how many days do you think this trial's going to be for scheduling
9 purposes? Is it going to be more than one week or one week or less?

10 MS. WONG: I assume one week.

11 THE COURT: Yeah, the problem is, I'm -- Mr. Newell, I understand, you
12 know, ordinarily I would try to accommodate you, I'm not sure January -- basically, I
13 only do criminal trials during certain periods of time. It's -- the next one is January
14 and then there is March. The problem with January is I have that murder trial that is
15 going to take up almost that entire stack. So I'm not sure I can actually squeeze you
16 into January is the problem.

17 MS. ROMNEY: Could we do this, Judge -- and I don't know that I have any
18 standing now to do this, but maybe we could leave the date that's currently set so
19 that it doesn't get delayed any further. Maybe we could have a status check in, you
20 know, as late in December or right before that other trial is set to go, if they end up
21 announcing ready, then he keeps his March date. If something comes up in that
22 murder trial that frees up the Court's calendar, then maybe we can get set at that
23 point?

24 MS. WONG: Actually, Judge, that doesn't give us enough time. And we have
25 to prepare our case as well.

1 THE COURT: Yeah, they need 30 days to -- yeah, they need 30 days to
2 subpoena their witnesses.

3 MS. WONG: Probably 60 days. I mean, normally we subpoena the cases 60
4 days out.

5 THE COURT: Okay.

6 MS. WONG: And in this case there's -- basically most of our witnesses will be
7 lay witnesses.

8 THE COURT: You know, the problem is, in thinking about it, I'm not even
9 sure the March date is going to go because I have that death penalty case with
10 Burns and Mason.

11 THE CLERK: In June.

12 THE COURT: Oh, that's right we pushed it to June. I forgot about that. We
13 were holding March for that. So March is -- yeah, all right. So, basically,
14 Mr. Newell, here's the problem is, I'm trying to accommodate you, but January is --
15 it's going to be really, really difficult.

16 THE DEFENDANT: Would Your Honor consider a reduction in bond or an
17 O.R. bond? I've been out there for seven months, there's been no incidents. I know
18 the State brought up the fact that -- that, you know, these are very serious crimes
19 and, you know, I could go out there and commit them over again.

20 THE COURT: Well, hang on, let me just tell you -- hang on. Here's the
21 problem, I don't really entertain oral motions relating to bail and here -- you may
22 have heard me before because I know you've been in front of me a bunch of times,
23 we're paperless now, so I don't have your file in front of me. I just -- what happens
24 is because we're paperless, I just print out sort of whatever's on calendar, so I don't
25 know your criminal record. I don't know -- yeah, I don't even have a copy of the

1 police report as I sit here right now. I'd have to get on the computer and get it.

2 If you want to file a motion, if you can do it in writing, and that way when
3 it comes up, I can pull out the file and look at it. I just -- I don't -- I say this to
4 everybody, I can't -- in the old days, when I had the file, I could pull up your file and
5 look at it. I literally have one sheet of paper with you because I thought this was just
6 on for a calendar call kind of a thing, or a status check then, all right? So you're
7 welcome to file a motion if you want to, and that way it'll give the State a chance to
8 respond and then me a chance to look into.

9 So, all right, so, I mean, the best I can tell you is we'll have to keep the
10 March date because January, with that murder trial is not really going to -- I can't
11 squeeze you in there, and I don't want to send this to another judge with, you know,
12 with you representing yourself. Even though ordinarily this might be overflow
13 eligible. So we'll keep the trial date. I understand you want it sooner, but, you
14 know, in terms of scheduling I just can't, you know, with a murder trial --

15 THE DEFENDANT: I understand, Your Honor.

16 THE COURT: -- I can't squeeze it in.

17 THE DEFENDANT: I understand.

18 THE COURT: All right, so I guess that'll be the order, we're -- he's going to
19 represent himself. We'll have Ms. Romney as stand-by counsel.

20 Ms. Romney, one thing I will ask you to do, just to close it off --

21 MS. ROMNEY: Sure.

22 THE COURT: -- is if you can still try to get that banker's box of medical
23 records.

24 MS. ROMNEY: I will still facilitate discovery issues.

25 THE COURT: Want me to set a status check on that or I don't know if you

1 want to -- I mean, it's kind of complicated because you're not really the attorney any
2 more, but he's got to get those records somehow.

3 MS. ROMNEY: Well, yeah, I will -- I mean, I think I have a pretty good
4 working relationship with the district attorneys on this case. I will either -- I'll try to
5 get a hold of Mr. Parke again, I'll do it myself this time.

6 THE COURT: Okay.

7 MS. ROMNEY: And then if I don't hear from him, I will just let the D.A. know
8 and maybe they can work on getting on us another copy.

9 MS. WONG: And I'll also contact Mr. Parke as well. I've spoken to him about
10 this before, he indicated he would get it to Mr. Newell, so I'll harass him again.

11 THE COURT: Okay. Do you want me to set a status check to make sure all
12 that happens or take it off calendar or what do you want to do?

13 MS. ROMNEY: You can take it off calendar. If we're really having that big a
14 problem, you know, either way, I'll let the Court know, but I don't think we need to
15 continue this any further.

16 THE COURT: State, do you think there's going to be any other documented
17 discovery that's going to come in between now and March? Because the issue is
18 how you get it to him, we basically have to set it for a status check and you hand it
19 to him in open court is what's going to have to happen.

20 MS. WONG: I don't anticipate having any additional information.

21 THE COURT: So there's no -- is there any forensic testing, anything like that,
22 that we -- that you're still waiting for?

23 MS. WONG: I don't believe so.

24 THE COURT: Okay. Let's do this, just to be safe, let's set a status check
25 maybe in, you know what, let's set a status check maybe in like 45 days or so, let's

1 just -- that way -- because the problem is, you know, there's -- Mr. Newell can't even
2 have any kind of communication, let's just set a status check 45 days that way we
3 can make sure he's -- what's going on with the banker's box of medical records, and
4 then that way if there's anything else that you guys want to have a conversation
5 about because there's no way for him --

6 MS. WONG: Sure.

7 THE COURT: -- he doesn't know how to put things on calendar, so let's just
8 do that just to be safe, all right.

9 MS. ROMNEY: Okay. Yep.

10 THE COURT: Forty-five days'll be what?

11 THE CLERK: December 3rd at 8:30.

12 THE COURT: All right. See you guys then. And that may be a pointless one,
13 but, like I said, I'm not sure he knows how to put things on calendar if he wants to
14 raise things, so we can at least have a conversation.

15 And then the other thing is, State, do you anticipate or have you made
16 an offer in this case?

17 MS. WONG: I'm pretty sure we made offers in the past. I don't know what it
18 is right now. It's been such a long time since we've discussed negotiations, but --

19 THE COURT: Okay.

20 MS. WONG: -- we'll certainly make an offer.

21 THE COURT: Because that's another thing where, you know, in order to
22 even convey that offer, I'd have to put it back on calendar, have him brought here
23 and you can talk with him about it. So I guess we can address that at that status
24 check.

25 MS. WONG: Okay.

1 THE COURT: If there's an offer you want to make to him then, you can at
2 least talk with him about it then, all right?

3 MS. WONG: Okay.

4 THE COURT: All right. See you guys on December 3rd then.

5 THE DEFENDANT: Thank you, Your Honor.

6 MS. ROMNEY: Thank you.

7 THE COURT: All right, Mr. Newell, you're on your own now, so, you know --

8 THE DEFENDANT: It's up to me.

9 THE COURT: -- I hope this was the best decision for you.

10 THE DEFENDANT: Thank you.

11 THE COURT: Good luck to you.

12 PROCEEDING CONCLUDED AT 10:46 A.M.

13 * * * * *

14

15

16

17

18

19

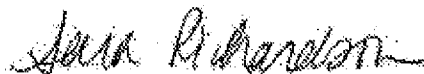
20

21 ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.

23

24

25



SARA RICHARDSON
Court Recorder/Transcriber


CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 STATE OF NEVADA,

6 Plaintiff(s),

7 vs.

8 PATRICK NEWELL,

9 Defendant(s).

CASE NO. C285825

DEPT. NO. XX

10
11 BEFORE THE HONORABLE JEROME T. TAO, DISTRICT COURT JUDGE

12
13 TUESDAY, DECEMBER 3, 2013

14 **ROUGH DRAFT**
15 **RECORDER'S TRANSCRIPT OF**
16 **DEFENDANT'S PRO SE DEMAND FOR SPEEDY TRIAL;**
17 **STATUS CHECK: DISCOVERY;**
18 **AND DEFENDANT'S PRO SE MOTION FOR REDUCTION IN BAIL**

19 APPEARANCES:

20 For the State:

HETTY O. WONG
Deputy District Attorney

21 For the Defendant:

PRO SE

22 Standby Counsel:

23 CLAUDIA L. ROMNEY
Deputy Public Defender

24 RECORDED BY: SARA RICHARDSON, COURT RECORDER
25

1 LAS VEGAS, NEVADA, TUESDAY, DECEMBER 3, 2013, 8:35 A.M.

2 * * * * *

3 THE COURT: Top of page four, State versus Patrick Newell, C285825.

4 Mr. Newell is present in custody representing himself. There's a couple of things
5 going on here. We've got a status check on discovery and then you filed a couple of
6 motions here, a demand for a speedy trial and a motion for reduction in bail. What's
7 the status on the discovery have -- I know that he had standby counsel and we were
8 going to -- we had status checked this to make sure that he had gotten all the
9 discovery. Have you given him any additional stuff or --

10 MS. WONG: I did. I provided that to Ms. Romney.

11 THE COURT: Okay.

12 MS. WONG: Who I think provided it to Mr. Newell.

13 THE COURT: Have you already provided it or you're going to?

14 MS. ROMNEY: I provided it to him this morning. The State gave us
15 discovery on a disk.

16 THE COURT: Okay.

17 MS. ROMNEY: And it was --

18 THE COURT: Which he can't, yeah, do anything with it, right.

19 MS. ROMNEY: Right. Which is of no use to him. So it was large enough
20 where we had to send it out for printing because it was well over 700 pages of
21 discovery. So I had it printed out and have turned all of the discovery over to
22 Mr. Newell. I -- we had to recreate a file basically because we didn't ever get
23 anything from prior counsel.

24 THE COURT: Okay.

25 THE DEFENDANT: Your Honor, since I -- since I just received discovery

1 today.

2 THE COURT: Right.

3 THE DEFENDANT: And I received the State's opposition to my motion for a
4 bail reduction on Wednesday, I feel like I wasn't -- didn't have adequate time to
5 prepare to argue that motion. And so at this point I would ask the Court for a
6 two-week continuance on the hearing of that motion. There's a couple of items that
7 are contained, statements that are made in the State's opposition that I need to go
8 through the discovery to see where they found those things.

9 THE COURT: All right. Here's what's going on, you -- the other thing is you
10 filed a demand for a speedy trial. It's a little bit late for you to do that because we're
11 so far into the case. But if you really want to go in January, and I wanted to check
12 with the State and see what your status is, I have a murder trial that was -- everyone
13 told me was going to go in January, but now it looks like it's going to be continued.
14 We had blocked out two weeks for it. It would have started January 13th. So if it's
15 convenient for you, we could slide it into that slot beginning on the 13th. I don't know
16 if that's going to be enough time for you to get ready. But that -- those two weeks
17 just opened up.

18 MS. WONG: Unfortunately, Your Honor, that would not work for my schedule.
19 I already have two trials scheduled back to back.

20 THE COURT: Okay. Is this overflow eligible? Is this one week or less? Not
21 that I would send it to overflow because I'm pretty sure whoever gets it would not
22 necessarily appreciate it. But anyway, is it one week or less or more than one
23 week?

24 MS. WONG: We could potentially do it in a week.

25 THE COURT: Okay. All right. So Mr. Newell's asking for a continuance then

1 to, I guess, go over your response. Any objection to that? Just push it back two
2 weeks?

3 MS. WONG: No.

4 THE COURT: All right. So let's try two weeks for his motions and also set it
5 for a status check on discovery since you just got it today and I'm guessing you
6 haven't really had a chance to look through the 700 pages. So let's move it all to
7 two weeks.

8 Which will be?

9 THE CLERK: December 17th, 8:30.

10 THE COURT: All right. See you then, Mr. Newell.

11 THE DEFENDANT: Thank you, Your Honor.

12 PROCEEDING CONCLUDED AT 8:38 A.M.

13 * * * * *

14

15

16

17

18

19

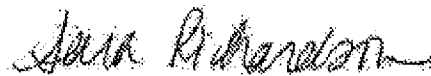
20

21 ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.

23

24

25



SARA RICHARDSON
Court Recorder/Transcriber


CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 STATE OF NEVADA,

6
7 Plaintiff(s),

8 vs.

9 PATRICK NEWELL,

10 Defendant(s).

CASE NO. C285825

DEPT. NO. XX

11 BEFORE THE HONORABLE JEROME T. TAO, DISTRICT COURT JUDGE

12
13 TUESDAY, DECEMBER 17, 2013

14 **ROUGH DRAFT**
15 **RECORDER'S TRANSCRIPT OF**
16 **DEFENDANT'S PRO SE DEMAND FOR SPEEDY TRIAL;**
17 **STATUS CHECK: DISCOVERY;**
18 **AND DEFENDANT'S PRO SE MOTION FOR REDUCTION IN BAIL**

19 APPEARANCES:

20 For the State:

MICHAEL J. SCWHARTZER
Deputy District Attorney

22 For the Defendant:

PRO SE

23 Standby Counsel:

No Appearances

24
25 RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 LAS VEGAS, NEVADA, TUESDAY, DECEMBER 17, 2013, 8:31 A.M.

2 * * * * *

3 THE COURT: State versus Patrick Newell, C285825. This is on for a status
4 check on discovery. At the last hearing the State had given Mr. Newell some
5 additional discovery. So, Mr. Newell, have you had a chance to look through
6 everything?

7 THE DEFENDANT: I've had a chance to look through everything I've gotten.
8 I just got a copy of the preliminary hearing, the transcript from the preliminary
9 hearing a couple of days ago via mail from the Public Defender. I don't believe that I
10 have everything that the State has.

11 THE COURT: Okay. All right. So --

12 MR. SCHWARTZER: I believe Mr. Newell does have everything, well, at least
13 we provided his counsel with everything we have. I don't know if his counsel's
14 provided it to him.

15 THE COURT: Yeah, you know what, we don't have Ms. Romney here, she's
16 stand-by counsel. Is she coming; does anyone know? Or maybe we should trail
17 this until she gets here just because she's stand-by counsel and she had the file
18 originally. Let's do this, let's trail this for a couple of minutes, maybe she has some
19 representations to make about where --

20 MR. SCHWARTZER: Your Honor, I just have an issue, I'm starting trial
21 actually at 9:00 a.m.

22 THE COURT: Okay.

23 MR. SCHWARTZER: Up in courtroom 15C, so I actually have to leave. If it's
24 just the discovery motion, I guess, you know, you can have Ms. Romney put that on
25 the record without me here. I didn't know if you wanted to address the O.R. motion

1 at this point.

2 THE COURT: Well, I mean, I was basically going to deny it given the nature
3 of the charges and we're only a short way out from trial. I've read the motion. The
4 defendant is asking for a reduction in bail. But given the nature of the charges and
5 the history of this case, I don't see any reason to change it now only a couple of
6 months out from trial.

7 He's also made a demand in proper person for a speedy trial. Well, it's
8 kind of a little late to do that. You can't really waive your speedy trial right and then
9 months later try to invoke. I know what you're trying to do, you're trying to get an
10 earlier trial date, and if you remember the last hearing, I noted that there was an
11 opening in one of my trial slots in January. But that was a little quick for everybody
12 to get their subpoenas out. So we'll keep the March trial date. If something else
13 opens up I'll contact you and the State and maybe we can get something earlier.
14 But we're kind of booked up in January is the problem.

15 Okay?

16 THE DEFENDANT: Thank you, Your Honor. I have one question. Can I
17 waive trial by jury?

18 THE COURT: You can if you want to.

19 THE DEFENDANT: Yes, I'd like to do that.

20 THE COURT: All right, let's do this --

21 THE DEFENDANT: Do you need a motion? I'm sorry.

22 THE COURT: For this I think what you probably should do is have a
23 conversation with your stand-by counsel about that. If you want to do that, you have
24 the right to do that, but there's kind of this whole, you know, I have to do a canvass
25 on the record and make sure you understand what you're doing. I at least want you

1 to have a conversation with Ms. Romney about the implications of that, okay?

2 Maybe we can set this, well, next week is Christmas week. Why don't
3 we set this December 31st and then this will be on a status check on defendant's
4 request to waive trial by jury. As I indicated, I at least want Ms. Romney to have a
5 conversation with you about all the rights that are at stake and all the consequences
6 for appeal and all that kind of stuff, okay?

7 THE DEFENDANT: Thank you.

8 THE COURT: All right. See you on the 31st. And what we'll do is since
9 Ms. Romney's not here, we'll send her an e-mail and just notify her what's going on
10 and ask her to have a conversation with you by the 31st then, okay?

11 THE DEFENDANT: Thank you.

12 THE COURT: Thanks.

13 MR. SCHWARTZER: Thank you, Your Honor. And I appreciate the early
14 call.

15 THE CLERK: December 31st at 8:30.

16 PROCEEDING CONCLUDED AT 8:38 A.M.

17 *****

18

19

20

21 ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.

23

24

25



SARA RICHARDSON

Court Recorder/Transcriber


CLERK OF THE COURT

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff(s),

vs.

PATRICK NEWELL,

Defendant(s).

CASE NO. C285825

DEPT. NO. XX

BEFORE THE HONORABLE JEROME T. TAO, DISTRICT COURT JUDGE

TUESDAY, DECEMBER 31, 2013

ROUGH DRAFT
RECORDER'S TRANSCRIPT OF
DEFENDANT'S PRO SE DEMAND FOR SPEEDY TRIAL
AND STATUS CHECK: DISCOVERY

APPEARANCES:

For the State:

HETTY O. WONG
Deputy District Attorney
BERNARD ZADROWSKI
Chief Deputy District Attorney

For the Defendant:

PRO SE

Standby Counsel:

DEDREE S. MILES
CLAUDIA L. ROMNEY
Deputies Public Defender

RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 LAS VEGAS, NEVADA, TUESDAY, DECEMBER 31, 2013, 8:29 A.M.

2 * * * * *

3 THE COURT: State versus Patrick Newell, C285825. He is present in
4 custody. The problem is this is going to be a really long canvass, but okay. All right.
5 Mr. Newell is present in custody. He is representing himself.

6 Mr. Newell, the last time you were here you said you wanted to waive
7 your right to a jury trial; is that -- and I asked the stand-by attorney to have a
8 conversation with you. Have you talked with her?

9 THE DEFENDANT: No, I have not. I have tried on several occasions to
10 reach her, I've left messages, and my wife has tried to reach her, it's impossible.
11 Which brings me to another point I wanted to address the Court about, and that is
12 that when I originally asked for dismissal of counsel and asked to represent myself --

13 THE COURT: Right.

14 THE DEFENDANT: -- I never expected her to be -- to be made my back-up
15 counsel. Okay. The conflicts that existed then exist now. I would ask the Court,
16 being that I can't reach her, I can't talk to her, I can't confer with her, I would ask the
17 Court to appoint outside counsel.

18 THE COURT: All right, Ms. Miles --

19 MS. MILES: Your Honor, I know Ms. Romney's not here, she's in Justice
20 Court this morning, but she did want me to make the record for her. She did tell me
21 yesterday that she did try to contact him, she didn't know exactly why this was
22 placed on today, but I know that our office has a new policy where if we're stand-by
23 counsel, she just wanted to let the Court know that that is just our job to stand by
24 him in trial and that she cannot just get up in the middle of the trial and take over if
25 that's what he really wanted.

1 THE COURT: No, that's not what he wants.

2 MS. MILES: Okay.

3 THE COURT: What he wants is he wants to waive his right to a jury trial and
4 what I wanted him to do is have a conversation with Ms. Romney about all the
5 implications of that so that he at least knows what he's waiving.

6 MS. WONG: If I may interject, Your Honor, I know the defendant wants a
7 bench trial.

8 THE COURT: Right.

9 MS. WONG: He's not entitled to one. He's entitled to a jury trial, and he does
10 not get a bench trial unless he gets the approval of the Court and the consent of the
11 State, and the State is not going to consent to a bench trial in this case. This case
12 needs to be tried in front of a jury. This man set another person on fire at a gas
13 station in front of a gas pump. The community should see this evidence and hear
14 this evidence. And the State's not going to consent to a bench trial in this case.

15 THE DEFENDANT: I agree, Your Honor. And it was in self-defense.

16 THE COURT: All right, well, that's -- I mean, we're getting into the merits of it,
17 I don't know anything about that yet. I have not seen any of the evidence or heard
18 any of the witnesses.

19 All right. Let's do this, by the way, the other thing that it's on for a
20 status check on discovery, I know that the last time we were here you were given a
21 whole bunch of stuff.

22 THE DEFENDANT: Right.

23 THE COURT: Files and papers and evidence and all that kind of stuff. Have
24 you had a chance to look through it?

25 THE DEFENDANT: I've had a chance to look through it. There are some

1 things that came up in the State's opposition to my motion for bail reduction that
2 were quoted in there, and those quotations I'm trying to find in the witness
3 statements, there is no statements in there that contain those quotes. There is other
4 references made in there. So obviously, there's things I'm missing. There's witness
5 statements I might be missing and there's other documents I might be missing. In
6 addition, they make reference to a previous criminal history which I don't know
7 where they're -- where they're grabbing their information. I don't have anything in
8 my possession to show what they're referring to.

9 THE COURT: All right. Well, so, I mean, I don't know exactly what you're
10 talking about.

11 State, is there any more discovery that's forthcoming, what's the
12 status?

13 MS. WONG: No, we've turned everything over to prior counsel. We've turned
14 over all medical records and psych records over to the defendant himself. If the
15 defendant has something that he can tell us that he's missing, I'm more than happy
16 to provide it, but he's -- he's being very vague. And so I don't know what it is that he
17 wants.

18 THE COURT: All right. Let's do this, because I can't, you know, just stand
19 here and, you know, tell what you're -- what you're talking about. If you want to, you
20 know, maybe put something in writing so I have a chance to look at it, what
21 specifically you think is missing, what references were made to other documents
22 that you think that you don't have, I'm happy to look at it. But, you know, I don't
23 have a copy of the stuff that you're talking about. I know you don't have one in front
24 of you either. So I can't just sort of look at it right now.

25 So why don't we set this -- and the other issue is, I know you want to

1 waive your right to a jury trial, it sounds like you haven't even talked to Ms. Romney
2 or haven't been able to talk to her about it, and the State's not consenting anyway. I
3 don't know if -- if you want to talk to Ms. Romney about having a conversation with
4 the State, that's up to you, but -- so as things stand right now, we've got calendar
5 call date March 11th, the trial on March 17th. If you want, I'm happy to put this on for
6 another status check on any discovery issues in a couple of weeks, or I can just sort
7 of take it off calendar for you to file something. I don't --

8 THE DEFENDANT: Couple of weeks will be fine.

9 THE COURT: All right.

10 THE DEFENDANT: I've got another motion that I've filed that apparently
11 hasn't been addressed by the clerk yet. And then also the -- the issue with
12 Ms. Romney, if I'm unable to continue acting in my own defense, she's back-up
13 counsel, she's going to jump in, the conflict still exists, Your Honor, the conflicts that
14 I brought up in the motion back in October still exist.

15 THE COURT: Well, the problem is, you know, she's not your attorney right
16 now is the thing, she's not. So replacing her doesn't do anything because literally
17 her job is to sit there at trial. So --

18 THE DEFENDANT: That's pretty much what she told me, she said, I don't
19 have to do a thing, and I quote.

20 THE COURT: Right. Because she's not your attorney, you said you didn't
21 want an attorney.

22 THE DEFENDANT: Right.

23 THE COURT: So right now there's no -- there's almost no point in replacing
24 her. She's just sort of there as in case something happens to talk to you about
25 what's going on. So I'm not sure what you're asking for. You're asking for me to

1 replace stand-by counsel so they also will just -- you know, I'm not -- you know, I'm
2 not even sure what you're asking for right now.

3 THE DEFENDANT: I'm asking for -- for the stand-by counsel to be replaced
4 in the event I'm able -- in unable to proceed, I've got somebody there that can be an
5 advocate, not somebody there that's -- that's there just strictly in name alone.

6 THE COURT: All right. Well, if you're representing yourself, that's exactly
7 what anybody sitting there is going to be, is just going to be there in name. So
8 here's what I'm going to do, I don't, you know, that's not on calendar. I don't have a
9 copy of your motion that you filed however many months ago.

10 Ms. Miles, if you can make a note in the file, maybe you can have
11 Ms. Romney, if she thinks the conflict is serious enough that she doesn't think that
12 she can serve as stand-by counsel, then she can file a motion. But as -- you know,
13 the problem is I'm just getting thrown verbal things here that I can't --

14 THE DEFENDANT: Your Honor, I'll file a motion.

15 THE COURT: Okay. That's fine. All right. Then two-week status check will
16 be.

17 THE CLERK: It'll be January 14th at 8:30.

18 THE COURT: All right. See you then.

19 THE DEFENDANT: Thank you.

20 MS. WONG: Thank you, Your Honor.

21 [Proceeding recalled at 9:44 a.m.]

22 THE COURT: Well, here's the situation, kind of a couple things happened
23 here. This was on originally for -- I know we don't have the D.A. on this case.

24 Mr. Newell originally wanted to waive his right to a jury trial and have a bench trial
25 instead. And then I think you were not here last time here either, and I continued it

1 to today just so you could have a conversation with him about all the consequences
2 of his waiver of his right to a jury trial.

3 MS. ROMNEY: Sure.

4 THE COURT: But the State actually today on the record, opposed it. And
5 then Mr. Newell sort of reopened the issue of, well, I had this motion to dismiss you.
6 He doesn't even want you as stand-by counsel and he sort of wanted to reopen that.
7 And I said, well, the problem is, you know, you're not here, I don't have any written
8 motion, we're just sort of having a conversation. I don't know if you want to maybe
9 have -- try to have a conversation with Mr. Newell, see if what's going on here is
10 irreconcilable.

11 I mean, technically speaking, as stand-by counsel, you're not really
12 doing anything anyway. But the concern that he expressed is say something
13 happens at trial, you know, something unexpected happens and you have to step in,
14 well, then the concerns that he has about you -- and I, honestly as I sit here right
15 now, I know there was a motion, but I don't remember what exactly all the concerns
16 were, may come back into play. I don't know if you guys want to have a
17 conversation or what you want to do about that.

18 MS. ROMNEY: I think part of the problem is I don't know that everybody is on
19 the same page about what the role of stand-by counsel is.

20 THE COURT: Right.

21 MS. ROMNEY: And so one thing that I wanted to make the record of is I
22 won't jump in at trial. If we're day two in trial and he decides, you know what, I can't
23 do this, our office policy is that as stand-by counsel, we are not there to pick up a
24 case mid-trial if the defendant either changes his mind about representing himself
25 of, you know, makes a decision that he, you know, doesn't feel comfortable

1 cross-examining a witness. We're there to give -- answer questions should he have
2 any, but not take over a case mid-trial, you know, if that request is made.

3 So I'm happy to talk to Mr. Newell, answer his questions about either
4 waiving a jury trial or different things like that. But I don't represent him, and I
5 wouldn't take over the case in the middle of trial, and so I just want to make that
6 clear.

7 THE COURT: Right.

8 MS. ROMNEY: And make sure that everybody understands what the role of
9 stand-by counsel is.

10 THE DEFENDANT: That being the case, Your Honor, may I address the
11 Court?

12 THE COURT: Sure.

13 THE DEFENDANT: That being the case, Your Honor, I don't really see any
14 benefit of having back-up counsel.

15 THE COURT: Well, she's there, essentially, if say something happens at trial,
16 okay, and somebody, you know, say the State makes an objection to something on
17 some grounds that you never heard of, sometimes we use -- as lawyers we use
18 obscure words, right? You can turn to her and ask, What does that word mean; and
19 she can explain to you, This is what it means, this is what's happening. There's at
20 least some benefit to that. Someone there is to answer -- is there to answer your
21 questions.

22 But she's not going to jump in and suddenly start taking over your
23 defense and questioning witnesses and that kind of thing. I mean, that's at least
24 somewhat better than you sitting there by yourself because if the State comes up
25 and starts using all these Latin words that you never heard before, if she's not there,

1 you won't even know what's being talked about.

2 THE DEFENDANT: No, I understand. But there's been a breakdown in our
3 relationship, there's a conflict, and it's impossible for me to reach her. I -- it's like
4 I've got nobody to ask questions of.

5 THE COURT: Well, because as you sit here right now, you do have nobody.
6 You're representing yourself, okay. She's not your lawyer. She's not actually, as
7 we sit here right now, she's not even obligated to return your calls because she's not
8 your lawyer. You wanted to represent yourself.

9 THE DEFENDANT: No, I understand that, Your Honor. I completely
10 understand that. But the last time I was in court, I brought up the issue of waiving
11 jury trial, you said to contact her, I did try to contact her, I received nothing back in
12 response. So at this point, I'm up in the air as to what to do.

13 I still wish to waive that -- that jury trial. Since she can't be any help,
14 then I would just go ahead and I'll ask the Court to waive that jury trial.

15 THE COURT: Well, I mean, the problem is, you know, okay, a couple things
16 going on here, we don't have the actual D.A. who's on this case, I know Ms. Wong
17 left already, so Mr. Zadrowski's, he's standing here without even a file, right?

18 You probably don't even have any idea what we're talking about, right?

19 MR. ZADROWSKI: I wish I could say I was paying attention when Ms. Wong
20 was here, but I wasn't, so.

21 THE COURT: Right. So, let's do this, why don't we do this, we have a status
22 check currently set in two weeks anyway, just to sort of keep an eye on the case
23 because he's representing himself. Maybe, since you're here, Ms. Romney, I'm
24 going to ask you this, he apparently, he really wants to do this, I know there's all
25 this -- there's a bunch of case law on when you can or cannot waive your right to a

1 jury trial and the State's objecting. Maybe you can have a, you know, since you're
2 here, maybe you can have a conversation with him, maybe, you know, and sit down
3 with him and talk with him because he -- I'm not sure he does understand the role of
4 stand-by counsel. Maybe you can explain to him, I know he's not your client
5 anymore, but maybe you can explain to him, look, this is all I'm supposed to do as
6 stand-by counsel, this is what I can do, this is what I can't do, and the whole jury trial
7 issue. I know it's complicated, maybe you can explain, you know, I was hoping to
8 have this conversation because, you know, once he mentioned that last time, my
9 first thought was there's a whole bunch of case law that I'm sure he's not going to
10 have any idea about.

11 So maybe between now and whenever the next status check, maybe
12 you can have a conversation and explain all this to him because it's -- it's -- I mean, I
13 can explain it to him.

14 MS. ROMNEY: Sure.

15 THE COURT: But it'll take, you know, 15, 20 minutes and all that kind of stuff.

16 MS. ROMNEY: Right.

17 THE COURT: So would you be willing to do that if she calls you or visits you,
18 at least she can explain all this stuff to you?

19 THE DEFENDANT: Absolutely, Your Honor. The reason I wanted to waive
20 the jury trial in the first place is that I believe that this case is such a -- it's bizarre,
21 and I'd rather have somebody with a legal background trying it, than 12 members of
22 the general public.

23 THE COURT: No, I understand, but here's the thing is, it's not as simple as
24 you just stand up there and say you want to do it. There's -- it's more complicated
25 than that, and that's why I was hoping, if you're --

1 THE DEFENDANT: Right.

2 THE COURT: -- willing to do it, have a conversation, you can explain to him,
3 you know, kind of what's going on procedurally. And then in two weeks you can --
4 it'll give you some time to think about it. And I think he also said there was some
5 discovery issue, maybe you can talk to him about as well. I don't exactly know what
6 it was, but he sort -- because I don't have the discovery, he just sort of mentioned
7 there was some reference to something, and I don't know what it is. Maybe that's
8 something you can help him with in general terms.

9 MS. ROMNEY: Sure. The only thing that I'm aware of that's somewhat of an
10 issue is the video surveillance is on a disk, Mr. Newell doesn't have any way to view
11 that disk.

12 THE COURT: He can't -- right.

13 MS. ROMNEY: I have it to keep it safe, so that it doesn't get lost. I'm happy
14 to give him a copy of it. I can keep a copy just as a back-up. But sending him a disk
15 in the jail is going to be wall art. I mean, there's no -- he can do nothing with it.

16 THE COURT: Right. You can't play it. Well, it wasn't that, he mentioned
17 something, and I don't know all the details, something about apparently he says that
18 in the paperwork he has there's some reference to other paperwork that he thinks
19 he may not have. Maybe you can at least look at that and see if that's true or if it's
20 something that maybe he's misunderstanding, something like that.

21 MS. ROMNEY: I'll look into it. For the record, I've provided everything in the
22 case that I received prior to Mr. Newell representing himself, we turned over full
23 discovery that we had at the time. If there's anything outstanding at this point, it
24 would probably have to come from the State, but I'll check with him to see what he's
25 talking about.

1 THE DEFENDANT: Your Honor, there --

2 THE COURT: And, just so you know, when Ms. Wong was here, she
3 represented that she's turned over everything that she has, but maybe you can at
4 least, you know, maybe he's misunderstanding something the documents, and you
5 can talk to him.

6 MS. ROMNEY: Sure.

7 THE COURT: Again, I know you're not the attorney, but in a general way, oh,
8 this is what it means, and this is not what it means, just sort of make him -- clear it
9 up for him.

10 MS. ROMNEY: Sure.

11 THE DEFENDANT: Your Honor, there were references made in the State's
12 opposition to my bail motion about witnesses making certain statements. I cannot
13 find those statements in any of the --

14 THE COURT: Okay.

15 THE DEFENDANT: -- witness statements that I've been provided. The State
16 also pointed out that I had a previous felony conviction which is duplicitous to one
17 that they actually pointed out, but it appears that there's two and I don't understand
18 where they're getting that information.

19 THE COURT: Okay.

20 THE DEFENDANT: Because I don't have it.

21 THE COURT: All right, so maybe, here's what I'm going to do, Ms. Romney
22 says she's willing to have a conversation, maybe she can look through the
23 paperwork and see, maybe there's some explanation for this, I don't know, because
24 like I said, I don't have your paperwork so I can't flip through it and verify what you're
25 saying.

1 THE DEFENDANT: No, I understand.

2 THE COURT: So maybe she's willing -- it seems like she's willing to at least
3 talk with you about it, maybe she can explain, oh, this is what it means, this is
4 what's, you know, maybe there is something missing and she can ask for it, I don't t--
5 I don't know. But at least she can have a conversation with you about that, all right?

6 THE DEFENDANT: All right.

7 THE COURT: All right. So we'll see you in two weeks, if you can do that, you
8 know, in the next couple weeks --

9 THE DEFENDANT: Thank you, Your Honor.

10 THE COURT: -- at least we'll -- maybe it'll just clear it up for him.

11 MS. ROMNEY: Sure.

12 THE COURT: All right. Thanks, I appreciate that. I know, you know, you're
13 not his attorney and this is sort of beyond the scope, but it seems like he's got some
14 legitimate question there.

15 MS. ROMNEY: Sure.

16 THE COURT: Thanks. What else do we have?

17 PROCEEDING CONCLUDED AT 9:53 A.M.

18 * * * * *

19

20

21


22

23

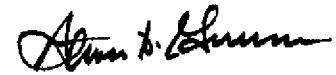
24

25

ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I
acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.



SARA RICHARDSON
Court Recorder/Transcriber



CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 STATE OF NEVADA,

6 Plaintiff(s),

7 vs.

8 PATRICK NEWELL,

9 Defendant(s).

CASE NO. C285825

DEPT. NO. XX

10
11 BEFORE THE HONORABLE JEROME T. TAO, DISTRICT COURT JUDGE

12
13 TUESDAY, JANUARY 14, 2014

14 **ROUGH DRAFT**

15 **RECORDER'S TRANSCRIPT OF**
16 **STATUS CHECK; DISCOVERY; DEFENDANT'S PRO SE DEMAND FOR**
17 **SPEEDY TRIAL; MOTION FOR SUMMARY JUDGMENT TO COMPEL**
18 **DISCOVERY; AND DEFENDANT'S MOTION TO SHORTEN TIME**

19 **APPEARANCES:**

20 For the State:

HETTY O. WONG
Deputy District Attorney

21 For the Defendant:

PRO SE

22 Standby Counsel:

23 SETH GUTIERREZ
24 DONISHIA CAMPBELL
25 DIANNE M. DICKSON
Deputies Public Defender

RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 LAS VEGAS, NEVADA, TUESDAY, JANUARY 14, 2014, 9:05 A.M.

2 * * * * *

3 THE COURT: State versus Patrick Newell, C285825. And Mr. Newell is
4 present in custody representing himself. And I think we just put this on for a status
5 check because the last time we were here, there was some -- he had raised some
6 suggestion that he thought he was missing some discovery and I asked
7 Ms. Romney to at least sort of look into this, any update if you -- has he been given
8 everything?

9 THE DEFENDANT: Your Honor, I have the memorandum to the motion that I
10 filed with the specifics on it.

11 THE COURT: What -- I don't know --

12 THE DEFENDANT: And also, if you recall, on the 31st of December, we
13 discussed dismissing Ms. Romney and appointing alternate stand-by counsel. I
14 have the motion here for that as well.

15 THE COURT: Well, okay. So, let's talk about the discovery issue first, you
16 said you had some kind of memorandum on that, what is it you think you're missing?

17 THE DEFENDANT: Yes, I've got that right here, if I could pass it to you?

18 MS. WONG: Your Honor, he -- he did -- I don't know if he filed it, but I think
19 he did, I got one for a defendant's motion for summary judgment to compel
20 discovery and he had four -- three items that he wanted me to provide to him, and I
21 can go through that. The first one he wanted is what proof do I have that he is a
22 four-time convicted felon; I would direct the defendant to his intake services sheet.
23 That's where I got it off of. If he does not have one, I have a copy here for him.

24 THE COURT: Well, I mean, that's not an evidentiary thing anyway, but --

25 MS. WONG: Correct. And the second item he wanted is that in my

1 opposition to his motion for an O.R., there was a statement in there by one of the
2 witnesses, Adam Carlos, who told us that after the defendant set the victim on fire
3 and confronted Mr. Carlos, the defendant said to him, You don't f'ing know. And he
4 wants to know where I got that information from. That information came from a
5 pretrial that I did with Mr. Carlos prior to the preliminary hearing, so there is no
6 witness statement for me to provide to Mr. Newell at this time.

7 And as to the item C, he want to know what information I have that he
8 was trying to leave for California when he was taken into custody, again, that has
9 nothing to do with this case itself. But as I already mentioned in the opposition, that
10 was information that I did get from prior counsel.

11 THE COURT: All right. So basically what she is saying then is that what
12 you're asking for is -- it's not actually on paper, they're conversations and things like
13 that. So there's nothing that she can actually, give, you know, hand to you, that you
14 can bring back with you and look at is basically what she's saying.

15 THE DEFENDANT: Your Honor, she used those in her opposition to my
16 motion for a bail reduction.

17 THE COURT: Right.

18 THE DEFENDANT: I can't refute something if I don't have it.

19 THE COURT: Well, okay, let's back up for a second here, I mean, what we're
20 talking about here is you have -- are entitled to any discovery that the State has
21 under the discovery statute. In addition, there's a constitutional obligation under a
22 case called *Brady versus Maryland* to give you any discovery that his exculpatory,
23 right?

24 But things that they are -- that aren't even going to come in at trial, for
25 example, any prior felony convictions that you have, the jury's not going to hear that

1 anyway unless -- I mean, with certain exceptions, but generally the State can't put
2 on, they can use it to cross-examine you and things like that, but generally speaking,
3 things like statements that they use in a motion that they don't intend to use at trial,
4 unless they're exculpatory, unless they're relevant to something they're going to use
5 at trial, you don't just get everything that she, you know, I mean, some of these
6 things -- that's why I made the comment when she said what she was saying that
7 that's not even an evidentiary thing, okay?

8 You're not entitled to just sort of find out where they got everything. If
9 she got it from a verbal conversation with a witness, okay, and honestly, this is why
10 most people don't represent themselves, in theory you have access to that, you can
11 call the witness and they can make the same statement to you. I know you have
12 difficulty doing that from jail, but that's the choice you made when you want to
13 represent yourself. But the point is, you know, you're only entitled to evidence.
14 You're not entitled to know where they got everything from. You know, if they have
15 a conversation with somebody, you're not entitled to be privy to that conversation
16 unless a report is generated, unless there's an evidentiary thing that results from
17 that conversation; do you understand what I'm saying?

18 THE DEFENDANT: Yes. My only argument was it was used in their
19 opposition and so on.

20 THE COURT: But it doesn't -- in terms of the trial, technically speaking, in a
21 very narrow sense that doesn't matter, because what they say in a motion, the jury's
22 not going to hear that anyway. It's not going to be any part of the jury's decision.
23 Just because they got it from a police officer or just because they heard it from a
24 witness and put it in a motion, I mean, unless it's exculpatory, unless it is something,
25 they're going to use at trial, you don't get to just know about every conversation

1 they're having; do you understand that?

2 THE DEFENDANT: Yes, I understand.

3 THE COURT: Okay. And then what was the other, you said there was
4 another motion you wanted to file?

5 THE DEFENDANT: The other issue was Ms. Romney who actually got up in
6 front of the Court, if you recall, Your Honor, and said that she has no desire to
7 represent me, nor does her office have any desire to represent me should my
8 self-representation be terminated for any reason.

9 THE COURT: Right.

10 THE DEFENDANT: So I'm asking the Court to appoint an alternate stand-by
11 counsel.

12 THE COURT: See, the problem is they have an office policy which is this,
13 you've indicated that you want to represent yourself, okay, what happens is when
14 people do that, they go into trial and suddenly they realize this isn't working so well
15 for them, okay, you don't at that point get to have Ms. Romney as an attorney. The
16 point that she was making is, as an office policy, the Public Defender does not, in
17 the middle of trial just jump in and say, okay, now we're taking over your defense.
18 Okay. That's what she was saying. And frankly, I don't know if there a lot of other
19 attorneys who would do that.

20 That's why before trial starts you need to make sure that's what you
21 want to do. That's why you and I had that long conversation that one day about you
22 representing yourself. Do you remember I asked you like 20, 25 questions?

23 THE DEFENDANT: Oh, yes. Yeah, you -- yes.

24 THE COURT: To make sure that you understand what you're getting into and
25 what the risks are.

1 THE DEFENDANT: Yes.

2 THE COURT: And strictly speaking, Ms. Romney's not even your attorney, so
3 replacing her doesn't do anything. She's not your attorney. When she's there, she's
4 going to sit next to you and if you have questions about things like what does that
5 mean, what did that -- you know, if I make some legal ruling, she can explain it to
6 you, but she's not actually your attorney.

7 That was the whole point of that canvass. Right now you're
8 representing yourself. Okay. And I appointed Ms. Romney as a, frankly, as a favor
9 to you so that she can sit there during the trial, and if you have any questions, like,
10 what does that legal term mean; what did that Latin word mean; she can tell you, but
11 she's not your attorney.

12 THE DEFENDANT: No, I fully understand that. But she was put on --
13 appointed as my stand-by counsel so in the event my self-representation should be
14 terminated for any reason, it would be her job, and I read the rules on this, that it
15 would be her job to step in.

16 THE COURT: So, okay. Why do you think your self-representation would be
17 terminated?

18 THE DEFENDANT: I would terminate it.

19 THE COURT: So when? Before trial? In the middle of trial? I'm not exactly
20 sure what you think is going to happen.

21 THE DEFENDANT: Well, to be honest with you, I'm running into some
22 difficulties, especially with getting depositions on witnesses.

23 THE COURT: Yeah, because --

24 THE DEFENDANT: I don't have an investigator.

25 THE COURT: Right.

1 THE DEFENDANT: There are a lot of other issues.

2 THE COURT: I'm sure people aren't taking your calls when they hear, you
3 know, when their phone rings, they pick it up, and it says, You are receiving a call
4 from an inmate at CCDC, right?

5 THE DEFENDANT: Yes.

6 THE COURT: That's why during that day when you said you wanted to
7 represent yourself, that's why I went through those 20 questions to make sure that
8 you understood that usually it's not a smart thing to do. I mean, if you want -- if you
9 want an attorney appointed and you want to start over again, I'm happy to do that
10 now, okay, but what -- the point that she was making is, when this trial starts and the
11 jury's sitting there and you realize on the second or third day of the trial, crap, this
12 isn't going so well, at that point she's not jumping in, no one in her office is, that's
13 the point she was making. If you want an attorney, you need to have one now
14 before the trial starts.

15 THE DEFENDANT: Let me motion the Court to appoint outside counsel.

16 THE COURT: Do you actually want to be presented by counsel?

17 THE DEFENDANT: Yes.

18 THE COURT: As opposed to stand-by counsel?

19 THE DEFENDANT: Yes.

20 THE COURT: All right. Is there any reason, other than what you -- I mean,
21 any reason why you don't want Ms. Romney in particular? I mean, granted, I know
22 what she was saying what her policy was, but now if you actually want her office to
23 represent you, I don't know if they would appoint Ms. Romney or someone else, but
24 is there any reason why you wouldn't be able to work with Ms. Romney?

25 THE DEFENDANT: I do not want Ms. Romney, nor do I want the Public

1 Defender's Office.

2 THE COURT: Okay. But here's the thing, under the law, you're entitled to an
3 attorney at State's expense, you're not entitled to pick and choose the attorney you
4 get.

5 THE DEFENDANT: I understand that.

6 THE COURT: Okay. Ms. Dickson, does your office have a policy on cases
7 like this? Basically, he wanted to represent himself, he's been representing himself
8 for a couple of months now, I don't even remember how long, but now he's saying
9 he wants to be represented. He previously had Ms. Romney, but I made her
10 stand-by counsel, do you even have a policy on that?

11 MS. DICKSON: On which part of that, Your Honor?

12 THE COURT: On me just reappointing you or not?

13 MS. DICKSON: I think we have no objection to you reappointing us. I
14 obviously can't appoint somebody outside of our office. But if Mr. Newell is that
15 unhappy with Ms. Romney for whatever reason, I can reassign it.

16 THE COURT: Okay. All right. So here's what I'm going to do, I'm going to
17 reappoint the Public Defender's Office and obviously, I'll leave it up to your office
18 and whatever your policies are and whatever Mr. Kohn decides to do as to the
19 identity of which public defender is assigned.

20 It sounds like, Mr. Newell, that Ms. Dickson is at least willing to consider
21 giving you somebody else based on what's happened here. So I'm appointing the
22 Public Defender's Office, and they'll figure out which -- who they're going to appoint,
23 okay. So I'll note for the record that you're now again represented by the Public
24 Defender.

25 And we have a calendar call date on March 11th, jury trial on March 17th.

1 Let's do this, I don't know that we need to set -- do you think we need to set any
2 other dates, confirmation of counsel or anything like that or sort of leave it the way it
3 is?

4 MS. DICKSON: No, I don't, Your Honor. And just in case we have some
5 problems with that trial date, coming back in and not having worked on this for the
6 past few months --

7 THE COURT: Right.

8 MS. DICKSON: -- we'll let the Court know, but it's far enough out, I think we
9 should be okay.

10 THE COURT: Right. And I know Mr. Newell has some motions that he
11 wanted to file, I, you know, don't -- I haven't seen them all, what can you -- what I'd
12 ask you to do is have whoever who's going to represent him go and look at those
13 motions, if there's merit to 'em you can refile 'em, I just --

14 MS. DICKSON: Absolutely, Your Honor.

15 THE COURT: -- I know there's just stuff floating around out there.

16 All right, so as of right now, you're represented by the Public Defender,
17 I don't know who that's going to be, I'm sure someone's going to give you a call and
18 they'll, you know, come by and talk with you about what's going on then, all right?

19 THE DEFENDANT: Thank you, Your Honor.

20 THE COURT: All right. Thanks.

21 MS. DICKSON: And I think at this point Mr. Newell has all of our discovery; is
22 that right?

23 THE COURT: Yeah, I think Ms. Romney gave him everything. I believe.

24 THE DEFENDANT: Yes.

25 MS. DICKSON: Okay. So we'll have to get that back.

1 THE COURT: Have to get it back, yeah, someone's going to come and get it
2 back from you and make copies, presumably, then, all right?

3 MS. DICKSON: Okay.

4 MS. WONG: Thank you, Your Honor.

5 THE COURT: Can I get counsel to approach very quickly on that, Ms. Wong
6 and Ms. Dickson?

7 [Bench conference -- not recorded]

8 PROCEEDING CONCLUDED AT 9:20 A.M.

9 * * * * *

10

11

12

13

14

15

16

17

18

19


20

21 ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.

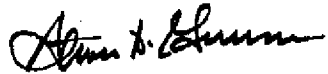
23

24

25



SARA RICHARDSON
Court Recorder/Transcriber


CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 STATE OF NEVADA,

6 Plaintiff(s),

7 vs.

8 PATRICK NEWELL,

9 Defendant(s).

CASE NO. C285825

DEPT. NO. XX

10
11 BEFORE THE HONORABLE JEROME T. TAO, DISTRICT COURT JUDGE

12
13 TUESDAY, MARCH 11, 2014

14 **ROUGH DRAFT**
15 **RECORDER'S TRANSCRIPT OF**
16 **CALENDAR CALL AND**
17 **DEFENDANT'S MOTION TO CONTINUE TRIAL DATE**

18
19
20 APPEARANCES:

21 For the State:

ALICIA A. ALBRITTON
Chief Deputy District Attorney

22
23 For the Defendant:

SETH GUTIERREZ
Deputy Public Defender

24
25 RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 LAS VEGAS, NEVADA, TUESDAY, MARCH 11, 2014, 9:18 A.M.

2 * * * * *

3 THE COURT: All right. State versus Patrick Newell, C285825. Mr. Newell is
4 present in custody. This is on for calendar call. I have a motion to continue the trial
5 date. I also note that there's a motion currently set for the 13th to dismiss counsel
6 and appoint alternate counsel, but all I have today is the calendar call and the
7 motion to continue the trial date and the indication here is that the defense believes
8 that they -- additional discovery is warranted, namely, some records.

9 All right, State I don't have an opposition to the motion to continue the
10 trial date. Any opposition?

11 MS. ALBRITTON: Your Honor, it's actually Mr. Stephens' case, he was
12 present. He'll be back. However, Mr. Gutierrez has represented that he was just
13 asking to pass it for a week to set the trial date.

14 THE COURT: Okay.

15 MR. GUTIERREZ: And if I may, Your Honor, just to clarify things, Mr. Newell,
16 if the Court wishes to ask him right now, will be withdrawing that motion to --

17 THE DEFENDANT: That is correct, Your Honor.

18 MR. GUTIERREZ: -- dismiss counsel.

19 THE COURT: Oh, okay, so the motion to dismiss counsel is being withdrawn,
20 so I'll take that off calendar, that's currently on the 13th.

21 All right, then we will set this for -- I'll grant the State's motion. It
22 appears that they've made a -- at least a *prima facie* showing that additional
23 discovery is warranted. So let's set this out for a week for status check on the
24 resetting of the trial date.

25 Unless, is next week completely jammed up? Is that why we're going

1 two weeks on stuff?

2 THE CLERK: No, we could do it next Thursday. We just have 13
3 sentencings.

4 MR. GUTIERREZ: Your Honor, the reason I'm asking for the status check
5 simply to go ahead and reset the trial date is because I'm finally in receipt of the
6 medical records that I need.

7 THE COURT: Okay.

8 MR. GUTIERREZ: And now I need to go ahead and just speak to my expert
9 witness, find out what dates he's going to be available to testify. That's really what
10 we're passing this for.

11 THE COURT: Okay. Let's do this -- let's try it next Tuesday.

12 THE CLERK: Okay.

13 THE COURT: Because hopefully it'll just take a couple minutes.

14 MR. GUTIERREZ: Thank you, Your Honor.

15 THE CLERK: March 18th at 8:30.

16 THE COURT: All right, that's on for resetting of the trial date then. See you
17 guys then.

18 THE DEFENDANT: Thank you, Your Honor.

19 PROCEEDING CONCLUDED AT 9:20 A.M.


20 * * * * *

21 ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.

23

24

25



SARA RICHARDSON
Court Recorder/Transcriber


CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 STATE OF NEVADA,

CASE NO. C285825

6 Plaintiff(s),

7 vs.

DEPT. NO. XX

8 PATRICK NEWELL,

9 Defendant(s).

10
11 BEFORE THE HONORABLE JEROME T. TAO, DISTRICT COURT JUDGE

12
13 TUESDAY, APRIL 29, 2014

14 **ROUGH DRAFT**

15 **RECORDER'S TRANSCRIPT OF STATE'S REQUEST: ADDRESS STATUS OF**
16 **DEFT COUNSEL/TRIAL SETTING**

17
18 **APPEARANCES:**

19 For the State:

HETTY O. WONG
LINDSEY DAVIS JOSEPH
Deputies District Attorney

20
21
22 For the Defendant:

SETH GUTIERREZ
MICHAEL H. WILFONG
Deputies Public Defender

23
24
25 RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 LAS VEGAS, NEVADA, TUESDAY, APRIL 29, 2014, 8:47 A.M.

2 * * * * *

3 THE COURT: Page 15, State versus Patrick Newell, C285825. This was put
4 on with a setting slip, so I'm not sure what's going on here.

5 MS. JOSEPH: Your Honor, I'm waiting for Ms. Wong from our office.

6 THE COURT: Okay.

7 MS. JOSEPH: I literally just instantaneously got a text from her saying she's
8 on her way.

9 THE COURT: Okay.

10 MR. ARNOLD: And, Your Honor, I could explain real brief, so I don't have to
11 stay. I was --

12 MS. JOSEPH: Judge, I know that Ms. Wong specifically told me she needed
13 to be here.

14 THE COURT: Oh, all right.

15 MS. JOSEPH: She e-mailed me last night and texted me just now.

16 THE COURT: Where do you need to go?

17 MR. ARNOLD: I need to go to DC17, I have several matters in that court.
18 Your Honor, this is going to be a oral motion to withdraw. I know Ms. Wong is
19 curious in regards to whether I was going to stay on the case or not, and I'm not.
20 The family has decided to go back with the Public Defender's Office. I've brought
21 back the file. And so I really don't need to be present.

22 THE COURT: Well, I mean --

23 MS. JOSEPH: Judge, she's on her way, she told me specifically that --

24 THE COURT: -- okay. I mean, the --

25 MS. JOSEPH: -- she wanted to me here, so I don't --

1 THE COURT: I mean, it's going to -- it might take a minute because you don't
2 get just to decide to go back --

3 MR. ARNOLD: Right, right, right.

4 THE COURT: -- to the P.D.'s Office. All right, let's do this, is she -- she's
5 literally on her way right now?

6 MS. JOSEPH: She literally is on her way.

7 THE COURT: Can you hang out for at least a couple of minutes?

8 MR. ARNOLD: Yeah, I'll stay for a couple minutes, Your Honor.

9 THE COURT: Okay. Thanks.

10 [Proceeding trailed until 9:08 a.m.]

11 THE COURT: Top of 15, State versus Patrick Newell, C285825. Do we have
12 everybody here? All right, excellent. Thanks for staying, Mr. Arnold, I know you
13 need to get to another courtroom.

14 All right, so what's going on here with Mr. Newell?

15 MR. ARNOLD: Again, Your Honor, I've had discussions with Mr. Newell that
16 he no longer wants my services. I don't believe he has the ability to afford another
17 attorney, and he wants to go back to the Public Defender's Office.

18 THE COURT: All right. I mean, I don't actually have a motion to withdraw,
19 but I'm presuming you're basically making an oral motion to withdraw; is that what's
20 going on?

21 MR. ARNOLD: That's correct, Your Honor.

22 THE COURT: All right, Mr. Newell, what's going on here? Do you -- are you
23 going to hire another attorney or what is it that you plan on doing here?

24 THE DEFENDANT: Well, I have great faith in Mr. Gutierrez of the Public
25 Defender's Office, and that's who I'd like to represent me.

1 THE COURT: Well, I mean, I can't guarantee they're going to do that. You
2 can't just sort of pick your public defender, first of all.

3 THE DEFENDANT: I know, I understand that.

4 THE COURT: And secondly, you can't even pick the Public Defender's
5 Office. You have to actually meet whatever their requirements are.

6 Mr. Gutierrez, do you have any concerns about what's going on here? I
7 mean, he had the P.D. before, he had the P.D. for a while, then he hired Mr. Arnold,
8 and now he sort of wants to go back to the P.D. I know that's not technically how it
9 works. But I don't know if you guys wanted time to investigate his indigency status
10 or what you guys want to do.

11 MR. WILFONG: Your Honor, can we approach real quick?

12 THE COURT: Sure.

13 [Bench conference -- not recorded]

14 THE COURT: All right, Mr. Newell, let me ask you a question, a while ago
15 when this case first started you were appointed the Public Defender, and in order to
16 qualify for the Public Defender you were asked a certain series of questions. I don't
17 remember if I did it or if you filled out a piece of paper regarding your assets and
18 your income and all that kind of stuff, and at the time you represented that you were
19 not able to afford an attorney. And then at some point you or your family or
20 somebody came up with some money to hire Mr. Arnold, so the question is in order
21 to get the services of the Public Defender, okay, how is it that -- where did you get
22 the money to hire Mr. Arnold?

23 THE DEFENDANT: Well, I didn't. My wife got some money from my
24 daughter, okay. And I wanted to stay with the Public Defender all along. But I, you
25 know, as long as she's known me I've never been in trouble. She was scared and

1 she thought that I needed somebody else. But I really feel very comfortable with
2 Mr. Gutierrez.

3 THE COURT: Well, but here's the thing, you can't just go with the Public
4 Defender because you want the Public Defender, okay, there's actually
5 requirements. They only represent people who meet certain financial issues. If your
6 wife or your daughter or whoever it was has money to hire another attorney, I mean,
7 are they -- do they have the funds to hire somebody else? Where did they get the
8 funds to hire Mr. Arnold?

9 THE DEFENDANT: No, my daughter gave my wife the money and my wife
10 gave it to Mr. Arnold and that's -- that's it, I mean, there is no more money.

11 THE COURT: Okay. Is your wife employed?

12 THE DEFENDANT: No, she's not. She's on social security.

13 THE COURT: All right. And is your -- your daughter's an adult?

14 THE DEFENDANT: Yes, she is.

15 THE COURT: And is she employed?

16 THE DEFENDANT: She's looking for a job right now. She's a nurse and she
17 just moved out to keep my wife company here in Las Vegas while my situation
18 continues.

19 THE COURT: Okay. When you say she's looking for a job, are you saying
20 now that she's unemployed?

21 THE DEFENDANT: No, she's not employed at the present time.

22 THE COURT: Okay. Is there anyone else in your family who is employed
23 that might be able to come up with some funds?

24 THE DEFENDANT: No.

25 THE COURT: Do you own a house or do you rent?

1 THE DEFENDANT: We rent.

2 THE COURT: All right. Do you have any stocks? Bonds? Assets?
3 Retirement funds? Anything like that?

4 THE DEFENDANT: No, Your Honor.

5 THE COURT: Do you have any jewelry? Any watches? Anything worth over
6 say \$5,000.00?

7 THE DEFENDANT: No, just a few baubles that my wife has, you know, that I
8 gave her through the years, but --

9 THE COURT: How are -- before you were arrested how were you employed?

10 THE DEFENDANT: I had my own business.

11 THE COURT: All right. And what was your average monthly income?

12 THE DEFENDANT: My average monthly income was about \$7,000.00.

13 THE COURT: And do you have any -- you said you have the one adult
14 daughter, do you have any other children who are minors?

15 THE DEFENDANT: No, I don't.

16 THE COURT: And you've been incarcerated how long? What was your
17 arrest date? Remind me.

18 THE DEFENDANT: Well, I've been here since September the 20th and before
19 that I was out on bond and I have another four and a half months in before that.

20 THE COURT: So of the \$7,000.00 a month that you were making, I mean,
21 that's a fair amount of money, how much of that did you save? How much do you
22 have in your bank accounts, ball park? Don't give me the exact figure, but just ball
23 park.

24 THE DEFENDANT: Nothing, Your Honor, this -- this situation has pretty
25 much bankrupted us.

1 THE COURT: All right. All right. Mr. Gutierrez or Mr. Wolfing, based on
2 those representations, do you have any concerns?

3 MR. GUTIERREZ: Just the fact that the trial date is set for May 19th.

4 THE COURT: Right.

5 MR. GUTIERREZ: We can go ahead and address, I'm going to have to
6 restructure my schedule, move things around, confirm that with co-counsel as well
7 to go ahead, but we're going to have to look at resetting the trial date based on --

8 THE COURT: Okay. All right, based on the representations, it sounds that,
9 sounds like Mr. Newell would qualify for the service of the Public Defender. So I'm
10 granting Mr. Arnold's oral motion to withdraw. I'm reappointing the Public Defender.

11 And Mr. Arnold, any discovery that you have that you can give to the
12 Public Defender?

13 MR. ARNOLD: Yeah, I've returned the file to the Public Defender,
14 Your Honor.

15 THE COURT: All right, so Mr. Gutierrez, I understand you're concerned about
16 the trial date. What do you want to do? Do you want to leave it in place for now
17 until you look at the file? Or what do you -- do you want -- what do you want to do
18 with that?

19 MR. GUTIERREZ: Your Honor, most likely we're going to be needing to ask
20 for a continuance, but we'll reserve and address that at calendar call.

21 THE COURT: Okay.

22 MS. WONG: And, Your Honor, the State does want to express some
23 concerns about this trial being continued. Mr. Arnold, I think, was actually on this
24 case for about two weeks. I actually put this case on calendar because I got a
25 substitution notice from Mr. Arnold about two week ago. And me and Mr. Gutierrez

1 had spoken sometime last week and that's when I learned that Mr. Newell was
2 going to go back to the Public Defender's Office.

3 And I wanted to address this issue because this case almost two years
4 old now. And this is not a murder case. This is, you know, the charges are what
5 they are. And it's -- this is his sixth or seventh time changing attorneys. He had the
6 Public Defender's Office at the preliminary hearing, then went with Mr. Damian
7 Sheets, then went with Mr. Steven Parke, then represented himself, then had the
8 Public Defender's Office, then had Mr. Carl Arnold, now he's back here with the
9 Public Defender's Office. I mean, the reason this case has gone on for so long is
10 because he keeps changing attorneys.

11 And my concern is with my scheduling, if we continue it again, I'm -- my
12 schedule's quite packed during the summer. And all we're talking about here is two
13 weeks that the Public Defender's Office lost during this time when the defendant's
14 family was trying to decide who was going to represent him. So I'm just letting the
15 Court know, if the Public Defender's Office is going to ask for a continuance, I'm
16 going to oppose that.

17 THE COURT: Right, I mean, honestly, until this was put on calendar, I didn't
18 even know Mr. Arnold was on the case. I just assumed it was the Public Defender
19 all along because that's who he's had -- well, I know he was without an attorney for
20 a while, but that's who he's had for at least going back into 2013.

21 All right. Let's do this, we're going to leave the trial date and the
22 calendar call the way it is. I mean, I don't know exactly what's been done in the last
23 two weeks or what the P.D. has been deprived of doing, but I guess we'll have to
24 address it at calendar call if and when the time comes. But, I mean, given the
25 circumstances, you know, here's the other thing, Mr. Gutierrez, just so you know, for

1 a while, and you may or may not recall this, for a while Mr. Newell was pushing to
2 have his trial date moved up actually. He was the one who was complaining. And
3 so I'm not sure he'd be entirely happy with you asking for a continuance, given the --
4 you may or may not recall that back in the fall.

5 MR. GUTIERREZ: That's why I asked to reserve and address the situation at
6 calendar call, Your Honor.

7 THE COURT: All right.

8 THE DEFENDANT: May I say something, Your Honor?

9 THE COURT: About what, the trial date, or what?

10 THE DEFENDANT: I would like to keep the trial date as it is.

11 THE COURT: Yeah, in fact, he wanted it moved up to like January as I recall,
12 but back then, you know, obviously that wasn't enough time for you guys to get
13 ready and I couldn't have -- it couldn't have gone in January anyway, considering
14 what else was going on, so. All right, so here's what I'm going to do, given the fact
15 that Mr. Arnold is going -- was only on the case for a pretty short period of time and
16 you guys have been on the case for at least a period of months, if not coming up on
17 maybe over a year at least, and Mr. Newell has made actually more than one motion
18 to move his trial date up, he seems to really want to go to trial, I would recommend,
19 Mr. Gutierrez, that in the next couple of weeks, you know, that you guys at least try
20 to get ready for trial because he's going to want to go to trial. It sounds like the
21 State's ready to go to trial. This case has been kind of -- Mr. Newell's been pushing
22 me to bring this case to trial for months now.

23 So if you -- all I'm saying is if you have a grounds for continuance, I'll
24 consider it, but I'm going to tell you right now, based on my impression of
25 Mr. Newell, he's not going to be very happy if you ask for a continuance. So, all

1 right, I guess I'll see you guys at calendar call then, all right.

2 MR. GUTIERREZ: Thank you, Your Honor.

3 MS. WONG: Thank you, Your Honor.

4 THE DEFENDANT: Thank you, Your Honor.

5 PROCEEDING CONCLUDED AT 9:19 A.M.

6 * * * * *

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21 ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.

23

24

25



SARA RICHARDSON
Court Recorder/Transcriber


CLERK OF THE COURT

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff(s),

vs.

PATRICK NEWELL,

Defendant(s).

CASE NO. C285825

DEPT. NO. XX

BEFORE THE HONORABLE JEROME T. TAO, DISTRICT COURT JUDGE

THURSDAY, MAY 8, 2014

ROUGH DRAFT
RECORDER'S TRANSCRIPT OF
STATE'S REQUEST: TO ADDRESS TRIAL SETTING

APPEARANCES:

For the State:

HETTY O. WONG
ROBERT STEPHENS
Deputies District Attorney

For the Defendant:

SETH GUTIERREZ
Deputy Public Defender

RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 LAS VEGAS, NEVADA, THURSDAY, MAY 8, 2014, 9:23 A.M.

2 * * * * *

3 THE COURT: Okay. State versus Patrick Newell, C285825. Mr. Newell is
4 present in custody. This was put on with a setting slip. So I'm not sure what this is
5 on for, what's going on?

6 MR. GUTIERREZ: Thank you, Your Honor, for waiting for me.

7 THE COURT: Sure.

8 MR. GUTIERREZ: I was down in Justice Court right now.

9 If I can begin, last time that we were here the P.D. -- the P.D.'s Office
10 was reappointed to Mr. Newell's case, that occurred on April 29th. At that point in
11 time I indicated to the Court there may be a problem with going forward on May 19th
12 at which time the State, Your Honor, and even Mr. Newell were adamant that they'd
13 want me to see if I could be prepared to go on the 19th. What I did is as soon as I
14 realized that I was not going to be able to be prepared to go forward on the 19th, I
15 contacted your office to find out what the next available date was on the stack and
16 coordinated with the State to make sure that we could go ahead and set a firm date
17 for which this would go forward and this also had to be coordinated with my
18 co-counsel's schedule. We've arrived a date of August 11th at which time we'll be
19 able to go ahead and move forward. I believe that Your Honor has the available
20 time slot on that stack to go forward.

21 THE COURT: Have you talked with your client about this?

22 MR. GUTIERREZ: I did, Your Honor.

23 THE COURT: And Mr. Newell, you're okay with that? I just want to make
24 sure.

25 THE DEFENDANT: I don't have any choice, Your Honor. I'm not okay with it.

1 I really, I want my day in court. I've got over a calendar year in custody.

2 MR. GUTIERREZ: And I informed him of the fact that the reason we would be
3 unable to go forward is because it would effectively render us ineffective if we were
4 to proceed on the 19th.

5 THE COURT: All right, can I get counsel to approach very quickly?

6 MR. GUTIERREZ: Yes, Your Honor.

7 [Bench conference -- not recorded]

8 THE COURT: All right. So, Mr. Gutierrez, what specifically is the reason for
9 your request for a continuance?

10 MR. GUTIERREZ: Specifically, Your Honor, we have some additional
11 discovery that needs to be done. We have some witnesses that we need to speak
12 with prior to -- in addition to speaking with them, we have to actually locate them
13 before the trial date. Additionally, there's a conflict of scheduling for preparation with
14 my co-counsel. I also have a trial beginning next week which further inhibits our
15 ability to go ahead and prepare for this trial. And so based on that, we're going
16 ahead and requesting a continuance.

17 THE COURT: Is your trial next week definitely going?

18 MR. GUTIERREZ: Yes, Your Honor.

19 THE COURT: Which department?

20 MR. GUTIERREZ: We're scheduled to meet tomorrow actually in front of -- I
21 believe it's Judge Villani to find out which --

22 THE COURT: Oh, you're in overflow?

23 MR. GUTIERREZ: Yes, Your Honor.

24 THE COURT: And how many days is that trial going to be?

25 MR. GUTIERREZ: I suspect it will go no more than two, but it could go three.

1 THE COURT: How many days is this trial going to be; do you guys think?

2 MS. WONG: About four.

3 MR. GUTIERREZ: Four days, Your Honor.

4 I also have a trial scheduled for the 27th, right now, which that's where
5 the bulk of our resources have been allocated currently. Well, I can -- I can state in
6 all candor that there is some serious doubt of whether the 27th will go forward.
7 There is a date set at this time. And while I had spoken to my co-counsel about the
8 possibility of shortening the time frame, getting it some time in June, that just
9 doesn't -- his schedule doesn't allow it, mine doesn't allow it, and I don't believe that
10 would be sufficient time to do the remain -- the remaining discovery and interviews
11 that we need to do in light of our current schedules.

12 THE COURT: All right. State, your position.

13 MS. WONG: Your Honor, the State's opposing a continuance in this case.
14 This is now the fifth trial setting, if the Court continues this again, it's going to be the
15 sixth. Mr. Gutierrez, himself was personally appointed on this case in January. We
16 are now in May. I know Mr. Arnold substituted in on April 4th, he filed a substitution
17 of attorney, I did not get his substitution until April 22nd, which was, you know, just 18
18 days later.

19 However, I did speak with Mr. Gutierrez on April 22nd when I actually
20 got the substitution of attorney because I wanted to ask him if he had gotten the file
21 over to Mr. Arnold to prevent another delay in this trial. Mr. Gutierrez informed me
22 at that time that he had already turned over the file on April 17th, so -- and I -- and
23 Mr. Gutierrez was aware at that time that Mr. Newell was going to ask for the Public
24 Defender's Office to be reappointed. I advised Mr. Gutierrez that I was going to
25 oppose any more continuances. I put the matter on calendar for April 28th so that

1 we can immediately address the issue of the defendant's attorney.

2 I mean, what we're talking about here is 13 days that were lost.

3 Mr. Gutierrez was well aware prior to April 22nd that the Public Defender's Office was
4 going to be reappointed. So, I mean, I can't speak on what resources were
5 allocated elsewhere, what was going on within the Public Defender's Office, but they
6 had knowledge that they would be reappointed on the case. And so I'm not really
7 sure what the real purpose is for this continuance.

8 On top of that, since the inception of this case, two of our witnesses
9 have moved out of state. One of them is willing to make accommodations to return
10 back to Las Vegas for this trial. The victim in this case has been pushing us to go
11 forward, I mean, he's been -- he's been waiting for almost two years for his day in
12 court.

13 And so at this point, the State's going to oppose any more
14 continuances, Your Honor.

15 THE COURT: All right, Mr. Newell, anything that you want to say? I know
16 that -- and normally I wouldn't ask the defendant, but in this case, I know in the past
17 you've been, you know, very vocal about what you want. Do you have a position?

18 THE DEFENDANT: Well, my position is I'd like to go forward on our original
19 date, but unfortunately, I don't have a choice if Mr. Gutierrez is not ready. What I
20 don't understand is why this discovery is taking so long. When I met with
21 Mr. Gutierrez back in February, the end of February, and he was going to be
22 prepared for the 19th of May for trial. So I'm a little confused as to why at this late
23 date we're trying to interview additional witnesses and trying to get statements and
24 whatever else he's mentioned.

25 THE COURT: All right, Mr. Gutierrez, do you have anything you want to add

1 along those lines?

2 MR. GUTIERREZ: Sure, Your Honor, just to clean up the record here. I
3 would first like to note that work on this case actually ceased on April 15th when we
4 were informed that a substitution of attorneys had been filed although discovery was
5 not turned over until the 17th, that's when Mr. Arnold picked it up, work ceased on
6 this case in its entirety on the 15th. Again, even though I knew there was the
7 possibility of us being reappointed to the case earlier than our actual reappointment,
8 work did not commence once again on this case until we were actually appointed
9 officially on April 29th. I recognize that's only a 14, 15 day time gap; however, there
10 is additional discovery that does need to take place that we were in the process of
11 doing.

12 Now, with regards to additional witnesses and everything, it's not that
13 we're looking for additional witnesses, Your Honor, it's that we were in the process
14 of going ahead and locating witnesses to then go ahead and speak with, to interview
15 prior to trial. Well, we didn't schedule that two, three months in advance. We had
16 allocated a certain time period in which no trials were set between me and my
17 co-counsel to dedicate the bulk of our time to simply preparing for that trial -- for this
18 trial. It just so happens that that time period occurred, which we had set aside
19 during the time period when Mr. Newell fired us and hired Mr. -- Mr. Arnold. Okay.

20 With regards to the lengthy delays that have been going on in this trial, I
21 can only speak to the delays that occurred under my tenure and the fact that we
22 have been pursuing discovery under the theory of the defense and that discovery is
23 ongoing. We are at the mercy of the -- of the offices of the different entities who are
24 providing this discovery, and when they don't provide it in a timely manner, we don't
25 really have a big stick to hit them with especially since most of this discovery has

1 been taking place outside of the jurisdiction of Las Vegas, Nevada.

2 So under that, I would simply state that we have done everything in our
3 power to be prepared for trial, I brought this information before the Court
4 immediately upon recognition that we would not be ready, we would not be
5 prepared, and that is what the basis of this motion is being --

6 THE COURT: All right. Here's what I'm going to do, you lost about, maybe
7 about 15 or 18 days when Mr. Arnold subbed in, here's what I'm going to do, I'm
8 going to give you a continuance, but I'm going to make it about 30 days. I'm looking
9 at the week of June 16th with calendar call June 10th.

10 State, is that enough time for you to re-subpoena everybody? I know
11 it's -- I was thinking 30 days because that's normally enough time, but if you have
12 out-of-state people, I don't know.

13 MS. WONG: It's possible. I would have to talk to them. I mean, I know it's
14 the summer, once we hit the summer everybody's going on vacations and children
15 are out of school. That's the other reason I really didn't want to push this past
16 May 19th because now we're going to go into the summer months and everybody
17 gets really busy. But, I mean, I can make phone calls. And I will tell the Court, as of
18 today, I had all my --

19 THE COURT: No one wants to --

20 MS. WONG: -- witnesses.

21 THE COURT: -- no out-of-state people want to come to Vegas in the
22 summer? You don't think they'd enjoy that?

23 All right. So does that week work for you guys or not?

24 MR. GUTIERREZ: I'll let the Court know right now that my co-counsel will be
25 unavailable during that time period.

1 THE COURT: And who is your co-counsel?

2 MR. GUTIERREZ: Conor Slife.

3 THE COURT: Why? Because of another trial? Or what?

4 MR. GUTIERREZ: Yes, Your Honor.

5 THE COURT: Well, I mean, this is the sixth continuance. Is his other case,
6 has it been continued six times? Or is it a newer case? Or what?

7 MR. GUTIERREZ: If you want to go ahead and pass this 'til -- 'til Tuesday so
8 I can have him in here, we can go ahead and see whether or not he can make that
9 date, but through our discussions with his preparation and his trial schedule, he'd
10 already indicated that he would be unable to do anything in June.

11 THE COURT: Well, how long's he been on this case?

12 MR. GUTIERREZ: He's been on this case since I -- I got on it.

13 THE COURT: All right, here's what I'm going to do, all right, I'm going to set it
14 for trial on June 16th with calendar -- at eight -- at 9:00 o'clock, with calendar call
15 June 10th at 8:30. That gives you just about 30 days to get everything ready. I don't
16 know what's going on with your co-counsel's other case, but, I mean, unless it's --
17 that's on, like, it's seventh or eighth continuance, I'm going to -- I don't know that I
18 can call this a firm-set because obviously if somebody invokes in the next few days
19 then that may push this, but I'm going to call it as firm as we can make just 'cause
20 this case is getting old.

21 And frankly, one of my concerns is your client is one of the ones who's
22 been pushing for trial, and as you know, we start -- and I don't want to say this in a
23 way that disparages Mr. Newell or causes him to think that I have any bias against
24 him, but, you know, when he's the one who's been trying to push this to trial, all
25 you're doing is inviting him, if the trial goes badly, to file a bunch of motions against

1 you is what's going to happen. And that's one of the things I'm trying to juggle here.

2 All right, so that'll be your trial date, and, you know, we'll go from there
3 then, all right?

4 MS. WONG: Thank you, Your Honor.

5 MR. GUTIERREZ: Thank you, Your Honor.

6 THE DEFENDANT: Thank you, Your Honor.

7 PROCEEDING CONCLUDED AT 9:40 A.M.

8 * * * * *

9

10

11

12

13

14

15

16

17

18

19

20

21 ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.

23

24

25



SARA RICHARDSON
Court Recorder/Transcriber

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

No. 66552

vi.

Respondent.

PHILIP J. KOHN
Clark County Public Defender
309 South Third Street
Las Vegas, Nevada 89155-2610

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

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 15th day of December, 2014. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

HOWARD S. BROOKS
SCOTT COFFEE

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

PATRICK NEWELL
NDOC # 1126400
c/o High Desert State Prison
PO Box 650
Indian Springs, NV 89070

BY

Employee, Clark County Public Defender's Office