

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

2 _____
3 STEVE DELL MCNEILL,)

No. 66697

4 Appellant,)

5 v.)

6)
7 THE STATE OF NEVADA,)

8 Respondent.)
9 _____

Electronically Filed
Apr 30 2015 09:17 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

10 **APPELLANT'S APPENDIX VOLUME III PAGES 399-642**

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TRAN

IN THE EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

Alvin B. Lamm
CLERK OF THE COURT

THE STATE OF NEVADA,

Plaintiff,

vs.

STEVE DELL McNEIL,

Defendant.

CASE NO.

C-14-297725-1

DEPT. NO. XXV

REPORTER'S TRANSCRIPT OF PROCEEDINGS

(ROUGH DRAFT)

JURY TRIAL

BEFORE THE HONORABLE KATHLEEN E. DELANEY

WEDNESDAY, JULY 9, 2014

APPEARANCES:

For the State: JONATHAN COOPER,
DEPUTY DISTRICT ATTORNEY

For the Defendants: NADIA HOJJAT,
XIOMARA FERRERA-BONAVENTURE,
DEPUTIES PUBLIC DEFENDER

REPORTED BY: DANA J. TAVAGLIONE, RPR, CCR NO. 841

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1 LAS VEGAS, NEVADA, WEDNESDAY, JULY 9, 2014

2 * * * * *

3
4 THE COURT: Okay. First of all, let's get
5 appearances of counsel so that my court reporter has
6 all the names.

7 MR. COOPER: Jonathan Cooper on behalf of
8 the State.

9 MS. FERRERA: Xiomara Ferrera and Nadia
10 Hojjat for the defense.

11 THE COURT: Okay. Do you need any
12 spellings, or can you get those?

13 THE REPORTER: I've got everything,
14 Your Honor. Thank you.

15 THE COURT: Okay. Great.

16 All right. Sorry. Go ahead, Ms. Hojjat.

17 MS. HOJJAT: And, Your Honor, when the
18 defense submitted proposed jury instructions last
19 night to Your Honor via e-mail, I did include a
20 bench memorandum in support of certain instructions.

21 THE COURT: Yes.

22 MS. HOJJAT: I do have a copy, a hardcopy
23 here today, that I wanted to file just so that the
24 record is clear on precisely what it was the defense
25 has submitted to the Court to consider. The copy I

1 sent to the Court last night didn't have the filing
2 page on it.

3 THE COURT: It didn't have the caption,
4 right.

5 MS. HOJJAT: It didn't have a caption or
6 anything like that, but the text of the document is
7 the same. If I can approach the clerk and --

8 THE COURT: That's fine. We'll go ahead
9 and do it that way. As I said, I wasn't sure if you
10 wanted to do it that way or if you wanted to make
11 your memo a Court's exhibit because once we settle
12 instructions; but I think it is better to be filed.
13 And then of course, we'll have a filing of any
14 instructions that were proposed by either side that
15 weren't given with their own caption.

16 But go ahead and approach.

17 MS. HOJJAT: Thank you, if I can approach.

18 THE COURT: Give that to the clerk.

19 MS. HOJJAT: Thank you very much.

20 THE COURT: I also want to note, for the
21 record, that I do have now a file-stamped copy of
22 the Second Amended Information reflecting the
23 changes that we had approved, discussed, and I guess
24 mandated from our discussion yesterday. And that
25 language will, of course, be reflected in the

1 instructions.

2 My intention is to complete the State's
3 case, and what we may do is we may wait to -- we may
4 break the jury then, and we may wait to come back to
5 ask the Defense so we can canvass Mr. McNeil and
6 ultimately ask if the Defense rests before we
7 proceed, rather than doing it now because I won't
8 have time.

9 I don't want to do the last witness, move
10 the jury out, canvass Mr. McNeil, move the jury back
11 in, then say we're resting for a couple of hours and
12 then send them back out again. So if it works to do
13 it that way, I think that's the best way to go. But
14 so what we'll do is as soon as we --

15 THE COOPER: It's working.

16 THE COURT: As soon as the Defense rests,
17 then we will move right into settling the jury
18 instructions. And it is my intent right now because
19 it's hard for me to predict how long we're going to
20 have to argue, and then of course I need time to
21 pull the final version together.

22 I'm intending to possibly to break the
23 jury, depending on when we finish, until about
24 2:00 o'clock. So but we may go later to the lunch
25 hour to finish what we need to do. So we might get

1 an hour to an hour and a half a lunch, but depending
2 on the time frame. But I just need that extra time.

3 MR. COOPER: And, Your Honor, I think there
4 might be just --

5 THE COURT: well, I have one outstanding
6 issue too, but I wanted to see if anybody had any
7 questions about the schedule or anything like that.

8 MR. COOPER: Not for the schedule,
9 Your Honor.

10 THE COURT: All right. I had the
11 outstanding of the issue of the mistrial request
12 that was made yesterday.

13 Is there anything else though before we
14 address that?

15 MR. COOPER: There is, Your Honor. I don't
16 know if you want them to go first or you want me to
17 go first.

18 THE COURT: Things that you all have or
19 something related from yesterday?

20 MR. COOPER: No, for the mistrial. I
21 thought we were -- I'm sorry.

22 MS. HOJJAT: I thought we had already
23 submitted arguments, and the Court was --

24 THE COURT: We did.

25 MS. HOJJAT: Yeah.

1 THE COURT: No, I wasn't asking for
2 argument. I was just saying that's the issue that I
3 have outstanding to put in the record as my
4 determination. But I did indicate last night that,
5 you know, as the dust settled and as we all went
6 home and it was quite late, if anybody wanted to say
7 anything else, you would be welcome --

8 MR. COOPER: Yes, Your Honor.

9 THE COURT: -- to do so.

10 MR. COOPER: And my understanding was I was
11 also able to look for cases, if anything was --

12 THE COURT: I opened the door to either
13 side if they wanted to add anything to the record.

14 MR. COOPER: And, Your Honor, I would just
15 show that it was -- the actual case name is
16 G-E-I-G-E-R -- so I just didn't want to butcher
17 it -- vs. State, 112 Nevada 3- -- 938.

18 And essentially, in this case, the
19 defendant was asking for a mistrial, and basically
20 the facts are important because he was
21 subsequently -- he was charged with a residential
22 burglary in a case, and through an error of the
23 court clerk, they read to the jury that he had
24 previously been convicted of a burglary. And the
25 Supreme Court said that that was not enough for a

1 mistrial.

2 So in a case where somebody is convicted of
3 a burglary, the jury finding out that they have
4 previously been convicted -- I'm sorry. In a case
5 where someone is charged with a burglary and the
6 jury finding out that they have previously been
7 convicted of a burglary, even that was not enough
8 just to be a mistrial. The Court goes through the
9 limiting instruction that they can give, and that
10 was given in that case, and that was sufficient.
11 And I think that's akin to this case but to a far
12 more severe degree.

13 In this case, the jury would already know
14 he's a sex offender; in this case, the jury already
15 knew that he was on lifetime supervision; and quite
16 candidly, the jury already knew that the parole
17 board -- not probation, but the parole board, which
18 only supervises people after they're released from
19 prison -- was involved in this case.

20 So I mean, these issues that the jury had
21 no idea what's going on and we can sanitize this any
22 more than we already have, I think they're far left
23 field, and I don't think they're appropriate. I
24 think we have sanitized it. And at least in that
25 case -- we've got far more than what's happening in

1 that case, and the error in that case was far more
2 egregious than anything that happened in our case.

3 THE COURT: That case, it was not one of
4 the ones that I looked, so I don't know if --
5 because several of the cases that I looked at
6 certainly did have one of the reasons why the court
7 seemed to find harmlessness to the error was because
8 it was a postconviction proceeding; they were able
9 to look at the entire record and they were able to
10 see that there was an overwhelming evidence of guilt
11 in some of those cases.

12 I tend to, from my review, discount those
13 types of cases and look more squarely at the types
14 of cases where they were just addressing the Court's
15 exercise of discretion. The cases that I all saw
16 found other circumstances that I find to be more
17 egregious than what we have in this case, also to
18 not have warranted mistrial or at least the Supreme
19 Court to confirm the District Court's denial of a
20 mistrial.

21 One thing that you didn't answer though,
22 Mr. Cooper, and I'm not expecting a case
23 necessarily, but do you want to address part of the
24 argument yesterday from Ms. Hojjat was we're talking
25 about a cumulative effect now because we have, of

1 the State's two witnesses, each one saying something
2 that should not have been said.

3 I don't interpret anything that was said by
4 Officer Mangan as being intentional or a desire to
5 inform the jury that Mr. McNeil had been previously
6 incarcerated. It clearly came about as a result of
7 a dispute about the documents and whether the
8 documents would be allowed and a desire for
9 additional foundation of the circumstances, a desire
10 by the Court primarily, for additional foundation of
11 why there would be several copies.

12 And we already knew going in that one of
13 those copies was signed while he was incarcerated,
14 and I found that her utterance of this was someone
15 who was incarcerated was inadvertent, and of course
16 that was immediately addressed with a curative
17 instruction.

18 And the second then incident involved the
19 final witness from the State of the day, and that
20 was a general reference to the severity of the
21 nature of a crime that would warrant lifetime
22 supervision. And some additional dialogue that was
23 a more extensive statement related to that, was not
24 related directly to the defendant's case; but by the
25 way of the conversation was being had, it would have

1 to be interpreted, since he is on lifetime
2 supervision, that he falls into this category of the
3 23 worst, or however it was worded. So it's, in
4 part, that standalone. But it's also, in part, to
5 those two things taken together.

6 Did you want to address the potential for
7 cumulative effect?

8 MR. COOPER: Yes, Your Honor. I still
9 think the cumulative affect, I'm taking both of
10 those as a -- together. I think when the Supreme
11 Court, they look at these cases, they try to
12 obviously see what was going on in the trial at the
13 time, obviously, and that's hard to do based on the
14 record.

15 So I mean, it's important to take into
16 context how both those things happened. Neither one
17 of those statements was a standalone. The witness
18 looks over and says, "He was in prison" or "He's one
19 of the 23 most worst." Both those statements happen
20 in kind of a -- in kind of an already they were --
21 they were already speaking some other things, and
22 that happened as well.

23 But when I actually heard that, I looked
24 over to the jury, and I didn't see any of the jurors
25 looking up in disbelief or they're extremely

1 shocked, like, "Oh, my God. I can't believe this
2 happened" or "he's the worst of the worst." I mean,
3 just the facts remain that we've sanitized this case
4 as much as we possibly can, and the issue that comes
5 is that -- I mean, there's nothing more we can do.

6 It's the fact that he is on lifetime
7 supervision. It's the fact that he is one of the
8 23 worst. I mean, every sex offender is not put on
9 lifetime supervision. And it's clear by the
10 testimony, without anyone explicitly saying it,
11 there are sex offenders that have lifetime
12 supervision and there's sex offenders that don't
13 have lifetime supervision, regardless of if it's
14 50 crimes or 100 crimes or whatever it is that
15 actually requires lifetime supervision versus not
16 lifetime supervision.

17 I mean, that's something that we can't
18 sanitize against. It's going to be out there, and I
19 don't think anything either witness said was
20 obviously meant to prejudice the defendant; nor
21 do I think it did prejudice the defendant. And
22 especially taken in a cumulative effect, it was
23 nowhere near as egregious as saying, "This guy has
24 been previously been convicted of a burglary" during
25 a burglary trial.

1 THE COURT: Okay. Thank you.

2 Ms. Hojjat.

3 MS. HOJJAT: And, Your Honor, I think I
4 made most of my arguments yesterday to the Court.
5 I'll just briefly address the State's argument and
6 the Court's inquiry.

7 When we say the "cumulative effect," what
8 we're talking about is this is an issue that was
9 decided before trial started. This was an issue
10 that things that were going to come in were sex
11 offender subject to lifetime supervision. At that
12 point, the State has an obligation to admonish their
13 witnesses.

14 When they know that all that is supposed to
15 come in is sex offender on lifetime supervision.
16 Yet two State's witnesses got up, one right after
17 the other, and say things that they should have been
18 admonished not to say. The State has the burden of
19 controlling their witnesses, and that is in the case
20 law.

21 The State has the burden of admonishing of
22 them the things that could potentially come out that
23 are not supposed to come out. Two witnesses in a
24 row and both going to the same topic. Certainly
25 after the first witness slipped up on it, the second

1 witness should have been especially admonished on
2 it. But no such admonishment occurred, and the
3 second witness got up there and said the same thing.

4 So I would argue that this is not analogous
5 to the situation where a clerk of the court
6 accidentally read something. This is a situation
7 where they should have been admonished ahead of
8 time. When the first accident happened, there
9 should have been special care taken care before the
10 second witness got on the stand. And indeed,
11 Your Honor inquired of the district attorney, "Are
12 you ready with the next witness? Do you need time
13 to admonish."

14 So the situations are not analogous, and we
15 are arguing there is a cumulative effect here. And
16 it's not just two prejudicial facts. They are two
17 prejudicial facts having to do with the same
18 prejudicial overall thing that the court has ruled
19 the jury is not supposed to know about. They get to
20 know he's a sex offender. They get to know he's on
21 lifetime supervision.

22 THE COURT: Okay. Thank you.

23 And some of the other cases that I looked
24 at, and I don't have a case name to provide now, but
25 there is some body of law from our Supreme Court

1 that also goes into its analysis in terms of
2 determining whether when the Court, if the Court
3 denies a mistrial request, whether the abuse of
4 discretion exists.

5 And the Court will look at, you know,
6 again, the specific circumstances surrounding what
7 the incident was but also something that I kind of
8 touched upon yesterday, which is that the nature of
9 the charge in this case and the history of the
10 individual. It's already understood -- and they'll
11 look at what, you know, the jurors might have
12 already had known to them or presupposed, that they
13 were presupposing.

14 And in this particular case, again, we have
15 a circumstance where we have an individual who was
16 charged with a violation, violation of lifetime
17 supervision by a convicted sex offender. We did
18 note that the stipulation was too that there was --
19 that he is a convicted sex offender, a convicted
20 felon, and on lifetime supervision.

21 We have sanitized, at this point, to remove
22 what was the primary concern -- at that time,
23 anyway -- of the prior, other underlying charge,
24 attempt lewdness with a child under the age of 14,
25 to avoid any of those potential biases that that

1 could engender with the jury.

2 But at the end of the day, this jury is
3 aware that this is a convicted sex offender; the
4 jury is aware that this individual is on lifetime
5 supervision. It has to be, on some level,
6 understood by the jury that there was incarceration,
7 at some point in time and that it -- you don't get
8 the designation of needing the lifetime supervision
9 without it being somewhat serious.

10 But we have avoided any reference to the
11 charge itself, which is again I think the primary
12 concern. I do not find that there is a cumulative
13 effect here that would so prejudice this jury or
14 prejudice the potential outcome of this trial that,
15 again, it would serve to be a manifest injustice for
16 the defendant or to this case, and I'm going to deny
17 the mistrial.

18 I am, however, going to give a curative
19 instruction similar to the one that I gave
20 yesterday. You don't wish us to do that?

21 MS. FERRERA: No, Your Honor. We don't
22 wish any more attention to be brought to that
23 statement. So we would not want the --

24 THE COURT: Well, I don't want to -- I
25 guess I'm going to respectfully disagree. I'm not

1 going to bring attention to the statement in any way
2 to say, you know, such and such said X and now
3 disregard X. I do, however, want to --

4 And I should have been more clear. I
5 apologize. That the nature of the curative
6 instruction that I want to give is to remind them
7 again that this case is about whether or not this
8 defendant violated his -- you know, is guilty of the
9 violation of lifetime supervision by a convicted
10 sex offender and that nothing about how he became a
11 sex offender on lifetime supervision is -- you know,
12 up to this point -- is relevant to those charges.

13 It's simply what is the quantum of proof;
14 do they meet their burden beyond a reasonable doubt.
15 It's something along those lines.

16 MS. HOJJAT: Right.

17 THE COURT: So I wasn't necessarily going
18 to intend to do it. But I thought it would behoove
19 us to remind them again that how we got here is not
20 relevant to these charges.

21 MS. FERRERA: That would be great,
22 Your Honor. Thank you.

23 MS. HOJJAT: Thank you, Your Honor.

24 THE COURT: That's something that was -- I
25 think we need to do.

1 MR. COOPER: Your Honor, I guess the only
2 issue that State would have -- I know we're trying
3 to get the jury in -- but my next witness was a
4 counselor for this defendant, and I know she can't
5 obviously go into any of the reason -- any of the, I
6 guess, the legal opinions as to his likelihood to
7 reoffend or anything like that.

8 But one of the concerns I had, and I wanted
9 to bring it to the Court's attention before I put
10 her on, because I don't want another mistrial
11 argument, is that the defendant did make statements
12 to her in open group that resulted in part of the
13 reason why he was terminated.

14 Obviously, she's able to talk about what
15 statements he made to her. And I just want to make
16 sure that I'm okay going down that road because they
17 are statements from a defendant, and those
18 statements were a basis of the reason he was
19 terminated.

20 THE COURT: And can you be more specific as
21 to what they are?

22 MR. COOPER: Your Honor, yes. So I guess,
23 in generally, there's a group of sex offenders who
24 are doing counseling. One sex offender says, "I was
25 grooming my victim for two months." And then the

1 defendant yells out, "well, you must not have did a
2 good job because she told."

3 THE DEFENDANT: That's all hearsay.

4 MR. COOPER: Your Honor --

5 THE COURT: Your counsel is very capable,
6 Mr. McNeil.

7 MR. COOPER: Obviously, Your Honor, that
8 goes directly to the fact that he was showing no
9 progress.

10 THE COURT: And with all due respect, it's
11 the court's determination what's hearsay and what
12 isn't.

13 MR. COOPER: That was going directly to the
14 fact that he had little to no progress; his attitude
15 at the time, and that's relevant. I mean, it comes
16 in obviously as defendant's statement. There's no
17 reason to keep it out.

18 I was just making sure the Court was aware
19 of that, because I know I'm going to get "object."
20 I know they're going to say, "Hey, I want a mistrial
21 now because they weren't supposed to say that." So
22 I just want to make sure the Court's -- I wanted the
23 court's ruling before that came out.

24 THE COURT: well, Mr. Cooper, do me a
25 favor. Let's try to change tactics today.

1 MR. COOPER: I'm sorry.

2 THE COURT: Between both sides' counsels,
3 you know, let's leave the editorializing out about
4 what we think each counsel might do. Okay. Here's
5 the deal: If they ask for a mistrial, they're going
6 to ask for a mistrial because they think that
7 somebody has said something that warrants it, and
8 you have two witnesses that got up here and said
9 something that they shouldn't have said.

10 MR. COOPER: I agree, Your Honor.

11 THE COURT: I've already denied the
12 mistrial, but let's save it that there's going to
13 be, oh, another mistrial request, like somehow
14 they're rationing this out because they're not. So
15 what I want to make sure is your witness doesn't get
16 up here and say anything that she's not supposed to
17 say.

18 MR. COOPER: Yes, Your Honor.

19 THE COURT: And what we're not going to do
20 to this jury what I've tried mightily to avoid is
21 turning this case into, you know, "We don't like
22 this gentleman because we don't like what he said;
23 we don't like what he did; we don't like that he's
24 on food stamps; we don't like that he's" -- you
25 know, I can't ultimately control what's in the minds

1 of the jury.

2 But what I can do is remind them again that
3 their job is to determine whether the state has met
4 its burden to prove beyond a reasonable doubt that
5 he didn't comply with the conditions. All she has
6 to testify to is that he was terminated from the
7 treatment and the basis for that termination.

8 She doesn't have to go into the details of
9 things that he said that are going to be considered
10 to be potentially inflammatory. I do find that a
11 statement like that, the substantial prejudice would
12 outweigh any relevancy to the fact that he wasn't
13 making progress and that he got terminated. So I am
14 absolutely going to preclude that kind of thing.

15 Maybe we need to have the doctor in here
16 just to discuss and admonish in terms of what the
17 scope --

18 MR. COOPER: Yes, Your Honor.

19 THE COURT: -- of the questioning should
20 be --

21 MR. COOPER: And so I just want to make
22 sure I understand. So are -- is it a blanket ruling
23 that none of his previous statements come out, or --

24 THE COURT: I don't know what his previous
25 statements are, but maybe, depending on if they're

1 going to be things like that.

2 MR. COOPER: And that's the problem,
3 Your Honor, because I can give you -- the only other
4 issue I know of or the only other statement would be
5 there was a situation where he became very
6 aggressive, and that is one of the reasons he was
7 terminated.

8 And the reason he was very aggressive was
9 because it was a situation, again in group, where
10 the counselor says, "You shouldn't be able -- you
11 shouldn't date anyone with children"; and then he
12 got really mad, saying that, "What do you mean? I
13 can't have a normal life? What do you mean I can't
14 be around children?" Blah-blah-blah, and I'm not
15 going to ask her to go down the road of why he can't
16 he be around children.

17 THE COURT: Mr. Cooper, here's the part
18 that I think that we're losing the focus on. One of
19 the underpinnings to his alleged violation of
20 lifetime supervision was that he was -- he didn't
21 complete his counseling and was terminated from
22 counseling.

23 MR. COOPER: Terminated, yes, Your Honor.

24 THE COURT: The exact wording was that he
25 was terminated. The only testimony we need from

1 this doctor is that he was terminated from
2 counseling.

3 MR. COOPER: Yes, Your Honor.

4 THE COURT: And I have no problem with, and
5 I think it is appropriate for her to give some basis
6 for why he was -- if she made the determination to
7 terminate him, why did she terminate it. But going
8 further into all of his behaviors at the time, I
9 mean, that's not relevant; and that is absolutely
10 maybe not intended, but it sounds like intended, but
11 certainly will inflame this jury to perhaps be
12 biased in terms of how they reach a verdict, and I
13 don't want that.

14 MR. COOPER: And I apologize, Your Honor.
15 It's definitely not intended. That's why I wanted
16 to bring it to the Court's attention first.

17 THE COURT: Well, I'm glad you did.

18 MR. COOPER: So I didn't want to do it and
19 then there be issues.

20 THE COURT: But I guess I'm trying to
21 understand why you would even want to have the
22 inquiry go into that level of detail of things that
23 he said and did in groups just because they happen
24 to be some of the things that she weighed to
25 terminate, when the relevant information is he

1 terminated, and he terminated for legitimate
2 reasons.

3 I mean, that's one of the reasons why I'm
4 not just letting her get up there and say, "Here's
5 my form and yes, I checked these boxes." I mean,
6 she's able to say that he needed to be terminated
7 and that it was legitimate. Because we already got
8 an argument happening here that, you know, there was
9 bias with the officer and that's why he, you know,
10 he's -- things are happening.

11 There has to be able to be the ability for
12 this witness to testify that she legitimately
13 terminated him. But she doesn't have to go into the
14 details of those circumstances.

15 MR. COOPER: That's fine with the State,
16 Your Honor. I just want to make sure I'm clear. Is
17 that -- is it okay if she just says, "Statements he
18 made showed he made little-to-no progress." It
19 doesn't talk about the statements, but she does need
20 to actually --

21 THE COURT: Generally, his behaviors and
22 his statements and without her saying what they are,
23 absolutely she's able to do that.

24 MR. COOPER: That's fine, Your Honor. I
25 would just need to make sure I re-admonish my

1 witness.

2 THE COURT: No, I'm going to have her come
3 in here, and we're going to talk to her all
4 together.

5 MR. COOPER: Yes, Your Honor.

6 THE COURT: Let's have her come in now and
7 do that.

8 MR. COOPER: Do you want her --

9 THE COURT: What do you anticipate your
10 examination time with this witness?

11 MR. COOPER: Ten.

12 THE COURT: Fairly quick.

13 MR. COOPER: Ten minutes, yeah, I mean.

14 THE COURT: Just trying to gauge again in
15 terms of how long we might be into lunch hour to
16 settle the instructions. We do need to be as quick
17 as possible in settling instructions, folks, because
18 I need to get them done and I need to get the jury
19 back in here. So, you know, we just -- we'll figure
20 it out. We'll make it work.

21 What's the doctor -- what's her last name
22 again, "Lee"?

23 MR. COOPER: Yes, Your Honor. Marcia Lee.

24 THE COURT: Marcia Lee. And I'm sorry. I
25 say "doctor" because I kind of tend to use that

1 terminology for everybody. But is she a doctor?

2 MR. COOPER: No. I think she's a licensed
3 therapist.

4 THE COURT: She's a licensed LCSW or an
5 MFT?

6 MR. COOPER: LFT -- MFT.

7 THE COURT: MFT, marriage and family
8 therapist, okay.

9 MS. FERRERA: So she's not a doctor.

10 THE COURT: I don't think --

11 MS. FERRERA: Okay.

12 THE COURT: Most counselors are not
13 doctors. But like I said, I tend to use that
14 terminology. I don't want to slip and use that
15 terminology.

16 MS. FERRERA: And my only concern is that,
17 at this point, Your Honor, if she is referred to as
18 "doctor" --

19 THE COURT: I won't.

20 MS. FERRERA: -- then she gets into expert
21 testimony.

22 THE COURT: Ms. Lee, come on up if you can,
23 please. Just be easier to have you sit here, kind
24 of get familiar with how all this works. When you
25 come in later, you're going to kind of come up

1 there, and we'll have you stand when you first come
2 in, when the jury is present, raise your hand and
3 get sworn. But you don't have to do that right now.

4 we're bringing you in in advance because
5 there has been a lot of discussion amongst counsel
6 and requests made to the Court for what the proper
7 scope of your testimony will be, and I wanted to
8 sort of give you some basic admonishments, for lack
9 of a better word, of what is and is not appropriate
10 to discuss.

11 As we know, the charges against Mr. McNeil
12 are for violation of lifetime supervision by a
13 convicted sex offender and prohibited acts by a sex
14 offender, and your testimony, relevancy goes to that
15 first charge because one of the bases upon which
16 he's been charged with violation is that he was
17 terminated from counseling.

18 So there has been some discussion about how
19 much information can be given. Certainly the fact
20 that he terminated, certainly the basis upon which
21 he terminated, and the determination was made to
22 terminate him is fine.

23 But what we cannot have happen with this
24 jury is the kind of sort of details of what was said
25 or what was done in the group setting or in the

1 individual settings that would cause the jury
2 perhaps to become biased against him just because of
3 that behavior. The determination needs to be made
4 on whether or not he violated his conditions, which
5 is the termination.

6 I have not told the counsel that he needs
7 to limit his questioning of you or your answers to
8 him to just "yes, he terminated" and "Yes, these are
9 the boxes I checked on the form." But we have
10 removed from the form any references to your belief
11 of what his future propensities are or propensity to
12 reoffend. That cannot be testified to. I believe
13 you've probably already been admonished as to that.

14 But what we also want to avoid, even though
15 you can explain that there were -- that he said
16 things or did things in the treatment that caused
17 you to believe that he was, as you checked the box,
18 making little or no progress, however you're going
19 to testify to that.

20 But what we cannot have and what we will
21 not allow is the specifics of what he said or what
22 he did in group or treatment to come into the
23 testimony.

24 Is that clear enough to you to be able to
25 answer the questions?

1 Did counsel -- obviously, I'm going to give
2 him some leeway to lead, if necessary. But, again,
3 we want the jury to make its determination on
4 whether this defendant is guilty based on the
5 elements and the underlying details.

6 The Court has determined that those would
7 be substantially prejudicial and outweigh the
8 relevance of that testimony, so which is why we're
9 precluding the details of the statements made or the
10 actions taken in group or individual.

11 MS. LEE: Which is why he was terminated,
12 part of why, a large part of why he was terminated.

13 THE COURT: Understood.

14 MS. LEE: Okay.

15 THE COURT: But is it impossible for you to
16 say, "The defendant said things that caused me to
17 terminate him" versus "This is what the defendant
18 said."

19 Do you understand the difference?

20 MS. LEE: Yeah, I get the difference.

21 THE COURT: I appreciate it, and I
22 appreciate your desire perhaps to want to say more.
23 But what I'm going to do, as the gatekeeper of this
24 trial, is do my very best to ensure that when the
25 jury renders its verdict, it is rendering its

1 verdict only on the information that is necessary to
2 render its verdict on and not on other things that
3 would tend to potentially cause them to render their
4 verdict on something that is based on bias or other
5 impermissible reasons.

6 I don't have a choice here. So I very much
7 appreciate your job and what you do. But I also
8 appreciate your understanding of that there are
9 certain pieces of evidence that are relevant, and
10 then there are certain pieces of evidence that,
11 although they are relevant, are too prejudicial to
12 the trial to be able to come in.

13 MS. LEE: Okay.

14 THE COURT: Okay. I very much appreciate
15 taking the time and having the opportunity to speak
16 with you about that. As soon as we can have you
17 re-exit, then we'll bring the jury in and call you
18 back in. Okay?

19 MS. LEE: Okay.

20 MR. COOPER: And, your Honor, it might just
21 be easier if she just goes in the witness room right
22 there.

23 THE COURT: Yeah, of course. That's what I
24 assumed she would do, or she can even have a seat.
25 Bring the jury in, so just if you would like to --

1 MR. COOPER: My PowerPoint is still on the
2 screen, so I think we should take that off before
3 the jury gets here.

4 THE REPORTER: I'm sorry.

5 THE COURT: I don't control that.

6 THE REPORTER: I'm not sure how to do this.

7 THE COURT: Jonathan will show you.

8 Are you going to need to use the Elmo with
9 this witness?

10 MR. COOPER: Yes, Your Honor.

11 THE COURT: Well, if you are, let's get it
12 all ready to go. And then, again, this is a
13 different reporter. So we're not perhaps as well
14 versed in the moving back and forth, so.

15 MS. HOJJAT: Judge, I apologize. I just
16 want to make sure I don't open any doors during
17 cross. So can I just kind of make a proffer.

18 THE REPORTER: I'm sorry, Your Honor.

19 THE COURT: Hold on a second.

20 Yes, Susan -- I mean, Dana. Sorry.

21 THE REPORTER: I'm sorry. I couldn't do
22 both at the same time with the deputy -- I can't
23 report.

24 THE COURT: Understood. We're waiting.

25 THE REPORTER: Thank you.

1 MS. HOJJAT: And, Your Honor, I just want
2 to make sure I don't open any doors on
3 cross-examination. So I just kind of wanted to make
4 a proffer to the court and make sure the court was
5 okay with a specific question I was going to ask in
6 terms of not opening any doors.

7 THE COURT: Well, the witness is still in
8 the courtroom. Are you sure you want to do it while
9 she's sitting there? Can --

10 I'm sorry. MS. Lee, can you step into the
11 anteroom.

12 MS. HOJJAT: I apologize, Your Honor.

13 And it's directly testimony, an answer that
14 she gave on direct in, at the preliminary hearing
15 was he was terminated because he was disruptive; and
16 when she was asked how he was disruptive, she said,
17 "He'd argue with everybody and wouldn't accept
18 feedback."

19 And so I kind of wanted to just cross her
20 on that. I just want to make sure that going into
21 that doesn't open the door to how else was he
22 disruptive and us going down that path.

23 THE COURT: Well, I mean, at the end of the
24 day, as I've said, I think we can have testimony
25 with regard to that he did things and said things

1 without exactly what those things were that he did
2 and exactly what those things were that he said.

3 However, if you do ask questions that open
4 the door and she gives the answer, you know, I've
5 already admonished her. I mean, basically, I
6 probably went too far in the admonishments, but I
7 did -- I wanted to make sure the witness was
8 understanding what I was trying to say.

9 But, you know, tread lightly here. okay?
10 It goes both ways.

11 MS. HOJJAT: Yes, Your Honor.

12 THE COURT: So we'll see.

13 MS. HOJJAT: Yes, Your Honor.

14 THE COURT: All right.

15 All right. Let's have the jury.

16 (The following proceedings were held in the
17 presence of the jury:)

18 THE COURT: You can, of course, take your
19 seats as you reach them. Just a quick reminder to
20 make sure your cell phones are off or silenced,
21 please.

22 Go ahead. Everybody can have a seat as
23 well.

24 All right. Thank you, ladies and
25 gentlemen. Resuming the trial on the matter of the

1 State of Nevada vs. Steven Dell McNeil.

2 I do have one matter that I have to address
3 with the court -- or address with the jury before we
4 get started. I just, I want to admonish or remind
5 the jurors, based on the testimony that was given
6 yesterday with both witnesses but additionally with
7 the last witness of the day, to remind the jury that
8 any information that goes to the history, shall we
9 say, of this defendant in terms of how he became a
10 convicted sex offender or the fact that he is in
11 fact on lifetime supervision is not relevant to this
12 trial.

13 what is relevant to this trial is that, in
14 fact, those facts have been stipulated to; he is a
15 convicted sex offender and he's on lifetime
16 supervision. The issue is that what he's been
17 charged with, violation of lifetime supervision and
18 prohibited acts, and whether or not you find from
19 the evidence and that the law, as we will instruct
20 you later today, that he is in fact guilty, beyond a
21 reasonable doubt, to those charges. That is the
22 only relevant information.

23 so I instruct you generally to disregard
24 any information that may lead to discussion and
25 certainly to direct you to not have and allow it to

1 enter into your deliberations or be part of your
2 deliberations in any way the underlying matters that
3 brought us to the point where these charges were
4 brought.

5 okay. So with that general admonishment, I
6 think we can proceed, and I would ask now for the
7 State to call their next witness.

8 MR. COOPER: Thank you, Your Honor.

9 And, Your Honor, the State's next witness
10 is Marcia Lee.

11 THE COURT: All right. Ms. Lee.

12 Thank you, Ms. Lee. If you'll just come
13 all the way through up to the chair and remain
14 standing by the chair, then my clerk here to the
15 left will swear you in.

16 (witness sworn.)

17 THE WITNESS: I do.

18 THE CLERK: Please be seated.

19 THE COURT: Go ahead.

20 THE CLERK: Will you please state your name
21 and spell it, for the record.

22 THE WITNESS: Marcia Lee. Spelled
23 M-A-R-C-I-A L-E-E.

24 THE CLERK: Thank you.

25 THE COURT: Thank you, Ms. Lee.

1 Before Mr. Cooper gets started, I just
2 wanted to make sure is your monitor there on the
3 desk on, can you tell?

4 THE WITNESS: Yeah, appears to be. I
5 think.

6 THE COURT: Okay. Thank you.
7 Go ahead, Mr. Cooper.

8 MR. COOPER: Thank you, Your Honor.

9
10 Thereupon --

11 MARCIA LEE,
12 having been first duly sworn to testify to the
13 truth, was examined and testified as follows:

14
15 DIRECT EXAMINATION

16 BY MR. COOPER:

17 Q. Ms. Lee, what's your current occupation?

18 A. I'm a licensed marriage and family
19 therapist.

20 Q. And based on that occupation, what are some
21 of the ordinary course of things you do on a daily
22 basis?

23 A. I see people for all kinds of issues, for
24 depression and adjustment disorders and that sort of
25 thing. But I'm also a referral source for parole

1 and Probation for working with adult sex offenders.

2 Q. And do you recognize anyone in court here
3 today that you worked with as a sex offender?

4 A. I do.

5 Q. Can you please point at that person and
6 describe something he's wearing.

7 A. It's Mr. McNeil, and he's sitting with a
8 tan shirt and a plaid tie.

9 MR. COOPER: And may the record reflect the
10 witness has identified the defendant.

11 THE COURT: The record will so reflect.
12 Thank you.

13 BY MR. COOPER:

14 Q. When was the first time you came in contact
15 with Mr. McNeil?

16 A. He began treatment with me in March of
17 2008.

18 Q. And, generally, what does sex offender
19 treatment entail?

20 A. Well, it entails several parts. My program
21 addresses both objective and subjective measures,
22 which means we do some testing. We also do
23 subjectively best in our clinical experience with
24 working with people who have sex offenses.

25 We also have -- we have three different

1 steps that we do. One is a psycho-ed portion, at
2 which point they take a sexual history, do a sexual
3 history; take a sexual history polygraph. They move
4 on from that to a group where they do some specific
5 homework, and then they do a maintenance group to
6 finish up.

7 Q. Is the homework and the polygraph, is that
8 the objective portion?

9 A. Yes.

10 Q. And was the defendant ever terminated in the
11 objective portion?

12 A. He was not.

13 Q. Now, you said after that, you go on and you
14 do some group stuff as well?

15 A. We do, uh-huh.

16 Q. Well, let me ask you this. How long have
17 you been, I guess, a sex offender counselor?

18 A. I've been doing this for about 20 years.

19 Q. And at some point during the subjective part
20 of the counseling, was the defendant subsequently
21 terminated?

22 A. He was.

23 Q. And did you do something called a
24 Termination Summary as a result of that?

25 A. I did.

1 MR. COOPER: Permission to approach the
2 witness, Your Honor.

3 THE COURT: You may.

4 BY MR. COOPER:

5 Q. And I'm now showing you what's been
6 previously marked as State's Proposed Exhibit 11.

7 Do you recognize that?

8 A. I do.

9 Q. And what is that?

10 A. It is just a form that I use for a
11 Termination Summary I send it to the Department of
12 Parole and Probation or to his probation, parole
13 officer.

14 Q. And is this a correct copy of that form that
15 you would have sent?

16 A. Yes.

17 MR. COOPER: At this point, Your Honor, the
18 State would move to admit State's Proposed
19 Exhibit 11.

20 MS. HOJJAT: No objection, Your Honor.

21 THE COURT: State's Exhibit 11 is admitted.
22 (Whereupon State's Exhibit No. 11 was
23 admitted into evidence.)

24 MR. COOPER: And permission to publish,
25 Your Honor.

1 THE COURT: Yes.

2 MR. COOPER: Thank you.

3 BY MR. COOPER:

4 Q. And, Ms. Lee, if you look to your right
5 there, I think this screen should show this document.

6 A. Yes.

7 Q. Okay. So it looks like on the left-hand
8 side of this document, there's a couple of boxes that
9 are checked.

10 A. Yes.

11 Q. Do you see those?

12 A. I do.

13 Q. And one of them says "Client cannot make
14 payments." What does that mean?

15 A. It means that he was behind in his fees to
16 therapy.

17 Q. Now, would being behind in fees alone, would
18 that -- would you terminate somebody for that?

19 A. Obviously not, no.

20 Q. What about the little or no progress in
21 treatment, what do you mean when you check that box?

22 A. That was the subjective matters that I had
23 noted in his behavior and his progress in group.

24 Q. Okay. And when you terminated him, that was
25 in December of 2012?

1 A. It was.

2 Q. And it looks like on the right, on the upper
3 left right-hand portion of this, it says Officer
4 Ron (sic) Paige.

5 Would that be your contact at P & P?

6 A. It was it's Officer Ryan Paige.

7 Q. Oh, I'm sorry. Ryan Paige.

8 A. Yeah.

9 Q. And at that time, that would have been the
10 defendant's probation officer?

11 A. It was.

12 Q. And it looks like on the bottom here, it
13 talks about treatment. It says that he was intaked
14 on March 8th, 2008?

15 A. Yes, he was.

16 Q. And the last date was December 14th, 2012?

17 A. It was.

18 Q. Was that the last session?

19 A. That was the last session he attended.

20 Q. Was he supposed to attend a session after
21 that?

22 A. He was to have come in on the 21st, but he
23 called and canceled.

24 Q. And was that the reason -- was that another
25 reason for the termination?

1 A. Yes. Based on the conversation that had
2 taken place in the previous session.

3 Q. And it says under Source B right here,
4 "Therapist initiated"?

5 A. Yes.

6 Q. And that's because you're the one that
7 initiated the termination?

8 A. Myself and the co-therapist in the group,
9 yes.

10 MR. COOPER: Court's brief indulgence.

11 THE COURT: Yes.

12 BY MR. COOPER:

13 Q. And at any time after December 2012, did the
14 defendant come back to you for counseling?

15 A. No.

16 MR. COOPER: Your Honor --

17 BY MR. COOPER:

18 Q. And your office is in Clark County, Nevada?

19 A. It is.

20 MR. COOPER: I'll pass the witness,
21 Your Honor.

22 THE COURT: All right. Thank you.

23 Ms. Hojjat.

24 MS. HOJJAT: Very briefly, Your Honor.

25 / / /

CROSS-EXAMINATION

BY MS. HOJJAT:

Q. Good afternoon, Ms. Lee.

A. Good afternoon.

Q. How are you doing today?

A. Pretty good.

Q. I guess it's almost afternoon.

A. Sort of.

Q. You testified that he started treatment in March of 2008?

A. I did.

Q. And he continued through December of 2012?

A. He did.

Q. So that's over four years?

A. It was.

Q. And he completed the homework?

A. He did a homework group. He was having trouble doing the homework on his own. And so we transferred him into a homework group where it was done more one on one; although, there were three or four in the group at the time, where it's done verbally instead of having to read and write it, where some people have problems with that.

Q. Okay. But he did --

A. which took about a year of time, yeah.

1 Q. Okay. But he did do the homework?

2 A. He did do the homework.

3 Q. He completed that portion?

4 A. Yes, he did.

5 Q. And he completed the second portion?

6 A. The group portion?

7 Q. Yeah, the polygraph portion.

8 A. The polygraph portion, he did.

9 Q. Okay. And in that four years, he wasn't
10 terminated for constant failures to show up or
11 anything?

12 A. No, he was not.

13 Q. Okay. He was showing up?

14 A. He did.

15 Q. Okay. And --

16 Court's indulgence.

17 THE COURT: Yes. Excuse me.

18 MS. HOJJAT: I'll pass the witness,
19 Your Honor.

20 THE COURT: Mr. Cooper, any redirect?

21 MR. COOPER: I just have one question,
22 Your Honor.

23 / / /

24 / / /

25 / / /

REDIRECT EXAMINATION

BY MR. COOPER:

Q. On average, how long is the sex offender counseling?

A. Runs from a year to three years. It depends a lot on the individual. The first part is controlled, the first portion, which is the psycho-ed portion, is pretty much controlled by the therapist.

The second part, which is the group part where they're doing the homework on their own is controlled primarily by the client and how fast they work through the homework and do the process in group.

Q. And do you remember, off the top of your head, how long the defendant was in that second part?

MS. HOJJAT: Judge, I'm going to object, relevance and outside the scope.

THE COURT: Overruled.

You may answer.

THE WITNESS: He was in group probably -- and I'm guessing because I don't have the notes in front of me -- about a year perhaps, when we realized that he was really struggling with the homework, and that's when we moved him to the

1 homework group. And I believe he was in that group
2 for about a year. I did not do the homework with
3 him. Another therapist did, and then he came back
4 to the process group where I was.

5 MR. COOPER: No further questions,
6 Your Honor.

7 THE COURT: Any further questions?

8 MS. HOJJAT: No further questions,
9 Your Honor.

10 THE WITNESS: May I see by a show of hands
11 if any jurors have questions for this witness.

12 Seeing none then, Ms. Lee, then you are
13 excused. Thank you for your time today.

14 THE WITNESS: Uh-huh.

15 THE COURT: Does the State have any
16 additional witnesses to call?

17 MR. COOPER: And, Your Honor, I've just
18 inquired of the clerk as to the status of my
19 exhibits.

20 THE COURT: All -- the clerk indicates all
21 of the exhibits are admitted.

22 MR. COOPER: And with the admission of all
23 my exhibits, Your Honor, the State has no further
24 witnesses, and the State would rest this matter.

25 THE COURT: All right. The State has

1 rested now. It's about ten minutes to 12:00. We
2 were not entirely sure how long the questioning of
3 this witness would take. We do have some matters
4 that we have to address, including finalizing the
5 jury instructions for you. So what we are going to
6 do is give you an extended lunch recess.

7 We couldn't quite be sure if that was going
8 to happen or not or how that would happen. So I
9 apologize for the additional time that you will
10 have. But the goal here has been to complete the
11 trial. We will return and resume with the defense
12 case, and then we will ultimately proceed with
13 instructions and closings and deliver the trial to
14 you today, as we indicated.

15 But I am going to give you a lunch recess
16 that is going to be until 2:00 p.m. That is when
17 you will return. We will expect to start promptly
18 at 2:00 p.m. That, again, gives the Court the
19 opportunity to complete its needs with the counsel
20 and also for the counsel and staff to have a brief
21 recess, lunch recess as well. So, again, I
22 apologize for the additional time. But we will get
23 back to business at 2:00 and deliver this case to
24 you as soon as we can.

25 All right. Enjoy your lunch recess. By

1 the way, don't get up yet. I've got to admonish
2 you, because our Supreme Court will have a fit if
3 that's not in the record that I did so.

4 Not to talk or converse amongst yourselves
5 or with anyone else on any subject connected with
6 this trial; or read, watch, or listen to report of
7 or commentary of the trial or any person connected
8 with this trial by any medium of information,
9 including, without limitation, newspapers,
10 television, radio, internet, or social media or form
11 or express any opinion on any subject connected with
12 the trial until the case is finally submitted to
13 you.

14 And we'll see you back here at 2:00 o'clock.

15 (Pause in the proceedings.)

16 (The following proceedings were held
17 outside the presence of the jury:)

18 THE COURT: All right. We'll get started
19 with the jury instructions.

20 Go ahead and have a seat. I did receive,
21 of course last night, the Defense Proposed Exhibits,
22 with and without cites, as well as the memorandum,
23 which has now been filed with its own caption
24 indicating, you know, summarizing the argument with
25 regard to what I think is sort of the gravamen of

1 the dispute as to what the instructions should be,
2 which is one of the components of lifetime
3 supervision and whether or not these requirements
4 set forth in the lifetime supervision agreement and
5 the -- okay -- and what has been asserted as some or
6 all of the bases for alleging violation of lifetime
7 supervision are actually legal requirements that are
8 mandated and can support the charge.

9 And, of course, the instructions then, we
10 have the -- we have the proposal by the State for
11 the instructions with regard to that. Now, there
12 are some overlap obviously in the Defendant's
13 Proposed, specifically the witness's -- the
14 defendant's right to take the stand or not and some
15 of the credibility. I don't know how we want to do
16 them. It might be easier to kind of go through the
17 defendant's.

18 My thought process coming into today, but
19 I'm open to your suggestions, was to go through the
20 Defendant's Proposed and allow that to be the
21 argument. We'll obviously note where either are
22 overlaps with what state has proposed or whatever
23 are kind of typical stocks. I didn't necessarily
24 see in the ones that you were putting in there that
25 there was -- in the some of the stocks, that there

1 was a real differentiation. So I may have missed
2 something. But to go through those, and then of
3 course, when we get to the substantive ones, then we
4 can have that argument.

5 It seems to make more sense to do it that
6 way, and then we can obviously hear argument from
7 the State; the Court will make its determination,
8 and then at the end of the day, we'll see if there's
9 any of the others the State has that are in
10 question.

11 Does anybody want to do it a different way,
12 think there's a better way to do it?

13 MS. HOJJAT: I have no objection to that,
14 Your Honor.

15 THE COURT: Mr. Cooper.

16 MR. COOPER: No objection, Your Honor.

17 THE COURT: All right. So just for the
18 record, so that it's a little bit easier to do, and
19 I did appreciate that there were page numbers
20 associated with the Defendant's Proposed.

21 So the first one, which would be on
22 page 1 -- it's not actually numbered page 1 because
23 the page numbers don't actually begin until
24 page 2 -- but I honestly wasn't quite clear of the
25 basis for this proposal.

1 MS. HOJJAT: Yes, Your Honor. And to
2 clarify, there was clearly a conversation had in the
3 office of Officer Zanna. It started in Officer
4 Mangan's office -- and I'm sorry -- Sergeant Zanna,
5 and eventually transpired in Sergeant Zanna's
6 office. But clearly, there was some sort of
7 incident and interaction, whatever occurred. There
8 was testimony about it.

9 So the mere presence instruction basically
10 says just because the defendant is present at the
11 scene of an incident, something occurring, some
12 conversation happening, whatever it is, doesn't mean
13 that that's it, now he's guilty because he was
14 there. We're not disputing he was there, but we are
15 saying him being there doesn't mean he's guilty. So
16 I believe this instruction is on point because
17 that's basically what it's telling the jury.

18 THE COURT: All right.

19 Mr. Cooper.

20 MR. COOPER: And, Your Honor, I don't think
21 there's any facts in evidence to support this
22 instruction. I mean, mere presence at the scene is
23 usually used in a robbery-type scenario when there
24 was an actual crime committed at that particular
25 specific moment and the defendant is like, "I was at

1 the scene, but I wasn't the one that committed the
2 robbery."

3 I mean, this just doesn't go to the facts
4 whatsoever. I mean, they're saying that he was in
5 the office, but we're not saying that he did
6 anything in the office? well, I'm not -- I guess it
7 just doesn't make sense factually. And it's hard
8 for me to even, I guess, argue it.

9 MS. HOJJAT: If I can just briefly respond
10 to that. What we're saying is he was in the office,
11 but that doesn't mean he's guilty of a crime. The
12 fact that they've proven he was in the office is not
13 the burden that they need to meet. And this
14 instruction is an accurate instruction of the law,
15 and we believe it's on point in this case.

16 MR. COOPER: And, Your Honor, it is an
17 accurate instruction of the law. But as she said,
18 it still needs to be on point, and the facts still
19 need to support this instruction. I can't just put
20 any instruction that has law behind it in any case.

21 THE COURT: The Court is not going to give
22 the proposed instruction, and the basis for that is
23 that, while it might be a correct statement of the
24 law generally, I do not see it being a point in this
25 case, and I see it potentially confusing to the

1 jury.

2 It would be one thing if the instruction
3 was written -- and I'm not suggesting this because I
4 don't believe the instruction needs to be given,
5 period -- but if it were written as the mere fact
6 that certain dialogue was had in, you know,
7 Sergeant Zanna's office doesn't itself mean that the
8 defendant is guilty of the crimes charged. But we
9 just simply don't give instructions that go along
10 those lines.

11 And this general instruction, I have every
12 reason to believe would entirely confuse the jury as
13 to why it is being given because there isn't an
14 incident -- an incident attendant to what, again,
15 was a circumstance of a crime is one thing. What
16 we're talking about here is evidence that's been
17 received of various supervisors or treater,
18 treatment providers to the defendant and their
19 testimony with regard to was his residency notified
20 and established; was he terminated from treatment,
21 that type of thing.

22 So I believe that this instruction would be
23 misleading to the jury and is not applicable in the
24 facts of the case. So I will not be giving it.

25 The next instruction, which again I would

1 consider to be a stock, "The defendant is presumed
2 innocent unless the contrary is proved. Presumption
3 placed upon the State, the burden." And this is the
4 reasonable doubt instruction. I didn't necessarily
5 see where this differed.

6 So am I missing something?

7 MS. HOJJAT: No, Your Honor. It doesn't
8 differ.

9 THE COURT: Okay. So it's -- and let me
10 just get the page number that corresponds with the
11 State's Proposed. I had it a minute ago, and then I
12 lost it. I apologize.

13 MR. COOPER: Mine is page 6, Your Honor.

14 THE COURT: Page 6. Thank you.

15 Yeah, I didn't see that difference. I just
16 wanted to make sure I didn't miss anything. So that
17 instruction is going to be given. It's already part
18 included in the state's packet. But that
19 instruction will be given. But it's not, again, a
20 distinct instruction. So just to be clear on the
21 record in that.

22 Next instruction which appears, proposed
23 instruction by Defense, is on page 3. That's of
24 course the constitutional right of the defendant not
25 to be compelled to testify. And we do need to

1 complete that canvass obviously again before we
2 break or before we presume your case in chief.

3 But I already read this language, and this
4 is the same as what the State is proposing. So this
5 instruction will also be given but is already
6 included in the State's packet.

7 Page 4, the credibility or believability of
8 a witness, this one, if I can find it. Yeah, this
9 one also matches to the State's. I couldn't
10 remember if something had been deleted from this
11 one. But it looks like this one is also in keeping
12 with the stock and what the State is proposing.

13 So is there anything that I've missed here?

14 MS. HOJJAT: No, Your Honor.

15 THE COURT: Okay. So page 4, Defendant's
16 Proposed, which is the credibility, believability of
17 a witness instruction will also be given as matches
18 what's in the State's packet.

19 The page 5, the circumstantial evidence
20 clarification, for lack of a better way to put it.
21 I have not typically given this instruction, and I
22 wanted to have some discussion on why you believe
23 this instruction would be appropriate.

24 MS. HOJJAT: Yes, Your Honor.

25 we don't have a circumstantial instruction

1 in Nevada. Unfortunately, there is no stock. So I
2 looked to California, which is the state that we
3 often look to here in Nevada; when we don't have our
4 own stocks, California is the stock that we most
5 typically go to. This is the California stock. It
6 is an accurate statement of the law. This jury does
7 need --

8 THE COURT: Accurate statement of
9 California law or accurate statement of Nevada law?

10 MS. HOJJAT: It's an accurate statement of
11 how circumstantial evidence should be taken into
12 account. Unless the Court found something
13 different, I haven't found anything in Nevada law
14 that says this is expressly incorrect.

15 THE COURT: I have not.

16 MS. HOJJAT: And so my understanding is
17 this has never been found to be -- nothing in here
18 contradicts Nevada law, that I'm aware of.

19 THE COURT: Okay. I don't have anything
20 that would disagree with that.

21 Maybe Mr. Cooper does, but --

22 MR. COOPER: I do, Your Honor. It starts
23 off by saying, "Before you may rely on the
24 circumstantial evidence to conclude that a fact
25 necessarily," and it goes down. I guess they're

1 saying that you can't just rely on circumstantial
2 evidence alone. But the law makes no distinction
3 between the weight to be given between direct and
4 circumstantial evidence.

5 so to say that you can't rely on
6 circumstantial evidence alone is a
7 mischaracterization of Nevada law.

8 THE COURT: well, you read it that way. I
9 mean, I think what it's ultimately indicating and
10 what the stock instruction would say, of course, is
11 that it defines what circumstantial evidence is and
12 talks about it being facts and circumstances which,
13 you know, taken together are a fact which can prove
14 another fact.

15 So I don't think it's a misstatement of the
16 law, but I understand if you read it to indicate
17 that somehow circumstantial evidence isn't to be
18 given the same weight, then yes, that would be
19 inaccurate. But I'm not sure that that's what that
20 says.

21 MR. COOPER: And I'm sorry, Your Honor. It
22 says, "Before you can rely on circumstance
23 circumstantial evidence to conclude that a fact
24 necessary to find the defendant guilty has been
25 proven, you must be convinced that the State has

1 proven each fact essential to the conclusion beyond
2 a reasonable doubt."

3 So I guess I -- it's basically saying that
4 the State has to prove its case without
5 circumstantial evidence before you are able to
6 consider circumstantial evidence. That's my
7 interpretation of it. So I think --

8 THE COURT: I understand your interpretation
9 of it.

10 MR. COOPER: Me having years legal -- and
11 I'm saying I'm no road scholar by my means, but I
12 have went to law school, and I think it's going to
13 be misinformed to the jury. The jury is going to be
14 mistaken as to the law because it either, A, needs
15 to be worded differently; or, B, doesn't need to be
16 given at all. Because it is misleading, at least to
17 me, and individuals who do not have a legal degree,
18 I think they would also be confused as to what they
19 can do with circumstantial evidence.

20 THE COURT: Okay. Anything further,
21 Ms. Hojjat?

22 MS. HOJJAT: Yes, Your Honor.

23 I would just respond I don't believe that
24 the State's reading is belied by the words. It's
25 saying that before you can rely on a fact to then go

1 to the step of circumstantial evidence, that fact
2 has to be proven. The classic example that the
3 Courts always give is the rainwater.

4 If you're not actually present to see it
5 rain, but when you're driving home, the ground is
6 dry; you go into your house, you wake up the next
7 morning, you come out, there's water on the lawn,
8 there's water on the ground, there's water in the
9 shudders; the idea is they do actually have to prove
10 the ground was dry the day before and there's water
11 on the lawn and water on the shutters.

12 It's not saying you can't rely on
13 circumstantial evidence. You can't rely on the fact
14 that there's water to reach the conclusion. It's
15 not saying that. It's simply saying they do
16 actually have to -- they can't just say there was
17 water without proving there was water. There needs
18 to be the proof of that. And that's an accurate
19 statement of the law of circumstantial evidence,
20 Your Honor.

21 MR. COOPER: And, Your Honor, just saying
22 that there was water would not be circumstantial
23 evidence. But the ground being wet, or something
24 like that and you didn't see the rain or something
25 like that, that would be circumstantial evidence.

1 But the law makes no distinction between direct
2 evidence and circumstantial evidence and the weight
3 to be given.

4 THE COURT: Now you're repeating yourself,
5 Mr. Cooper.

6 MR. COOPER: But it just -- that's
7 basically it's just -- that's basically what she's
8 saying is that, well, they have to actually prove by
9 direct evidence that the ground was wet at one point
10 before they can use the circumstantial evidence to
11 prove that it was raining. I mean, it's going back
12 and forth.

13 But essentially, they're saying that you've
14 got to do all this direct evidence stuff before I
15 can even get to the circumstantial evidence. And
16 that's not what the correct statement of the law is.

17 THE COURT: Anything else, for the record,
18 Ms. Hojjat?

19 MS. HOJJAT: I'll submit it, Your Honor.

20 THE COURT: Okay. And, you know, we'll see
21 timing wise, I am a little sensitive to the time.
22 It's not going to -- you're not going to win because
23 you're the last one who speaks. And this is the
24 whole point is just to make the record. I've
25 already pretty much got an idea of what I want to do

1 with these instructions. So I'm happy to hear some
2 argument.

3 But let's just keep it to, like you said,
4 this is the California version. You don't believe
5 it's an incorrect statement. Mr. Cooper indicates
6 he believes it is incorrect statement. The Court
7 has indicated I believe it is a fair statement of
8 what you the law is. However, the Court does -- it
9 is my typical process to follow what the stock
10 instructions are and only to change the stock
11 instructions or add to the stock instructions if I
12 feel that is necessary, because the stock
13 instructions themselves are not complete and do not
14 properly instruct on the law in Nevada.

15 I believe our stock instruction with regard
16 to circumstantial evidence and what is proposed by
17 the State, specifically on their page number 8,
18 which then goes into further details in terms of how
19 to weigh the evidence and what may be weighed and
20 how to look at evidence is sufficient to instruct
21 the jury. And I do not believe that this additional
22 clarification on what is circumstantial evidence
23 needs to be given at this time.

24 Although, I think your example was a good
25 one, personally. But I do not believe this

1 instruction is necessary and that the instruction
2 that we have, the State's Proposed, page number 8 is
3 sufficient.

4 You have, and it was somewhat repeated.
5 Hold on a second. Let me just make my note. You
6 had a second -- another instruction, I should say,
7 on page 6, which incorporates some of the same
8 information on which you had proposed on your
9 page 5. But this is a specific statement with
10 regard to evidence being susceptible to two
11 interpretations, one pointed to guilt, one pointing
12 to innocence.

13 I do, by the way, make all changes to
14 instructions so we don't use the word "innocence."
15 We use the words "defendant guilty" or "defendant
16 not guilty." I did note that the State's Proposed
17 does do that already, but I will always make any
18 adjustments to remove that language. But that it is
19 your duty to adopt the interpretation which points
20 to defendant's not being guilty.

21 Again, we already have some instructions
22 that touch upon this, but let's hear your argument
23 for the basis for this.

24 MS. HOJJAT: And, Your Honor, my argument
25 is this is presumption of innocence instruction.

1 This goes to the heart of what presumption of
2 innocence is, is the idea that you have to assume
3 he's not guilty unless they prove beyond a
4 reasonable doubt otherwise. And they need to
5 actually prove beyond a reasonable doubt. You can't
6 just guess him to guilt essentially.

7 If there's a fact that's in contention and
8 you don't know one way or the other, the
9 presumption of innocence trumps. The presumption of
10 innocence must trump if the jury is unclear and
11 going, "I don't know, it could be this, or it could
12 be this." One points to guilt; one points to
13 innocence.

14 So I think this instruction is very on
15 point for the presumption of innocence. Nevada does
16 not have a stock instruction for the presumption of
17 innocence. The Nevada Supreme Court has held that
18 this is an accurate statement of the law. They've
19 held that multiple times.

20 And they have also said that -- I know it's
21 not usually offered as a presumption of innocence
22 instruction, which is why I included the "Crawford"
23 cite, because we are proffering it as a presumption
24 of innocence instruction. There is no presumption
25 of innocence instruction currently proffered by the

1 State at all, and we believe we're entitled to a
2 presumption of innocence instruction.

3 THE COURT: Mr. Cooper.

4 MR. COOPER: And, Your Honor, I think it is
5 somewhat duplicative. I thought there was an
6 instruction I had that talks about that the
7 defendant is presumed innocent unless he's proven
8 guilty.

9 THE COURT: Well, we have the reasonable
10 doubt instruction, and we have a few others that go
11 to, I call it the "bad act instruction." But it's
12 the one that says where if you, you know, received
13 evidence that might indicate, you know, something
14 else, you're not to determine that here.

15 And then of course we have the "You're here
16 to determine if the defendant is guilty or not
17 guilty from the evidence, not a verdict of guilt or
18 innocence as to anyone else." So we've got two or
19 three that sort of touch upon this, but I don't
20 think we have any that would go squarely to
21 presumption of innocence.

22 Again, that's not part of Nevada stock
23 instructions. It would be an addition. We do have
24 the reasonable doubt instruction though, which is on
25 State's page 6, which is that the defendant is

1 presumed innocent unless the contrary is proved, and
2 that places the burden of proving beyond a
3 reasonable doubt every material element, but it does
4 not go into this discussion.

5 MR. COOPER: And, Your Honor, I think that
6 is sufficient in order to let the jury know exactly
7 what the law is. But I mean, that's basically the
8 only argument I have.

9 MS. HOJJAT: And I'm sorry. If I could
10 just supplement just a little bit.

11 THE COURT: Go ahead, Ms. Hojjat. That's
12 fine.

13 MS. HOJJAT: I forgot to say something.

14 Essentially, the reason that it's our
15 position we're actually entitled an instruction on
16 presumption of innocence is the same reason we don't
17 just say the State has to prove beyond a reasonable
18 doubt, period, end of sentence, that's the
19 instruction. The State gets elaboration on what is
20 beyond a reasonable doubt. It's not a doubt that,
21 you know, is mere speculation. It's a doubt based
22 in reason.

23 The idea, and what the Court says in
24 "Crawford," we don't expect jurors to be legal
25 scholars; we don't expect just a sentence to explain

1 to them what's going on; and when we don't expect
2 that for the State has to prove it beyond a
3 reasonable doubt, we also shouldn't be expecting it
4 on the defendant is presumed innocence.

5 The idea of the presumption of innocence is
6 engrained in us because we do this every day. But
7 for jurors, it doesn't necessarily connect that,
8 "Oh, if I'm confused about a fact, I need to presume
9 him innocence." That connection isn't made, and so
10 we want an instruction to make that connection.

11 THE COURT: well, at the risk of this
12 potentially being something that would be
13 irreversible error, I have not yet determined to
14 give this instruction. I had some concerns about
15 the way that it was worded, but my overall
16 determination is that the presumption of innocence,
17 as it's stated in the reasonable doubt instruction
18 and the remainder of the reasonable doubt
19 instruction is sufficient to meet the needs of the
20 jury in understanding what their burden is.

21 we've already had any number of
22 discussions, prior to the beginning of the trial,
23 with the general instructions given then. But of
24 course, these are the primary instructions that they
25 are going to rely on. And I have gone back and

1 forth in my mind whether or not we needed to add and
2 should add to the Court's, essentially to the
3 Court's stock instructions, a presumption of
4 innocence instruction.

5 And I have ultimately determined that the
6 reasonable doubt instruction, as the stock is
7 worded, is sufficient. But again, this is an area
8 where I hope, at some point, we will have some
9 change perhaps in the stocks, if that's what our
10 Supreme Court or what is determined to be the case.
11 But I am not going to give this instruction for
12 those reasons stated.

13 Now we get into, I think --

14 MS. HOJJAT: The defense special
15 instructions.

16 THE COURT: The defense specials. And,
17 excuse me. And let's start with page 7, since we're
18 keeping in the order, and I think that's makes the
19 record cleaner that -- and we've had this
20 discussion. Lifetime supervision begins after any
21 period of probation or term of imprisonment has
22 ended, and it gives specific years in which the
23 defendant was on lifetime supervision, therefor, not
24 on parole and probation.

25 There's a lot going on in this proposed

1 instruction, and I guess I was trying to get in your
2 head to try to figure out what you were trying to
3 achieve with it. I don't think it's necessarily a
4 misstatement of the facts of this case. But I'm not
5 quite sure what it does to aid and assist the jury
6 as far as it being the law that they need to have.
7 So maybe you could help me understand.

8 MS. HOJJAT: And I apologize, Your Honor.
9 I just saw a typo in it that I didn't see before.
10 The beginning "in," I would not have. So it would
11 just be "The defendant in this case was on lifetime
12 supervision in 2012 or 2013."

13 The reason for this specific instruction,
14 it is an accurate statement of the law. Lifetime
15 supervision is not probation and parole. I think
16 that's been blurred a little bit for the jury,
17 particularly when Officer Mangan got up there.
18 "Basically the same thing; it's basically the same
19 thing." She said that several times. It's been a
20 little bit blurred for the jury about whether this
21 is probation and parole or whether this is lifetime
22 supervision.

23 I'm going to have further instructions
24 about lifetime supervision, and that's why I think
25 this -- and I understand we're going in order, and

1 so it kind of --

2 THE COURT: It just seems to be more of
3 a --

4 MS. HOJJAT: They're all kind of connected
5 together, and it's really -- it's the other
6 instructions are going to be -- if those are given,
7 this one will clarify for the jury we're talking
8 about lifetime supervision. We're not talking about
9 probation and parole.

10 THE COURT: Yeah, and I think that, you
11 know, we have to be clear; and I think they are, at
12 this point, should be clear that we are talking
13 about lifetime supervision. The first part of the
14 instruction is, you know, how it -- when it begins
15 and ends. Fair enough. But I guess if there was
16 some argument that there was a time frame in which
17 he wasn't under it, that he was being accused of
18 violating it, then there would see the relevance to
19 that instruction on the law.

20 And I don't typically instruct on facts,
21 which I think the remainder of this instruction are
22 simply facts. But I guess I'm still not clear on
23 how it aids and assists the jury in what they need
24 to do. But as you said, perhaps because of the way
25 it ties into the others. I didn't get that, but

1 maybe we'll table this one for now and come back to
2 it.

3 Mr. Cooper, did you have anything you
4 wanted to add to this?

5 MR. COOPER: Your Honor, I mean, basically
6 I was just going to say the same thing --

7 THE REPORTER: I'm sorry. Counsel, could
8 you just slow down just a tad. Thank you.

9 MR. COOPER: I don't understand how it
10 would benefit the jury with this instruction. I
11 mean, I don't think there was ever an issue that
12 came into play where there was a question of whether
13 or not he was on parole or whether or not he was in
14 prison or on probation or on lifetime supervision.
15 If that was the situation, then this instruction
16 would be an accurate statement of the law and would
17 be, I think, needed. But that didn't happen in this
18 case.

19 THE COURT: Okay. Let's move on to the
20 remainder of the specials, and I don't know if this
21 is the appropriate time in which you want to sort of
22 make the argument that's set forth in your memo --

23 MS. HOJJAT: Yes.

24 THE COURT: -- about the, sort of the
25 remainder of these.

1 MS. HOJJAT: Yes.

2 THE COURT: And then we can sort of, I
3 think, go from there to see how we --

4 MS. HOJJAT: And I filed the memo in part,
5 or I submitted the memo and filed it in part just
6 because I don't want to stand here and argue for
7 45 minutes --

8 THE COURT: No, no.

9 MS. HOJJAT: -- to the Court.

10 THE COURT: I wish we had the time for me
11 to get everything done and do that.

12 MS. HOJJAT: I'm not going to be repeating
13 the arguments that I already said in here, but I am
14 going to expand just a little bit on the fact that
15 the Nevada Supreme Court has been very, very clear;
16 and the United States Supreme Court has been very
17 very clear: we look at the plain language of the
18 statute first. We don't start reading things into
19 it unless there's a problem with the plain language.

20 And by "problem," it's not, well, P & P
21 thinks they should have more rights or more control
22 and they don't have more control; it's on its face,
23 does this statute make sense if we just read it;
24 does it lay out what's a crime; does it lay out what
25 the punishment is? And is that it, are we concluded

1 there? Is there vagueness; is there overbreadth?

2 If there's no vagueness and there's no
3 overbreadth and the statute clearly lays out what
4 the crime is, what the punishment is, we don't go
5 any further. That's the first definite step. In
6 this case, that is met in NRS 213.1243. There is no
7 vagueness, and there is no overbreadth. There is no
8 question in NRS 213.1243. It says -- it lays out
9 precisely what violations of lifetime supervision
10 are.

11 It even lays out: These are the
12 requirements that are mandatory, and these are the
13 requirements that were -- you know, they can choose
14 to do electronic monitoring, if they want to. We're
15 not making that one mandatory. We've got the
16 permissive requirements; we've got the mandatory
17 requirements. We have absolutely no catchall.
18 There isn't any statement that says, "P & P may, at
19 its -- the department may, at its discretion, add
20 more requirements."

21 The department may --

22 THE COURT: Did you look at the Nevada
23 Administrative Code that corresponds to this statute
24 to see if there's any catchall there?

25 MS. HOJJAT: I was not able to locate that.

1 Did the Court?

2 THE COURT: I did.

3 MS. HOJJAT: Okay.

4 THE COURT: And I do believe that there is
5 language that pertains to the argument. It's -- and
6 I can give you a copy, if you wish. But I just
7 wanted to see if you were going to tie that into
8 your argument at all. Let me -- when I was looking
9 at the statute, because I really wanted
10 to -- this is the first trial that I've had where
11 this has been the charge.

12 I've certainly had these issues come up
13 generally in other means and circumstances. But I
14 went and I looked at the NRS, of course, 213.1243
15 under which the defendant is charged and then the
16 reference indicating -- and I'm trying to put my
17 hands on it now where I put my statute. It opens
18 up, obviously, initially with, "The board shall
19 establish by regulation a program of lifetime
20 supervision."

21 And in seeing that reference, then it
22 occurred to me that the Nevada Administrative Code,
23 which is where any regulations that are established
24 by any governmental entity would be included, would
25 have something. And I found a Nevada Administrative

1 Code 213.290, and the title of that code provision
2 is "Notification, Report, Hearing, Request to Modify
3 Conditions," and then in parentheses, it has
4 NRS 213.1243 as its corresponding reference.

5 And when you get down into Subsection --
6 well, there's -- there's four subsections. But it
7 does reference that the, in subsection 3, once the
8 notifications, which are what are determined and how
9 they're completed in Sections 1 and 2 when you have
10 someone who's coming off of probation or coming off
11 of parole who is subject to this special sentence of
12 lifetime supervision, it then directs the board to
13 make a determination. And it says specifically,
14 "Establish the conditions of lifetime supervision
15 for the sex offender."

16 And then it goes on to talk about how that
17 determination would be made, and then it goes on
18 further in Section 4 to say, "At least 30 days
19 before the date on which the hearing is scheduled to
20 make that determination, the division shall provide
21 the board a report of the status of the sex offender
22 who is the subject of the hearing. The report would
23 include, without limitation, summary of progress.
24 And then it will go on recommendations for condition
25 of lifetime supervision."

1 I mean, there's numerous references in this
2 Nevada Administrative Code. I wouldn't call it a
3 catchall. I understand when you say "catchall,"
4 what you mean because, as you said, we have other
5 statutes that are perhaps analogous where it kind of
6 says, "oh, and by the way, parole and probation can
7 also add it, whatever it needs to add," and this
8 doesn't include this.

9 However, in the Nevada Administrative Code,
10 it does give the board, who ultimately is the one
11 that signs off on these conditions of lifetime
12 supervision, the authority to determine what those
13 conditions should be based on who the offender is
14 and what the offender's progress has been with
15 regard to their -- and as it's specifically stated,
16 "Progress of the sex offender while on parole and
17 probation or an institution or facility of the
18 department, as applicable."

19 MS. HOJJAT: And if I can respond to that.

20 THE COURT: Please.

21 MS. HOJJAT: I may be misunderstanding the
22 process at that point. But my understanding is the
23 Nevada Administrative Code, that's the board is
24 establishing that. That's not the legislature
25 that's doing the Nevada Administrative Code.

1 I could be mistaken if the Court --

2 THE COURT: No. The legislature -- it's
3 the legislature has committees that ultimately
4 determine, and basically what happens is in
5 odd-number years, you have the legislature meet to
6 pass statutes; and in the even-numbered years, you
7 have the legislature and these boards and
8 commissions meet, and then it gets put into the
9 code.

10 MS. HOJJAT: Right.

11 THE COURT: And so there's a lot of us in
12 committees and whatnot, and it is ultimately a
13 regulation that is adopted by the entity that's
14 charged by the statute, but it's still the law.
15 It's not the legislature.

16 And I'm not going to interrupt you further
17 to make your argument that the legislature has to
18 set forth the law. What the legislature does is it
19 empowers the agencies that are to carry out the law,
20 to interpret the law in the way that they need to
21 carry it out, and then the board or commissioner,
22 whomever, then goes and does those regs; and those
23 things taken together are, in fact, the law.

24 And what the legislature has empowered the
25 board to do is to establish a program of lifetime

1 supervision. And what the board then has done,
2 through the regulation, is has determined that it
3 will set forth what those conditions of lifetime
4 supervision are. So I believe that the fair reading
5 of the statute and the regs together is that there
6 are additional conditions allowed to be established
7 for lifetime supervision by the board, pursuant to
8 the legislature's grant of authority and that that
9 is accomplished and that is what we see in the
10 lifetime supervision agreement.

11 But that's -- I just kind of cut you at
12 that point because I wanted to give you that insight
13 in case that had not been taken into account in your
14 memo, but I certainly want to allow you to complete
15 your record as far as your memo.

16 MS. HOJJAT: No, and I appreciate the
17 insight into where the Court's concerns lie. I'll
18 try to address them. Essentially, I understand what
19 the court is saying it's, the legislature is
20 essentially giving the board permission to establish
21 program of lifetime supervision. We're not
22 disagreeing that they're to set up the program.

23 But the idea of the statute, there's
24 nothing in here -- again, I would submit to the
25 Court, were the intention should be: Board, you can

1 set up a program and you can make whatever rules you
2 want; they would have put in here, "And you can make
3 whatever rules you want." They said you can set up
4 a program, but essentially the board has given the
5 board power is what we have in this situation.

6 That's great that the board decided to read
7 NRS 213.1243 and say, "This means that we get to
8 decide whatever the right for -- whatever rules we
9 want for lifetime supervision," but that's not what
10 the statute says. The statute only says, "We want
11 you to be monitoring the program. You guys set up
12 the program."

13 And the reason for that, it's logical is
14 because P & P has the resources. They're the
15 organization with the best resources for doing
16 things like electronic monitoring, because that's
17 what they're doing already is electronic monitoring,
18 things like that. But, again, we've got a statute
19 that, on its face, is not granting this power.

20 I would argue to the Court, if the Court is
21 going to find that this power granting is occurring,
22 now we've got a problem of a separation of powers,
23 and we've got a problem with vagueness and
24 overbreadth in the statute. And I'd move to strike
25 the statute as being unconstitutional for those

1 reasons because it's inappropriate for the
2 legislature to sit back and say, "You make the
3 rules, you decide what's a crime. We're letting the
4 executive branch do this now."

5 The board is definitely a member of the
6 executive branch, and the separation of powers
7 doctrine is very clear from the United States
8 Constitution. While the legislature can say things
9 like, "We're giving this organization the power to
10 do these things," they certainly can't give the
11 organization the power to set laws. That's a power
12 granted only to the legislature, and the courts have
13 been very clear on that issue. Boards don't get to
14 set laws. Boards don't get to say something --

15 THE COURT: I just make sure that I
16 understand your argument. So your argument is that
17 unless, whatever the activity is is a violation of
18 the statute and not anything outside of the statute,
19 then it can't support the crime charged.

20 The subsection 8 to NRS 213.1243 says
21 obviously, "Except as otherwise provided in
22 subsection 7," which would not be applicable; that's
23 the removal of the electronic monitoring device --
24 "a sex offender who commits a violation of a
25 condition imposed upon him -- imposed on him or her

1 pursuant to the program of lifetime supervision is
2 guilty of a Category B felony."

3 Now, that language tracks right back up to
4 subsection 1: "The board shall establish, by
5 regulation, a program of lifetime supervision."

6 MS. HOJJAT: Right.

7 THE COURT: So the statute, the legislature
8 has then seen fit --

9 MS. HOJJAT: Right.

10 THE COURT: -- to authorize the board to
11 establish a program of lifetime supervision. And
12 down in Section 8, it says, "You violate the
13 condition imposed upon him from the program of
14 lifetime supervision," that's the guilty. But
15 you're still arguing that, unless it is literally
16 set forth in the four corners of NRS 213.1243, it
17 cannot constitute a violation of law.

18 Is that what you're arguing?

19 MS. HOJJAT: That is my argument. And the
20 reason for that argument, Your Honor, is yes, the
21 board has the ability to set up: We're going to
22 have an office; we're going to have P & P officers
23 specifically dedicated to lifetime supervision.
24 You're a sergeant; you're an officer. That's a
25 program of lifetime supervision. Conditions of

1 lifetime supervision are different.

2 There's nothing in here that says the board
3 has the authorization to establish the conditions of
4 lifetime supervision, and it says specifically a
5 violation of a condition of lifetime supervision is
6 what creates the crime. And, again, my argument
7 would be weaker if there wasn't a whole host of
8 conditions laid out in this statute, but the statute
9 has so many conditions that they've laid out
10 themselves. There is a maxim of law that we
11 presume that the legislature took into consideration
12 and rejected what is not contained in the four
13 corners of a -- of a document, of a statute.

14 And that's something that the Nevada
15 Supreme Court has spoken about, been cited to in
16 making their decisions. We don't assume, well, they
17 just forgot to put the catchall in there. We assume
18 they thought about it and rejected it. That is the
19 maxim of law, particularly in the State of Nevada
20 because the Nevada Supreme Court, and Justice
21 Douglas in particular, has cited to this in opinions
22 and oral arguments.

23 So we can't presume, well, they intended
24 for the board to set the conditions, they just
25 forgot to write it down here. They've given the

1 board the jurisdiction to establish a program. But
2 the word "program," we're talking about essentially
3 an organization. They needed -- they have a unit.
4 They have a sex offender unit; they have a sex
5 offender lifetime supervision officer.

6 They have -- it's different than now you
7 get to make the rules. They're not saying now you
8 get to make the rules. They're saying now you get
9 to set up the process, the program. And so my
10 argument to the Court is, had they intended for the
11 conditions to also be determined, they would have
12 either put a catchall in here, or they would have
13 put those conditions in here.

14 And I want to draw the Court's attention --
15 I didn't include this in my memo -- but I'd like to
16 draw the Court's attention to NRS 213.1245 -- I'm
17 sorry. .1245 and .1255. I don't think I have --
18 oh, I've got .1245 here, but not 1255, which
19 expressly outlines the conditions of parole for
20 sex offenders and does enumerate these conditions.

21 If the legislature's intention was just the
22 board gets to decide everything, we've allowed them
23 to set up a program, we don't enumerate conditions,
24 then they wouldn't have enumerated the conditions in
25 the other statute.

1 And if I can approach with that statute,
2 Your Honor.

3 THE COURT: That's fine.

4 MS. HOJJAT: Thank you. And I have a copy
5 for the District Attorney as well.

6 MR. COOPER: I have it right now.

7 MS. HOJJAT: Okay.

8 THE COURT: Thank you.

9 MS. HOJJAT: So we don't have a situation
10 here where the legislature is just -- ah, we don't
11 put conditions in our statutes. We let P & P deal
12 with it. They expressly put conditions in this
13 statute because these are conditions for parole.
14 Arguably, the parole board has even greater leniency
15 in deciding parole conditions because, again, that
16 person is under a sentence of imprisonment. This is
17 just a benefit that's been granted.

18 The legislature feels that it's so
19 important to enumerate these conditions and the
20 parole statute, for us to say, "But you know what,
21 they just decided to leave it out of the lifetime
22 supervision statute." You've got one individual
23 who's under a sentence of imprisonment, been granted
24 a boon and is just being supervised on that boon.
25 You've got another individual who's maxed out their

1 sentence of imprisonment. Technically, they have
2 their constitutional rights returned but for the
3 rights that felons are denied.

4 So arguably, if either -- if one of these
5 two statutes should be more specific in the
6 conditions, it should be the statute that governs
7 the people whose constitutional rights are being
8 restored. To say that the legislature feels the
9 need to enumerate in such detail the conditions of
10 the person who's still under the sentence of
11 imprisonment, but then just, ah, board can do
12 whatever they want on the person whose
13 constitutional rights are restored, it wouldn't
14 be -- I mean, I would argue that these two statutes
15 don't -- wouldn't make sense together when read
16 together that way.

17 Additionally, to which, again, we don't
18 assume that the legislature just forgot stuff. We
19 assume they thought about it and put it aside, if
20 it's in not in the plain language. It's not in the
21 plain language here. And they really do impose
22 conditions. Section 3, "Except as otherwise
23 provided in Subsection 9, the board" --

24 THE REPORTER: I'm sorry, Counsel, please.

25 MS. HOJJAT: I apologize.

1 Section 3, "Except as otherwise provided in
2 subsection 9, the board shall require as a condition
3 of lifetime supervision." They are laying out their
4 conditions in the statute, Your Honor. When they're
5 talking --

6 THE COURT: Well, it goes on specifically
7 to talk about the location, the residence. I mean,
8 that just goes to residence --

9 MS. HOJJAT: Right.

10 THE COURT: -- because then four has
11 another aspect of a condition down to the seven
12 which talks about electronic monitoring.

13 MS. HOJJAT: And that's my point is that
14 when they're talking about subsection 8, which
15 Your Honor mentioned earlier, "Except as otherwise
16 provided, a sex offender who commits a violation of
17 a condition imposed," they're talking about their
18 own conditions. They've defined everything they've
19 put down as a condition. They're saying you violate
20 one of the things we've enumerated, you're guilty of
21 a category B felony, but they've enumerated their
22 own conditions.

23 They've enumerated -- and not just we were
24 enumerating mandatory conditions; they've enumerated
25 both mandatory and permissive conditions for P & P

1 to impose. For us to think that here, they intended
2 for P & P to be able to add all this other stuff and
3 just forgot to mention it, but here in 12.45, they
4 specifically go into all of these requirements.
5 These two statutes can't be read together with that
6 interpretation. I would argue that it's -- they
7 don't work together that way.

8 And as a followup argument, if the Court is
9 not going to accept that, then I would move to
10 strike NRS 213.1243 as being unconstitutionally
11 vague, overbroad, and a violation of the Separation
12 of Powers Doctrine.

13 THE COURT: Okay. I'm going to, just for
14 our record as complete, I'm going to deny the motion
15 to find that the statute and the regulations are
16 unconstitutional, but I'll have that in the record.
17 There, I don't find that it is vague or overbroad.
18 If they were rated on the bases upon which you just
19 asserted, I apologize.

20 Obviously, at some point in time, if there
21 is to ultimately be that challenge, that may be
22 something that would be addressed on appeal. That
23 may be something that may be addressed by motion
24 practice. But the Court, at this time -- I see the
25 distinction that you are drawing between the two

1 statutes, but the basic tenet of statutory
2 construction and the basic allowance for the
3 legislature to authorize entities to do things and
4 then allow those entities to proceed by regs to
5 complete those processes, I don't find that what I
6 see here would violate that basic tenet of how our
7 laws are constructed.

8 I mean by analogy, maybe this works; maybe
9 it doesn't. But you kind of -- you have good
10 hypotheticals and good analogies. So let me try
11 back at you. If you go to look at the statutes that
12 talk about having a driver's license, it basically
13 just says the DMV issues a driver's license. It
14 doesn't go into any details about what has to be in
15 that driver's license, how you put things in the
16 driver's license, how you qualify for certain
17 things.

18 I have some familiarity with this just
19 because I've worked on some legislation involving
20 those individuals who are transgender and they're
21 changing of their gender marker and what's entailed
22 with that and how that works. And all of that is
23 dictated to by the DMV in their regulatory process
24 because they've been empowered to issue driver's
25 licenses. Everything else is in the regs and by

1 their own determination on how they see fit to carry
2 out their duties.

3 I find this somewhat analogous. You have a
4 situation where, you know, the statutes have
5 determined that for parole, for probation, there are
6 certain requirements; there are certain things, and
7 then they give additional requirements that have
8 been added obviously at some point more recently in
9 history. If it's a sex offense, certain conditions
10 for probation.

11 When it comes to the lifetime supervision
12 special sentence, which comes into play after the
13 completion of probation and parole, for the
14 legislature to delegate to the board, you determine
15 what that program is; here are certain things that
16 we want, but you ultimately determine what that
17 program is, and then the board to go on and
18 determine what that program is.

19 And let me be perfectly clear. All of
20 these 1 through 21 that you see on the lifetime
21 agreement is not included in the NAC either. It's
22 not in the Nevada Administrative Code either. There
23 are some references to it. But ultimately the
24 acknowledgment and the recognition and the receipt
25 of the authorization to develop this program, I

1 believe is what is carried out here. And I do not
2 find that it is unconditionally vague or
3 unconstitutional in any way.

4 I just want to complete that record. But I
5 appreciate the opportunity to have this discussion
6 today and have this argument. I think that there
7 has been a lot of development of the law of lifetime
8 supervision, and I think it will probably continue
9 to develop. And I don't know, perhaps maybe that
10 will be one of the ways in which it continues to
11 develop. I'm not making that call today.

12 MS. HOJJAT: And I apologize. If the
13 Court's ruling on all of them, the third thing that
14 I had raised was the separation of powers issue.
15 And just on that, just addressing the Court's
16 hypothetical --

17 THE COURT: Right.

18 MS. HOJJAT: And I'm not trying to argue
19 with the Court. I'm just trying to complete my
20 record. I'm sorry.

21 THE COURT: No, I appreciate it. And,
22 again, on that basis as well, I did --

23 MS. HOJJAT: Yeah, yeah.

24 THE COURT: -- on the vague, overbroad.

25 MS. HOJJAT: And --

1 THE COURT: -- separation of powers.

2 THE REPORTER: Excuse me. I'm sorry. When
3 the judge is talking ...

4 THE COURT: We're both talking over each
5 other, and that's my fault too.

6 MS. HOJJAT: And on the separation of
7 powers issue, the only distinction I draw with the
8 DMV example was, to make my separation of powers
9 record, would be that the DMV is not determining
10 what's a crime, and that's where the separation of
11 powers issue doesn't arise is that that is an
12 administrative agency putting together a process,
13 but it's not, at the end of it, they're not saying:
14 All right, it's administrative agency. You get to
15 put together whatever process you want and it's a
16 crime if individuals don't follow it exactly the way
17 you say. That's where the separation of powers
18 issues comes in.

19 It's one thing to delegate to other
20 agencies the power to take care of administrative
21 things. It's another to delegate to them the power
22 to make actions crimes. And so we'd argue that it's
23 a separation of powers issue.

24 THE COURT: Okay. And your argument is
25 noted, and it's a compelling argument. I'm not

1 going ultimately find it persuasive today, but I
2 appreciate that. And so in light of that
3 discussion, I don't know if you have more that you
4 want to highlight from your memo again. We also
5 have it in the record now.

6 MS. HOJJAT: No, Your Honor.

7 THE COURT: In light of that discussion, it
8 is the Court's intention to predominantly proceed
9 with the jury instructions as proposed by the State.
10 The reason I say "predominantly" though is because I
11 mean, there are certainly some instructions that you
12 have proposed that are not incorrect statements of
13 the law.

14 But I think the way you have constructed
15 them, and your intent behind them was to instruct
16 the jury these are the only conditions, and
17 therefor, only the violations of these conditions
18 can sustain this charge and that only if they prove
19 beyond a reasonable doubt those violations can they
20 prevail.

21 I am not going to instruct in that fashion.
22 However, you do have some instructions, sort of the
23 reverse instruction to they have to prove beyond a
24 reasonable doubt, where you say if they haven't
25 proven beyond reasonable doubt. I don't typically

1 give the reverse, but I want to hear the State's
2 comment on that.

3 And then you also have some that go
4 specifically to that notification aspect of the
5 change of the address. The one that kind of stood
6 out to me the most was that if -- page 18 of your
7 proposed, "If the State has failed to prove beyond a
8 reasonable doubt that the defendant changed the
9 location where he habitually slept, then he is
10 entitled to a verdict of not guilty on Count 2."

11 And I do want to have a discussion about
12 that.

13 MS. HOJJAT: I actually have a motion to
14 make in regards to that, Your Honor, and I think
15 that clarifies Instruction Number 19 and 20 because
16 I am making a motion at this time. If the Court
17 wants to do it now or --

18 THE COURT: Let's go ahead and do it now
19 then.

20 MS. HOJJAT: Okay. We are moving for a
21 directed verdict as to both counts in this case.
22 Obviously, the directed verdict as to Count 1 was,
23 in part, based upon the proposed instructions that I
24 was suggesting, so you can understand if the Court
25 would just --

1 I'll very briefly make that record in terms
2 of saying, if our reading of the law is correct,
3 then we would be moving for a directed verdict
4 because the State has failed to prove beyond a
5 reasonable doubt, even in a light favorable to the
6 State, that the violations have been made. I do
7 understand the Court's not granting us our jury
8 instruction. So that record is contingent upon our
9 interpretation of the law being correct,
10 essentially.

11 As to Count 2, Your Honor, we are moving
12 for a directed verdict. We believe the State has
13 failed to meet its burden that he was registered at
14 an address and he wasn't living there. In fact,
15 they've actually failed to meet their burden that he
16 was registered at any address. They haven't entered
17 any evidence that he was registered anywhere.
18 Officer Mangan repeatedly told us she couldn't tell
19 us where he was registered because she's not that
20 law enforcement agency.

21 The appropriate law enforcement agency for
22 saying where somebody is registered is Metro. It's
23 the local law enforcement agency. That's not P & P.
24 P & P is they regulate people on parole, probation,
25 lifetime supervision. They are not the law

1 enforcement agency. The law enforcement agency is
2 the only one who can come in here and say he was
3 registered at X address on X date. We've had
4 absolutely no testimony or evidence from anybody
5 about where he was registered at any given time.

6 They talked about the places that he was
7 reporting to them. But not a single shred of
8 evidence, not a certified document, nothing has been
9 entered showing where he was registered. Therefore,
10 the State has failed to meet its burden of, first,
11 showing where he was registered to begin with. It's
12 two prongs: One showing he was registered; two,
13 showing he wasn't residing there. They haven't even
14 shown where he was registered. So they can't
15 possibly show that he wasn't residing there.

16 THE COURT: Well, as the charge, Count 2
17 prohibited acts is, at least listed in the
18 information, it is listed as, "He failed to appear
19 in person at the appropriate law enforcement agency
20 before three business days past since he changed his
21 address from his last registered address of Main and
22 Wyoming."

23 So you're indicating that he has not shown
24 that he was registered at Main and Wyoming and also
25 that he -- it has not been proven that he changed

1 his address from that.

2 MS. HOJJAT: I mean, they haven't proven
3 anything. Nobody has gotten up there to say, "He
4 didn't show up and change." For all we know, he'd
5 been changing once a day. Officer Mangan
6 specifically said, "I can't tell you where he was
7 registered at any given time. I can't tell you how
8 many changes he made; I can't tell you anything; I
9 have no information for you," and she made a point
10 of saying that over and over again during
11 cross-examination.

12 THE COURT: I thought she more -- what I
13 gleaned was her confusion over the constant use of
14 the word "registration" when he was -- when she was
15 being asked about where he was reporting.

16 MS. HOJJAT: Right. And she kept saying
17 that. She kept saying, "No, no, no. He reports to
18 me; he doesn't register to me. No, no, no. You
19 mean reporting. I don't do registration. I do
20 reporting." I agree with the court. She was
21 clarifying the miscommunication. But the point
22 that -- the clarification she was hammering home was
23 that she's not the appropriate person to be
24 testifying about registration at all.

25 She can't tell us where he was registered.

1 she can't tell us if he showed up and changed his
2 address. The State -- our position is the State has
3 failed to prove that he changed his address. They
4 haven't established that by anything in this case.

5 THE COURT: Okay.

6 MS. HOJJAT: They haven't shown that he
7 wasn't residing at that location. And by Officer
8 Mangan's own testimony, in a court period of six
9 months, I believe it was, she did one visit to that
10 location and couldn't find him there. And that was
11 on February, in February of 2014.

12 Because the period that he supposedly
13 changed and didn't change his registration, that he
14 moved and didn't change his registration -- at least
15 my understanding of the allegation is after August,
16 after he absconded, they're claiming he moved and
17 didn't change his registration.

18 They haven't shown he didn't change his
19 registration. They haven't even shown that he
20 moved. She only went out there once between August
21 of 2013 and February of 2014, and he wasn't standing
22 on the corner at that day when she went.

23 THE COURT: Let's let Mr. Cooper respond to
24 the motion for directed verdict on the two counts.
25 And of course, then if you want to add anything to

1 the Court's determination not to give the
2 instructions as designed by the defense, but perhaps
3 we need to then address any adjustments we need to
4 make to the instructions as you have provided them
5 in light of some of the ones that they proposed.

6 MR. COOPER: Yes, Your Honor. And,
7 Your Honor, I guess first on the directed verdict,
8 verdict issue, obviously the directed verdict on
9 Count 1 was based, my understanding was solely on
10 the argument that was previously given to the Court,
11 and that argument is, I guess, is not appropriate,
12 not for a jury instructions, first; and foremost, it
13 should be an argument that's made in a motion, in a
14 pretrial motion to dismiss or something of that
15 nature. Not jury instruction argument.

16 But with that aside, I think the statute is
17 clear in terms of its ability to give the board the
18 ability to regulate the program of lifetime
19 supervision. The Court's already previously stated
20 the regulation number or regulation cite that goes
21 into details. And then just looking at the statute,
22 it does give forward some conditions.

23 But obviously one of the conditions that
24 isn't said in here is reporting. So it wouldn't
25 make sense that he would have a probation officer

1 but he wouldn't have to report to him, but he would
2 have to let them know of his address. None of those
3 things could be I guess, put -- it just makes no
4 sense.

5 With that said, Your Honor, I mean, I'm not
6 going to belabor the point on Count 1. I think the
7 record is made for the defense's standpoint, and
8 then the State would just echo the same concerns
9 that the court had in terms of not only the
10 procedural nature in which they're trying to bring
11 this objection or motion and the actual substantive
12 arguments that they made as well.

13 THE COURT: Count 2.

14 MR. COOPER: I'm sorry. I made notes. I
15 just wanted to make sure I made my --

16 THE COURT: No, you're fine.

17 MR. COOPER: -- argument on Count 1. I'm
18 sorry.

19 And, Your Honor, I mean, just reading off
20 my notes, for the record, essentially the defense is
21 saying that every lifetime supervision agreement
22 ever put into place by the Department of Probation
23 and Parole is invalid. It just makes no factual
24 sense. But I guess that's for another day to
25 decide.

1 he made crazy statements, "I'm not going to listen
2 to anything you said," well, then you must have
3 moved because we went out there once and you weren't
4 there. And we went out there once between August
5 and February.

6 But without that statement, all we have is
7 an individual who went out there once between
8 August and February. She went out there, I think
9 two other times total.

10 I think a total of three times or four
11 times? Three times total that ever went out --

12 MS. FERRERA: Four.

13 MS. HOJJAT: -- didn't see him. They just
14 can't establish. They don't have -- they didn't
15 call the right witness to establish he didn't change
16 his registration. The correct witness would have
17 been custodian of records from LVMPD. They didn't
18 call the right witness.

19 THE COURT: Anything further, Mr. Cooper?

20 MR. COOPER: And, Your Honor, I was saying
21 I can proceed with my case any way I see fit. But
22 the facts still does remain that his statement did
23 come out -- and I'm sorry I didn't say that earlier.
24 His statement did come out that he was going to live
25 where he wanted to. He was going to move any time

1 he wanted to, and everything like that.

2 That statement combined with the fact that
3 she was unable to find him at what she knew to be
4 his registered address, at least at one point, is
5 sufficient to determine that he changed his address.
6 But I'll submit.

7 MS. HOJJAT: Her knowledge of his
8 registered address is not even -- that's not
9 evidence. It's not knowledge.

10 THE COURT: Okay.

11 MS. HOJJAT: It's -- sorry. I apologize.

12 THE COURT: Like I said earlier, like I
13 said --

14 MS. HOJJAT: I apologize.

15 THE COURT: -- you don't win because you're
16 the last person who speaks. It's just a matter of
17 let's get our record completed.

18 It is this Court's determination, at this
19 time, that the State has failed to provide evidence
20 to survive the motion for directed verdict on
21 Count 2, the prohibited acts by sex offender. There
22 is not evidence in the record regarding his change
23 of address from the last registered address.

24 There is sketchy evidence on the fact that
25 he even registered at any given time, as argued by

1 the defense. But there is certainly not evidence
2 that is sufficient to go to the jury to make a
3 determination beyond a reasonable doubt that he, in
4 fact, changed his address and failed to notify the
5 law enforcement agency.

6 I am going to grant the directed as to
7 Count 2. I am not going to grant the directed
8 verdict as to Count 1. There is ample evidence to
9 go to jury to make a determination on whether there
10 has been violation of lifetime supervision by
11 convicted sex offender, and for all the reasons I've
12 already stated. As far as how the statute and
13 regulations are set up, I believe that it is
14 appropriate to instruct and allow the jurors to
15 decide whether he is guilty of that charge.

16 MR. COOPER: And I'm sorry. Your Honor,
17 because this is my first directed verdict, so just
18 procedurally am I supposed to change the verdict
19 form, or how does that work?

20 THE COURT: It's my first one too,
21 Mr. Cooper. But I am going to change the verdict
22 form for us. Yes, the verdict form will only
23 reflect the one charge, and I will, when we instruct
24 the Court -- instruct the jurors, we will -- I'll
25 note that we are only instructing as to Count 1 of

1 the charge, and that is the only one that they are
2 to deliberate on.

3 MR. COOPER: Works for the State,
4 Your Honor.

5 THE COURT: Okay.

6 MS. HOJJAT: Thank you, Your Honor.

7 THE COURT: Okay. So the instructions that
8 then go to that issue now are moot and will not need
9 to be given. So we really are just down to if the
10 defense has any arguments with regard to the
11 State's proposed instructions that the Court does
12 intend to give with regard to count 1.

13 MS. HOJJAT: And, Your Honor, we did still
14 want -- I apologize. We did still want a couple of
15 those instructions just because they -- one of the
16 charges in Count 1 is that he failed to have his
17 residence approved, and so we think some of the
18 those instructions are a little bit overlapping in
19 terms of the location.

20 THE COURT: Which one is --

21 MS. HOJJAT: In terms of the, you know, if
22 you're transient, it's the place that you habitually
23 sleep and things of that nature. Specifically,
24 Instruction Number 17.

25 THE COURT: And what else?

1 At this point, I'm going to have to pull
2 the plug and get in there and finish up the
3 instructions.

4 MS. HOJJAT: Sorry.

5 THE COURT: So I need you to wrap up your
6 arguments, and I will make a final completion, of
7 course, give you a set to review before we instruct.

8 MS. HOJJAT: I think 17 is the one.

9 THE COURT: Okay.

10 MR. COOPER: And, Your Honor, my
11 understanding that that refers to the count that
12 just was stricken. So there's no reason to have it.

13 MS. HOJJAT: It does refer specifically to
14 the count that was stricken, but we think the
15 arguments also go towards the count 1, towards one
16 of the charges in Count 1.

17 THE COURT: Well, I'm looking at the,
18 again, the counts in Count 1. We have refusal to
19 submit to urinalysis, failure to report --

20 MS. HOJJAT: Failing to have residence
21 approved.

22 THE COURT: Failing to have his residence
23 approved.

24 MS. HOJJAT: And it's indicative --

25 THE COURT: Failing to cooperate -- let me

1 finish. If you keep talking over me, my reporter is
2 going to have another fit. Okay?

3 MS. HOJJAT: I'm sorry, Your Honor. Sorry.

4 THE COURT: Failing to cooperate --

5 And rightfully so.

6 Failing to cooperate with his supervising
7 officer, failing to maintain lifetime -- full-time
8 employment. Sorry. Failing to abide by curfew
9 and/or terminated from the counseling. So you
10 believe that your 17 instruction, sex offender, no
11 fixed residence is still necessary to that?

12 MS. HOJJAT: Yes. I believe it's necessary
13 to the failing to have residence approved. Just the
14 language of failing to have residence approved
15 seems, sounds like it makes it a crime to be
16 transient and that it has -- that you have to be at
17 one place every day. This instruction shows no, the
18 law does take into account people can be transient,
19 and it does take into account it's not the same
20 location every single night. It's the habitually
21 language.

22 MR. COOPER: And, Your Honor, we just went
23 over this long, I guess, discussion about the strict
24 reading of the statute, and the statute says that
25 they must have the residence approved. It doesn't

1 go anything about, well, it has to be within
2 30 days. The other statute may refer to that,
3 talking about where they register at and stuff like
4 that.

5 But having registered -- having their
6 residence approved, it doesn't matter if you're
7 homeless; it doesn't matter where you live at, you
8 have to have your residence approved.

9 THE COURT: All right. Anything further
10 before I go and complete the instructions?

11 MR. COOPER: And, Your Honor, I think we
12 just -- we held Defendant's Instruction 7 in
13 abeyance, and I don't think you made a ruling on
14 that one.

15 THE COURT: The ruling now that has been
16 made with regard to -- you're right. I did hold it
17 in abeyance but because it was tied into the others,
18 and I've now determined obviously further arguments
19 that we've made that we are not going to give that
20 instruction. So our goal -- we didn't give the
21 other instruction, so we're not going to give
22 Number 7 either.

23 I will take under consideration number --
24 page 17.

25 MS. HOJJAT: Thank you, Your Honor.

1 THE COURT: And make a final version of the
2 instructions here as soon as we can take the break.

3 MS. HOJJAT: Thank you, Your Honor. And
4 the only --

5 THE COURT: Go ahead.

6 MS. HOJJAT: I apologize.

7 THE COURT: You're fine.

8 MS. HOJJAT: We are asking that our denied
9 instructions be entered as a Court's exhibit. And
10 the only thing I'd ask is -- I apologize. I noticed
11 one more typo. In my Proposed Instruction Number 9,
12 which has been denied by the Court, it says,
13 "9 through 12" for defense proposed instructions,
14 but I actually meant "10 through 13."

15 THE COURT: Okay. So what I would ask you
16 to do, Counsel --

17 MS. HOJJAT: Yes.

18 THE COURT: -- is because some of them
19 obviously were given --

20 MS. HOJJAT: Yes.

21 THE COURT: -- rather than enter them as
22 Court's exhibits, what I prefer to do is have you
23 put a caption on them, with the caption being, with
24 the title being "Defendant's Proposed, not given"
25 and then just include the ones that were excluded so

1 that you have that complete set. File that with the
2 court, and that will complete the record.

3 MS. HOJJAT: Perfect. Can I bring that
4 after lunch to file with the caption?

5 THE COURT: Oh, yeah. That can be filed
6 anytime. It doesn't have to be filed today.

7 MS. HOJJAT: Perfect. Thank you very much,
8 Your Honor. I appreciate it.

9 THE COURT: Last assignment that I think we
10 have to complete before we can break is to canvass
11 Mr. McNeil. So what I'd like to do first, and this
12 is of course regarding his intention whether or not
13 to invoke his rights or to testify.

14 I'd like to ask first of counsel, can you
15 please make representation, for the record, if you
16 have discussed with Mr. McNeil what his rights are
17 in this area.

18 MS. HOJJAT: Yes, Your Honor. We have -- I
19 have spoken with Mr. McNeil. I've discussed with
20 him his right to testify or his right not to
21 testify. I've informed him that if he chooses not
22 to testify, a jury instruction will be given telling
23 the jury that they cannot hold it against him that
24 he did not testify.

25 I've informed him that, if he does testify,

1 then the attempt lewdness with a minor conviction
2 could be used to impeach him and that the District
3 Attorney would have the opportunity to cross-examine
4 him. In speaking with him, it is my understanding
5 that, on the advice of counsel, he is choosing not
6 to testify.

7 THE DEFENDANT: That would be correct.

8 THE COURT: Well, I still have to canvass
9 you, Mr. McNeil. But I like to get the counsel's
10 representations first that they have, in fact, had
11 these discussions. So I have some set questions I
12 need to ask you. So I appreciate your patience
13 while we go through this. I need to read to you
14 some of your rights and then ask you if you
15 understand them. Okay.

16 You have the right under the Constitution
17 of the United States and the Constitution of the
18 State of Nevada not to be compelled to testify in
19 this case.

20 Do you understand that.

21 THE DEFENDANT: I do.

22 THE COURT: That means no one can make you
23 take the witness stand and make you answer any
24 questions.

25 Do you understand that.

1 THE DEFENDANT: I do.

2 THE COURT: You may, if you wish, give up
3 this right and you may take the witness stand and
4 testify. If you do, you will be subject to
5 cross-examination by the District Attorney, as well
6 as your own attorney; and anything that you say,
7 whether it is in answers to questions put to you by
8 your attorney or by the District Attorney, will be
9 the subject of fair comment when the District
10 Attorney speaks to the jury in final argument.

11 Do you understand that?

12 THE DEFENDANT: I do.

13 THE COURT: If you choose not to testify,
14 the Court will not permit the District Attorney to
15 make any comments to the jury concerning the fact
16 that you have not testified.

17 Do you understand that?

18 THE DEFENDANT: I do.

19 THE COURT: If you elect not to testify,
20 the Court will instruct the jury, only if your
21 attorney specifically requests, and obviously that
22 instruction has, in fact, been proposed by your
23 counsel. An instruction that reads as follows:

24 "It is a constitutional right of a
25 defendant in a criminal trial that he may not be

1 compelled to testify. Thus the decision as to
2 whether he should testify is left to the defendant
3 on the advice and counsel of his attorney. You must
4 not draw any inference of guilt from the fact that
5 he does not testify; nor should this fact be
6 discussed by you or enter into your deliberations in
7 any way."

8 I know that that was read obviously when we
9 were doing the jury selection, but --

10 THE DEFENDANT: Couple of times, yes.

11 THE COURT: -- I wanted to make sure that
12 you understood that that is an instruction that will
13 given if you choose not to testify.

14 Are you aware of that?

15 THE DEFENDANT: I am.

16 THE COURT: Do you have any questions that
17 you would like to ask me about your constitutional
18 rights?

19 THE DEFENDANT: None that come to mind at
20 this time.

21 THE COURT: Okay. Last little bit so that
22 you understand and can weigh when you give your
23 final decision, it's weighing all of these things
24 together. If you choose to testify and you have
25 been convicted of a felony within the past ten years

1 and you have been on Parole or Probation for a
2 felony within the past -- or you have been on Parole
3 and Probation for a felony within the past ten
4 years, the District Attorney may ask if you've been
5 convicted of the felony, what was the felony and
6 when it happened, but no details may be gone into
7 regarding any prior felony convictions.

8 we've obviously had a lot of discussion
9 about that because of the nature of the charge in
10 this case. But the only way he would be able to go
11 into any details or provide any kind of certified
12 copy of the conviction and get more information into
13 the record is if you were to deny the felony
14 conviction.

15 So I know, I believe that you're already
16 aware of that. But are you aware of those rights?

17 THE DEFENDANT: I am.

18 THE COURT: Okay. In light of all of this
19 information, what is your determination as to
20 whether or not you wish to invoke your rights under
21 the constitution to not be compelled to testify or
22 whether you wish to testify?

23 THE DEFENDANT: I wish not to testify.

24 THE COURT: You wish not to testify, okay.
25 Then I appreciate the opportunity to

1 canvass you on that. I think that that completes
2 everything. When we come back --

3 MS. HOJJAT: I apologize.

4 THE COURT: Okay. Ms. Hojjat.

5 MS. HOJJAT: I need to lodge my objections
6 to four of their instructions that I'm objecting to.

7 THE COURT: Yeah, okay. I'm sorry. I
8 thought we completed the discussion of the
9 objections.

10 MS. HOJJAT: I'm sorry. I thought too, and
11 then I looked and realized I forgot to --

12 THE COURT: Give me page numbers.

13 MS. HOJJAT: The first one is page
14 number 12. Actually, no, I apologize. First one is
15 page number 7.

16 THE COURT: Page 7. Okay.

17 MS. HOJJAT: This is not a relevant
18 instruction in this case; rather like the state made
19 about my mere presence instruction, it may be a
20 correct statement of the law, it's not applicable
21 here. There's nobody else here who may be innocent
22 or guilty of a crime. It's not applicable, and it
23 will confuse the jury. I'd ask --

24 MR. COOPER: Your Honor, it's stock. If we
25 don't need it, I don't care.

1 THE COURT: I'll remove it.

2 MS. HOJJAT: Thank you.

3 THE COURT: That's State's page 7.

4 Go ahead.

5 MS. HOJJAT: State's page 11, that's the
6 bad acts instruction. I don't think it's
7 appropriate here. It's talking about the fact that
8 they can consider the fact that he's a sex offender
9 for the limited purpose of determining knowledge,
10 intent, motive, or absence of mistake or accident.
11 That's not an accurate statement of law here.

12 MR. COOPER: Your Honor, I'm okay with
13 removing that one too. I actually did it for the
14 defendant's benefit because it did come out that he
15 was a sex offender. So I just wanted to make sure
16 they know that they can't use the fact that he's a
17 sex offender just against him.

18 THE COURT: Well, I've given that
19 admonishment significantly.

20 MR. COOPER: I understand.

21 THE COURT: I think this is, by the way,
22 Counsel an accurate Tavaréz instruction. I've given
23 this instruction before.

24 MS. HOJJAT: Yes.

25 THE COURT: But I believe that there was

1 quite a bit of discussion about going into some of
2 the information and a lot of objections on the bench
3 about information coming from the witnesses that
4 might pertain to other bad acts. But if you don't
5 wish to give this instruction, I won't force it.

6 MS. HOJJAT: Well, what I would propose to
7 the court is if we were to cut it off, like the word
8 "such," everything after the word "such" because I
9 don't have a problem with the first sentence. It's
10 saying, telling them that they can use the fact that
11 he's a sex offender for anything that I'm objecting
12 to. I agree it's a correct Tavaréz instruction.

13 I just don't believe that it's applicable
14 in this case because they're not supposed to use the
15 fact that he's a sex offender against him at all in
16 this case but for the fact that it satisfies an
17 element. So I'm okay with up through line 5. I
18 would just ask after the period, after the "crimes"
19 in line 5, everything after that be stricken.

20 THE COURT: I don't think the Tavaréz
21 instruction is necessary in this case.

22 MS. HOJJAT: Okay.

23 THE COURT: So I'm going to strike the or
24 take out State's page 11.

25 MS. HOJJAT: And then State's page 12, that

1 objection just goes to the -- I'm objecting to it
2 officially, for the record, because I'm proposing my
3 own.

4 THE COURT: You're proposing our own.

5 MS. HOJJAT: -- the ones that I proposed
6 that the State has denied -- or the Court has
7 denied.

8 THE COURT: Page 12 and page 13 both or
9 page -- yeah, page 12 and 13 both?

10 MS. HOJJAT: Yes.

11 THE COURT: Because you said you had two
12 others.

13 MS. HOJJAT: Yes, Your Honor -- well, no.
14 There's also page 14 that I'm objecting to.

15 THE COURT: Okay. So 12 and 13 will be
16 given. Your objection is noted but overruled.

17 MS. HOJJAT: Thank you.

18 THE COURT: The page 14?

19 MS. HOJJAT: Page 14 is, I mean, we've
20 already stipulated he's a sex offender. I'm not
21 sure. I mean, it's just confusing and redundant.

22 MR. COOPER: And, Your Honor, I guess my
23 only argument is is that obviously the term "sex
24 offender" has a distinct meaning in the law, and
25 that term is actually used multiple times in the

1 instructions. There's nothing that is prejudicial
2 to him by defining what the term "sex offender" is.
3 So I don't understand how it --

4 It's definitely an accurate statement of
5 the law. That's directly what the definition is.
6 It's not prejudicial to him. It doesn't hurt him in
7 any way. So I don't understand why we wouldn't give
8 it. But I mean, I would submit to the Court on it.

9 THE COURT: All right. I'll make a
10 determination on that as well and let you know what
11 the final set of instructions looks like, and I'll
12 adjust the verdict form as we've discussed.

13 Is there anything else we need to address
14 before we take -- we still got about an hour lunch.
15 So that's not too bad.

16 MS. HOJJAT: The only other thing we need
17 to address, I'm sorry, his ID number. We'd like his
18 ID number not to be on the -- what's given to the
19 jury.

20 THE COURT: I don't put the ID number.

21 MS. HOJJAT: Perfect. Because it was on
22 the State's proposed, and I just want to --

23 THE COURT: It's not going to look like the
24 State's proposed. I have a different version
25 entirely.

1 MS. HOJJAT: Thank you very much,
2 Your Honor.

3 MR. COOPER: Your Honor, I guess, just
4 procedurally -- again, this is my first directed
5 verdict -- is the fact that this Court gave the
6 directed verdict on Count 2, is that appropriate
7 argument for a defense counsel to make during
8 closing? Because I honestly, I don't know.

9 THE COURT: No. The appropriate argument,
10 to this Court's opinion, is argument with regard to
11 whatever charge is remaining in this case and what
12 the evidence showed or didn't show as to that
13 charge. The fact the Court has made a determination
14 that we're only going to proceed as to the one
15 charge will come out in the instructions, and that's
16 what the instructions will go to.

17 But it is not subject of fair argument to
18 argue somehow and perhaps attempt to argue to the
19 jury that because the Court determined not to
20 proceed on that charge, that somehow the other
21 charge is faulty. So I would appreciate the
22 opportunity to give that clarification.

23 MR. COOPER: Thank you, Your Honor.

24 THE COURT: That would not be appropriate
25 for argument.

1 Okay. Anything else?

2 MR. COOPER: Thank you, Your Honor.

3 THE COURT: All right. Enjoy your lunches,
4 and we will be back here at 2:00 o'clock.

5 (Lunch recess.)

6 THE COURT: As soon as Mr. McNeil is ready,
7 we'll go back on the record and we'll have a brief
8 discussion about the final version of the
9 instructions and what I changed and why. I didn't
10 know if any of you would need a copy to refer to the
11 actual numbered instruction in your closings or not,
12 but ...

13 MS. HOJJAT: We're ready whenever the Court
14 is.

15 THE COURT: Oh, okay. I just wanted to let
16 Mr. McNeil finish and get in place.

17 THE DEFENDANT: Thank you, Your Honor.

18 THE COURT: No problem.

19 Okay. So a couple of changes in order in
20 which they appear in the final set of instructions.
21 You'll notice just my style, I like to only have the
22 first page say "Jury Instructions" but not actually
23 contain the first instruction. So we'll just go by
24 actual numbers of instructions now, since they are
25 in fact numbered, as opposed to the page number like

1 we were doing when we settled them. Okay?

2 So Instruction Number 3, I would note the
3 State's version -- well, obviously, I've made a
4 number of changes here because I've removed the
5 reference to Count 2. I did make a change to the
6 date. I think there was a date error contained in
7 the State's Proposed. It had the 24th day of
8 December, but the prior --

9 MR. COOPER: That must have been a typo.
10 That was my fault.

11 THE COURT: It was a typo. The prior
12 information I had the 14th. So I corrected that to
13 the 14th day of December. I then removed, of
14 course, again the Count 2. I also added the last
15 sentence, which is standard in these instructions
16 following the information or the indictment language
17 regarding the duty of the jury. It was not
18 contained in the State's Proposed, but I did add it
19 in. So do you see that last sentence? It wasn't
20 there before. But I did add it, so I just wanted to
21 make sure everybody was aware.

22 I then moved the definitional sections and
23 the sections pertaining to the actual crime charge
24 up, after the information. So rather than having
25 done all the kind of basic instructional how-to's

1 and then defining sex offender, et cetera, I brought
2 those forward. I did leave in the definition of
3 sex offender. I think it is necessary to complete
4 the scope of the instructions in terms of what the
5 charge is, as well as where it's used in the
6 subsequent provisions.

7 I then -- the State's, what is now
8 Instruction Number 5 was proposed by the State, and
9 I don't believe I made any adjustments there. I
10 believe that is the way it was originally worded.

11 I did, however, change what is now
12 Instruction Number 6. The State was proposing, I
13 would say more general language, with regard to
14 reporting requirements. This is actually an
15 instruction that was proposed by the defense in
16 terms of the discussion with regard to what the
17 sex offender residency, dwelling, habitual, sleep,
18 knowledge, I thought -- the reason I took out the
19 State's and the reason I did include this is because
20 I wanted --

21 If you go back to Instruction Number 5,
22 that is the sort of general instruction that if the
23 sex offender, under the sentence of lifetime
24 supervision who commits a violation of a condition
25 imposed is guilty of the violation, one of the

1 underlying was this residency issue. But this --
2 obviously, we don't have an instruction for each and
3 every one of the violations that could have
4 occurred. They're listed in the charging document,
5 but they're not listed in the instructions.

6 So I didn't have want to have one
7 particular instruction that looked liked that's the
8 only violation that's being considered. So I
9 removed the State's version because I thought that's
10 what that looked like. I hope this is making sense.
11 If you have your version, I think it will make more
12 sense. But what I did want to leave in was some
13 clarification with regard to what the residency and
14 registration requirement was. So that's why the
15 defense's is in there and the State's is not.

16 Does anybody have any questions about that?

17 MR. COOPER: I don't have a question about
18 it, Your Honor. And I know there's -- do we object?
19 Do we object, or are we just settled or --

20 THE COURT: You're welcome to object, at
21 this point, because I did make an additional change
22 from when we settled it before. I'm not going to
23 change it, but you're welcome to object; and if you
24 would like and you think it's appropriate, you might
25 want to do the same thing the defense will be doing,

1 which is to have a caption with "State's Proposed,
2 not given" and then submitted in the record.

3 MR. COOPER: Your Honor, I don't think
4 that's all necessary. My objection is just kind of
5 just a wording is that he's only charged, in my
6 understanding of the Complaint or the Information,
7 is that he's only charged with not having his
8 residence approved, not not registering his
9 residence. That was Count 2.

10 My understanding is that this
11 Instruction 6 is referring to notifying local law
12 enforcement agency. Well, even if he does that,
13 that still does not necessarily mean that his
14 probation officer approved his residence. So I
15 don't believe this actually applies; but obviously,
16 if the Court's giving it, that's all I have.

17 THE COURT: Well, go ahead. Did you want
18 to respond, either Ms. Hojjat or Ms. Bonaventure?

19 MS. BONAVENTURE: Well, Your Honor, if he
20 has a problem with where it says, "At least every
21 30 days, shall notify the local law enforcement
22 agency," we can do away with that language so that
23 it reads that "A sex offender who has no fixed
24 address shall" or -- basically to take that part out
25 where it has that requirement for Count 2 but to

1 leave in the language where, if he doesn't have a
2 fixed address, he can register at a corner.

3 Or in absent of that, Your Honor, we can,
4 if your preference is to get away with it -- or do
5 away with it, then we will deal with that as well.

6 THE COURT: Well, like I said, what I took
7 out was the -- again, following upon the general
8 sort of if you have conditions imposed upon you and
9 you don't comply with them, then that is a
10 violation. That is Instruction Number 5. I thought
11 it would be too confusing to have the very next
12 instruction, and the only other instruction imposed
13 by the state, to talk about sex offender is required
14 to keep parole and probation officer assigned to him
15 or her informed of the current address because that
16 makes it looks like that's the only condition that
17 we're talking about, and we're clearly not talking
18 about that. So I took that out. That was a
19 separate decision from including this one.

20 The then decision to include this one, I'm
21 not trying to conflate -- and if I am inadvertently
22 doing that, I apologize -- a registration or other
23 requirement. But what you have in the charging
24 document is any number of requirements, and I think
25 the part where the jury needed -- any number of

1 requirements. Sorry. Let me finish my thought
2 before I go forward.

3 In terms of again, the U.A., the failing to
4 report, failing to have the residence approved,
5 failing to cooperate with the officer, I think all
6 of these things, the testimony that's come into the
7 trial has been about where was he; did he register?
8 Did he -- I'm sorry. Did he report where he was;
9 was he where he was supposed to be?

10 And I think at least some clarification on
11 the requirements of advising of where he lives and
12 changing addresses and how that ties into someone
13 who is in fact homeless is necessary for this jury
14 to fully understand what was applicable in
15 Mr. McNeil's case. So that why I included it. I'm
16 not, again, trying to conflate the two, and it is my
17 preference to leave it in.

18 But I hear your potential concerns of, you
19 know, how this might overlap with the other charge
20 that was taken out. But, again, my goal here was
21 that the jury understand this charging document.
22 Here's how one may be guilty of that; and to the
23 extent that you're dealing with understanding what
24 alleged violations occurred and you have a question
25 about what the requirements were for reporting of

1 where he is staying, this clarifies. So that's kind
2 of why that's the way it is.

3 THE DEFENDANT: Court's indulgence.

4 MS. HOJJAT: No, no, no.

5 THE DEFENDANT: Sorry.

6 THE COURT: Anything further?

7 MS. BONAVENTURE: No, Your Honor.

8 MS. HOJJAT: Yes, Your Honor.

9 THE COURT: Let me just finish up.

10 MS. HOJJAT: Oh, sorry.

11 THE COURT: So I don't think I changed
12 anything else. I then picked up where the
13 instructions from the State, you know, continued
14 after the charging statement, which is with all of
15 the other sort of how-to's for the jury, and I
16 deleted those ones that we discussed that I would
17 delete. I don't believe I made any other
18 adjustments to the remainder of the instructions.

19 So I'm sorry. Go ahead, Ms. Hojjat.

20 MS. HOJJAT: And, Your Honor, the defense's
21 only concern is -- and I don't have a verdict form
22 here, so I'm not sure if Your Honor left Count 2 on
23 the verdict form.

24 THE COURT: No, I did not.

25 MS. HOJJAT: I think the defense, at this

1 point, needs to object to that just because we need
2 a verdict from the jury on that count in order for
3 any sort of jeopardy or anything like that to attach
4 to that count.

5 THE COURT: The directed verdict doesn't
6 suffice?

7 MS. HOJJAT: Your Honor, unfortunately,
8 per statute, and there's case law on this
9 unfortunately because the State has appealed
10 directed verdicts before, and the Nevada Supreme
11 Court has stated that they will consider the appeal
12 if there's no verdict from a jury.

13 So if the State were to prefer to appeal
14 it, if the jury has not rendered a verdict,
15 Your Honor's verdict unfortunately would not allow
16 jeopardy to attach. So basically the defendant
17 would be prejudiced by not having the jury return a
18 verdict on this.

19 THE COURT: I'm just not sure what that
20 looks like, Ms. Hojjat, because obviously, I'm going
21 to indicate in the instructions that the
22 instructions are inclusive only of Count 1 and
23 instructed on the law as to Count 1 because Count 2
24 has been determined by the Court that we will not be
25 proceeding. I don't know how to then in turn --

1 What am I supposed to tell the jury, just
2 check not guilty on the box? I mean --

3 MS. HOJJAT: Yes, Your Honor.

4 MR. COOPER: I don't think that's
5 appropriate, Your Honor.

6 THE COURT: I've never had occasion to
7 understand that to be the process.

8 MR. COOPER: And in order to alleviate any
9 appellate issues, I can stipulate right now on the
10 record that the state is not going to be challenging
11 a directed verdict on Count 2. So that's not going
12 to be an issue going forward in the future. And
13 I'll stipulate to that right now that we're not
14 going to challenge any issues regarding the Count 2
15 and the directed verdict.

16 THE COURT: Well, I mean, we have that in
17 the record. I have to look into this, Ms. Hojjat.
18 Right now, obviously the verdict form is not going
19 to go to the jurors until they deliberate.

20 MS. HOJJAT: Right.

21 THE COURT: And once we instruct and once
22 you get started with your closings, I'll send a
23 heads-up to my law clerk to see what she can find,
24 and I'll go and check it out and we'll see, and
25 ultimately the verdict form we provide to them will

1 be the one that we think we need to provide to them.
2 But we do have that stipulation, for the record, at
3 this time, if we needed it.

4 MS. HOJJAT: Thank you. I would ask for
5 one further stipulation from the State then. In the
6 event that this case -- that we receive a not -- we
7 receive a guilty verdict as to Count 1, it goes up
8 on appeal, for some reason, if the case were to be
9 reversed and come back, we would also want a
10 stipulation that Count 2 will not, at that time, be
11 added if we somehow end up on in a retrial on this
12 case.

13 THE COURT: I'm not sure how you'd be able
14 to. But I -- is the State willing to make that
15 stipulation?

16 MR. COOPER: And, Your Honor, not on the --
17 correct. The State will not proceed on Count 2,
18 again based on the same exact facts that we've
19 alleged in this count where the jeopardy would have
20 attached.

21 THE COURT: Okay.

22 MS. HOJJAT: Thank you.

23 THE COURT: I think we got that covered
24 then I think I appreciate. I still will look into
25 it, regardless. Like I said, my understanding of

1 how we proceed would not include providing that to
2 the verdict form to the jury in that fashion and
3 directing them how to fill it out. But we'll look
4 into that.

5 Otherwise, are we ready for the jurors to
6 return?

7 MS. HOJJAT: Yes, Your Honor.

8 THE COURT: Okay. Don't forget I'm going
9 to ask the defense whether or not they --

10 MS. HOJJAT: Oh, yes, that we rest. Yes,
11 Your Honor.

12 (The following proceedings were held in the
13 presence of the jury:)

14 THE COURT: Thank you.

15 Thank you. Go ahead and please do take
16 your seats as you reach them. Please make sure that
17 your cell phones are off or silenced.

18 Resuming the trial in the matter of
19 State of Nevada vs. Steve McNeil.

20 Don't worry, jurors, that podium will not
21 be remaining there for very long. Accept that it's
22 in your way.

23 At this time, before we took the recess,
24 the State had rested. I ask, at this time now, if
25 the defense -- how the defense would like to

1 proceed.

2 MS. BONAVENTURE: Your Honor, the defense
3 would rest.

4 THE COURT: Okay. Accepting that the
5 defense has also rested their case, I will now
6 proceed to instruct you on the law.

7 And actually, I'm going to ask you,
8 Mr. Cooper, if you don't mind, can you assist us by
9 moving that podium.

10 MR. COOPER: No problem, Your Honor.

11 THE COURT: I was thinking that you would
12 use it, obviously in your closings. But as I need
13 to instruct the jury first, let me do that without
14 it being in the way of us.

15 So at this time, Ladies and Gentleman, the
16 State and the defense have both rested their case.
17 And as I told you at the beginning of this trial on
18 Monday, the Court would need to instruct you on the
19 law to apply to the facts and the evidence as you
20 find it to be. What I'm going to do now is read you
21 these instructions.

22 You do not have a copy set at this time.
23 But when you go to deliberate, you will, in fact,
24 have a copy set at that time, each and every one of
25 you, so that you can refer to it. I do want to

1 remind you, however, that, again, it's not about
2 necessarily -- and there's some instructions that go
3 to this point -- singling out any one instruction or
4 overemphasizing any one instruction but just having
5 them available to you should you have any need for
6 clarification. Okay?

7 So at this time, Ladies and Gentlemen of
8 the Jury, it is now my duty as judge to instruct you
9 in the law that applies to this case. It is your
10 duty as jurors to follow these instructions and to
11 apply the rules of law to the facts as you find them
12 from the evidence. You must not be concerned with
13 the wisdom of any rule of law stated in these
14 instructions.

15 Regardless of any opinion you may have as
16 to what the law ought to be, it would be a violation
17 of your oath to base a verdict upon any other view
18 of the law than that given in the instructions of
19 the Court. If in these instructions, any rule,
20 direction, or idea is repeated or stated in
21 different ways, no emphasis thereon is intended by
22 me and none may be inferred by you.

23 For that reason, you are not to single out
24 any certain sentence or any individual point or
25 instruction and ignore the others, but you are to

1 consider all the instructions as a whole and regard
2 each in the light of all the others. The order in
3 which the instructions are given has no significance
4 as to their relative importance.

5 An Information is but a formal method of
6 accusing a person of a crime and is not of itself
7 any evidence of his guilt. In this case, it is
8 charged in a Second Amended Information that, on or
9 between the 14th day of December 2012 and the 10th
10 day of March 2014, within the county of Clark,
11 State of Nevada, Steven Dell McNeil, the defendant
12 above named, committed the crimes of -- "crime,"
13 sorry -- a violation of lifetime supervision by
14 convicted sex offender, Category B felony,
15 NRS 213.1243-53481 as follows:

16 Count 1, violation of lifetime supervision
17 by convicted sex offender. Did then and there
18 willfully, unlawfully, knowingly, and feloniously
19 violate the conditions of a lifetime supervision
20 agreement signed by the defendant in 2007 and/or
21 November 2012. Pursuant to having, in 2004, had
22 been convicted of a sex offense that requires
23 lifetime supervision in the Eighth Judicial District
24 Court, Clark County, Nevada, to wit: By refusing to
25 submit to a urinalysis, failing to report, failing

1 to have his residence approved, failing to cooperate
2 with his supervising officer, failing to maintain
3 full-time employment, failing to abide by a curfew,
4 and/or was terminated from his sex offender
5 counseling.

6 It is the duty of the jury to apply the
7 rules of law contained in these instructions to the
8 facts of the case and determine whether or not the
9 defendant is guilty of the offense charged.

10 I will note that the Count 2 has been
11 removed from these instructions, and you will not be
12 given instructions on the law as to Count 2 because
13 you are not being asked, at this time, to return a
14 verdict as to Count 2. The Court has determined
15 that that count will not proceed further in this
16 trial. So you're only directed to return a verdict
17 as to Count 1, and these following instructions will
18 be as to Count 1.

19 Sex offender is defined as a person who,
20 after July 1, 1956, is or has been convicted of a
21 statutorily categorized sexual offense. A sex
22 offender under a sentence of lifetime supervision
23 who commits a violation of a condition imposed on
24 him pursuant to the program of lifetime supervision
25 is guilty of violation of lifetime supervision by

1 convicted sex offender.

2 A sex offender who has no fixed residence
3 shall at least every 30 days, notify the local law
4 enforcement agency in whose jurisdiction the sex
5 offender resides if there are any changes in the
6 address of any dwelling that is providing the sex
7 offender temporary shelter or any changes in
8 location where the sex offender habitually sleeps.

9 To constitute the crime charged, there must
10 exist a union or joint operation of an act forbidden
11 by law and an intent to do the act. The intent with
12 which the act is done is shown by the facts and
13 circumstances surrounding the case. Do not confuse
14 intent with motive. Motive is what prompts a person
15 to act. "Intent" refers only to the state of mind
16 with which the act is done.

17 Motive is not an element of the crime
18 charged, and the State is not required to prove a
19 motive on the part of the defendant in order to
20 convict; however, you may consider evidence of
21 motive or lack of motive as a circumstance in the
22 case. The intent of a person or the knowledge that
23 a person possesses at any given time may not
24 ordinarily be proved directly because there is no
25 way of directly scrutinizing the workings of the

1 human mind.

2 In determining the issue of what a person
3 knew or what a person intended at a particular time,
4 you may consider any statements made or acts done by
5 that person and all other facts and circumstances
6 received in evidence which may aid in your
7 determination of that person's knowledge or intent.

8 You may infer, but you are certainly not
9 required to infer, that a person intends the natural
10 and probable consequences of acts knowingly done.
11 It is entirely up to you, however, to decide what
12 facts to find from the evidence received during this
13 trial.

14 The defendant is presumed innocent unless
15 the contrary is proved. This presumption places
16 upon the State the burden of proving, beyond a
17 reasonable doubt, every material element of the
18 crime charged and that the defendant is the person
19 who committed the offense.

20 A reasonable doubt is one based on reason.
21 It is not mere possible doubt but is such a doubt as
22 would govern or control a person in the more weighty
23 affairs of life. If the minds of the jurors, after
24 the entire comparison and consideration of all of
25 the evidence, are in such a condition that they can

1 say they feel an abiding conviction of the truth of
2 the charge, there is not a reasonable doubt.

3 Doubt, to be reasonable, must be actual,
4 not mere possibility or speculation. If you have a
5 reasonable doubt as to the guilt of the defendant,
6 he is entitled to a verdict of not guilty. The
7 evidence which you are to consider in this case
8 consists of the testimony of the witnesses, the
9 exhibits, and any facts admitted or agreed to by
10 counsel.

11 There are two types of evidence, direct and
12 circumstantial. Direct evidence is the testimony of
13 a person who claims to have personal knowledge of
14 the commission of the crime which has been charged,
15 such as an eyewitness. Circumstantial evidence is
16 the proof of a chain of facts and circumstances
17 which tend to show whether the defendant is guilty
18 or not guilty.

19 The law makes no distinction between the
20 weight to be given either direct or circumstantial
21 evidence. Therefore, all of the evidence in the
22 case, including the circumstantial evidence, should
23 be considered by you in arriving at your verdict.
24 Statements, arguments, and opinions of counsel are
25 not evidence in the case. However, if the attorneys

1 stipulate to the existence of a fact, you must
2 accept the stipulation as evidence and regard that
3 fact as proved.

4 You must not speculate to be true any
5 insinuations suggested by a question asked a
6 witness. A question is not evidence and may be
7 considered only as it supplies meaning to the
8 answer. You must disregard any evidence to which
9 an objection was sustained by the Court and any
10 evidence ordered stricken by the Court. Anything
11 you may have seen or heard outside the courtroom is
12 not evidence and must also be disregarded.

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

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

25 It is a constitutional right of a defendant

1 in a criminal trial that he may not be compelled to
2 testify. Thus the decision as to whether he should
3 testify is left to the defendant on the advice of
4 counsel and counsel of his attorney. You must not
5 draw any inference of guilt from the fact that he
6 does not testify, nor should this fact be discussed
7 by you or enter into your deliberations in any way.

8 Although your verdict must be unanimous as
9 to a charge, all 12 jurors do not have to agree on
10 the theory of criminal liability under which guilt
11 is established. Therefore, even if you cannot agree
12 on the theory of criminal liability, as long as each
13 of you believes beyond a reasonable doubt that the
14 defendant is guilty, you should return a verdict of
15 guilty as to that charge.

16 Although you are to consider only the
17 evidence in the case in reaching a verdict, you must
18 bring to the consideration of the evidence your
19 everyday common sense and judgment as reasonable men
20 and women. Thus you are not limited solely to what
21 you see and hear as the witnesses testify. You may
22 draw reasonable inferences from the evidence which
23 you feel are justified in the light of your common,
24 experience, keeping in mind that such inferences
25 should not be based on speculation or guess.

1 A verdict may never be influenced by
2 sympathy, prejudice, or public opinion. Your
3 decision should be the product of sincere judgment
4 and sound discretion in accordance with these rules
5 of law.

6 In your deliberations, you may not discuss
7 your consider the subject of punishment as that is a
8 matter which lies solely with the Court. Your duty
9 is confined to the determination of the guilt of
10 whether the defendant is guilty or not guilty. When
11 you retire to consider your verdict, you must select
12 one of your member to act as foreperson who will
13 preside over your deliberation and will be your
14 spokesperson here in court.

15 During your deliberation, you will have all
16 the exhibits which were admitted into evidence,
17 these written instructions, and forms of verdict,
18 which have been prepared for your convenience. Your
19 verdict must be unanimous. As soon as you have
20 agreed upon a verdict, have it signed and dated by
21 your foreperson, and then return with it to this
22 room.

23 If during your deliberation you should
24 desire to be further informed on any point of law or
25 hear again any portions of the testimony, you must

1 reduce your request to writing signed by the
2 foreperson. The officer will then return you to
3 court where the information sought will be given
4 you in the presence of and after notice to the
5 District Attorney and the defendant and his counsel.

6 Read-backs of testimony are time consuming
7 and are not encouraged unless you deem it a
8 necessity. Should you require a read-back, you must
9 carefully describe the testimony to be read back so
10 that the court reporter can arrange her notes.
11 Remember the Court is not at liberty to supplement
12 the evidence.

13 Now you will listen to the arguments of
14 counsel who will endeavor to aid you to reach a
15 proper verdict by refreshing in your minds the
16 evidence and by showing the application thereof to
17 the law. But whatever counsel may say, you will
18 bear in mind that it is your duty to be governed in
19 your deliberation by the evidence, as you understand
20 it to be and remember it to be, and by the law as
21 given to you in these instructions with the sole,
22 fixed, and steadfast purpose of doing equal and
23 exact justice between the defendant and State of
24 Nevada.

25 And the instructions have been signed by me

1 and dated by me today's date.

2 Again, you will each have a copy of these
3 instructions to refer to as need.

4 And at this time, I will invite the State
5 to make closing remarks.

6 MR. COOPER: Thank you, Your Honor.

7

8 **STATE'S CLOSING ARGUMENT**

9

10 MR. COOPER: Ladies and Gentlemen, this is
11 not a difficult case. This is truly a case of the
12 facts speak for themselves. The facts, the
13 testimony of the witnesses and the exhibits that
14 have been admitted, those are the facts. It is my
15 job during closing argument to help you apply the
16 facts to the law. And I submit to you that once you
17 apply the facts to the law, you will return with the
18 only reasonable verdict, and that is a verdict of
19 guilty on the charge of violation of lifetime
20 supervision.

21 Every criminal prosecution, the State must
22 prove two things: The State must prove that a crime
23 was committed, and the State must prove that the
24 defendant is the one that committed the crime. And
25 Count -- Number 2 there is not really in question

1 here. I mean, the defendant is the one that was
2 being supervised. You heard from Officer Mangan;
3 you heard from Sergeant Zanna; you heard from the
4 Marcia Lee, who was actually supervising him while
5 he was on his sex offender counseling. That's not
6 in question here. We know who committed the crime.

7 The State must prove these things beyond a
8 reasonable doubt. Guilty beyond a reasonable doubt.
9 We've all heard it in TV or in the movies. What
10 does that mean? It does not mean all doubt, merely
11 reasonable. For a doubt to be reasonable, it must
12 be actual, not based on just mere possibility or
13 speculation.

14 The State must also prove that the
15 defendant intended to act, and this is one of your
16 jury instructions, and the judge has already read it
17 for you. And it says, "To constitute the crimes
18 charged, there must exist a union or joint operation
19 of an act forbidden by law and intent to do that
20 act." When we're talking about intent, it's very
21 narrow, only the defendant's state of mind when he
22 acted.

23 He didn't just trip and fall and violate
24 his lifetime supervision. That's what we're talking
25 about. He knew what he was doing. He was acting on

1 purpose. The intent with which an act is done is
2 shown by the facts and circumstances surrounding the
3 case. So what does that mean? It means you can use
4 all the facts, all the exhibits, the testimony of
5 the witnesses in order to determine if you think the
6 defendant knew what he was doing or he just tripped
7 and fell.

8 violation of lifetime supervision. Let's
9 get down to it. This is one of your jury
10 instructions, and the judge read it for you, and
11 it's the law on what a violation is. And I'm not
12 going to bore you because the jury -- the
13 instruction has already been read to you. But I do
14 want to point out a couple key points.

15 In order to get a violation, you need to
16 have a sex offender. The defendant is a sex
17 offender. We need to have a violation of a
18 condition, and we'll talk about that in a moment,
19 but we have that here too, and we need to have a
20 program of lifetime supervision, and the defendant
21 is on lifetime supervision. We have those three
22 things, guilty.

23 So let's talk about the violations, and I
24 don't know if you can read those because they're a
25 little blurry. So I'll read them a little bit.

1 These are just little tidbits of the agreements that
2 you'll have when you go back to deliberate, and
3 there's three of them, and I encourage you to look
4 at them. And you'll see these instructions to the
5 defendant as conditions of what he needs to do while
6 on the lifetime supervision.

7 And the first is these reportings/relieves:
8 You're required to submit a monthly report. The
9 report will be a true and correct. In addition, you
10 shall report in person as directed by your
11 supervising officer, and some other things that
12 don't really apply in this case.

13 You heard from Officer Mangan. She didn't
14 see the defendant for over seven months. From
15 August of 2013 to March of 2014, while he was still
16 on lifetime supervision, while he was still her
17 lifetime supervisee or offender, he didn't call.
18 She went to go look for him. She couldn't find him.
19 He didn't go to P & P to look for her, didn't say
20 anything to her. She was unable to find him. He
21 was an absconder, as she said. Got that one right
22 there. He wasn't reporting.

23 The next one is residence. And it says,
24 "You shall reside at a location only if that has
25 been approved by your supervising officer. You

1 shall not change your place of residence without
2 first obtaining permission from your supervising
3 officer." Well, we have this one too. Again, he
4 heard from Officer Mangan as she talked about she
5 went to the area he said he was living.

6 She used the map that he gave her. She
7 used the map to try to find him. She looked for
8 over an hour on two separate occasions. Couldn't
9 find him. Wasn't there. She actually surveyed the
10 area too. Never found him because he wasn't there.
11 Got that one too.

12 Next it's titled "Controlled substance" but
13 essentially says that you're not supposed to use
14 controlled substance and you're supposed to submit
15 to periodic testing to determine whether or not you
16 are using controlled substances. Well, on this one,
17 we heard from Officer Mangan again. We also heard
18 from Sergeant Zanna.

19 And do you recall what Officer Mangan said?
20 She tried to give him a urinalysis, a drug test, and
21 he refused. It says right there that he has to
22 submit to the testing, but he refused. He said,
23 "I'm not going to do it." I mean, she can't make
24 him. She can't physically force him. He didn't do
25 it. Got that one easy.

1 The next one is: You're supposed to
2 cooperate with your supervising officer, and your
3 behavior should justify the opportunity granted to
4 you by this lifetime supervision. Again, we heard
5 from Officer Mangan as she went into detail about
6 her interactions with the defendant and about -- and
7 particularly one interaction that he had with her.
8 She was calling him in June and trying to get him to
9 come in for his July report.

10 And do you recall what she said? She said
11 she had to call him three different times because
12 twice he hung up on her. That's not really being
13 cooperative. He also, the final time when he
14 actually picked up that phone, said F-U, hung up
15 again. I don't know how that can be cooperative.

16 Curfew. Officer Mangan talked to you about
17 how in March, she wanted to make sure that she was
18 going to know where he was going to be at a certain
19 time because she wanted to be able to check in on
20 him and see what he was doing, and she gave him a
21 5:00 p.m. to 5:00 a.m. curfew. She talked about
22 that. Defendant came back the next month and said,
23 "Hey, it's kind of hot out here at 5:00 p.m."

24 Officer Mangan said, "You know, you're
25 right, it is hot. I'll give it to you from

1 8:00 p.m. to 5:00 a.m. so you don't have to actually
2 be at the area you told me you were going to be
3 until 8:00 p.m." She went out there after
4 8:00 p.m. I think she said about 9:45 or so when
5 she went out there she and surveyed it for an hour.
6 When she was driving around the alleys looking for
7 this defendant, he was nowhere to be found, nowhere
8 in that area.

9 That's violation of his curfew. Not only
10 did when he go into Sergeant Zanna's office and they
11 were talking about, you know, "You're not really
12 compliant with this curfew." He said, "I'm not
13 going to be on a curfew. I'm not going to do it.
14 I'm not going to be a dog on a leash." Exact words.

15 Counseling. You heard from Marcia Lee, and
16 it's pretty clear he got terminated from counseling.
17 He's supposed to do counseling and he was terminated
18 from counseling. That is a violation of lifetime
19 supervision. It's that easy. That's it. Just that
20 alone is enough. You heard from Marcia Lee. She
21 explained why she had to terminate him. She
22 explained when he was terminated, how long he was in
23 the program, what the program consisted of, and that
24 he was making little to no progress and he was
25 terminated. That alone is enough.

1 I'm not talking about everything on the
2 screen, just one of those is enough. Then we have
3 the employment violation, but I'm not really going
4 to get into that. It's hard to find jobs. And easy
5 to understand, all violations are "and/or." That
6 means one violation is enough to be found guilty of
7 violation of lifetime supervision.

8 Just one. Counseling or curfew or not
9 cooperating or not having the right residence or not
10 submitting to the U.A., urinalysis; or not
11 reporting, any one. And in your jury instructions,
12 you'll see this instruction. The judge already read
13 it to you. It talks about whether or not everyone
14 has to agree on which theory in which he's guilty
15 under.

16 So if six people think that, well, he's
17 guilty because he got terminated from counseling and
18 then six different people think that he's guilty
19 because he wasn't reporting, that's it. He's done.
20 He's guilty. All 12 of you don't have to all agree
21 on counseling or all agree on reporting. You just
22 have to agree that he did one of those. That's it.

23 And this is another portion of that form
24 that the defendant signed, and you'll have it again
25 when you go back to deliberate, and this is just one

1 of them. We went through a little bit. There's
2 three different forms and three different dates, and
3 you'll have them all. And I want to focus on that
4 bold part, and it's bold for a reason. I didn't
5 make it bold. That's how it looks it looks on the
6 actual form.

7 And it says, "I fully understand the
8 penalties involved should I, in any manner, violate
9 the foregoing conditions." "I fully understand the
10 penalties involved should I, in any manner, violate
11 the foregoing conditions." well, he did. He did
12 violate them. He indicated he knew what was going
13 to happen when he violated them. This is a piece of
14 your verdict form. You'll have this, again, when
15 you go back to deliberate. And I submit to you that
16 the only reasonable verdict is a verdict of guilty.

17 This is, again, I know in your jury
18 instructions, and it's what we refer to as the
19 "Common-sense instruction," and the judge read it to
20 you. So I'm not going to read the whole thing. But
21 I do need you to understand that you must bring to
22 the consideration of the evidence your everyday
23 common sense and judgment of reasonable men and
24 women. You may draw reasonable inferences from the
25 evidence which you feel are justified in the light

1 of common experience. This just means don't leave
2 your common sense at the courthouse steps.

3 Based on the evidence, we know that the
4 defendant violated the terms of his lifetime
5 supervision agreement, and it's that simple. And,
6 again, this isn't a who-done-it. We know who did
7 what.

8 And finally, this is your duty as a juror,
9 and the judge read this. "It is the duty of the
10 jury to apply the law contained to the facts of the
11 case and determine whether or not the defendant is
12 guilty of the offenses charged." And I submit to
13 you that the defendant is guilty of violation of
14 lifetime supervision under one of seven different
15 theories, but you only have to pick one.

16 Thank you.

17 THE COURT: MS. Bonaventure.

18 MS. BONAVENTURE: Thank you, Judge.

19 THE COURT: We didn't turn off the -- can
20 you take down your --

21 MR. COOPER: Can I just turn the TV off.

22 THE COURT: That's fine.

23 MR. COOPER: It might make it easier.

24 THE COURT: Thank you.

25 Please proceed.

1
2 **DEFENSE CLOSING ARGUMENT**

3
4 MS. BONAVENTURE: Sex offender, sex
5 offender, sex offender. It sounds bad. I know it,
6 you know it, the D.A. knows it; and we know the D.A.
7 knows it because he spared absolutely no opportunity
8 to throw it around to get it in your head, and the
9 reason he's done that is because he wants you to
10 hear that word. He wants you to hear it over and
11 over again in your head so that when you leave here
12 and you go back to deliberate that, if you've left
13 here with just one thought in your head, it's sex
14 offender, sex offender.

15 He wants you to convict Steve based on the
16 fact that he's a convicted sex offender, but that
17 conviction all of us already know. The judge has
18 told us it's in the past. Nobody is to consider it
19 because what we're here for today are violations.
20 Because Steve is on lifetime supervision, he's
21 assigned to follow rules, and you're here to decide
22 whether or not he broke those rules, nothing else.

23 So just to be clear, because I don't want
24 this nagging anybody in the back of their head when
25 you go back there, nothing that's decided in this

1 trial -- whether you go back there and you say
2 guilty, whether you go back there and you say not
3 guilty -- I don't want you to be confused, whatever
4 happens, whatever you decide, Steve is going to
5 remain on lifetime supervision. That does not
6 change.

7 Now, you've seen the state's case, and make
8 no mistake that Officer Mangan, that's the state's
9 star witness. All right. The state's asking you to
10 find Steve guilty based on her testimony, Officer
11 Mangan, who is inexperienced. She's overzealous;
12 she's under prepared, and she is unreliable.

13 Now, I'm sure you've gotten the sense that
14 Steve's not -- he doesn't have the easiest
15 personality in the world. He's a little bit
16 difficult, to say the least. You heard the
17 testimony Officer Mangan had words with him at
18 several times. In fact, when Supervisor Zanna took
19 the stand, you heard that while they were in his
20 office, they're shooting NRS statutes at each other:
21 what's the law, who knows the law; who knows the law
22 better. So suffice it to say Steve's not the
23 easiest person to get along with.

24 Ms. Hojjat, my co-counsel, she told you
25 this case is about a personality conflict, and it

1 is. The State wants you to focus on 2013,
2 specifically five months. As Ms. Hojjat told you in
3 opening, you have to take a step back from 2013.
4 You have to get a good idea of the big picture here
5 because Steve was in lifetime supervision starting
6 in 2007. He was on lifetime supervision for over
7 five years before he was supervised by officer
8 Mangan for five months. There's a huge discrepancy
9 in that time period.

10 So we have to put those five months into
11 context to get a better picture. So yep, Steve was
12 placed on lifetime supervision in 2007, and over
13 those five years before Officer Mangan became his
14 lifetime supervision officer, he was getting it
15 done. He was trudging along. He was reporting
16 every month to P & P. He had never had one
17 violation. He had never been brought up on charges
18 before for violation of lifetime supervision.

19 In the years before Officer Mangan, we all
20 know that Steve had various supervising officers.
21 He had four, in fact. And now Officer Mangan did
22 testify that officers get changed for various
23 reasons, various administrative reasons, and that's
24 not a reason to hold it against Steve. There's
25 nothing to indicate that he did anything wrong to

1 get supervisors changed. Supervisors change, and
2 that's just the course of their employment.

3 During those five years, you heard that at
4 times, he was employed; at times, he was unemployed.
5 During that period of time, he was submitting to
6 urinary analysis tests. He'd been reporting monthly
7 without fail. He'd been doing everything he was
8 supposed to be doing. In fact, before Officer
9 Mangan became his supervising officer, he was even
10 able to maintain a stable residence for about five
11 years before becoming homeless.

12 The most important thing to remember about
13 those five previous years is that, even with all
14 that, he had never, never been charged with a
15 violation of his lifetime supervision. So when we
16 look at those five years, you see that there were a
17 lot of people moving in and out of his lifetime
18 supervision. But there was one constant, and that
19 constant was Steve.

20 He's a little bit older. He's probably set
21 in his ways, and Steve was the same difficult person
22 that he is today. He has never had a major issue in
23 the years before Officer Mangan. He was -- the same
24 difficult person he is today, he was that same
25 difficult person five years ago. He was that same

1 difficult person with supervising officer number 1,
2 number 2, number 3, number 4, and never had an issue
3 before up until Officer Mangan became his lifetime
4 supervision officer.

5 So as I keep telling you, in March 2013,
6 the only thing that changed with his lifetime
7 supervision is that Officer Mangan became his
8 lifetime supervision officer, and Officer Mangan is
9 inexperienced. She is overzealous. She's under
10 prepared, and she is unreliable. She is
11 inexperienced. We all know that. It was obvious.
12 She was a rookie. She almost still is a rookie.

13 She became his officer in March, 2013. She
14 was fresh out of the academy. She had just
15 completed her training. In fact, Steve, she even
16 testified was one of her first cases. So suffice it
17 to say, she didn't have very much experience.
18 Officer Mangan is very overzealous as a new officer,
19 that's to be expected. But from day 1, she saw
20 Steve as an absconder.

21 Steven is a man who had never been charged
22 with a violation. He'd been consistently making his
23 monthly reports for the whole five years before she
24 became his probation officer. Officer Mangan made
25 one call to Steve's cell phone that didn't go

1 through, and based on that one call that didn't go
2 through, she marked him a potential absconder.

3 she began with this perception of him. She
4 had already gone into this supervision thinking that
5 there was going to be a problem. She didn't wait to
6 see him, to talk to him, to meet with him. She
7 didn't know him at all. But he was a problem. In
8 fact, she testified that she was surprised that
9 Steve showed up for his first monthly report, which
10 actually brings me to my next point that she's under
11 prepared.

12 she actually testified that when she
13 received Steve's file, she reviewed the prior case
14 history notes and she reviewed what the other
15 probation officers had said about Steve; yet she was
16 surprised that he showed up for monthly visit in
17 March 2013? A review of the case notes would have
18 made it clear to her that here is a guy who has not
19 missed his monthly reports for five years.

20 what would lead anybody who had read that
21 before to think that he would not show up for his
22 March 2013 monthly report. In fact, it's not
23 surprising at all that Steve would show up. And the
24 fact that she jumped to that conclusion, that's a
25 direct result of her inexperience of the fact that

1 she's got an overzealous attitude and the fact that
2 she is constantly unprepared. Had she been
3 prepared, she would have known, but she didn't. So
4 she jumped to a conclusion. And that is the exactly
5 the reason why she is unreliable.

6 In fact, the D.A. couldn't even ignore the
7 fact that she was unreliable. She admitted to you
8 on the stand is that she testified one way at this
9 trial and that she testified a different way at the
10 preliminary hearing. At preliminary hearing,
11 officer Mangan testified under oath. She took the
12 stand. She raised her right hand, and she said, "I
13 promise to tell the truth."

14 She told you that the way she answered the
15 questions the preliminary hearing, they were
16 different than what you heard here. But the truth,
17 the truth never changes. The truth doesn't change
18 if I ask you a question two months ago or if I ask
19 you yesterday. The truth remains the same. She
20 told you it was the first time that she had
21 testified. But what difference does that make?
22 Absolutely none.

23 Every person who takes that oath is
24 expected to testify accurately and truthfully,
25 whether it's the first time they've taken that stand

1 or whether they've taken that stand 100 times. In
2 fact, you saw yesterday answers like, "I don't
3 recall," "I don't know," I don't -- "I'd have to
4 look at my notes." They're all perfectly reasonable
5 responses. If you don't know an answer, you're not
6 expected to give one. You're not expected to create
7 an answer or make an answer up.

8 she said that her testimony was different
9 at the preliminary hearing because she didn't have
10 her notes. Well, who had her notes? Why didn't she
11 have her notes? She knew she was testifying. Why
12 didn't she bring them with her to court? She is
13 constantly unprepared, and that's obvious with the
14 fact that she continuously was unable to answer
15 direct questions.

16 In fact, several, several occasions during
17 her testimony yesterday here, I had to show her
18 notes, and it wasn't a big deal. I showed them to
19 her when she didn't remember something to refresh
20 her memory. When she wasn't certain, "I'm not
21 certain." I gave her her notes. You all saw it.
22 And even sometimes when she was just flat-out wrong
23 and she wasn't testifying accurately, I went, I
24 showed her her notes, and sure enough she was able
25 to find the answer in her notes.

1 Now, just for some examples, at preliminary
2 hearing, I had asked her, and you all already know
3 this, "Did he ever draw you a map as to where he
4 actually slept?" Her answer at preliminary hearing
5 was, "No, he did not draw me a map." So imagine my
6 shock when heading into trial, we have not just one
7 map that Steve drew but two maps that he drew her on
8 two separate occasions.

9 The fact remains that Officer Mangan's
10 testimony is unreliable. Her testimony at the
11 preliminary hearing was unreliable, and her
12 testimony here at trial was unreliable. Now, I
13 don't want to beat a dead horse here, and I don't
14 want to go through every single inconsistency that
15 we heard here in trial yesterday. But one prime
16 example of just how unreliable her testimony is is
17 that she had said that she waited seven months to
18 file charges, the charges that led to this instant
19 case.

20 She waited seven months. For what reason?
21 To try to contact Steve. To try and to get him in,
22 to try to, I guess figure something out, get him
23 back on track. I don't know. I had asked her, "If
24 you had made those attempts, if you had driven out
25 there, if you had called him, would those

1 occurrences be noted in your case files?" She said,
2 "Yes, they would be."

3 So I said, "If I showed you your case
4 notes, would you be able to tell me how many calls
5 you made and how many times you went out?" And she
6 said yes. So I showed her to her. She took her
7 time; she reviewed her notes, and how many times did
8 she call Steve in those seven months when she was
9 purportedly trying to contact him? Zero. Zero
10 times. She called him zero times.

11 In fact, she said she tried multiple times
12 to go out and find him where he was reporting to be
13 living on the corner. How many times did she
14 actually go out? She went out once. She went out
15 once in February 2014 to go look for him, two weeks
16 before she filed the charges in the instant case.
17 So she was just wrong. She was wrong, and her
18 testimony is unreliable.

19 So for the sake of argument, maybe she
20 didn't intentionally lie. Maybe she's not
21 intentionally misrepresenting the facts in this
22 case. I don't know exactly why Officer Mangan had
23 so many issues with her testimony. That's actually
24 for you to decide. What we all do know is that she
25 is unexperienced; she is overzealous, under prepared

1 and unreliable. I am asking you to question her
2 credibility, not only based on the discrepancies
3 what I pointed out just now but based on the
4 multiple discrepancies I'm sure you, as witnesses
5 sitting in the box, saw for yourselves.

6 Okay. I'm going to move on. Let's talk
7 about the charge in the case at this point. He's
8 being charged with violation of lifetime
9 supervision. There are seven different reasons that
10 the State is alleging that he violated his lifetime
11 supervision, three of which were to have occurred on
12 August 15th: That was refusing to take a urinary
13 analysis test; refusing to abide by curfew, or
14 refusing to have a curfew set; failing to cooperate
15 with the supervising officer.

16 The act of saying no is not enough because,
17 as I told you in this case, we have to put it in
18 context. Because by this time, August 2013, the
19 communications between these two had already
20 deteriorated. They did not have a good working
21 relationship, to say the very least. Officer
22 Mangan, at that point, had only been his supervising
23 officer for five months, and a lot had happened in
24 those five months.

25 In fact in March, the first month that he

1 reported with her, she branded him a potential
2 absconder. She assigned him a curfew. She knew he
3 was homeless, but she assigned him a curfew to be at
4 the corner where he is reporting to sleep from
5 5:00 p.m. to 5:00 a.m. That's a 12-hour block,
6 which for a homeless person is unreasonable.
7 Imagine how hot it is outside here in Las Vegas
8 sometimes. What if he has to go to the bathroom;
9 what if he gets hungry, what is he supposed to do?

10 In April she threatens him with criminal
11 charges. She says, "If you don't get your act
12 together, I'm going to arrest you." This is the
13 second month she had supervised him. In May, she
14 had him draw her a map because by that time, she had
15 tried to go out one time to try to find him standing
16 on the corner, and she couldn't find him.

17 In June -- in June, it was Officer White.
18 We remember, I'm sure, that Officer White, there was
19 one month that she was not his probation -- or
20 lifetime supervision officer. So we get to July.
21 Prior to their July meeting, the D.A. already told
22 you they had words over the phone. Steve called her
23 a bad name, we all know that. He comes into the
24 office, and she arrests him. She arrests him. She
25 arrests him and charges him with violating his

1 lifetime supervision. This is the first time she's
2 seen him since that.

3 This is the fourth month that she's been
4 his supervising officer. And keep in mind, he has
5 been reporting for over five years at this point in
6 time. She has had him for four months, and she's
7 already arresting him. Now, I know that all of you
8 guys remember nothing came of those charges.
9 Nothing came of those charges. He was released to
10 the street. Nothing happened.

11 But things had already started to escalate
12 at this point in time, and things further escalated
13 once the State decided not to file those charges.
14 She was likely upset. He's more than likely upset
15 because he's never had any problems with his
16 lifetime supervision officer; and here, five months
17 into having this Officer Mangan as his lifetime
18 supervision officer, he's arrested after basically
19 five-and-a-half years of reporting; and now he is
20 being arrested by his P.O. who's only been his P.O.
21 for five months.

22 Neither of them are getting what they want,
23 at this point, which results in a clash at the next
24 monthly reporting, which is August 15th. In August
25 she came in here and she testified that Steve walked

1 in; she told him he had to take a U.A., the urinary
2 analysis, that he refused, and she went and took him
3 straight up to her supervisor's office, Officer
4 Zanna's office.

5 Now, they both testified that, oh, he just
6 refused to take the U.A. and he didn't want to be on
7 a curfew. But neither of them handed Steve a cup.
8 Neither of them attempted to put him under a curfew.
9 The curfew was never set. In fact, there was
10 already a curfew in place, she testified, and there
11 was no testimony that he ever broke that curfew. So
12 by all accounts, he'd been abiding by that curfew.

13 And, you know, Officer Mangan still wants
14 to violate him and have him arrested. So that's all
15 that happened on August 15th. And don't forget,
16 even though they're alleging that he violated three
17 of his conditions on August 15th, he walked out the
18 door. They didn't arrest him. They didn't cite
19 him. They did nothing. He walked out the door.

20 Now, another theory of their -- of the
21 violations is that he failed to report. Now, you
22 know that he has -- they have to prove that he
23 intentionally and knowingly failed to report.
24 However, in late August, you know all know that
25 Officer Mangan and both -- and Officer Zanna, they

1 both testified that they were shown a Cease and
2 Desist letter sent to their offices by Steve.

3 I know that Officer Zanna sat there, he
4 testified that, "You know what, that means nothing
5 to me. It didn't relieve Steve of any responsibility
6 for his lifetime supervision. As far as I'm
7 concerned, nothing changed; everything remained the
8 same." However, Steve didn't know that. Steve was
9 now in a bad situation with Officer Mangan, and
10 after five years of complying with his lifetime
11 supervision, everything was falling apart. And,
12 again, the only difference was Officer Mangan.

13 He sent the Cease and Desist letter. And
14 as we talked about in voir dire, in jury selection,
15 legal issues are very difficult. It's very
16 difficult for highly educated people to understand
17 the law, nevermind Steve, who has very little access
18 to things. He's a homeless man. He doesn't have
19 access to money, and he doesn't have access to
20 attorneys.

21 So Steve did what he thought was right and
22 sent a Cease and Desist letter asking them, "You
23 know what, just leave me alone. Don't bother me
24 anymore; I don't want to deal with it." You're
25 going to see in the exhibits that's going to be with

1 you in the deliberation room. You're going to see
2 the attached a UCC filing letter saying that --
3 declaring himself as a corporation. Another legal
4 document in there.

5 He thought that he had done something to
6 comply to actually get P & P off his back. So when
7 he didn't make those monthly reports anymore, that's
8 because he thought he didn't have to. In fact, you
9 already know that Officer Mangan didn't call him
10 after August of 2013. Officer Mangan didn't go
11 looking for him. By all accounts, Steve didn't
12 think anyone was looking for him. He thought this
13 had worked. So he continued not to report, but he
14 didn't know that he had to continue to report. He
15 didn't intentionally fail to report.

16 Failing to have his residence approved.
17 Steve is homeless. Steve does not have a residence.
18 You're going to see in your jury instructions, the
19 law says that if a sex offender does not have a
20 fixed address, they have to register at a street
21 corner closest to where they habitually sleep. Now,
22 habitually, "habitually" means regularly. It means
23 repeatedly. It does not mean always. It means the
24 place where I go most the time. And there was
25 actually no evidence proffered by the state that his

1 residence or the street corner he registered at was
2 disapproved.

3 Now, failing to maintain full-time
4 employment. The D.A. himself recognizes that it's
5 hard to find a job, especially in the current
6 economic situation we have found ourselves in the
7 last practically decade at this point in time. But
8 what this shows you, it's another indication of the
9 personal struggle between Officer Mangan and Steve.
10 She's throwing everything in, everything and the
11 kitchen sink including this because -- and he hadn't
12 always been unemployed. He had moments of being
13 unemployed with his previous lifetime supervision
14 officers, and he didn't get a violation then.

15 He was terminated from counseling. He was
16 terminated from counseling. He doesn't control
17 that. You heard Marcia Lee testify this morning
18 that he had been in counseling for four years. He
19 had been doing weekly counseling for four years. He
20 was not terminated for lack of participation. He
21 was showing up; he was participating, and he had
22 been doing that for four years. He doesn't have
23 control over whether or not he gets terminated. So
24 that's not a willing violation of one of his
25 conditions.

1 So now I'm going to thank you for your
2 time. You guys have been really patient. The State
3 is going to get up here one more time. They get to
4 have the last word, and that's because they have the
5 burden of proof here, which is beyond a reasonable
6 doubt, to prove that Steve violated his lifetime
7 supervision. Just remember that they have to prove
8 his guilt beyond a reasonable doubt when you go back
9 there to deliberate.

10 The State at this case has hung their case
11 on the testimony of Officer Mangan. It's your
12 responsibility to measure Officer Mangan's
13 credibility at this point and decide how much faith
14 you really want to put in her testimony. Think
15 about it like this: Picture your favorite food. I
16 love hamburgers, so I'm going to picture a
17 hamburger.

18 This hamburger represents Officer Mangan's
19 testimony. Now, imagine that every inconsistency,
20 every inaccuracy that she testified to is a dead
21 cockroach, and ask yourself how many dead
22 cockroaches am I willing to pick out of this
23 hamburger and still eat it? How many inconsistencies
24 in Officer Mangan's testimony do you need before you
25 throw out her entire testimony? And you have the

1 ability to do that.

2 If you don't believe her testimony, if you
3 don't find it credible, you get to throw it away.
4 You don't have to listen to it. And once you've
5 done that, I am certain that you're going to see
6 that this entire case is built on her unreliable
7 testimony and that you're going to return a verdict
8 of not guilty because Steve is not guilty.

9 Thank you very much.

10 THE COURT: Thank you. Excuse me. Thank
11 you, MS. Bonaventure.

12 Mr. Cooper.

13 MR. COOPER: Thank you, Your Honor.

14 And could you associate the Elmo for me,
15 please.

16 THE REPORTER: It should still be on.

17 MR. COOPER: The Elmo, not the --

18 THE COURT: It's coming up. It just takes
19 a minute.

20

21 **STATE'S FINAL CLOSING ARGUMENT**

22

23 MR. COOPER: Ladies and Gentlemen, the
24 defense focused a lot on Officer Mangan, and they
25 wanted to talk about -- they wanted to talk about

1 her for about 20 minutes. So we're not going to
2 talk about her at all. We're not going to talk
3 about any of the violations that she observed or the
4 violations that Sergeant Zanna observed.

5 Let's focus on just one violation, and
6 you'll see this when you go back to deliberate.
7 This is a Jury Instruction Number 3.

8 It's comes in full --

9 THE COURT: It needs to focus. It will
10 take a second. Usually it does it on its own.

11 MR. COOPER: See if that works. I hate
12 technology.

13 THE COURT: It usually auto-focuses, but it
14 doesn't seem to be doing that, Jonathan. I don't
15 know if you can assist us.

16 MR. COOPER: There we go.

17 THE COURT: All right. Looks like we got
18 it. Nevermind.

19 MR. COOPER: Yes. Let's just focus on one
20 there. Let's just focus on termination from his
21 sex offender counseling. You'll have the
22 Termination Summary when you go back to deliberate,
23 and you'll see on there that he was terminated in
24 December of 2012. Well, the Defense talked a lot
25 about Officer Mangan. Officer Mangan wasn't even

1 his officer in December of 2012. So how did this
2 personality conflict create this whole issue?

3 Because he already wasn't doing what he was
4 supposed to do in December of 2012. Before she was
5 in the sex offender unit, he was already in
6 violation. But he got a couple more chances, you
7 know. She didn't just violate him for this. It
8 wasn't just that. It wasn't just the failure to get
9 his residence approved or the failure to go to a
10 curfew or to take the urinalysis. It was the
11 combination of everything.

12 But I need you to understand, Ladies and
13 Gentlemen, that it only takes one. You'll have the
14 jury instruction when you go back and deliberate.
15 It only takes one. If you believe it's just the
16 termination from sex offender counseling, guilty.
17 If you believe it's just the reporting, guilty.
18 Only takes one.

19 But for the sex offender counseling, it
20 wasn't the defendant's fault; it was Marcia Lee's
21 fault because with her 20 years of experience as a
22 sex offense counselor and her doing groups and
23 individual sessions, it was her fault that the
24 defendant was not doing what he was supposed to do.
25 It was her fault that he showed little or no

1 progress. That wasn't -- that wasn't on him.

2 Just like when he was being supervised by
3 Officer Mangan, it wasn't on him either. It was on
4 her. It was her fault because she's a new officer.
5 It was her fault that he didn't do the curfew.
6 Doesn't really seem right. But like I said when I
7 started in the very beginning, this is not a
8 difficult case. So I'm not going to take your time
9 any further and go through all the other different
10 things.

11 I would just say that the Defense was
12 talking about the years before in 2007, when he was
13 actually reporting, and 2008 when he was actually
14 reporting and stuff like that. That doesn't matter.
15 We're talking about 2012 through 2014. And it makes
16 sense that he would report at first; right? He
17 wanted to show that he could complete those
18 requirements. But he got fed up. That's what it
19 is.

20 He was tired of the requirements. He
21 thought they were too stringent, didn't want to do
22 them anymore; he was fed up and said, "Enough is
23 enough, I'm not doing anything else, and you guys
24 can't make me." That's why we're here.

25 Thank you.

1 THE COURT: Thank you, Mr. Cooper.

2 I'm going to invite the officers of the
3 court forward now to take charge of the jurors. The
4 clerk will now swear the officers.

5 (Clerk administers oath to Court officers.)

6 THE COURT: The reason we have two officers
7 at this time to take charge of the jurors is
8 because, as you know, we have 12 jurors who are
9 going to deliberate and will proceed with Officer
10 Crenshaw.

11 But we also have two jurors who are
12 alternates. Now, you are not discharged from your
13 duties at this time. You will only be discharged upon
14 notification of the Court that a verdict has been
15 reached or the case has been resolved. But in the
16 meantime, those alternate jurors will need to
17 proceed with Ms. Springberg to get further
18 instructions. And I can tell you, at this time,
19 that the jurors that are the alternates who will
20 proceed with Ms. Springberg are jurors Bonnie
21 Schultz and Joey Hamilton. You'll proceed with
22 Ms. Springberg.

23 Everyone else please take direction from
24 Marshal Crenshaw, and we'll see you back when we're
25 ready -- when you're ready.

1 (The following proceedings were held
2 outside the presence of the jury:)

3 THE COURT: I do have one thing for the
4 record. They never shut the door. It makes me
5 crazy. Go ahead and have a seat. They'll figure it
6 out or somebody will get it.

7 Thank you, Ms. Bonaventure. I appreciate
8 that.

9 I did take a moment -- well, I shouldn't
10 say I did, my law clerk did -- take a moment to do
11 some quick research on the issue that was raised in
12 terms of the verdict form and the circumstances of
13 how the verdict should be pursued when the Court had
14 issued the directed verdict. And my interesting
15 perhaps conclusion is going to be that the Defense
16 is correct; however, I'm not going to do it
17 differently than what we had already discussed doing
18 it. I'll tell you why.

19 I found a couple of cases, or my law clerk
20 provided me with a couple of case, one recently
21 unpublished, "Battle vs. State of Nevada"; and one
22 published back in 2000, "State of Nevada vs. Combs."
23 And basically what these cases make clear -- they
24 discuss a situation where the party asked for the
25 Court to render a different verdict than guilty that

1 the jury had reached based on insufficiency of the
2 evidence. And the Court determined that -- the
3 Supreme Court determined that the District Court
4 would be in error in doing so, that that's something
5 that has to be determined on appeal.

6 But these cases do speak to, and there is a
7 specific statute, NRS 175.381, that speaks to if the
8 Court does determine at the close of either side's
9 case that there is insufficient evidence to warrant
10 a conviction on one or more of the charges, that the
11 Court is supposed to give an instruction to the jury
12 regarding acquittal, which the jury is not required
13 to follow, but that they should give that
14 instruction rather than making that determination
15 for the jury.

16 The reason I'm not going to change it,
17 however, is that these cases -- and I specifically
18 refer you back to "Combs" and "Battle" -- make it
19 clear that regardless of what occurred, the double
20 jeopardy does attach, that the State cannot pursue
21 the charge again once the -- even if it's the
22 Court's determination and even if the Court erred in
23 how it instructed or failed to instruct the jury,
24 that the double jeopardy, once the Court makes that
25 determination of the insufficiency of the evidence,

1 the double jeopardy does attach.

2 so because it's not going to have a
3 different outcome and because I did not instruct
4 them with regard to that second count and then
5 further instruct them that I would designate that my
6 review of the evidence is that it's insufficient and
7 recommend acquittal, I didn't want to further
8 confuse them by trying to somehow put it back in or
9 reinstruct or have it on the verdict form.

10 So because double jeopardy attaches
11 regardless and because Mr. Cooper has already
12 stipulated that the State does not intend to pursue
13 it, I am going to sort of acknowledge my own error
14 but ultimately determine that it doesn't warrant us
15 changing the direction which we've proceeded, so

16 MR. COOPER: Your Honor, one just -- one
17 issue. On my -- I don't know if my instructions
18 were the same, but the wrong information was being
19 used in Count 3. It was the information that talks
20 about the agreement date and everything like that,
21 and I'm not going to object to it. It is what it
22 is, at this point. I just didn't know --

23 THE COURT: Hold on. I've got the original
24 here.

25 MS. HOJJAT: Oh.

1 THE COURT: I made the change to the one
2 language, but I didn't --

3 what else did we need to change?

4 MR. COOPER: Because I did file that
5 second, that actually strikes that language about
6 the lifetime supervision, lifetime supervision dates
7 or lifetime supervision agreement dates that it was
8 signed on and stuff like that, that was stricken in
9 the Second Amended Information, but it is contained
10 in that document. But I mean I --

11 THE COURT: I apologize. I think what
12 ended up happening was when you sent us the first
13 version and then you sent us the second version,
14 when I went back in and I made the adjustments, I
15 only adjusted --

16 MR. COOPER: Yes.

17 THE COURT: -- a portion of it and not all
18 of it.

19 MR. COOPER: I don't -- I don't think it's
20 going to create an issue.

21 THE COURT: But it was a change that you
22 made; it wasn't necessarily one that you were
23 advocating for. Correct me if I'm wrong. So I
24 think in the long run, it's again a harmless --

25 MR. COOPER: It is -- yeah, it is what it

1 is, Your Honor.

2 THE COURT: -- mistake more than an error,
3 I think in anything. What I did was I changed the
4 sex offense that requires lifetime supervision
5 language, and I forgot about the discussion and
6 didn't see the other changes. So appreciate you
7 pointing that out.

8 Ms. Hojjat.

9 MS. HOJJAT: Your Honor, we'll submit it on
10 what the Court said. My only inquiries to the Court
11 would be, because we had submitted a proposed jury
12 instruction about the directed verdict, I didn't end
13 up putting that in my packet because I thought the
14 jury was going to be instructed.

15 Would the Court like me to file that? I
16 didn't file it as of now. Whatever the Court's
17 preference is.

18 THE COURT: I don't think that we need it now
19 that I have the record of the Court's determination
20 of where it erred, but again, why we're not
21 proceeding further --

22 MS. HOJJAT: Okay.

23 THE COURT: -- to make a different change
24 and, again, further confuse the jury or bring
25 anything else into the jury's purview. I think what

1 we have right now is what we should have ultimately,
2 which is the jury has instructions on the one charge
3 that's still, you know, really available to them
4 potentially for conviction and let them deliberate
5 and let them come to a conclusion on that, and we'll
6 see. But this was not without error, the handling
7 of the directed verdict, and I appreciate the
8 opportunity to clarify that, and we'll take care of
9 it from there.

10 But go ahead and give your cell numbers, or
11 however you want us to reach you, and we'll advise
12 you as soon as the jury has returned with a verdict.

13 MS. HOJJAT: Thank you, Your Honor.

14 THE COURT: Thank you.

15 (Jury deliberates.)

16 (The following proceedings were held in the
17 presence of the jury:)

18 THE COURT: Thank you, everybody. Please
19 have a seat.

20 Please let the record reflect the presence
21 of the defendant, his counsel, and the deputy
22 district attorney.

23 will the parties, at this time, please
24 stipulate, for the record, of the presence of the
25 jury.

1 MS. BONAVENTURE: Yes, Your Honor.

2 MR. COOPER: Yes, Your Honor.

3 THE COURT: All right. Thank you very much.

4 Has the jury elected a foreperson, and if
5 that foreperson could please identify themselves by
6 juror number at this time.

7 JUROR NO. 1: Yes, Your Honor. Myself,
8 Jason Alper.

9 THE COURT: Juror No. 1. Thank you.
10 Has the jury reached a verdict?

11 JUROR NO. 1: Yes, Your Honor.

12 THE COURT: Would you please provide the
13 verdict to the marshal so he can bring it forward
14 for the Court's review.

15 Will the defendant and his attorneys please
16 stand, and the clerk will now read the verdict out
17 loud.

18 THE CLERK: District Court, Clark County,
19 Nevada, State of Nevada, Plaintiff vs. Steve Dell
20 McNeil, Defendant, Case No. C-14-297725-1,
21 Department No. 25. Verdict. We, the jury in the
22 above-entitled case, find the Defendant, Steve
23 Dell McNeil, as follows:

24 Count 1, violation of lifetime supervision
25 by convicted sex offender, guilty. Dated

1 July 9th, 2014, signed by the foreperson,
2 Juror No. 1.

3 Ladies and Gentlemen of the Jury, is this
4 your verdict as read? So say you one, so say
5 you all.

6 THE COURT: You have to --

7 THE JURY: Yes.

8 THE COURT: -- say so.

9 Would either side wish to have the jury
10 polled?

11 MS. BONAVENTURE: Yes, Your Honor. Please.

12 THE COURT: All right. Let me just clarify
13 because sometimes this is confusing. That was your
14 group statement that that was your verdict.

15 At this time, the clerk will read off your
16 juror number, one by one, and ask you if this is in
17 fact your individual verdict to confirm whether that
18 is the case.

19 THE CLERK: Juror No. 1, is this your
20 verdict as read?

21 JUROR NO. 1: Yes.

22 THE CLERK: Juror No. 2, is this your
23 verdict as read?

24 JUROR NO. 2: Yes.

25 THE CLERK: Juror No. 3, is this your

1 verdict as read?

2 JUROR NO. 3: Yes.

3 THE CLERK: Juror No. 4, is this your
4 verdict as read?

5 JUROR NO. 4: Yes.

6 THE CLERK: Juror No. 5, is this your
7 verdict as read?

8 JUROR NO. 5: Yes.

9 THE CLERK: Juror No. 6, is this your
10 verdict as read?

11 JUROR NO. 6: Yeah.

12 THE CLERK: Juror No. 7, is this your
13 verdict as read?

14 JUROR NO. 7: Yes.

15 THE CLERK: Juror No. 8, is this your
16 verdict as read?

17 JUROR NO. 8: Yes.

18 THE CLERK: Juror No. 9, is this your
19 verdict as read?

20 JUROR NO. 9: Yes.

21 THE CLERK: Juror No. 10, is this your
22 verdict as read?

23 JUROR NO. 10: Yes.

24 THE CLERK: Juror No. 11, is this your
25 verdict as read?

1 JUROR NO. 11: Yes.

2 THE CLERK: And, Juror No. 12, is this your
3 verdict as read?

4 JUROR NO. 12: Yes.

5 THE COURT: Thank you. You may have a seat
6 while I discharge the jury.

7 I just want to let you know, at this time,
8 first and foremost, of course how much the State,
9 the Defense and the Court appreciates your service.
10 Any case, no matter how long, is incredibly
11 important, and your service is incredibly valuable
12 to this community.

13 of course, I've instructed you throughout
14 the course of this trial that you are not to discuss
15 the case with anyone, including yourselves, until
16 you had a chance to deliberate and reach a verdict.
17 Now that you have completed your duties, you are of
18 course able to speak with anyone you wish to speak
19 to about this trial, about your verdict, and the
20 circumstances in the case.

21 Sometimes counsel will like to speak to the
22 jury to help better learn their skills and learn
23 what worked and did not work, as the case may be in
24 the trial. So you're certainly welcome to speak
25 with counsel. There's no reason not to, but you're

1 certainly not required to either.

2 If anybody wishes to speak with you and you
3 don't wish to speak with them, just let them know.
4 If anybody persists, which I don't anticipate; but
5 if that were to happen and you needed any assistance
6 in that regard, just have the Court -- let the Court
7 know, and we'll take care of it.

8 But, again, I just want to thank you for
9 your service. I want to let you know, again, that
10 you are welcome now to speak with anyone you see
11 fit. And at this time, you are discharged, and the
12 marshal will have any additional information you may
13 need.

14 Thank you very much.

15 (The following proceedings were held
16 outside the presence of the jury:)

17 THE COURT: In case I didn't say it
18 previously, of course the clerk needs to record the
19 verdict in the minutes of the court, and that will
20 be done, and the defendant will be returned to
21 custody and remanded back to custody for a
22 sentencing date in 60 days.

23 MR. COOPER: And, Your Honor, the State
24 would just ask that he be held without bail at this
25 point. Obviously, any issue in terms of whether or

1 not he was guilty has already been determined. And
2 I think that's the State's right pursuant to
3 Nevada law.

4 THE COURT: Counsel.

5 MS. BONAVENTURE: Your Honor, I would ask
6 for bail to remain the same.

7 THE COURT: Okay. The court will remand
8 the defendant without bail. Any presumption of
9 innocence is now resolved by the jury's verdict, and
10 the court will set the matter for sentencing on the
11 date that would be the soonest we could get for
12 anyone who remains in custody, which would be
13 60 days.

14 THE CLERK: September 10th, 9:00 a.m.

15 THE COURT: All right. Thank you all very
16 much. We'll see you then.

17 MR. COOPER: Thank you very much,
18 Your Honor.

19 MS. BONAVENTURE: Thank you, Your Honor.

20 MR. COOPER: Always a pleasure. It is what
21 it is.

22
23 (The proceedings concluded at 3:55 p.m.)

24 -000-

25

C E R T I F I C A T E

STATE OF NEVADA)
COUNTY OF CLARK) SS:

I, Dana J. Tavaglione, RPR, CCR 841, do hereby certify that I reported the foregoing proceedings; that the same is true and correct as reflected by my original machine shorthand notes taken at said time and place before the Hon. Kathleen E. Delaney, District Court Judge, presiding.

Dated at Las Vegas, Nevada, this 23rd day of December 2014.

/S/Dana J. Tavaglione

Dana J. Tavaglione, RPR, CCR NO. 841
Certified Court Reporter
Las Vegas, Nevada

CLERK OF THE COURT

BEFORE THE HONORABLE JUDGE KATHLEEN DELANEY

JULY 30, 2014, 9:00 A.M.

REPORTER'S TRANSCRIPT
OF
PROCEEDINGS

For the Plaintiff:	For the Defendant:
NICOLE CANNIZZARO, ESQ. Deputy District Attorney 200 Lewis Avenue Las Vegas, Nevada 89101	XIOMARA BONAVENTURE, ESQ. Deputy Public Defender 309 S. Third Street, #226 Las Vegas, Nevada 89155

1

1 LAS VEGAS, CLARK COUNTY, NEVADA

2 WEDNESDAY, JULY 30, 2014, 9:00 A.M.

3 PROCEEDINGS

4 * * *

5 THE COURT: State of Nevada versus Steve McNeill.

6 I see Mr. McNeill present in custody.

7 I had asked for you earlier because I had matters
8 on the calendar interestingly enough, and I just kind of
9 want to give this background for you and for Mr. McNeill's
10 edification. But there were four matters on the calendar
11 this morning where an attorney had successfully applied to
12 the court, my predecessor Judge Mosley, to have their
13 client released from lifetime supervision -- certain
14 conditions of lifetime supervision, let me be clear -- and
15 the Court agreed to allow the release from those
16 conditions.

17 I am not sure on what basis they did it, but
18 here's what happened. The State then appealed to the
19 supreme court that those certain conditions 1 through 23
20 be placed on the lifetime supervisor's Parole Board
21 similar to those in this case. And they were then removed
22 by Judge Mosley at the request of counsel.

23 It was done. The vehicle that was used to do
24 that was a postconviction petition for writ of habeas
25 corpus. And what happened was the supreme court said

1 that's the wrong vehicle, that unless the individual is
2 still under a term of incarceration that the Petition For
3 Writ of Habeas Corpus isn't available to them and anybody
4 who is under lifetime supervision is no longer under a
5 term of incarceration.

6 So the supreme court reversed solely on those
7 grounds, the procedural grounds. But what was interesting
8 to me is the supreme court mandated this court to
9 reinstate those conditions. And there was a footnote
10 where the supreme court speculated that to the extent
11 because there was no findings of fact and conclusions of
12 law, as all the reasons we don't know what the basis for
13 the ruling was, that to the extent that there was any
14 determination by the court made that 176.0931(3) would
15 apply which is when you could apply to release from
16 lifetime supervision conditions after a certain period of
17 time and comply with a certain condition, that that was
18 not applicable to any of these defendants either.

19 So the supreme court --

20 THE DEFENDANT: Begging the Court's pardon. Just
21 exactly how much time is that? What does the date start
22 and what is the final date?

23 THE COURT: I believe it's ten years.

24 THE DEFENDANT: Okay. From the date of
25 conviction?

1 THE COURT: Mr. McNeill, let me have that
2 confirmation with the counsel. I don't want to misspeak.
3 I'm not trying not to answer your question. My
4 recollection is it is from the start of the lifetime
5 supervision through to conclusion. After ten years you
6 can apply. It is not an automatic. And there are certain
7 conditions that have to be met.

8 THE DEFENDANT: Right. I had the conversation
9 with counsel last time we met. They were not sure. I
10 have no way to check.

11 THE COURT: It has changed. And there were times
12 when that was suspended because of appeals that were
13 happening.

14 THE DEFENDANT: Right.

15 THE COURT: And so there is a lot of confusion on
16 that point, so that's not your counsel's fault. You can
17 see I don't want to misspeak either.

18 THE DEFENDANT: Right.

19 THE COURT: But generally, my recollection of the
20 cases that have come on the calendar if certain conditions
21 have been met and a minimum is at least served on lifetime
22 supervision without problems for at least ten years, then
23 there is the possibility to apply. But that's kind of a
24 side note.

25 So to finish my thoughts here, Ms. Bonaventure,

1 so what I thought was interesting was the supreme court
2 wasn't just saying, you know, procedurally the Court did
3 this wrong so reinstate the conditions. They clearly had
4 thought it through and it seems to me that there would
5 have been an opportunity there for them to say, you know,
6 although this was an argument by a good counsel and maybe
7 will be and maybe should be so that the supreme court can
8 determine these particular arguments. But they didn't
9 say, Oh, by the way, these conditions shouldn't be
10 reinstated. They in fact did reinstate them.

11 So for interest sake, if you ever want to look
12 and see, based on the calendar, how those cases went down,
13 I found them kind of interesting.

14 But you have filed your postconviction motions,
15 and to the extent the briefings, and I will of course
16 absolutely let you make any representations or argument
17 you want to make for the record. But to the extent that
18 you were seeking the relief under NRS 176.525, it does
19 appear that there is a time constraint on that which is
20 seven days after determination of guilt.

21 The verdict, of course, is on the 9th. The
22 judgment of conviction was subsequent to that. I do not
23 have guidance on which date of those two is operative, but
24 I would assume that perhaps it should be the judgment of
25 conviction date, which would not make that untimely. But

1 if it is to be determined that it was to be the verdict
2 date, because that was when the determination of guilt was
3 made, then it would be untimely.

4 So I am just raising that there could potentially
5 be a time constraint. So just out of an abundance of
6 caution for these types of motions in the future, I don't
7 know the answer to that. But it is not necessarily going
8 to be the driving force on any decision today. I just
9 wanted to point out but to the extent that there is a
10 potential for the untimeliness of that particular motion
11 aspect, the NRS 176.525, I am going to for today's
12 purposes hear that motion basis as well as the other
13 motion basis because I believe that it should be seven
14 days from the judgment of conviction entry not from the
15 verdict entry, but who knows.

16 So based on the fact that you have made two
17 arguments for relief, is there anything you want to add
18 for the record?

19 MS. BONAVENTURE: No, Your Honor. Everything is
20 in the motion. I would just submit on the arguments in
21 the motion.

22 THE COURT: Okay. Ms. Cannizzaro, the State's
23 Opposition covered the ground that the Court had already
24 covered during trial, and I certainly think it preserved
25 these matters for the record. I have no qualms with this

1 matter being addressed in a postconviction motion so that
2 it is in the record and thoroughly determined. But do you
3 have anything you wish to add?

4 MS. CANNIZZARO: No, Your Honor. We would submit
5 it on the State's Opposition.

6 THE COURT: All right. For the reasons stated in
7 the State's Opposition which do conform with what the
8 Court determined during the course of the trial, the Court
9 is going to deny the motion, which again sought relief on
10 bases; one, the Motion For Arrest of Judgment Pursuant to
11 176.525, Or in the Alternative, Motion For Judgment of
12 Acquittal Pursuant to NRS 175.381, the Court does believe
13 that the legislature has properly conferred authority to
14 the Board, and the Board then has properly carried out
15 that authority to determine that lifetime supervision
16 conditions can and are applicable and can provide the
17 bases for charges of violation if they are not complied
18 with.

19 I guess the only thing I would add for the record
20 is in hindsight on the verdict form it probably would have
21 been beneficial to have specific boxes as to each of the
22 bases for the violation so that we would know which one or
23 ones the jurors found to be the basis, but we didn't have
24 that and it is not typical to have that. But in the civil
25 world it certainly would have been required to have that

1 as a special verdict form because then on appeal when the
2 court looks at this they will not necessarily know from
3 the jury what the bases was and because some of the bases
4 that were alleged, correct me if I'm wrong,
5 Ms. Bonaventure, some of the bases or at least one of the
6 bases that was alleged would be from the statute. But the
7 vast majority of them were from the Parole Board's added
8 conditions, if you will.

9 So it might have been helpful to know. We won't
10 know that. But we will at least know when the supreme
11 court takes a look at this whether or not that authority
12 is there or whether or not in order to have a violation of
13 lifetime supervision charge it has to be just within the
14 statute.

15 I am intrigued as anyone to see if the supreme
16 court agrees with my analysis, but my analysis has already
17 been made and I think the State set that out clearly. So
18 I will ask the State to prepare the order denying the
19 motion on those bases. And then obviously give you a
20 chance to review it so we do have a clear record.

21 MS. BONAVENTURE: All right. Thank you so much.

22 THE COURT: Thank you.

23 (Proceedings were concluded.)
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I, BRENDA SCHROEDER, a certified court reporter in and for the State of Nevada, do hereby certify that the foregoing and attached pages 1-11 inclusive, comprise a true, and accurate transcript of the proceedings reported by me in the matter of THE STATE OF NEVADA, Plaintiff, versus STEVE DELL MCNEILL, Defendant, Case No. C297725, on July 30, 2014.

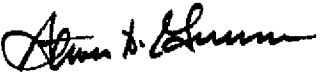
Dated this 28th day of December, 2014.

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DISTRICT COURT
CLARK COUNTY, NEVADA


CLERK OF THE COURT

THE STATE OF NEVADA,)
)
Plaintiff,) Case No. C-14-297725-1
)
vs.) Dept No. XXV
)
STEVE DELL MCNEILL,)
)
Defendant.)
)
)
)

BEFORE THE HONORABLE JUDGE KATHLEEN DELANEY
SEPTEMBER 10, 2014, 9:00 A.M.

REPORTER'S TRANSCRIPT
OF
SENTENCING

APPEARANCES:

For the Plaintiff:

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For the Defendant:

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REPORTED BY: BRENDA SCHROEDER, CCR NO. 867

1 LAS VEGAS, CLARK COUNTY, NEVADA

2 WEDNESDAY, SEPTEMBER 10, 2014, 9:00 A.M.

3 PROCEEDINGS

4 * * *

5 THE COURT: State of Nevada versus Steve
6 McNeill. Seeing Mr. McNeill present in custody.

7 This matter is on for sentencing today. Is
8 there any legal cause or reason why we cannot proceed
9 with sentencing?

10 MS. BONAVENTURE: No, Your Honor.

11 THE COURT: All right. This of course was a
12 jury verdict so we need to hear from the State their
13 argument.

14 MS. RHOADES: Yes, Your Honor. The Court sat
15 through the trial, knows the facts of the case. The
16 State is asking for the maximum sentence on this
17 defendant; 28 to 72 months in the Nevada Department of
18 Corrections. He has 158 days credit for time served.

19 I do realize that P and P recommends a minimum
20 front end 12 to 48. I am kind of surprised about that.
21 I mean, his criminal history dates back to 1986, and it
22 is not small things that he is doing. These are very
23 scary crimes against children in different states.

24 So he starts off 1986, California, he has a
25 lewdness with a minor. He violates parole in that case.

1 1993 in Idaho, he is picked up for carrying a concealed
2 weapon. 1995 he is in Texas and has picked up a
3 misdemeanor assault charge with injury. He was convicted
4 of that charge in Texas. In 2004 he comes to Nevada, he
5 picks up more sexual assault charges against minors and
6 is sentenced to prison in that case.

7 Now, we have him for a violation of lifetime
8 supervision. He is not doing what he should, he is not
9 reporting as he should. And, you know, I know that these
10 charges are not as serious as the prior crimes that he
11 has but his criminal history has shown that he is never
12 going to change. He is never going to change. And we
13 are asking for the 28 to 72 in this case.

14 THE COURT: Thank you.

15 Ms. Bonaventure.

16 MS. BONAVENTURE: Yes, Your Honor. Obviously,
17 Ms. Rhoades has not had the ability to watch the trial at
18 this point. First of all, Your Honor, I want to give you
19 an idea of the procedural history in this case because at
20 any particular point in time there was never the same
21 District Attorney standing in the District Attorney spot.

22 When we first started this case in arraignment
23 there was -- it's actually really funny to me that the
24 State is now asking for the maximum which there was an
25 early offer relayed in court at his arraignment for the

1 defendant, which was actually never relayed to him
2 because of the events that took place in justice court
3 that morning.

4 However, that early offer was a misdemeanor and
5 six months in the Clark County Detention Center. Like I
6 said, that was never relayed to him. It was set for
7 preliminary hearing. I was assigned as his attorney. I
8 asked the DA to reextend that same offer, misdemeanor,
9 six months. My client was willing to take that offer.

10 We show up for prelim -- and that was Alicia
11 Albritton -- she said absolutely not. She said at that
12 point in time she thought this case was worth a gross
13 misdemeanor and refused to extend the misdemeanor offer.

14 We left the preliminary hearing on and at
15 preliminary hearing it was then Mr. Zadrowski, at which
16 point he reextended the initial six months offer which
17 Mr. McNeill said, Yes, I will take that six-month offer.

18 And right before the judge called the case,
19 right before Judge Lippis called the case for prelim, in
20 walks a camera crew, Officer Mangan and her supervisor
21 who also testified at the trial, at which point the offer
22 for the misdemeanor six months was rescinded. He was no
23 longer able to take that offer and the preliminary
24 hearing was forced forward for the cameras.

25 Later on that night I did see on the news -- it

1 was some story about how the State of Nevada goes too
2 light or offer misdemeanors. So they used Mr. McNeill as
3 a test case and used him to go forward and fulfill their
4 political agenda at this point in time when this case
5 should have never even made it to your courtroom, Your
6 Honor, had that camera not come into court.

7 And then we're set for trial, at which point,
8 Mr. Zadrowski is on another case and Mr. Cooper picks up
9 the case. Mr. Cooper refuses to give a misdemeanor
10 offer. I tried to explain to him the procedure of the
11 entire case beforehand. He didn't care one way or the
12 other. His offer I believe was a felony minimum. Of
13 course my client is not willing to take that at this
14 time, so we proceed with trial.

15 And at trial, Your Honor, you saw what an awful
16 witness their probation officer was. In fact, after
17 preliminary hearing, Mr. Zadrowski said this case will
18 absolutely deal, which is why I counted on that in order
19 to talk to Mr. Cooper. Nobody cared. Nobody listened.
20 That is why we did go forward with trial, Your Honor.

21 Like I was saying, Officer Mangan took the
22 stand. She had so many inconsistent statements, Your
23 Honor, that when we went to talk to the grand jury they
24 had nothing good to say about her. They said the reason
25 they convicted him was because prior to Officer Mangan

1 was the fact that he did get terminated from his sex
2 offense counseling.

3 And so they hung their hat on that in order to
4 convict him. Nothing that Officer Mangan had said even
5 rang true with them. And that just goes to show how
6 aggressive Officer Mangan was with Mr. McNeill.
7 Something that happened even prior to the fact that he
8 was even in her supervisory capacity over him -- his
9 prior POs, two POs that he went through before he even
10 got to him, didn't see fit to terminate him based on
11 those grounds. Only when she became his officer. Only
12 when she is trying to revoke and revoke and revoke him,
13 and is unsuccessful, her charges are denied does she then
14 take that one thing that was in the past and throw it in
15 to the mix now.

16 I think the maximums are absolutely not
17 appropriate in this, especially considering the fact the
18 initial offer in this case was a misdemeanor, six months.

19 I am not going to stand here and ask for
20 probation, Your Honor, but the State is saying that he is
21 a terrible, terrible person. Yes, he has committed
22 sexual offenses. That's why he is on lifetime
23 supervision. But what he is being convicted of now, Your
24 Honor, has nothing to do with -- it is nowhere in the
25 ballpark of his priors, of his sex offenses. This is not

1 a new sex offense.

2 This is a situation where the PO didn't like
3 him, they didn't get along, there was a personality
4 conflict and so she wanted to get rid of him.

5 At this point, Your Honor, what I would ask for
6 would be the minimums in this case, which is recommended
7 by Parole and Probation. They ask for 12 to 48. I would
8 ask for 12 to 36, Your Honor, because quite honestly I
9 think that the case was just a mess from the beginning.
10 He has been in custody for this long. To punish him
11 further for the actions that were misrepresented by PO
12 Mangan would just be injustice across the board.

13 THE COURT: Thank you, Ms. Bonaventure.

14 Mr. McNeill, did you want to address the Court?
15 We haven't had the chance before obviously, but this is
16 your date for sentencing.

17 THE DEFENDANT: Only for the record and with all
18 due respect, in recognition of your service to our
19 community, I would like to accept your oath of office as
20 a lawful binding contract between the two of us.

21 I would like to motion this court at this time
22 to drop the charges in light that the State has failed to
23 present a cause of action for which relief can be granted
24 in that there is no victim so who would you grant relief
25 to.

1 Furthermore, there is also the fact that, well,
2 quite frankly, I would like to see some proof of
3 jurisdiction, not just jurisdiction of me but over the
4 subject matter and subject of course because I have heard
5 Your Honor on several different cases say that this is a
6 criminal court and I have been convicted of a contract
7 violation. That's a civil matter.

8 And then I would like to also see some proof
9 that the prosecution actually obtained leave of court
10 giving Your Honor jurisdiction to even hear their side of
11 the case.

12 And then there was the fact that I was forced to
13 take an attorney. I am told by the first judge or
14 magistrate, whoever she was -- I never even get the
15 chance to read her nameplate on the desk. I wasn't in
16 the courtroom for more than 30 seconds before she forced
17 an attorney on me.

18 And then when I vehemently objected for the
19 record, she simply just bailed from the courtroom and had
20 me dragged out.

21 THE COURT: Mr. McNeill, I gave the same
22 instruction to another defendant earlier today, this is
23 your time for sentencing. This is not to revisit
24 anything that has happened before today. If you want to
25 advocate for your sentencing and what your sentencing

1 should be, your attorney has already very passionately
2 argued on your behalf for something lesser than what was
3 recommended in the PSI.

4 I appreciate that you have questions and
5 concerns about this Court's jurisdiction. I can say for
6 the record that we have the jurisdiction. This is a
7 criminal case. It has been tried in front of a jury that
8 has reached a verdict. This is now the time for
9 sentencing. So if you have anything relevant to
10 sentencing, I am happy to hear it, if not, then we need
11 to move on.

12 THE DEFENDANT: It says in Joyce versus US that
13 there is no discretion to ignore the lack of
14 jurisdiction. It also says in US versus Well that
15 without jurisdiction you can't make a ruling against me
16 of any kind or even pass sentence on me.

17 THE COURT: Mr. McNeill, as we have already
18 established that there is jurisdiction in this case --

19 THE DEFENDANT: I haven't seen it established.

20 THE COURT: You don't need to see it,
21 Mr. McNeill, I stated it for the record. We are complete
22 now.

23 I am going to at this time adjudicate
24 Mr. McNeill guilty of the violation of lifetime
25 supervision --

1 THE DEFENDANT: So you don't have to follow the
2 law?

3 THE COURT: Mr. McNeill, sit down if you are
4 going to stay in the courtroom, otherwise I will have you
5 removed. I have to complete the sentencing today. The
6 law is what the law is. We have already had a trial. I
7 have already told you I have jurisdiction. If you want
8 to in a postconviction petition research and explore that
9 issue you are welcome to do so. I am telling you there
10 is jurisdiction.

11 So you are not speaking about sentencing, we do
12 not have anything further to talk about.

13 You are adjudicated guilty of violation of
14 lifetime supervision by a convicted sex offender. I am
15 going to sentence you as requested by your attorney
16 because I do know the totality of the circumstances in
17 this case, to a minimum of 12, maximum of 36 months in
18 the Nevada Department of Corrections, and impose a \$25
19 administrative assessment fee, and I am going to give you
20 150 days credit for time served. Good luck, sir.

21 (Proceedings were concluded.)
22
23
24
25

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<p> P </p> <p> Parole [1] - 7:7 parole [1] - 2:25 particular [1] - 3:20 pass [1] - 9:16 passionately [1] - 9:1 </p>				

CASE NO. C297725
 DEPT. NO. XXV

TRIAL DATE: July 7, 2014
 JUDGE: KATHLEEN DELANEY
 CLERK: KRISTEN BROWN
 REPORTER: BRENDA SCHROEDER

STATE OF NEVADA

PLAINTIFF,

vs.

MCNEILL, STEVE DELL

DEFENDANT,

J. COOPER

COUNSEL FOR PLAINTIFF

X. BONAVENTURE / N. HOJJAT

COUNSEL FOR DEFENDANT

EXCUSED

Badge No.	Name of Jurors	State	Defendant
008	1. HOSS, DARRELL	5	
003	2. ALPER, JASON 1		
055	3. MANDE, JACE	2	
060	4. RIVERA, JOE 2		
166	5. CARDOZA, GIANNI		3
001	6. LAGOMARSINO, BRIAN 3		
679	7. SWAIN, JEFFREY 4		
708	8. SPOONER, JACOB 5		
883	9. VILCHEZ, ISAAC 6		
885	10. MOORE, JASON 7		
905	11. RICE-WILSON, IDALIA 8		
907	12. MORALES, JORGE		2
909	13. WHISENANT, WINDELL		4
985	14. WALKER, JUSTIN 9		
924	15. TOWERS, SHIRLEY		5
927	16. BENSON, RICHARD	3	
930	17. CANALES, GILBERT 10		
005	18. POLLARD, GARY		1
987	19. MANNING, STEVEN 11		
940	20. BAKKEDAHL, JAMES 12		
000	21. BURGESS, MARTIN	4	
958	22. SCHULTZ, BONNIE 13		
971	23. HAMILTON, JOEY 14		
006	24. BURRIS, JOHN	1	

CASE NO.

C297725

DEPT NO.

XXV

HEARING DATE: 7/7/14

JUDGE: Judge Delaney

CLERK: Kristen Brown

RECORDER: B. Schroeder

Jonathan Cooper

COUNSEL FOR PLAINTIFF

Xiomara Bonaventure

COUNSEL FOR DEFENDANT

PLAINTIFF State of Nevada,

VS

DEFENDANT Steve Dell McNeill.

No.		Date Offered	Obj	Date Admitted
1	Cease and Desist Letter - WITHDRAWN			
2	Lifetime Supervision Agreement dated 11-8-07	7/8	OBJ	7/8
3	Lifetime Supervision Agreement dated 12-4-07	7/8	OBJ	7/8
4	Lifetime Supervision Agreement dated 11-7-12	7/8	OBJ	7/8
5	Probation and Parole monthly report dated 3-29-13	7/8	NO	7/8
6	Probation and Parole monthly report dated 4-12-13	7/8	NO	7/8
7	Probation and Parole monthly report dated 5-8-13	7/8	NO	7/8
8	Probation and Parole monthly report dated 6-6-13	7/8	NO	7/8
9	Probation and Parole monthly report dated 7-11-13	7/8	NO	7/8
10	Probation and Parole monthly report dated 8-15-13	7/8	OBJ	7/8
11	TERMINATION SUMMARY	7/9	NO	7/9
12				

LIFETIME SUPERVISION AGREEMENT

NDOC No: N/A
File No.: LS08-0537
CC No.: C204263

On the 10TH day of NOVEMBER, 2004, MCNEILL, STEVE was sentenced by JOHN S MCGOPARTY, District Judge of the 8TH Judicial District Court in and for the County of CLARK, State of Nevada, to the Nevada State Prison, for the crime of _____.

The sentencing court, in addition to your sentence, ordered that you be placed on Lifetime supervision under the Order of the Division of Parole and Probation. The Board of Parole Commissioners, by virtue of the authority vested in it by the laws of the State of Nevada, hereby assigns the conditions of Lifetime Supervision.

1. **Reporting/Release:** You are required to submit a written report as directed by your supervising officer. The report will be true and correct in all respects. In addition, you shall report in person as directed by your supervising officer and submit a DNA sample as required.
2. **Residence:** You shall reside at a location only if it has been approved by your supervising officer. You shall not change your place of residence without first obtaining permission from your supervising officer.
3. **Intoxicants:** You shall not drink or partake of any alcoholic beverages whatsoever. Upon request by the any Parole or Peace Officer, you shall submit to a medically recognized test for blood alcohol content. Failure to submit shall constitute a violation of your lifetime supervision. Test results of .08 blood alcohol or higher shall be sufficient proof of excess.
4. **Controlled Substances:** You shall not use, purchase or process any narcotic drugs, nor any dangerous drugs, unless first prescribed by a licensed physician; you shall submit to periodic tests to determine whether you are using a controlled substance, as required by your supervising officer.
5. **Weapons:** You shall not possess, own, carry, or have under your control, any type of firearm or illegal weapon.
6. **Associates:** You shall not associate with ex-felons or any person who is required to register as a sex offender under Nevada law without permission from your supervising officer.
7. **Cooperation:** You shall, at all times, cooperate with your supervising officer and your behavior shall justify the opportunity granted to you by this Lifetime Supervision.
8. **Laws and Conduct:** You shall comply with all municipal, county, state and federal laws, and ordinances; and conduct yourself as a good citizen. You shall comply with all offender registration requirements.
9. **Out-of-State Travel:** You shall not leave the State without first obtaining written permission from your supervising officer.
10. **Employment/Program:** You shall seek and maintain employment, or maintain a program approved by the Division of Parole and Probation and not change such employment or program without first obtaining permission. You shall accept a position of employment only if it has been approved by your supervising officer.
11. **Supervision Fees:** Pay all applicable fees, fines and restitution on a schedule as determined by the Division of Parole and Probation.
12. **Curfew:** You shall abide by any curfew imposed by your supervising officer.
13. **Counseling:** Participate in professional counseling if deemed necessary by the Division of Parole and Probation.
14. **Polygraph Examination:** You shall submit to periodic polygraph examination, as required by your supervising officer.
15. **No Contact:** You shall not have contact or communication with a victim of the offense who testified against you, or solicit another person to engage in such contact or communication on your behalf without permission from your supervising officer.
16. **Alias Names:** You shall not use aliases or fictitious names without permission from your supervising officer.
17. **Post Office Box:** You shall not obtain a post office box unless you have obtained permission from your supervising officer.
18. **No Contact With Persons Under 18 Years of Age:** You shall not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of an offense listed in NRS 199D.410 is present.
19. **Presence:** You shall not be in or near:
 - a) A playground, school or school grounds;
 - b) A motion picture theater;
 - c) A business that primarily has children as customers or conducts events that primarily children attend.
20. **Search:** You shall submit to a search of your person, property under your control, or place of residence, by a Parole Officer, at any time of the day or night without a warrant, upon reasonable cause as ascertained by the Parole Officer.
21. **Special Conditions of Your Lifetime Supervision:** PENDING PAROLE BOARD ORDER

This Lifetime Supervision is granted to and accepted by you, subject to the conditions stated herein, and with the knowledge that the Board of Parole Commissioners has the power, at any time, to modify the conditions of supervision. Pursuant to NRS 213.1243(3), failure to comply with the conditions as set forth may result in felony charges being filed.

Chief Parole Officer: Dale WilliamsDated: 11/7/07

AGREEMENT BY OFFENDER

I do hereby waive extradition to the State of Nevada from any state in the United States, and from any territory or country outside the continental United States, and also agree that I will not contest any effort to return me to the United States or the State of Nevada. I have read or had read to me, the conditions of my Lifetime Supervision, and I fully understand them and I agree to abide by and strictly follow them. I fully understand the penalties involved should I, in any manner, violate the foregoing conditions.

Offender: S. McNeill LLHDated: 11-8-07Witness: CCS BrewerNov 8, 2007MAR 11 2008
STATE OF NEVADA
EXHIBIT

LIFETIME SUPERVISION AGREEMENT

NDOC No: N/A

File No.: LS08-0537

CC No.: C204263

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The sentencing court, in addition to your sentence, ordered that you be placed on Lifetime Supervision under the Chuet of the Division of Parole and Probation. The Board of Parole Commissioners, by virtue of the authority vested in it by the laws of the State of Nevada, hereby assigns the conditions of Lifetime Supervision.

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3. **Intoxicants:** You shall not drink or partake of any alcoholic beverages whatsoever. Upon request by the any Parole or Peace Officer, you shall submit to a medically recognized test for blood alcohol content. Failure to submit shall constitute a violation of your lifetime supervision. Test results of .08 blood alcohol or higher shall be sufficient proof of excess.
4. **Controlled Substances:** You shall not use, purchase or process any narcotic drugs, nor any dangerous drugs, unless first prescribed by a licensed physician; you shall submit to periodic tests to determine whether you are using a controlled substance, as required by your supervising officer.
5. **Weapons:** You shall not possess, own, carry, or have under your control, any type of firearm or illegal weapon.
6. **Associates:** You shall not associate with ex-felons or any person who is required to register as a sex offender under Nevada law without permission from your supervising officer.
7. **Cooperation:** You shall, at all times, cooperate with your supervising officer and your behavior shall justify the opportunity granted to you by this Lifetime Supervision.
8. **Laws and Conduct:** You shall comply with all municipal, county, state and federal laws, and ordinances; and conduct yourself as a good citizen. You shall comply with all offender registration requirements.
9. **Out-of-State Travel:** You shall not leave the State without first obtaining written permission from your supervising officer.
10. **Employment/Program:** You shall seek and maintain employment, or maintain a program approved by the Division of Parole and Probation and not change such employment or program without first obtaining permission. You shall accept a position of employment only if it has been approved by your supervising officer.
11. **Supervision Fees:** Pay all applicable fees, fines and restitution on a schedule as determined by the Division of Parole and Probation.
12. **Curfew:** You shall abide by any curfew imposed by your supervising officer.
13. **Counseling:** Participate in professional counseling if deemed necessary by the Division of Parole and Probation.
14. **Polygraph Examination:** You shall submit to periodic polygraph examination, as required by your supervising officer.
15. **No Contact:** You shall not have contact or communicate with a victim of the offense who testified against you, or solicit another person to engage in such contact or communication on your behalf without permission from your supervising officer.
16. **Alias Names:** You shall not use aliases or fictitious names without permission from your supervising officer.
17. **Post Office Box:** You shall not obtain a post office box unless you have obtained permission from your supervising officer.
18. **No Contact With Persons Under 18 Years of Age:** You shall not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of an offense listed in NRS 179D.410 is present.
19. **Presence:** You shall not be in or near:
 - a) A playground, school or school grounds;
 - b) A motion picture theater;
 - c) A business that primarily has children as customers or conducts events that primarily children attend.
20. **Search:** You shall submit to a search of your person, property under your control, or place of residence, by a Parole Officer, at any time of the day or night without a warrant, upon reasonable cause as ascertained by the Parole Officer.
21. **Special Conditions of Your Lifetime Supervision:** PENDING PAROLE BOARD ORDER

This Lifetime Supervision is granted to and accepted by you, subject to the conditions stated herein, and with the knowledge that the Board of Parole Commissioners has the power, at any time, to modify the conditions of supervision. Pursuant to NRS 213.1243(3), failure to comply with the conditions as set forth may result in felony charges being filed.

Chief Parole Officer: [Signature]

Dated: 12-4-2007

AGREEMENT BY OFFENDER

I do hereby waive extradition to the State of Nevada from any state in the United States, and from any territory or country outside the continental United States, and also agree that I will not contest any effort to return me to the United States or the State of Nevada. I have read or had read to me, the conditions of my Lifetime Supervision, and I fully understand them and I agree to abide by and strictly follow them. I fully understand the penalties involved should I, in any manner, violate the foregoing conditions.

Offender: [Signature]

Witness: [Signature]

Dated: 12-4-07

MARKED
STATE'S



MARK INFORMATION
STATISTICS BIT

LIFETIME SUPERVISION AGREEMENT

NDOC No: N/A
File No.: LS08-0537
CC No.: C204263

On the 10TH day of NOVEMBER, 2004, MCNEILL, STEVE was sentenced by JOHN S MCGROARTY, District Judge of the 8TH Judicial District Court in and for the County of CLARK, State of Nevada, to i
for the crime of _____
The sentencing court, in addition to your sentence, ordered that you be placed on Lifetime Supervision under the Chief of the Division of Parole and Probation. The Board of Parole Commissioners, by virtue of the authority vested in it by the laws of the State of Nevada, hereby assigns the conditions of Lifetime Supervision.

1. **Reporting/Release:** You are required to submit a written report as directed by your supervising officer. The report will be true and correct in all respects. In addition, you shall report in person as directed by your supervising officer and submit a DNA sample as required.
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4. **Controlled Substances:** You shall not use, purchase or process any narcotic drugs, nor any dangerous drugs, unless first prescribed by a licensed physician; you shall submit to periodic tests to determine whether you are using a controlled substance, as required by your supervising officer.
5. **Weapons:** You shall not possess, own, carry, or have under your control, any type of firearm or illegal weapon.
6. **Associates:** You shall not associate with ex-felons or any person who is required to register as a sex offender under Nevada law without permission from your supervising officer.
7. **Cooperation:** You shall, at all times, cooperate with your supervising officer and your behavior shall justify the opportunity granted to you by this Lifetime Supervision.
8. **Laws and Conduct:** You shall comply with all municipal, county, state and federal laws, and ordinances; and conduct yourself as a good citizen. You shall comply with all offender registration requirements.
9. **Out-of-State Travel:** You shall not leave the State without first obtaining written permission from your supervising officer.
10. **Employment/Program:** You shall seek and maintain employment, or maintain a program approved by the Division of Parole and Probation and not change such employment or program without first obtaining permission. You shall accept a position of employment only if it has been approved by your supervising officer.
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12. **Curfew:** You shall abide by any curfew imposed by your supervising officer.
13. **Counseling:** Participate in professional counseling if deemed necessary by the Division of Parole and Probation.
14. **Polygraph Examination:** You shall submit to periodic polygraph examination, as required by your supervising officer.
15. **No Contact:** You shall not have contact or communicate with a victim of the offense who testified against you, or solicit another person to engage in such contact or communication on your behalf without permission from your supervising officer.
16. **Alias Names:** You shall not use aliases or fictitious names without permission from your supervising officer.
17. **Post Office Box:** You shall not obtain a post office box unless you have obtained permission from your supervising officer.
18. **No Contact With Persons Under 18 Years of Age:** You shall not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of an offense listed in NRS 179D.410 is present.
19. **Presence:** You shall not be in or near:
 - a) A playground, school or school grounds;
 - b) A motion picture theater;
 - c) A business that primarily has children as customers or conducts events that primarily children attend.
20. **Search:** You shall submit to a search of your person, property under your control, or place of residence, by a Parole Officer, at any time of the day or night without a warrant, upon reasonable cause as ascertained by the Parole Officer.
21. **Special Conditions of Your Lifetime Supervision: EFFECTIVE 5/24/11:** 1) Not to patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the supervising officer; 2) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device of any other means, unless possession of a such a device or such access is approved by the supervising officer. An Internet monitoring service provider approved by the supervising officer will be the only means allowed for any and all Internet access device or service. 3) Abstain from consuming, possessing or having under your control any alcohol; 4) Not possess any sexually explicit material that is deemed inappropriate by the supervising officer; 5) Not possess any sexually explicit material that is deemed inappropriate by the supervising officer; 5) Comply with any protocol concerning the prescription medication prescribed by the treating physician, including, without limitation, any protocol concerning the use of psychotropic medication;

This Lifetime Supervision is granted to and accepted by you, subject to the conditions stated herein, and with the knowledge that the Board of Parole Commissioners has the power, at any time, to modify the conditions of supervision. Pursuant to NRS 213.1243(3), failure to comply with the conditions as set forth may result in felony charges being filed.

Chief Parole Officer: _____

Dated: _____

AGREEMENT BY OFFENDER

I do hereby waive extradition to the State of Nevada from any state in the United States, and from any territory or country outside the continental United States, and also agree that I will not contest any effort to return me to the United States or the State of Nevada. I have read or had read to me, the conditions of my Lifetime Supervision, and I fully understand them and I agree to abide by and strictly follow them. I fully understand the penalties involved should I, in any manner, violate the foregoing conditions.

Witness: _____

Offender: 5. McMillan

Dated: 11/7/12

STATE OF NEVADA
CERTIFICATION OF
BOARD OF PAROLE COMMISSIONERS ACTION

CONDITIONS OF LIFETIME SUPERVISION - NRS 213.1243

MICNEILL, STEVE

Name

LS08-0537

NDOC#Criminal Case #

Northern Parole Board


LC n

05/24/2011

Date of Action

The board has excluded, amended or added the following information to the standard conditions of lifetime supervision:

- 1 Not to patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the supervising officer.
- 2 Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the supervising officer. An Internet monitoring service provider approved by the supervising officer will be the only means allowed for any and all Internet access device or service.
- 3 Abstain from consuming, possessing or having under your control any alcohol.
- 4 Not possess any sexually explicit material that is deemed inappropriate by the supervising officer.
- 5 Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication.
- 6 Do not enter a bar or lounge for any purpose except for employment.


FOR THE NEVADA BOARD OF PAROLE COMMISSIONERS

Recommendation of the panel:

Commissioner S. Jackson GRANT

Commissioner T. Corda GRANT

Commissioner A. Endel GRANT

The final action was ratified by the following parole commissioners:

Commissioner S. Jackson GRANT

Commissioner T. Corda GRANT

Commissioner A. Endel GRANT

Chairman C. Bisbee GRANT

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STAT BIT



DIVISION OF PAROLE AND PROBATION MONTHLY REPORT



PAROLE/PROBATION MONTHLY SUPERVISION REPORT FOR: Month: 3 Day: 29 Year: 13
 MY PAROLE/PROBATION OFFICER IS: The last one was Van Dike

Check One:

Did you move this month? Yes ☐ No ☒ Did you change jobs this month? Yes ☐ No ☒

Your Name: Steve D. McNeill Phone #: 702-462-1333 cell
 Your Address: Main + Colorado City/State/Zip: Las Vegas, NV 89104
 Mailing Address: None City/State/Zip:
 Storage Unit/#: City/State/Zip:
 I live with: No one Relationship: — Adult ☒ Juvenile ☐
 I live with: Relationship: Adult ☐ Juvenile ☐
 I live with: Relationship: Adult ☐ Juvenile ☐
 I live with: Relationship: Adult ☐ Juvenile ☐
 Your Employer: unemployed Phone #
 Supervisor Name: for 1.5 years Work Schedule:
 Address: sporadic P/T employment City/State/Zip:
 Catcher - Zumbing

List all vehicles you own or drive: June / July 2012 last time

Year	Make	Model	Color	License #	Owner	Insured by
<u>Has Valid DL but walks</u>						

Counseling Yes ☐ No ☒ Provider: Marcia Lee was kicked out
 Counseling Schedule:
 Counseling Schedule:

Computer? Yes ☐ No ☒ Email Address(s):
 Screen Name(s) / Service
 Other (Social Networking?):

Did you visit a doctor this month: Yes ☐ No ☒ Medication prescribed: Free clinic off Sahara

Community service work hours completed this month: 0
 Restitution amount paid this month: \$ 0 Owes 300.00
 Supervision fee amount paid this month: \$ 0 Owes 1710.00

If I wish to succeed on Supervision:

- I will begin with obeying all institutional regulations and start planning for my future as a productive, law-abiding citizen;
- I will fully accept responsibility for my actions;
- I will understand the harm my actions have caused and acknowledge that I have done something wrong;
- I will offer an apology to my victims and community;
- I will repair the harm I have caused and will make restitution to my victims

Nevada law allows for an offender who has been convicted of a Felony or Gross Misdemeanor within the state of Nevada to shorten their term of probation by 20 days for every month they are employed and pay their financial obligations to the Court and to the Division of Parole and Probation.

No credit will be given to a probationer that are not employed and currently working or have complied with all Court ordered financial obligations and payment of Supervision Fees monthly to the Division. A payment of \$30 must be received by the Division each and every month in order to ensure you collect your credit.

Upon successful completion of specialty court, the probationer will receive any credits that would have been earned while in specialty court, retroactive to the date the probationer entered the program. This date will not be backdated any further than the date the supervising officer was notified of the completion of specialty court.

Those probationers that are removed from specialty court due to non-compliance will not be given any retroactive credit.

Financial Obligations:

Any excess monies paid will be applied to any other outstanding fees, fines and/or restitution, even if it is discovered after your discharge.

I HAVE READ AND UNDERSTAND THE ABOVE; THE INFORMATION I HAVE SUBMITTED IN THIS REPORT IS TRUE TO THE BEST OF MY KNOWLEDGE.

Report approved by:

Steve D. McNeill

Your Signature

MAJCD 4487

Parole and Probation Employee

J-29-13

Today's Date
Maaland / Charleston
Camory mat

Maaland / Charleston

MARKET STATE ON IT

DIVISION OF PAROLE AND PROBATION MONTHLY REPORT

PAROLE/PROBATION MONTHLY SUPERVISION REPORT FOR:	Month: <u>4</u> Day: <u>12</u> Year: <u>2013</u>
MY PAROLE/PROBATION OFFICER IS: <u>Officer Mangum</u>	

Check One:

Did you move this month?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did you change jobs this month?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
--------------------------	------------------------------	--	---------------------------------	------------------------------	--

Your Name: <u>Steve McNeill</u>	Phone #: <u>702-462-1323 cell</u>		
Your Address: <u>None</u>	City/State/Zip: <u>702-713-6438</u>		
Mailing Address:	City/State/Zip: <u>702-503-6263</u>		
Storage Unit/#:	City/State/Zip: <u>748-3345</u>		
I live with: <u>N/A</u>	Relationship: <table style="width: 100%;"><tr><td style="width: 50%; text-align: center;">Adult <input type="checkbox"/></td><td style="width: 50%; text-align: center;">Juvenile <input type="checkbox"/></td></tr></table>	Adult <input type="checkbox"/>	Juvenile <input type="checkbox"/>
Adult <input type="checkbox"/>	Juvenile <input type="checkbox"/>		
I live with:	Relationship: <table style="width: 100%;"><tr><td style="width: 50%; text-align: center;">Adult <input type="checkbox"/></td><td style="width: 50%; text-align: center;">Juvenile <input type="checkbox"/></td></tr></table>	Adult <input type="checkbox"/>	Juvenile <input type="checkbox"/>
Adult <input type="checkbox"/>	Juvenile <input type="checkbox"/>		
I live with:	Relationship: <table style="width: 100%;"><tr><td style="width: 50%; text-align: center;">Adult <input type="checkbox"/></td><td style="width: 50%; text-align: center;">Juvenile <input type="checkbox"/></td></tr></table>	Adult <input type="checkbox"/>	Juvenile <input type="checkbox"/>
Adult <input type="checkbox"/>	Juvenile <input type="checkbox"/>		
I live with:	Relationship: <table style="width: 100%;"><tr><td style="width: 50%; text-align: center;">Adult <input type="checkbox"/></td><td style="width: 50%; text-align: center;">Juvenile <input type="checkbox"/></td></tr></table>	Adult <input type="checkbox"/>	Juvenile <input type="checkbox"/>
Adult <input type="checkbox"/>	Juvenile <input type="checkbox"/>		
Your Employer: <u>None</u>	Phone #		
Supervisor Name:	Work Schedule:		
Address:	City/State/Zip:		

List all vehicles you own or drive:

Year	Make	Model	Color	License #	Owner	Insured by
<u>None</u>						

Counseling	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Provider: <u>(need to call mercia lee)</u>
Counseling Schedule:			

Computer?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Email Address(s):
Screen Name(s) / Service			
Other (Social Networking?):			

Did you visit a doctor this month:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Medication prescribed:
------------------------------------	------------------------------	--	------------------------

Community service work hours completed this month:	<u>0</u>
Restitution amount paid this month:	\$ <u>0</u>
Supervision fee amount paid this month:	\$ <u>0</u>

If I wish to succeed on Supervision:

I will begin with obeying all institutional regulations and start planning for my future as a productive, law-abiding citizen;

I will fully accept responsibility for my actions;

I will understand the harm my actions have caused and acknowledge that I have done something wrong;

I will offer an apology to my victims and community;

I will repair the harm I have caused and will make restitution to my victims

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Financial Obligations:

Any excess monies paid will be applied to any other outstanding fees, fines and/or restitution, even if it is discovered after your discharge.

I HAVE READ AND UNDERSTAND THE ABOVE; THE INFORMATION I HAVE SUBMITTED IN THIS REPORT IS TRUE TO THE BEST OF MY KNOWLEDGE.

Report approved by:

S. M. Miller

Your Signature

4-12-13

Today's Date

Parole and Probation Employee

CS 1644

~~Handwritten scribble~~

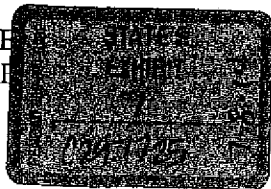
I AM

220 8pm

Maid
2 - E-111
W/800000
CONCEPT

Done Monday

MARKET
STATE





DIVISION OF PAROLE AND PROBATION MONTHLY REPORT



PAROLE/PROBATION MONTHLY SUPERVISION REPORT FOR:	Month: 5	Day: 8	Year: 13
MY PAROLE/PROBATION OFFICER IS:			

Check One:

Did you move this month?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did you change jobs this month?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
--------------------------	------------------------------	--	---------------------------------	------------------------------	--

Your Name:	Steve McNeill	Phone #:	702-462-1333
Your Address:	None/Wyoming, main	City/State/Zip:	L.V., NV 89104
Mailing Address:		City/State/Zip:	
Storage Unit#:		City/State/Zip:	
I live with:		Relationship:	Adult <input type="checkbox"/> Juvenile <input type="checkbox"/>
I live with:		Relationship:	Adult <input type="checkbox"/> Juvenile <input type="checkbox"/>
I live with:		Relationship:	Adult <input type="checkbox"/> Juvenile <input type="checkbox"/>
I live with:		Relationship:	Adult <input type="checkbox"/> Juvenile <input type="checkbox"/>
Your Employer:		Phone #	
Supervisor Name:		Work Schedule:	
Address:		City/State/Zip:	

List all vehicles you own or drive:

Year	Make	Model	Color	License #	Owner	Insured by
N/A						

Counseling	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Provider:	
Counseling Schedule:				

Computer?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Email Address(s):	
Screen Name(s) / Service				
Other (Social Networking?):				

Did you visit a doctor this month:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Medication prescribed:	
------------------------------------	------------------------------	--	------------------------	--

Community service work hours completed this month:	0
Restitution amount paid this month:	\$ 0
Supervision fee amount paid this month:	\$ 0

wants 9pm curfew?

If I wish to succeed on Supervision:

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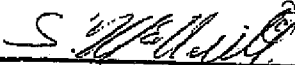
Financial Obligations:

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I HAVE READ AND UNDERSTAND THE ABOVE; THE INFORMATION I HAVE SUBMITTED IN THIS REPORT IS TRUE TO THE BEST OF MY KNOWLEDGE.

Report approved by:

Parole and Probation Employee



Your Signature

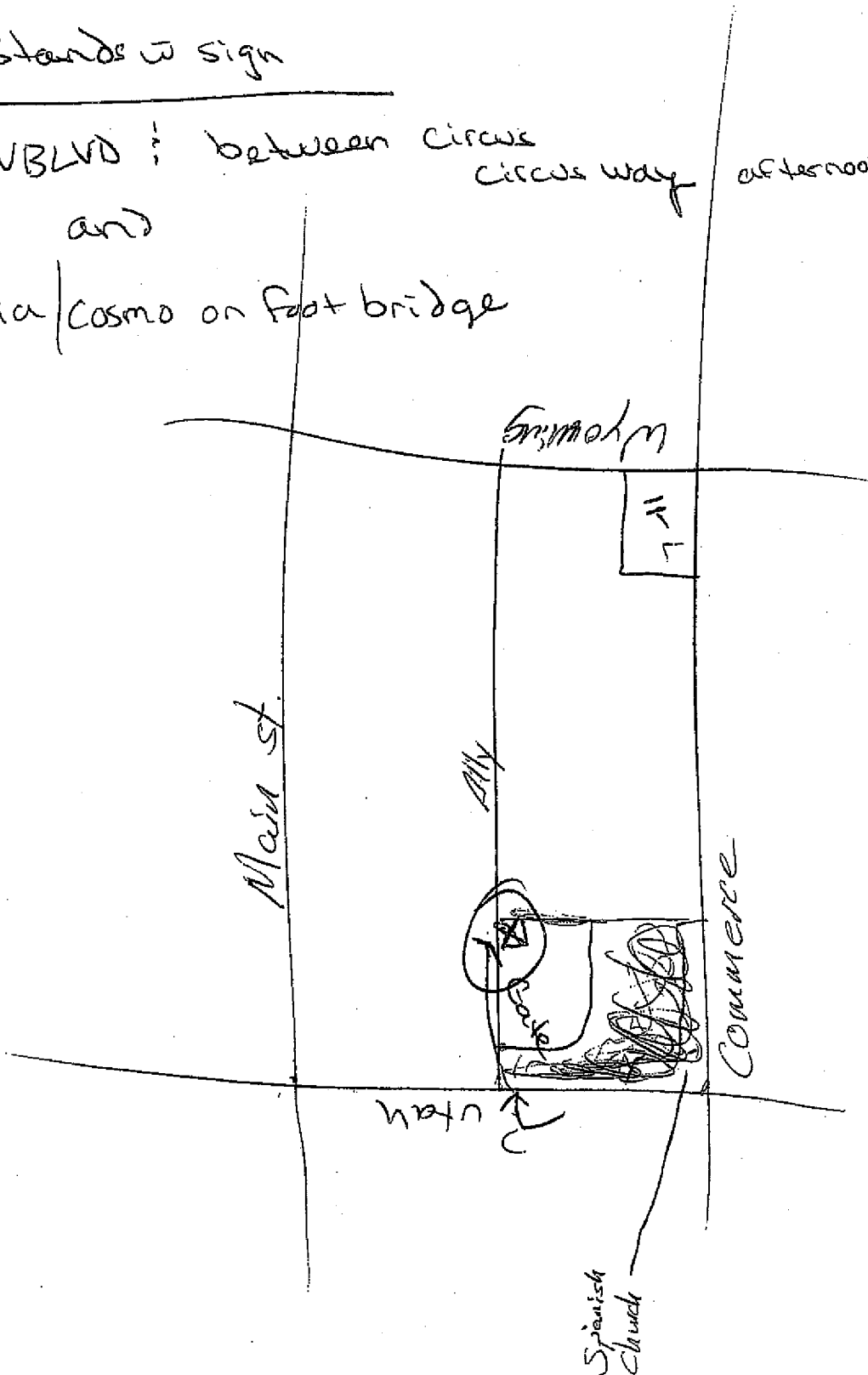
5-8-13

Today's Date

Gym → Dola gym
Shower or friends house

stands w sign

LUBLVD : between circus
and
sia/cosmo on foot bridge
afternoon and evening



LARKE
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DIVISION OF PAROLE AND PROBATION MONTHLY REPORT

PAROLE/PROBATION MONTHLY SUPERVISION REPORT FOR: Month: 6 Day: 6 Year: 13

MY PAROLE/PROBATION OFFICER IS: White

Check One:

Did you move this month? Yes ☐ No ☒ Did you change jobs this month? Yes ☐ No ☒

Your Name:	<u>Steve McNeill</u>	Phone #:	<u>702-462-1333</u>	
Your Address:	<u>Main + Wyoming</u>	City/State/Zip:	<u>L.V. No. 89/09</u>	
Mailing Address:		City/State/Zip:		
Storage Unit/#:		City/State/Zip:		
I live with:	<u>No one</u>	Relationship:	Adult <input type="checkbox"/>	Juvenile <input type="checkbox"/>
I live with:		Relationship:	Adult <input type="checkbox"/>	Juvenile <input type="checkbox"/>
I live with:		Relationship:	Adult <input type="checkbox"/>	Juvenile <input type="checkbox"/>
I live with:		Relationship:	Adult <input type="checkbox"/>	Juvenile <input type="checkbox"/>
Your Employer:		Phone #		
Supervisor Name:		Work Schedule:		
Address:		City/State/Zip:		

List all vehicles you own or drive:

Year	Make	Model	Color	License #	Owner	Insured by
<u>None</u>						

Counseling	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Provider:	
Counseling Schedule:				

Computer?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Email Address(s):	
Screen Name(s) / Service				
Other (Social Networking?):				

Did you visit a doctor this month:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Medication prescribed:
------------------------------------	------------------------------	--	------------------------

Community service work hours completed this month:	<u>0</u>
Restitution amount paid this month:	\$ <u>0</u>
Supervision fee amount paid this month:	\$ <u>0</u>

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Report approved by:



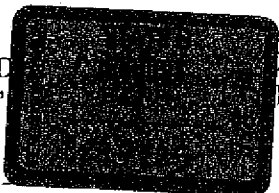
Your Signature

Parole and Probation Employee

6/6/13

Today's Date

MARKED ON
STATE' T





DIVISION OF PAROLE AND PROBATION MONTHLY REPORT



PAROLE/PROBATION MONTHLY SUPERVISION REPORT FOR:	Month: <u>7</u> Day: <u>11</u> Year: <u>13</u>
MY PAROLE/PROBATION OFFICER IS: <u>Kaylor</u>	

Check One:

Did you move this month?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did you change jobs this month?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
--------------------------	------------------------------	--	---------------------------------	------------------------------	--

Your Name: <u>Steve D McNeill</u>	Phone #: <u>702-462-1333</u>				
Your Address: <u>Main + Wyoming</u>	City/State/Zip: <u>L.V., Nv.</u>				
Mailing Address:	City/State/Zip:				
Storage Unit/#:	City/State/Zip:				
I live with: <u>No one</u>	Relationship: <table border="1" style="display: inline-table; vertical-align: middle;"> <tr><td style="padding: 2px;">Adult</td><td style="padding: 2px;"><input type="checkbox"/></td></tr> <tr><td style="padding: 2px;">Juvenile</td><td style="padding: 2px;"><input type="checkbox"/></td></tr> </table>	Adult	<input type="checkbox"/>	Juvenile	<input type="checkbox"/>
Adult	<input type="checkbox"/>				
Juvenile	<input type="checkbox"/>				
I live with:	Relationship: <table border="1" style="display: inline-table; vertical-align: middle;"> <tr><td style="padding: 2px;">Adult</td><td style="padding: 2px;"><input type="checkbox"/></td></tr> <tr><td style="padding: 2px;">Juvenile</td><td style="padding: 2px;"><input type="checkbox"/></td></tr> </table>	Adult	<input type="checkbox"/>	Juvenile	<input type="checkbox"/>
Adult	<input type="checkbox"/>				
Juvenile	<input type="checkbox"/>				
I live with:	Relationship: <table border="1" style="display: inline-table; vertical-align: middle;"> <tr><td style="padding: 2px;">Adult</td><td style="padding: 2px;"><input type="checkbox"/></td></tr> <tr><td style="padding: 2px;">Juvenile</td><td style="padding: 2px;"><input type="checkbox"/></td></tr> </table>	Adult	<input type="checkbox"/>	Juvenile	<input type="checkbox"/>
Adult	<input type="checkbox"/>				
Juvenile	<input type="checkbox"/>				
I live with:	Relationship: <table border="1" style="display: inline-table; vertical-align: middle;"> <tr><td style="padding: 2px;">Adult</td><td style="padding: 2px;"><input type="checkbox"/></td></tr> <tr><td style="padding: 2px;">Juvenile</td><td style="padding: 2px;"><input type="checkbox"/></td></tr> </table>	Adult	<input type="checkbox"/>	Juvenile	<input type="checkbox"/>
Adult	<input type="checkbox"/>				
Juvenile	<input type="checkbox"/>				
Your Employer: <u>None</u>	Phone #				
Supervisor Name:	Work Schedule:				
Address:	City/State/Zip:				

List all vehicles you own or drive:

Year	Make	Model	Color	License #	Owner	Insured by
<u>None</u>						

Counseling	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Provider:
Counseling Schedule:			

Computer?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Email Address(s):
Screen Name(s) / Service			
Other (Social Networking?):			

Did you visit a doctor this month:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Medication prescribed:
------------------------------------	------------------------------	--	------------------------

Community service work hours completed this month:	<u>0</u>
Restitution amount paid this month:	\$ <u>0</u>
Supervision fee amount paid this month:	\$ <u>0</u>

If I wish to succeed on Supervision:

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I will repair the harm I have caused and will make restitution to my victims

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I HAVE READ AND UNDERSTAND THE ABOVE; THE INFORMATION I HAVE SUBMITTED IN THIS REPORT IS TRUE TO THE BEST OF MY KNOWLEDGE.

Report approved by:

S. McMillan
Your Signature

Parole and Probation Employee

Today's Date

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DIVISION OF PAROLE AND PROBATION MONTHLY REPORT



PAROLE/PROBATION MONTHLY SUPERVISION REPORT FOR:	Month: <u>8</u> Day: <u>15</u> Year: <u>13</u>
MY PAROLE/PROBATION OFFICER IS: <u>Morgan</u>	

Check One:

Did you move this month?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did you change jobs this month?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
--------------------------	------------------------------	--	---------------------------------	------------------------------	--

Your Name: <u>Steve McNeil</u>	Phone #: <u>702-462-1333</u>		
Your Address: <u>Main + Young</u>	City/State/Zip: <u>LV. NV. 89104</u>		
Mailing Address:	City/State/Zip:		
Storage Unit#:	City/State/Zip:		
I live with:	Relationship: <table style="display: inline-table; vertical-align: middle;"><tr><td>Adult <input type="checkbox"/></td><td>Juvenile <input type="checkbox"/></td></tr></table>	Adult <input type="checkbox"/>	Juvenile <input type="checkbox"/>
Adult <input type="checkbox"/>	Juvenile <input type="checkbox"/>		
I live with:	Relationship: <table style="display: inline-table; vertical-align: middle;"><tr><td>Adult <input type="checkbox"/></td><td>Juvenile <input type="checkbox"/></td></tr></table>	Adult <input type="checkbox"/>	Juvenile <input type="checkbox"/>
Adult <input type="checkbox"/>	Juvenile <input type="checkbox"/>		
I live with:	Relationship: <table style="display: inline-table; vertical-align: middle;"><tr><td>Adult <input type="checkbox"/></td><td>Juvenile <input type="checkbox"/></td></tr></table>	Adult <input type="checkbox"/>	Juvenile <input type="checkbox"/>
Adult <input type="checkbox"/>	Juvenile <input type="checkbox"/>		
I live with:	Relationship: <table style="display: inline-table; vertical-align: middle;"><tr><td>Adult <input type="checkbox"/></td><td>Juvenile <input type="checkbox"/></td></tr></table>	Adult <input type="checkbox"/>	Juvenile <input type="checkbox"/>
Adult <input type="checkbox"/>	Juvenile <input type="checkbox"/>		
Your Employer:	Phone #		
Supervisor Name:	Work Schedule:		
Address:	City/State/Zip:		

List all vehicles you own or drive:

Year	Make	Model	Color	License #	Owner	Insured by
<u>No</u>						

Counseling	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Provider:
Counseling Schedule:			

Computer?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Email Address(s):
Screen Name(s) / Service			
Other (Social Networking?):			

Did you visit a doctor this month:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Medication prescribed:
------------------------------------	------------------------------	--	------------------------

Community service work hours completed this month:	<u>6</u>
Restitution amount paid this month:	\$ <u>0</u>
Supervision fee amount paid this month:	\$ <u>0</u>

If I wish to succeed on Supervision:

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I will understand the harm my actions have caused and acknowledge that I have done something wrong;
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Report approved by:


Parole and Probation Employee


Your Signature
8-15-13
Today's Date

Sgt. Zana office

NO UA

NO curfew

NO 1x weekly ON

not registering every 30 days

MARCIA LEE, MS MFT
5852 S. Pecos Road H-2
Las Vegas, NV 89120
(702) 435 2212
FAX (702) 732 2227
marcialeemft@cox.net

Officer
Raeen Page

TERMINATION SUMMARY

Client: STEVE McNEILL Date: 12-22-12

Signature of Therapist: Marcia Lee MFT

A. Reason for termination:

- ☐ Treatment completed successfully
- ☐ Client refused or didn't participate in services
- ☒ Client couldn't make payments
- ☒ Little or no progress in treatment
- ☐ Client moved
- ☐ Client changed therapist
- ☐ Client needs services not available here and was referred to:

B. Source of Termination decision:

- ☐ Client initiated
- ☒ Therapist initiated
- ☐ A mutual decision
- ☐ Client arrested

C. Treatment:

Date of Intake: 3/8/08 Date of last session: 12/14/12
Number of sessions: Scheduled: _____
Attended: _____
Cancelled: _____
NCNS: _____
OWES \$1815.00

D. Kinds of services Rendered:

- ☒ Individual psychotherapy
- ☒ Group Therapy
- ☒ Other
- ☐ Couple/Family Therapy
- ☒ Psycho-education

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DEFENDANT'S EXHIBITS

CASE NO. 0297725

[illegible]

COURTESY NOTICE
VIA AFFIDAVIT FORMAT
TO CEASE AND DESIST IN RESTRICTIONS AND HARRASSMENTS

NOTICE TO AGENT IS NOTICE TO PRINCIPAL
NOTICE TO PRINCIPAL IS NOTICE TO AGENT

"Indeed, no more than (affidavits) is necessary to make the prima facie case." United States -vs- Kis,
658 F2d 526, 536 (C.A. 7 (WIS) 1981); Cert. Denied, 50 U.S.L.W. 2169; S. Ct. March 22, 1982.

ALL NOTICES ARE SUBJECT TO LIABILITY, WAIVER OF IMMUNITY, THIS MAY INCLUDE JUDICIAL OFFICERS.

BE ADVISED: If any one desire to respond or rebut to this Courtesy Notice via Affidavit Format, the individual "MUST" do so in Affidavit Format, or anything else will be considered as a waste of limited and valuable resources of the respondent, it will be worthless. The Response/Rebuttal "MUST" be done within 30 days of receipt or this NOTICE will uphold in the Court in the event this will proceed to a Court Remedy and this will be used as Evidence for waiver of immunity.

SILENCE IS ACQUIESCENCE agreement, to the terms within. This is a SELF-EXECUTING CONTRACT.

I, Steve Dell McNeill© hereinafter "Affiant", a living, breathing, flesh-and-blood, sentient "real" human being Man, proclaimed and stated within N.R.S. 0.039 and 15 U.S.C. § 1127, being first duly bound in conscience by deeply held spiritual convictions to perform this Act Faithfully and Truthfully; corpore et animo, sealed by and under authority of the Affiant's own hand, having firsthand knowledge of the Facts contained herein and within, do DECLARE and ATTEST the following FACTS are TRUE, CORRECT, and COMPLETE, and NOT Meant to Mislead, to cause Embarrassment, Dis-Honor, and NOT to Defraud any one in any way shape or form to the Best of Affiant's Belief, Knowledge, and Conviction Herein and Within.

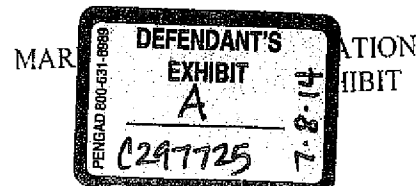
The Affiant is of legal Statute age of over 21 years old, is competent standing to state the matters contained herein, and has Declared and Attested that in the Affiant's knowledge and conviction, the statements made within are True, Correct, Complete, and NOT Meant to Mislead, cause Embarrassment, Defraud, or Dis-Honor on/to any one in any way shape or form.

The Affiant agrees to perform to the contracted limited liberty of movement, pursuit of happiness, job entitlement, Defamation of Character, harassment from authorities stated within the statutes of limitations to what Affiant is contracted with, and comply with the authority (ies) requests, etc., "PREDICATED" upon Proofs of Claim of substantial conclusive evidence, that supersedes the established, filed papers of the Affiant, that is stated.

Affiant believes the so-called Authority (ies) Third-Party Intervenor(s) do NOT have legal and lawful papers/documents that supersede Affiant's papers/documents, and there is NO Evidence to the "CONTRARY." This will be considered and taken as substantial conclusive evidence of the so-called Authority subjecting themselves to Misconduct, and committing: Dishonor in Commerce, Fraud upon the Affiant and Public, Conspiracy, Traitorous Acts on the People, and Affiant, and violating the R.I.C.O. act.

Courtesy Notice, to Cease and Desist

/ OF 3



TO SUPERIORS AND MANAGING PERSONNEL:

BE ADVISED. You are being Noticed in writing to **Cease and Desist to Contact and/or attempt to contract with, Steve Dell McNeill in anyway shape or form,** unless the authority had seen or there is a signed Affidavit with two or more countable witnesses (that are NOT part of the authority for it will be a conflict of interest) that He had physically cause an injury. He will NOT register with the authority as he has been doing, so now, Steve Dell McNeill will be living as a free man, as he was before he was enslaved without Full Disclosure, without Clean Hands, Good Faith, and Fair Business Dealings of what he will encounter of submission to the authorities of the Artificial Corporation Entity as stated within N.R.S. 205.4611 in which the State Representatives have subverted Steve Dell McNeill into without His knowledge.

The attached document is a UCC Financing Statement, filed with the Secretary of State, of California, in which is Zone One and THE STATE OF NEVADA is covered, Registered in Zone One. The UCC Financing Statement is recorded and as a matter of public record, with the CLARK COUNTY RECORDER'S office of Nevada. I'm now forwarding this document to you with this Courtesy Notice, and to inform you of a few things you may not know. As per N.R.S. 104.9402, I am now referred to as a secured party/creditor, [no longer the corporate entity; as defined by N.R.S. 205.4611]. Attached are:

Corporate Ownership document/title

Power of attorney (unlimited)

Hold harmless and indemnity agreement

Legal Notice and Demand

The Affiant is calling special attention to Legal Notice and Demand because if in the course of future events the Affiant should be molested, accosted or otherwise Dis-Honored in any way shape or form by one or more of your agents, and/or representatives, Your office and the individual in his/her official capacity, and THE STATE OF NEVADA will be receiving an Invoice for the listed fines & fees **THIS IS NOT A THREAT!** I am only putting you on **NOTICE**, and serving you with the Substantial Conclusive Evidence of Fact that You need to understand and be aware that I am no longer under your jurisdiction.

COMMERCIAL AFFIDAVIT OATH AND VERIFICATION

State of Nevada }
 } ss. Commercial Oath and Verification
County of Clark }

I, Steve Dell McNeill©, having first-hand knowledge of the Facts Contained herein are True, Correct, Complete and NOT to be Misleading, under penalty of commercial law.

EXPRESS SPECIFIC RESERVATIONS OF RIGHTS

The Affiant Steve Dell McNeill©, reserve all my Natural Rights as an American under Contract Law of the Divine Creator without prejudice and without recourse to me. I do NOT consent to any compelled performance under Contract that I did NOT enter Knowingly, Voluntarily, Intelligently. I do NOT accept the liability of the benefits or privileges of any unrevealed contract or commercial agreement.

Submitted by: 
Steve Dell McNeill

JURAT

State of Nevada }
 } ss.
County of Clark }

The above named Affiant Steve Dell McNeill©, appeared before me, a Notary, subscribed, sworn to the truth of this Courtesy Notice in Affidavit.

Under Oath this 19 day of August, 2013.

 SEAL:
Notary Signature



12-7319192085

06/29/2012 17:00

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

STEVEN DELL MCNEILL
1130 SO. CASINO CENTER #7
LAS VEGAS, NEVADA 89104



FILED

CALIFORNIA
SECRETARY OF STATE

SOS



33715230002 UCC FILING

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME

STEVE DELL MCNEILL

OR

1b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

1c. MAILING ADDRESS

1130 SO. CASINO CENTER #7

CITY

LAS VEGAS

STATE

NV

POSTAL CODE

89104

COUNTRY

USA

1d. SEE INSTRUCTIONS

ADD'L INFO RE
ORGANIZATION
DEBTOR

1e. TYPE OF ORGANIZATION

ENS LEGIS/TRUST

1f. JURISDICTION OF ORGANIZATION

PRIVATE

1g. ORGANIZATIONAL ID #, if any

NONE

☒ NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR

2b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

2c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

2d. SEE INSTRUCTIONS

ADD'L INFO RE
ORGANIZATION
DEBTOR

2e. TYPE OF ORGANIZATION

2f. JURISDICTION OF ORGANIZATION

2g. ORGANIZATIONAL ID #, if any

☐ NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - Insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME

OR

3b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

McNeill

Steven

Dell

3c. MAILING ADDRESS

CITY

Las Vegas

STATE

Nev.

POSTAL CODE

89104

COUNTRY

USA

c/o 1130 So. Casino Center #7

4. This FINANCING STATEMENT covers the following collateral:

ALL PROPERTY BELONGING TO DEBTOR BELONGS TO SECURED PARTY

DEBTOR IS A TRANSMITTING UTILITY

DEBTOR IS A TRUST

5. ALTERNATIVE DESIGNATION (if applicable): ☐ LESSOR/LESSOR ☐ CONSIGNEE/CONSIGNOR ☒ BAILEE/BAILOR ☐ SELLER/BUYER ☐ AG. LIEN ☐ NON-UCC FILING6. ☐ THIS FINANCING STATEMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS. Attach Addendum if applicable. 7. Check to REQUEST SEARCH REPORT (S) on Debtor(s) (optional) ☐ All Debtors ☐ Debtor 1 ☒ Debtor 2

8. OPTIONAL FILER REFERENCE DATA

SECURED PARTY

Sta P. McNeill & Dell McNeill

FILING OFFICE COPY -- UCC FINANCING STATEMENT (FORM UCC1) (REV. 05/22/02)

Inst #: 201207120001959
Fees: \$54.00
N/C Fee: \$25.00
07/12/2012 02:58:12 PM
Receipt #: 1231834
Requestor:
STEVEN MCNEILL
Recorded By: OSA Pgs: 38
DEBBIE CONWAY
CLARK COUNTY RECORDER

AFFIDAVIT OF POLITICAL STATUS

I declare this is an Affidavit of Political Status and this includes all attached documents.

STEVEN DELL MCNEILL
GRANTOR: STEVEN DELL MCNEILL
Grantee: Steven Dell McNeill

LS:

Steven Dell McNeill
Steven Dell McNeill
Secured Party Creditor

7-12-2012
Date

RETURN TO

NAME Steven Dell McNeill

ADDRESS 1130 So Casino Center #7

CITY/STATE/ZIP Las Vegas Nevada 89104

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No. 66697

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

ADAM LAXALT
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(702) 687-3538

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SHARON G. DICKINSON
HOWARD S. BROOKS

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