

1 property. You can't be guilty of burglarizing your own house under
2 the common law, for the same reason that you can buy a new pair of
3 jeans and cut holes in them, for the same reason that you can rent
4 a frontend loader and tear down a structure on your property if you
5 have the appropriate permits. It is your property, you can do with
6 it as you see fit. And this is really a property right situation.
7 This is not -- and the State mentions some cases like Adams and
8 Hernandez that talk about consent and license. It's not a consent
9 or license situation. In fact, those cases I think argue in our
10 favor.

11 If you look at Hernandez, if you look at Adams, in these
12 cases they are situations where somebody enters into a public
13 structure with some kind of limited license. I go into Walmart,
14 Walmart allows me, they give me permission to enter into Walmart,
15 but that permission is somewhat limited. They don't allow me to
16 enter Walmart to steal things. We've seen several people charged
17 this morning with exactly that, stealing things from Walmart.
18 That's not part of the permission. I've stepped outside the
19 permission, outside the consent, and the rationale makes sense. If
20 I go beyond the consent to enter, I may have been guilty of
21 burglary, if I entered with the intent initially, at least, to do
22 some kind of illegal activity. The idea is people don't allow me
23 to enter to steal. That's not part of this license.

24 But it's different when we're talking about our own
25 property. Again, you have an absolute right to do as you see fit

1 with your own property.

2 You take a look at cases, and I think the seminal case on
3 this is a case called Gauze of out California that goes through
4 this very methodical -- and California statute, by the way, we've
5 put it in our moving papers, but California statute mirrors
6 Nevada's. Nevada has recognized that California's statute mirrors
7 Nevada's. And the Gauze court comes to the conclusion that you
8 can't be guilty of burglarizing your own property. Now, we'll say
9 that Gauze, and we don't mention this in the moving papers because
10 I don't know that it's applicable here, has been limited in certain
11 circumstances. The circumstance where Gauze has been limited have
12 been situations where, for example, a person is guilty of a battery
13 domestic violence and there's a court order that says, do not go
14 back into that house. . So they might be under a court order, or
15 there is evidence that they have completely vacated the premises,
16 they have given up their possessions, they don't hold things there,
17 they don't have a key to the premises.

18 Which brings me to Chappell that I mentioned at the top of
19 our discussion. The State points to Chappell and they say
20 Chappell's a situation, and I'm quoting directly from the State,
21 "upheld a burglary conviction where defendant claimed," and this is
22 the important part, "claimed" always sets off those little hairs on
23 the back of my neck, because I know there's something else going
24 on, "claimed that he lived at the house of his murdered ex-
25 girlfriend which he entered to murder." When you read Chappell,

1 Chappell's very interesting, because Chappell gets on the -- on the
2 witness stand and it says that, Chappell says some other things.
3 Chappell, I don't have a key to the home. Chappell admits to
4 entering the home through a window. It's clear that we don't --
5 there's no evidence in the Chappell case anyplace that I can see
6 that we have a situation like what we've got here where Chappell is
7 the owner of the trailer in question. Chappell simply says, I felt
8 like it was my home, if you read the case.

9 Now, it's interesting that he felt like it was his home.
10 It's clear that the jury disregarded what Mr. Chappell had to say
11 from the stand, because Chappell also said, once I entered what I
12 felt like was my home I had consensual sex with my ex-girlfriend
13 inside. The jury convicted Chappell of sexual assault. So they
14 weren't buying much what Mr. Chappell had to say. But there were
15 parts left out of Chappell. and there was something factually that
16 concerned me about Chappell. Luckily, I know Howard Brooks, who is
17 the defense attorney who tried the Chappell case, and I called Mr.
18 Brooks this morning. And I asked him, I said, what was really
19 going on with Chappell, because there's something factually missing
20 in Chappell that I don't see. And we talked about the facts of it,
21 and he came up with something that was very fascinating. Mr.
22 Chappell had been out of the residence for months, doing time on a
23 battery domestic violence. It doesn't show up in the printed facts
24 of the Nevada Supreme Court, but Mr. Chappell had been out of
25 custody for three months, four months, doing time on a domestic

1 violence when he showed up at the home without a key. There had
2 been contact back and forth with this woman, there had been threats
3 made from the detention center, it was pretty clear he wasn't
4 walking around the house, and that's when he went into the window.
5 There had not been contact in between those times. So you've got a
6 situation that's factually very different than what we've got here.

7 Mr. White owns this home; the title is in Mr. White's
8 name. Mr. White has never vacated the premises of this home. He
9 has items there, as best we can tell. He stays there on weekends.
10 Interestingly, in fact, the day that this happens is a Friday, and
11 it's a day that Mr. White would normally show up to stay with his
12 children on the weekend at what is his home legally by virtue of
13 title and by virtue of the fact that he has not vacated the
14 premises.

15 So the question is simple. Can you burglarize your own
16 home? If you look at the burglary statute, it is listed as a crime
17 against property. In the NRS that is the chapter that it is under,
18 because you cannot commit a crime against your own property, just
19 like you cannot trespass into your own home. I do not think that
20 it is appropriate to charge Mr. White with burglary. And,
21 interestingly, there's not a Nevada case directly on point. And
22 these statutes have been in place for over 50 years. In essence,
23 the Nevada statute has been in place for over 50 years. Why is
24 there not a case on point that says simply -- I mean, if that's
25 what the Supreme Court wants to say, you can't burglarize your own

1 home, why don't we have a case that says you can't burglarize your
2 own home? They've never wanted to address the issue. There's no
3 public -- published opinions that come to that conclusion. And I
4 think it's because of these property rights. I think most of the
5 time the State doesn't choose to charge these sorts of things;
6 because if they'd been charged, you would think we'd have a
7 decision at this point. I think the State has stretched the
8 definition of burglary beyond what it was intended to cover. And
9 for that reason I don't think that the burglary charge is well
10 taken. I think the burglary charge should be dismissed.

11 THE COURT: Thank you.

12 MS. MERCER: Your Honor, while I can certainly understand
13 Mr. Coffee's argument, the fact of the matter is he hasn't cited
14 this Court to any binding authority that would allow the Court to
15 dismiss the burglary count. He cited to a bunch of persuasive
16 authority out of California, but our Supreme Court has repeatedly
17 noted how expansive our burglary statute is.

18 THE COURT: So how can you burglarize your own house?
19 How can I steal money from myself?

20 MS. MERCER: Because burglary - well, you can't, it's
21 your money. But that's different.

22 THE COURT: But it's my house.

23 MS. MERCER: I understand, but you're not stealing --
24 like, if it's your money, you are not committing a crime. Here he
25 burglarized the house by entering with a firearm. A backpack was

1 found in the driveway with a --

2 THE COURT: He can go in his house with a firearm; right?

3 MS. MERCER: I'm just pointing to the evidence that he
4 entered the house with the intent to commit assault and/or battery
5 and/or murder. He left a backpack in the driveway with an empty
6 gun holster in it. He concealed that firearm on his person when he
7 entered the home. The children let him into the home, and then he
8 immediately confronts her and shoots her and her then boyfriend.
9 He was not residing in the home. They were separated; they had
10 been separated for two months. He only lived at the house on the
11 weekends, and he exercised his visitation after he got off work.
12 On this particular day he showed up three to four hours early. It
13 was not his time for visitation, and preceding that he'd showed up
14 at the house at approximately 2:00 in the morning, banging on the
15 windows, demanding to be let inside. So it's clear that his intent
16 when he went into the house was to murder her.

17 Furthermore, the Barrett case that I cited to in my brief
18 appears to be directly on point. In that case there was evidence
19 that the defendant had resided in the apartment, that he paid rent,
20 money toward the bills, and the court said, no, it doesn't matter,
21 he still committed a crime, he still committed burglary.

22 And I disagree with Mr. Coffee in his assessment that
23 Chappell is distinguishable from this case, because, as I pointed
24 out, the defendant had not resided in that house for at least two
25 months. And when he did stay there it was only on the weekends to

1 take care of the children, because there were five kids and it was
2 too difficult to shuffle them back and forth. This was again a day
3 and time that he was not supposed to be there exercising
4 visitation.

5 In addition, if the legislature had meant to limit the
6 application of the burglary statute, they certainly could have done
7 so, as they did with the home invasion statute, which specifically
8 prohibits somebody from being charged with home invasion for
9 kicking down their own front door. They chose not to limit it.
10 Therefore, it's proper to charge burglary.

11 In addition, Mr. Coffee said, well the State doesn't
12 charge burglary in these cases. That's absolutely incorrect. I
13 mean if you look at all the cases that I cited, there were
14 burglaries charged, there were burglaries as aggravators. I'm on
15 the Domestic Violence Unit; I've been there for over three years.
16 We've consistently charged burglary when it's their own home and
17 they go in with the intent to batter, such as in cases where
18 there's a heated argument, the defendant leaves, victim doesn't
19 want to open the door because she knows that it's going to
20 escalate, he comes in and batters her.

21 THE COURT: But here --

22 MS. MERCER: It's a burglary.

23 THE COURT: Let me make sure I understand the facts
24 correct. Because I looked through the transcript, and I just want
25 to make sure I understand. There is no legal restriction to his

1 access to the home. There's no TPO, there's no Family Court order,
2 there's no property settlement agreement that restricts his access
3 to the home. There's no legal impediment.

4 MS. MERCER: There's not, Your Honor.

5 THE COURT: Okay.

6 MS. MERCER: But that's not a requirement for burglary.
7 I mean, consent, permission, et cetera, those are not defenses to
8 burglary.

9 THE COURT: Okay. Anything else you want to tell me?

10 MS. MERCER: No.

11 THE COURT: All right. The writ is granted. The Court
12 does not understand how you can burgle your own house. At common
13 law you couldn't burgle your own house. While I certainly
14 understand the definition by the legislature in the current version
15 of the statute may seem to indicate you can burgle your own house,
16 I don't know how legally you can burgle your own house where there
17 is no legal impediment such as a TPO, a restraining order of some
18 sort, a court order from Family Court, a property settlement
19 agreement, a child visitation agreement, that would otherwise limit
20 the ability of an owner to access their own property.

21 MS. MERCER: And, Your Honor, if I could just ask for
22 clarification.

23 THE COURT: Count 1, only.

24 MR. COFFEE: Understood.

25 MS. MERCER: Which case was it -- or statute cited by the

1 defense upon which the Court is ruling? Because access is not --
2 legal access isn't a defense to burglary, so I'm -- I just need
3 to --

4 THE COURT: It's called the common law.

5 MS. MERCER: Okay. So you're basing it on the common
6 law. And, Your Honor, can we get a two-week status check, please,
7 because we may intend to take this up?

8 THE COURT: No, I think you might.

9 MS. MERCER: Okay.

10 THE COURT: It's an important issue. That's why I've
11 been hyping this case so everybody would stay for CLE credit.

12 The statute says, "A person who by day or night enters
13 any house," and then I'll skip ahead, --

14 MS. MERCER: Any house.

15 THE COURT: -- skip ahead for a long time, "with the
16 intent to commit grand or petit larceny, assault, battery on any
17 person or to obtain money or property for false pretenses is guilty
18 of burglary." That's the statute.

19 And, yeah, it can't be your own house. though, because
20 you can enter your own house anytime you want without restricting
21 that property right unless there's some other legal impediment. I
22 certainly understand that the State may want to challenge that
23 issue, I think it's an important one to address; but remember,
24 you've got three other counts with very serious charges in this
25 case.

1 MS. MERCER: Well, I understand that, Your Honor. I'd
2 just like time to speak with the appellate unit, if we can get a
3 status check in two weeks.

4 THE COURT: I understand. Two weeks? Okay. Why do you
5 need a status check?

6 MS. MERCER: So that I -- because I have to first come in
7 here and ask you for a stay if we're going to take it up.

8 THE COURT: So if you're going to do that, file a motion.

9 MS. MERCER: Okay.

10 THE COURT: Right?

11 MS. MERCER: If that's how the Court wishes to proceed,
12 that's fine.

13 MR. COFFEE: Understood. Or even if she just orally
14 asked for a stay --

15 THE COURT: I don't care.

16 MR. COFFEE: -- at this point, your record's protected
17 and they will take a look at it.

18 THE COURT: Do you want a stay? I'll grant you a stay
19 any day of the week.

20 MS. MERCER: Okay.

21 THE COURT: All you've got to do is ask me.

22 MS. MERCER: Okay.

23 THE COURT: I'm really good at appellate procedure.

24 MS. MERCER: I'll file a motion, then --

25 THE COURT: Okay.

1 MS. MERCER: -- once I speak to them. Thank you, Your
2 Honor.

3 THE COURT: And I want to compliment both of you. You
4 guys both did a great job on the briefing.

5 MS. MERCER: Thank you very much, Your Honor.

6 MR. COFFEE: Thank you.

7 THE COURT: It's not often I get to say that on my
8 criminal day.

9 MR. COFFEE: Thank you.

10 THE COURT: Have a nice day.

11 THE PROCEEDINGS CONCLUDED AT 10:48 A.M.

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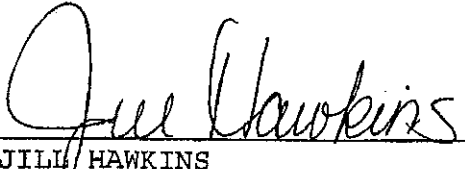
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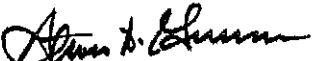
20 ATTEST: I do hereby certify that I have truly and correctly
21 transcribed the audio/video proceedings in the above-entitled case
22 to the best of my ability.

23

24

25


JULIE HAWKINS
Court Recorder/Transcriber


CLERK OF THE COURT

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DISTRICT COURT
CLARK COUNTY, NEVADA

11 THE STATE OF NEVADA,
12 Plaintiff,

13 -vs-

14 TROY RICHARD WHITE,
15 Defendant.

Case No. C-12-286357-1
Dept No. XI

ORDER GRANTING DEFENDANT'S WRIT OF HABEAS CORPUS

17 THIS MATTER having come for hearing before this Court on the 27th day of March,
18 2013, the Defendant being present, represented by SCOTT L. COFFEE, Deputy Public
19 Defender, the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney,
20 through ELIZIBETH MERCER, and the Court having reviewed the preliminary hearing
21 transcripts and pleadings, as well as having heard the arguments of counsel, hereby finds as
22 follows:

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CLERK OF THE COURT

1 The defendant, Troy White, is charged by way of Information with Count I-Burglary
2 While in the Possession of a Firearm; Count II Murder with use of a Deadly Weapon; Count
3 III Attempt Murder with use of a Deadly Weapon; Count IV- Carrying a Concealed Weapon;
4 Counts V- IX Child Abuse and Neglect. The State alleges that White entered the family
5 home and then, following a brief argument, shot and killed his wife, Echo Lucas White, and
6 then shot her lover. The child abuse and neglect counts arise from the allegation that there
7 were children in the home at the time of the shooting. White and his wife were described as
8 being separated, but it is undisputed that White was the owner of the home, had continuous
9 access to the home, retained keys to the home and physically lived in the home on
10 weekends.

11 The defense filed a Petition for a Writ of Habeas Corpus in this court challenging the
12 charge of burglary on the theory that White cannot burgle his own home. For the reasons
13 set forth below the Writ is granted.

14 **I. UNDERLYING FACTS**

- 15 1. The defendant is alleged to have shot and killed his wife, and to have attempted to
16 kill her new boyfriend at a residence located at 325 Altamira Street in Las Vegas,
17 Nevada.
- 18 2. That evidence brought forth during the preliminary hearing established that the
19 defendant was the titled owner of the Altamira home, that he maintained keys to
20 the property, and that following his "separation" from his wife he continued to
21 physically live at the property on weekends to care for the family children from
22 Friday through Sunday.
- 23 3. That the shooting is alleged to have taken place on July 27th, 2012 which was a
24 Friday. Further, it appears that White entered the home with his key, that the
25 locks on the residence had not been changed and/or altered allowing White to
26 enter the residence as he saw fit.
- 27 4. That, as the state conceded during oral arguments, there was no legal restriction
28 whatsoever which would have prevented White from having the full use and

1 enjoyment of his property---No Temporary Protective Order; No Family Court
2 Order; No Separation Agreement; No Property Settlement. In sum, on July 12th,
3 2012 there was no legal impediment to White's use, access or ownership of the
4 property located at 325 Altamira Street.

5 **a. Factual Conclusion**

6 Based upon the forgoing this court finds that Troy White was in truth and in fact the
7 owner of the home he is alleged to have burgled and that on the date in question there was no
8 legal restriction of his right to access and enjoy his property.

9 **b. Legal issue before the court**

10 Under Nevada law can a person burglarize their own home, assuming as a factual
11 predicate there is no legal impediment to that person's access to said home?

12 **c. Discussion**

13 The defendant argued that he cannot burglarize his own home, the State disagreed.

14 The court begins its analysis by recognizing that under common law, burglary was
15 well and commonly understood to be the breaking and entering the dwelling house of
16 another in the nighttime with intent to commit a felony.¹ The court further notes that
17 regardless of any changes and/or expansions the legislature may have made to the crime of
18 burglary, from the earliest common law until today it has retained its fundamental nature as
19 the crime of entry with a criminal intent. As our high court has often times noted, burglary is
20 complete upon entry and it is the entry itself that constitutes the crime, independent of what
21 other activity later takes place. Because it is entry that remains the gravamen of the offense,
22 burglary is as it always has been a crime against property.

23 In support of its position the defense claims that this is an issue of first impression
24 under Nevada law, then cites the common law, the California case People v. Gauze, 542 P.2d
25 1365 (1975), and points out that burglary continues to be a crime against property under our
26 statutory scheme.

27
28 ¹ See for example Smith v. First Judicial District Court, 75 Nev. 526, 528 (1959).

1 The State notes that the common law elements of "breaking" and "entry at night time"
2 are no longer necessary under Nevada law. These points are clearly true, but contrary to the
3 State's claims it is not because our "Supreme court has refused to read common law elements
4 into the burglary statute---rather than rejecting the common law, our high court has noted
5 "...The disposition of courts to construe strictly their burglary statutes which deviate from
6 the common law appears to be clearly evident."²

7 The State cites several Nevada cases for the proposition that consent and/or
8 permission to enter is not a defense to burglary, but this is simply a necessary corollary to the
9 removal of the breaking requirement by the legislature.³ The concepts of consent to enter
10 and/or permission to enter are fundamentally different from a person's right to access and
11 enjoy property which he owns.

12 As a basis for ignoring the common law, the State argues that the statute defining
13 burglary, NRS 205.060, does not specifically preclude them from charging the defendant
14 with burglarizing his own home. While this is true, it is also true that NRS 205.060 does not
15 specifically allow for such charge. In the absence of clear legislative intent to abandon the
16 common law on this point, the court will not do so.

17 This court cannot adopt the State's interpretation for three key reasons: 1) none of the
18 cited cases involve a defendant being convicted of burglarizing his own home, hence this
19 appears to be a matter of first impression ;⁴ 2) all of the cited cases speaking to consent
20

21 ² Smith at 529.

22 ³ State v. Adams, 94 Nev. 503 (1979), Hernandez v. State, 118 Nev. 513 (2002); McNeely v.
23 State, 81 Nev. 663 (1966); Barrett v. State, 105 Nev. 361 (1989); Chappell v. State, 114 Nev. 1403
24 (1998).

25 ⁴ State's return notwithstanding, this rule of law cannot be coaxed from either Barrett or
26 Chappell.

27 Barrett, for the purposes of establishing standing to challenge a search, claimed to live at the
28 *apartment* of Dean Sloniger which is where the bounty of the burglary was found by police. He did
not a claim residence at the burglarized *home* belonging to a Mrs. Bacca.

1 and/or limited public license, authority or permission can be traced back to the explicit
2 statutory language of 1876 and its interpretation under Watkins, specifically that a breaking
3 is no longer an element of Burglary under Nevada law. This rationale does not come into
4 play when a defendant simply enters his own home; 3) there is no clear legislative mandate
5 to abandon the common law rule that a person cannot burgle his own home and in the
6 absence of such a directive the courts have been reluctant to vary from the common law.⁵

7 While the issue before the court has not been specifically addressed in Nevada, it has
8 been addressed elsewhere. The court finds particularly informative, The California case of
9 People v. Gauze, supra. California has a substantially similar statutory scheme as Nevada in
10 regards to burglary.⁶ Further, California and Nevada are in agreement with the several points
11 raised by the prosecution in the instant case, to wit: neither recognizes permission or
12 authority to enter as a defense to burglary, and both have legislatively abandoned the
13 common law burglary elements of breaking and night time entry.

14
15 As to Chappell, a close reading reveals that there was no legitimate claim that he was
16 actually convicted of burglarizing his own home. The burglarized residence, a trailer, was that of
17 Chappell's ex-girlfriend. If Chappell could legitimately call any place home it was the prison where
18 he was doing time for domestic battery. After serving only a few months of his sentence, Chappell
19 was mistakenly released from custody. He went unannounced to the trailer of his ex-girlfriend,
20 whom he ultimately raped and killed. He entered the trailer through a window because he had no
21 key. Further, "[a]t trial, the State introduced evidence that Panos wanted to end her relationship with
22 Chappell, that Chappell had threatened and abused Panos in the past, and that Panos did not
23 communicate with Chappell while he was in jail. Moreover, there was testimony that the trailer
24 appeared ransacked, and that Panos' social security card and car keys were found in Chappell's
25 possession." In short, the facts of the case reveal no independent evidence to indicate that Chappell
26 actually lived in the trailer or owned it at the time of the burglary. Chappell did take the stand
27 claiming that he "considered the trailer home", but he also testified that the sex was consensual---he
28 was convicted on all counts including sexual assault. In short, Chappell was not convicted of
burglarizing his own home.

⁵ See, Smith at 529. The return claims Page v. State, 88 Nev. 336 (1972) as evidence that our
Supreme Court has steadfastly refused to read common law elements into the burglary statute, but
like progeny of Watkins, Page is the direct result of a prior specific legislative mandate to deviate
from the common law by removing the "at night" element from the crime of burglary.

⁶ See for example Bedard v. State, 118 Nev. 410, 413 (1992).

1 In Gauze the question asked was the question at bar: "Can a person burglarize his
2 own home?" The facts of the case were set forth as follows:

3
4 Gauze shared an apartment with Richard Miller and a third person and thus
5 had the right to enter the premises at all times. While visiting a friend one
6 afternoon, defendant and Miller engaged in a furious quarrel. Defendant
7 directed Miller to 'Get your gun because I am going to get mine.' While
8 Miller went to their mutual home, defendant borrowed a shotgun from a
9 neighbor. He returned to his apartment, walked into the living room, pointed
10 the gun at Miller and fired, hitting him in the side and arm. Gauze at 1365-6.

11
12 Based upon the foregoing it evident that the Gauze court was presented with a set of facts, a
13 statute and a legislative history similar to the case at bar. In reading California's burglary
14 statute the court noted:

15
16 Facially the statute is susceptible to two rational interpretations. On the one
17 hand, it could be argued that the Legislature deliberately revoked the
18 common law rule that burglary requires entry into the building of another.
19 On the other hand, the Legislature may have impliedly incorporated the
20 common law requirement by failing to enumerate one's own home as a
21 possible object of burglary. Gauze at 1366.

22 Finding no cases directly on point, the California high court examined purposes
23 underlying common law burglary and how those purposes may have been affected by the
24 enactment of the California Penal Code. Interestingly the history and timing of California's
25 burglary scheme appears to mirror that of Nevada. The court found while the legislature had
26 substantially changed the common law burglary, two important aspects had remained. 1)
27 burglary was an entry which invades a possessory right in a building; 2) it still must be
28 committed by a person who has no right to be in the building.

1 Ultimately the Gauze court ruled that a person could not be guilty of burglarizing his
2 own home because "his entry into the apartment, even for a felonious purpose, invaded no
3 possessory right of habitation; only the entry of an intruder could have done so. More
4 importantly defendant had an absolute right to enter the apartment."

5 The Gauze court went on to point out that to hold otherwise could lead to potentially
6 absurd results and disproportionate punishment for a person who commits a minor felony in
7 their own home. The same is true in Nevada. For example, if a person were able to
8 burglarize their own home, then entering said home with the intent to ingest narcotics therein
9 would morph a simple drug possession into a burglary and convert a mandatory probation
10 offense into a 1 to 10 year felony. It seems highly unlikely that our legislature ever intended
11 such a result.

12 **II. FINDINGS & CONCLUSION**

13 A man's home is his castle. Just as it is axiomatic that a person cannot be charged
14 with stealing his own money---so to it appears axiomatic to this court that a person cannot
15 burglarize his own home---it is his to enter and enjoy as he sees fit. The outcome might be
16 different if there had been some sort of legal encumbrance upon White's right to enter or
17 possess the home, but as the State conceded, there was none. White cannot be found guilty
18 of invading his own possessory rights to his home for the same reason he cannot be found
19 guilty of stealing his own money.

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1 The defendant's Petition for Writ of Habeas Corpus is granted and it is hereby
2 ORDERED that Count I charging Burglary While in Possession of a Firearm be dismissed
3 from the Information.

4
5 DATED this 9th day of May, 2013.

6
7 
8 ELIZABETH GONZALEZ
9 DISTRICT COURT JUDGE

10 PHILIP J. KOHN
11 PUBLIC DEFENDER
12 Nevada Bar #0556

13 
14 SCOTT L. COFFEE
15 Deputy Public Defender
16 Nevada Bar #005607

17 REVIEWED BY:

18
19
20 ELIZABETH MERCER
21 Deputy District Attorney
22 Nevada Bar # 010681
23
24
25
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27
28

Steven D. Schuman
CLERK OF THE COURT

1 **ORDR**

2
3
4
5 **EIGHTH JUDICIAL DISTRICT COURT**
6 **CLARK COUNTY, NEVADA**
7

**FILE WITH
MASTER CALENDAR**

8 THE STATE OF NEVADA,)

9 Plaintiff,)

10 vs.)

11 TROY WHITE,)

12 Defendant.)
13

Case No.: C-12-286357-1

Dept. No.: XI

**ORDER SCHEDULING STATUS
CHECK**

14
15 TO: Clark County District Attorney, attorney for Plaintiff;

16 TO: Clark County Public Defender, attorney for Defendant:

17 YOU ARE HEREBY ORDERED TO APPEAR in District Court, Department XI at 200
18 Lewis Avenue, Las Vegas, Nevada 89155, on **July 31, 2013 at 9:00 a.m.** to give status regarding
19 the parties' readiness for trial in this matter.
20

21 Dated this 10th day of June 2013,
22

Elizabeth Gonzalez
ELIZABETH GONZALEX, DISTRICT COURT JUDGE

RECEIVED

JUN 11 2013

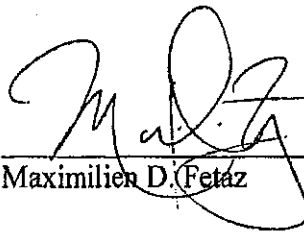
CLERK OF THE COURT

CERTIFICATE OF SERVICE

I hereby certify that on or about the date filed, I mailed a copy of the ORDER
SCHEDULING STATUS CHECK, or placed a copy in the attorney's folder, to:

Clark County District Attorney (Criminal Division)
Attorney for Plaintiff

Clark County Public Defender
Attorney for Defendant


Maximilien D. Fetaz

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
TROY RICHARD WHITE,
Respondent.

Supreme Court No. 62890
District Court Case No. C286357

FILED

AUG 08 2014

Tracie Lindeman
CLERK OF COURT

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

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

JUDGMENT

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

"Affirmed."

Judgment, as quoted above, entered this 10th day of July, 2014.

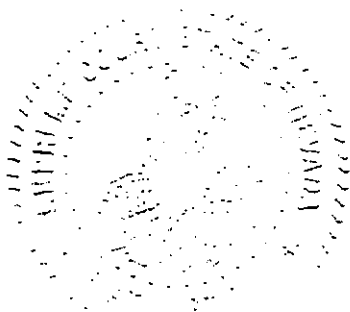
C-12-286357-1
CCJA
NV Supreme Court Clerks Certificate/Judgm
4112131



IN WITNESS WHEREOF, I have subscribed
my name and affixed the seal of the Supreme
Court at my Office in Carson City, Nevada this
August 04, 2014.

Tracie Lindeman, Supreme Court Clerk

By: Rory Wunsch
Deputy Clerk



130 Nev., Advance Opinion 56
IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
TROY RICHARD WHITE,
Respondent.

No. 62890

FILED

JUL 10 2014

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

Appeal from a district court order granting defendant's pretrial petition for a writ of habeas corpus, dismissing a burglary charge. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

Affirmed.

Catherine Cortez Masto, Attorney General, Carson City; Steven B. Wolfson, District Attorney, Steven S. Owens and Jonathan E. VanBoskerck, Chief Deputy District Attorneys, and Ryan MacDonald and Michelle Sudano, Deputy District Attorneys, Clark County, for Appellant.

Philip J. Kohn, Public Defender, and Scott L. Coffee and David Lopez-Negrete, Deputy Public Defenders, Clark County, for Respondent.

BEFORE THE COURT EN BANC.

OPINION

By the Court, GIBBONS, C.J.:

In this opinion, we address for the first time whether a person can burglarize his or her own home. We conclude that a person cannot commit burglary of a home when he or she has an absolute right to enter the home.

FACTS AND PROCEDURAL HISTORY

Troy White and Echo Lucas were married and lived together with five children in a house owned by White. In early June 2012, after having marital issues, the couple separated. White offered to move out of their residence. The couple agreed that Lucas would live in the residence with the children during the week, and White would live there with the children over the weekend. White retained his house key to use on the weekends. In late June, Lucas' new boyfriend, Joseph Averman, moved into the residence to live there with Lucas.

Averman testified that White would usually come to the residence between two and three o'clock in the afternoon on Fridays. White remained at the residence through the weekends, leaving on Sundays. During the weekends, Averman and Lucas would leave the residence and stay elsewhere until Sunday. Not surprisingly, White was unhappy that Lucas started dating Averman and began repeatedly harassing her with phone calls, voicemails, and text messages. He even threatened Averman, stating that "if you don't stay away, I'm going to . . . kill you."

On Friday July 27, 2012, around two o'clock in the morning, White began banging on Lucas' bedroom window. Lucas called him and told him to stop because the kids were asleep in the house. White

returned to the house later that day around noon, entered the house with his key, and asked to speak to Lucas. She told White that he was not supposed to be at the residence at that time and they could talk later. However, she eventually agreed to talk to him for five minutes. Lucas and White went into the spare bedroom to talk while Averman tended to one of the children across the hall in the master bedroom. Averman then heard Lucas say, "[White], no, please don't, and stop." Averman, aware of prior abuse between Lucas and White, went to the room and saw Lucas attempt to leave the room before being pulled back into the room. White then pushed Lucas against the wall and shot her in the stomach. White turned toward Averman and shot him once in the right arm and twice in the abdomen. White then told Averman that "I told you this was going to happen." White fled the scene in Lucas' vehicle. Averman eventually recovered from his injuries, but Lucas died as a result of her gunshot wound.

The State filed a criminal complaint against White for (1) burglary while in possession of a firearm, (2) murder with use of a deadly weapon, (3) attempted murder with use of a deadly weapon, (4) carrying a concealed firearm, and (5) ten counts of child abuse, neglect, or endangerment. At the preliminary hearing, the justice court bound over White on all the charges and consolidated the child abuse charges. However, White argued that he could not be charged with burglary of his own residence. The justice court instructed the parties to file a petition with the district court in order to settle this issue.

White then filed a pretrial petition for writ of habeas corpus arguing that a person cannot be charged with burglary of his or her own residence. The State filed a response arguing that Nevada's burglary

statute clearly and unambiguously allows a person to be charged with burglarizing his or her own home. The district court ultimately granted White's petition, dismissing the charge for burglary while in possession of firearm, and finding that (1) at common law one could not burglarize his or her own residence; and (2) one cannot legally burglarize his or her own residence "where there is no legal impediment such as a TPO, a restraining order of some sort . . . that would otherwise limit the ability of an owner to access their own property." The State now appeals.

DISCUSSION

A person cannot commit burglary of a home when he or she has an absolute right to enter the home

We have not previously addressed whether a person can burglarize his or her own home. We review questions of law and statutory interpretation de novo. *Sheriff, Clark Cnty. v. Burcham*, 124 Nev. 1247, 1253, 198 P.3d 326, 329 (2008). "When interpreting a statute, legislative intent is the controlling factor." *State v. Lucero*, 127 Nev. ___, ___, 249 P.3d 1226, 1228 (2011) (internal quotation marks omitted). To determine legislative intent of a statute, this court will first look at its plain language. *Id.* "But when the statutory language lends itself to two or more reasonable interpretations, the statute is ambiguous, and [this court] may then look beyond the statute in determining legislative intent." *Id.* (internal quotation marks omitted). When interpreting an ambiguous statute, "we look to the legislative history and construe the statute in a manner that is consistent with reason and public policy." *Id.* "Additionally, statutory construction should always avoid an absurd result." *Burcham*, 124 Nev. at 1253, 198 P.3d at 329 (internal quotation marks omitted).

At common law, "burglary was generally defined as the breaking and entering of the dwelling of another in the nighttime with intent to commit a felony." *People v. Gauze*, 542 P.2d 1365, 1366 (Cal. 1975) (emphasis and internal quotation marks omitted). However, Nevada's current burglary statute, NRS 205.060(1), states that "a person who, by day or night, enters any house, . . . or other building, . . . with the intent to commit grand or petit larceny, assault or battery on any person or any felony, . . . is guilty of burglary."

We conclude that Nevada's burglary statute is subject to two reasonable interpretations: (1) the Legislature intended to revoke the common law rule that burglary requires entry into the building of another, or (2) the Legislature incorporated the common law requirement by failing to expressly include one's own home as a possible place of burglary. See *Gauze*, 542 P.2d at 1366.¹ In order to resolve the two possible interpretations, we consider the purposes of common law burglary, the legislative intent of Nevada's burglary statute, and California's approach to whether one can burglarize his or her own home.²

¹California's burglary statute is nearly identical to Nevada's, and that state's legislature has also similarly expanded the structures that can be burglarized and eliminated the breaking requirement. *Gauze*, 542 P.2d at 1366. The California Supreme Court explained that the California Legislature's expansion of burglary could be interpreted in the same two ways. *Id.*

²Even though the State argues that the plain language of Nevada's burglary statute clearly allows a person to burglarize a house that he or she owns and has an absolute right to enter, we hold that this interpretation could create absurd results and would not promote the policy behind common law burglary and its modern codification, NRS 205.060. See *Gauze*, 542 P.2d at 1369 (noting that a person could
continued on next page . . .

The common law, "so far as it is not repugnant to or inconsistent with, the constitution or laws of the United States, or the laws of the territory of Nevada, shall be the rule of decision in all courts of this territory ... [and] should remain in force until repealed by the legislature." *Vansickle v. Haines*, 7 Nev. 249, 285 (1872) (internal quotation marks omitted). Common law burglary was a crime against "habitation and occupancy" and "clearly sought to protect the right to peacefully enjoy one's own home free of invasion." *Gauze*, 542 P.2d at 1366 (internal quotation marks omitted) (noting that "a person's home was truly his castle"). Further, the common law was clear that a person could not be convicted of burglary for entering his own home with the intent to commit a felony. *Id.* "This rule applied not only to sole owners of homes, but also to joint occupants," thus "[t]he important factor was occupancy, rather than ownership." *Id.*

The Nevada Legislature has moved away from the common law definition of burglary in several respects. The current statute only requires an entry with the intent to commit certain enumerated offenses. *State v. Adams*, 94 Nev. 503, 505, 581 P.2d 868, 869 (1978). Breaking is no longer an essential element of burglary. *Id.* Further, the entry does not need to be a forcible entry, nor does the burglary need to occur at night. *Hernandez v. State*, 118 Nev. 513, 531, 50 P.3d 1100, 1113 (2002); NRS 205.060(1). Also, consent to the entry is not a defense to burglary if

... continued

potentially commit burglary by walking into his house with the intent to forge a check, or with the intent to administer heroin to himself).

the person "acquired the entry with felonious intent." *Barrett v. State*, 105 Nev. 361, 364, 775 P.2d 1276, 1277 (1989). While these changes certainly expanded the common law definition of burglary, the common law notion that burglary law is designed to protect a possessory or occupancy right in property remains in effect.

The basic policies underlying burglary statutes also support the conclusion that a person cannot burglarize his or her own home when he or she has an absolute right to enter the home. Burglary statutes "are based primarily upon a recognition of the dangers to personal safety . . . that the intruder will harm the occupants in attempting to perpetrate the intended crime or to escape and the danger that the occupants will in anger or panic react violently to the invasion, thereby inviting more violence." *Gauze*, 542 P.2d at 1368 (internal quotation marks omitted). The laws are not intended necessarily to deter the trespass or the intended crimes, but "[are] aimed at the danger caused by the unauthorized entry itself." *Id.* "The statute protects against intruders into indoor areas, not persons committing crimes in their own homes." *Id.* at 1369 (emphasis omitted).

We agree with the analysis of the California Supreme Court in *Gauze*, which relied upon these policies to reach the conclusion that a person with an absolute right to enter a structure cannot commit burglary of that structure. *Id.* at 1367. In *Gauze*, the defendant entered an apartment that he rented with two other roommates and shot one of his roommates. *Id.* at 1365-66. The court concluded that the defendant did not commit burglary because he "invaded no possessory right of habitation." *Id.* at 1367. He had an absolute right to enter the apartment and could not be refused admission to his apartment or ejected from the

apartment after entry.³ *Id.* The court explained this conclusion by stating “[i]n contrast to the usual burglary situation, no danger arises from the mere entry of a person into his own home, no matter what his intent is . . . no emotional distress is suffered, no panic is engendered, and no violence necessarily erupts merely because he walks into his house.” *Gauze*, 542 P.2d at 1368.

Based on this analysis, we conclude that while the Legislature has expanded common law burglary in several respects, it has at least retained the notion that: (1) burglary law is designed to protect a possessory or occupancy right in property, and (2) one cannot burglarize his own home so long as he has an absolute right to enter the home. Thus, while ownership may be one factor to consider, the appropriate question is whether the alleged burglar has an absolute, unconditional right to enter the home.

The district court did not err in granting White’s pretrial petition for a writ of habeas corpus

Applying our holding to the facts of this case, we now consider whether the district court erred by granting White’s pretrial petition for a

³There are common situations when a person does not have an absolute right to enter a structure: For example, a husband does not have a right to enter the house he owns with his wife if the wife obtained a district court order granting her possession of the house. *People v. Smith*, 48 Cal. Rptr. 3d 378, 384 (Ct. App. 2006). Also, while customers have a limited right to enter a store for lawful purposes, persons who possess the intent to commit a felony therein are not entitled to enter. *People v. Barry*, 29 P. 1026, 1026-27 (Cal. 1892). Lastly, a landlord does not have an absolute right to enter a property he or she owns because the landlord conveys the right of possession to the tenant. *State v. Machan*, 322 P.3d 655, 659 (Utah 2013).

writ of habeas corpus. When reviewing a district court's grant of a pretrial petition for writ of habeas corpus, we must "determine whether all of the evidence received at the preliminary hearing... establishes probable cause to believe that an offense has been committed and that the accused committed it." *Kinsey v. Sheriff, Washoe Cnty.*, 87 Nev. 361, 363, 487 P.2d 340, 341 (1971). "The finding of probable cause may be based on slight, even marginal evidence," *Sheriff, Washoe Cnty. v. Hodes*, 96 Nev. 184, 186, 606 P.2d 178, 180 (1980) (internal quotation marks omitted), and we will uphold the district court's determination of factual sufficiency absent substantial error. *Burcham*, 124 Nev. at 1257, 198 P.3d at 332.

Under the facts of this case, we conclude that the district court did not err in dismissing the charge against White for burglary while in possession of a firearm because he had an absolute right to enter the residence. Even though he orally agreed to stay elsewhere during the week, he still maintained an absolute right to enter the residence and did not forfeit any possessory right he had in it. Further, White could not be ejected or prevented from entering the residence, especially since he still retained his keys to the house and entered the house on a weekly basis to stay with his children on weekends. This conclusion supports the general burglary policy to protect against intruders, but not against persons committing crimes in their own homes, such as White. Thus, the State failed to provide slight or marginal evidence that White's entry into his residence invaded another's possessory right of habitation.

CONCLUSION

We conclude that the Legislature has not eliminated the common law notion that a person with an absolute unconditional right to enter a structure cannot burglarize that structure. As such, we conclude

that the district court did not err in granting White's petition for a writ of habeas corpus. Accordingly, we affirm the order of the district court.⁴

Gibbons, C.J.
Gibbons

We concur:

Pickering, J.
Pickering

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Douglas, J.
Douglas

Cherry, J.
Cherry

Saitta, J.
Saitta

⁴We have considered the parties' remaining arguments and conclude they are without merit.

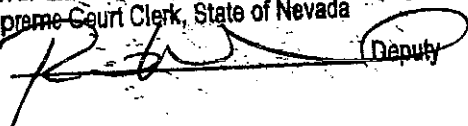
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This document is a full, true and correct copy of
the original on file and of record in my office.

DATE: AUGUST 4TH, 2014

Supreme Court Clerk, State of Nevada

By

 Deputy

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
TROY RICHARD WHITE,
Respondent.

Supreme Court No. 62890
District Court Case No. C286357

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

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

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

DATE: August 04, 2014

Tracie Lindeman, Clerk of Court

By: Rory Wunsch
Deputy Clerk

cc (without enclosures):

Hon. Elizabeth Goff Gonzalez, District Judge
Clark County District Attorney
Attorney General/Carson City
Clark County Public Defender

RECEIPT FOR REMITTITUR

Received of Tracie Lindeman, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on AUG 08 2014.

HEATHER UNGERMANN
Deputy District Court Clerk

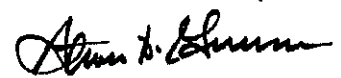
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AUG 08 2014

CLERK OF THE COURT

1

14-25338



CLERK OF THE COURT

1 NWEW
STEVEN B. WOLFSON
2 Clark County District Attorney
Nevada Bar #001565
3 LIZ MERCER
Chief Deputy District Attorney
4 Nevada Bar #010681
200 Lewis Avenue
5 Las Vegas, Nevada 89155-2212
(702) 671-2500
6 Attorney for Plaintiff

7
8 DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

CASE NO: C-12-286357-1

12 TROY RICHARD WHITE,
#1383512

DEPT NO: IX

13 Defendant.
14

15 NOTICE OF WITNESSES AND/OR EXPERT WITNESSES
16 [NRS 174.234]

17 TO: TROY RICHARD WHITE, Defendant; and

18 TO: SCOTT COFFEE, DEPUTY PUBLIC DEFENDER, Counsel of Record:

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

21 These witnesses are in addition to those witnesses endorsed on the Information or
22 Indictment and any other witness for which a separate Notice of Witnesses and/or Expert
23 Witnesses has been filed.

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

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

27 //

28 //

	<u>NAME</u>	<u>ADDRESS</u>
1		
2	ADAY, CHARLES - LVFD 500 N. Casino Center Boulevard, Las Vegas, NV 89101 - He is	
3	a clinician, trained to respond quickly to emergency situations regarding medical issues and	
4	traumatic injuries and will testify regarding the treatment of Echo Lucas and/or Joseph	
5	Averman.	
6	AIKENS, EDIN - CLARK COUNTY CORONER'S OFFICE	
7	ALDRIDGE, JED - LVMPD P#7951	
8	ALLEN, HERMAN - 6255 W. TROPICANA AVE., LVN 89103	
9	AVERMAN, JOSEPH - 8777 TOM NOON AVE., LVN 89178	
10	AYALA, JORGE - LVMPD P#7906	
11	BENTLEY, C. - P#4834, YAVAPAI COUNTY SHERIFF'S OFFICE, PRESCOTT, AZ	
12	BERGHUIS, BRAD - LVMPD P#4154 (or designee) - Will testify as an expert in the area of	
13	cellular phones, including but not limited to, cellular system technology including cell tower	
14	generation of calls and ability to determine the location where generated, collection and	
15	handling of cellular phones for evidentiary purposes, and preservation and retrieval of cellular	
16	call and text records/data, photos and/or video. Further, this expert will testify to the results	
17	of any and all examinations performed on the cellular phones in this case.	
18	BOELTS, LT. - YAVAPAI COUNTY SHERIFF'S OFFICE, PRESCOTT, AZ	
19	BOKOWSKI, ANDREA - AMR, 7201 West Post Rd., Las Vegas, NV - He is a clinician,	
20	trained to respond quickly to emergency situations regarding medical issues and traumatic	
21	injuries and will testify regarding the treatment of Echo Lucas and/or Joseph Averman.	
22	BRADLEY, ROBERT - LVMPD P#13123	
23	BRAY, SHAINA - YAVAPAI COUNTY DETENTION CENTER, PRESCOTT, AZ	
24	BROWNLEE, TRACY - LVMPD P#9975 (or designee): CRIME SCENE ANALYST:	
25	Expert in the identification, documentation, collection and preservation of evidence and is	
26	expected to testify as an expert to the identification, documentation, collection and	
27	preservation of the evidence in this case.	
28	BURNS, ZACK - LVMPD P#7577	

1 BYRD, TRENT - LVMPD P#13958
2 CALATA, ESTHER - LVMPD P#9486
3 CARRAL, MICHAEL - LVMPD P#13246
4 CARREON, ALBERT - LVMPD P#9025
5 CARTER, MARNIE – LVMPD P#8179 (or designee): LATENT PRINT EXAMINER II -
6 Expert in the science and techniques of fingerprint comparison, and comparisons done in this
7 case and any reports prepared therefrom.
8 CARVOUNIARIS, DANIELLE - LVMPD P#12712 (or designee): SENIOR CRIME SCENE
9 ANALYST: Expert in the identification, documentation, collection and preservation of
10 evidence and is expected to testify as an expert to the identification, documentation, collection
11 and preservation of the evidence in this case.
12 CASPER, MICHELE - LVMPD P#6549
13 COATES, LAURA - LVMPD P#8717
14 CUSTODIAN OF RECORDS – CLARK COUNTY DETENTION CENTER
15 CUSTODIAN OF RECORDS – Facebook: He or she is expected to give testimony as to how
16 Facebook operate and maintains records. Specifically, he or she will testify as to records
17 provided by them associated with the account of Defendant Troy White, and as to mechanisms
18 by which access to account information is limited by password, how accounts are created, the
19 information that subscribers are required to provide at the time accounts are created, and
20 throughout the time the account is open, and other related matters.
21 CUSTODIAN OF RECORDS – LVMPD COMMUNICATIONS
22 CUSTODIAN OF RECORDS – LVMPD RECORDS
23 DIAZ, FERNANDO – 409 ALTAMIRA RD., LVN 89145
24 EDENS, JOSEPH - LVMPD P#9874
25 FALKNER, BILL – DISTRICT ATTORNEY INVESTIGATOR
26 FILDES, DR. - UNIVERSITY MEDICAL CENTER: 1800 W. Charleston Blvd., Las Vegas,
27 NV – He is a medical doctor and works in emergency medicine, and will testify regarding
28 treatment of Echo Lucas, DOB 1/20/84 on or about 7/27/12.

1 FUTRELL, AARON - LVFD 500 N. Casino Center Boulevard, Las Vegas, NV 89101 - He is
2 a clinician, trained to respond quickly to emergency situations regarding medical issues and
3 traumatic injuries and will testify regarding the treatment of Echo Lucas and/or Joseph
4 Averno.
5 GAINES, AMBER - 4801 E. TROPICANA AVE., LVN 89178
6 GAINES, MIKE - 4801 E. TROPICANA AVE., LVN 89121
7 GILLIS, MATTHEW - LVMPD P#6225
8 GOHR, CHASTITY - LVMPD P#7470
9 GRANT, JULIA - LVMPD P#7784
10 HADFIELD, LAWRENCE - LVMPD P#7171
11 HELM, MORGAN - LVFD 500 N. Casino Center Boulevard, Las Vegas, NV 89101 - He is a
12 clinician, trained to respond quickly to emergency situations regarding medical issues and
13 traumatic injuries and will testify regarding the treatment of Echo Lucas and/or Joseph
14 Averno.
15 HENDERSON, ROBERTO - LVMPD P#4556
16 HERNANDEZ, JOSE - LVMPD P#5850
17 HIBBETTS, BRIAN - LVMPD P#4799
18 HOLLAND, ROBERT - LVMPD P#3410
19 HONAKER, JAMIE - DISTRICT ATTORNEY INVESTIGATOR
20 HORLSEY, RORY - LVMPD P#4652
21 HURWITZ, DAVID - LVMPD P#5430
22 IVIE, TRAVIS - LVMPD P#6405
23 JAEGAR, JAMES - P#8268, YAVAPAI COUNTY DETENTION CENTER, PRESCOTT, AZ
24 JARAMILLO, NOVA - CLARK COUNTY CORONER INVESTIGATOR
25 JENSEN, BARRY - LVMPD P#3662
26 KARTCHNER, KOLBY - LVMPD P#6632
27 KISNER, JOEL - LVMPD P#4656
28

1 KWON, M.D., ED – UNIVERSITY MEDICAL CENTER: 1800 W. Charleston Blvd., Las
2 Vegas, NV – He is a medical doctor and works in emergency medicine, and will testify
3 regarding treatment of Echo Lucas, DOB 1/20/84 on or about 7/27/12.
4 LAYTHORPE, MICHAEL - LVMPD P#5448
5 LESTER, ANYA "SANKO" – LVMPD P#13771 (or designee): FIREARMS/TOOLMARK
6 EXAMINER with the Las Vegas Metropolitan Police Department. She is an expert in the field
7 of firearm and toolmark comparisons and is expected to testify thereto.
8 LUNDQUIST, ROBERT - LVMPD P#4095
9 MARQUEZ, ALEX - LVMPD P#6250
10 MARSCHNER, JULIE – LVMPD P#8806 (or designee): Expert in the field of DNA
11 extractions, comparisons, analysis, and the identification of bodily fluids and is expected to
12 testify thereto.
13 MARSHALL, BRADLEY – 7429 FOREST IVY ST., LVN 89131
14 MARTIN, TERRY – LVMPD P#5946 (or designee): CRIME SCENE ANALYST: Expert in
15 the identification, documentation, collection and preservation of evidence and is expected to
16 testify as an expert to the identification, documentation, collection and preservation of the
17 evidence in this case.
18 MARTINE, DARREN - LVMPD P#4751
19 MATTHEWS, KACEY - LVMPD P#4372
20 MCCLEERY, HEATHER - LVMPD P#4951
21 MCGRATH, JOHN - LVMPD P#4347
22 MCINTYRE, MORETTA – LVMPD P#13207 (or designee): CRIME SCENE ANALYST:
23 Expert in the identification, documentation, collection and preservation of evidence and is
24 expected to testify as an expert to the identification, documentation, collection and
25 preservation of the evidence in this case.
26 MILLER, PHILLIP - LVMPD P#1791
27 MITCHELL, MICHAEL - LVMPD P#6273
28 MONTALTO, MICHAEL – 8917 LOGGERS MILL AVE., LVN 89143

1 MORGAN, BARBARA - LVMPD P#4216
2 O'BRIEN, CHRIS - LVMPD P#6801
3 O'BRIEN, MATTHEW - LVMPD P#3506
4 ORTIZ, WILLIAM - ADDRESS UNKNOWN
5 PAGNOTTA, MICHAEL - LVMPD P#5300
6 PIERCE, KORY - LVMPD P#9009
7 PRALL, JEFFREY - LVMPD P#8714
8 RASCHKE, SANDY - LVMPD P#4899
9 REINER, JENNIFER - LVMPD P#8167 (or designee): SENIOR CRIME SCENE
10 ANALYST: Expert in the identification, documentation, collection and preservation of
11 evidence and is expected to testify as an expert to the identification, documentation, collection
12 and preservation of the evidence in this case.
13 RENHARD, LOUISE - LVMPD P#5223 (or designee): CRIME SCENE ANALYST: Expert
14 in the identification, documentation, collection and preservation of evidence and is expected
15 to testify as an expert to the identification, documentation, collection and preservation of the
16 evidence in this case.
17 REVELS, JEROME - DISTRICT ATTORNEY INVESTIGATOR
18 RINETTI, LAWRENCE - LVMPD P#9036
19 RUMERY, FRANK - LVMPD P#5817
20 SCHMIDT, ROBERT - LVMPD P#3389
21 SCHMITT, JOSE - LVMPD P#3411
22 SCHREIBER, DOUGLAS - ADDRESS UNKNOWN
23 SCHREIBER, PAUL - C/O CCDA, 200 LEWIS AVE., LVN 89101
24 SCOTT, JEFFREY - LVMPD P#9618 (or designee): CRIME SCENE ANALYST: Expert in
25 the identification, documentation, collection and preservation of evidence and is expected to
26 testify as an expert to the identification, documentation, collection and preservation of the
27 evidence in this case.
28 SCOTT, JON - LVMPD P#4532

1 SHANNON, GILBERT - LVMPD P#4111
2 SMITH, JEFFREY - LVMPD P#8177 (or designee): CRIME SCENE ANALYST: Expert in
3 the identification, documentation, collection and preservation of evidence and is expected to
4 testify as an expert to the identification, documentation, collection and preservation of the
5 evidence in this case.
6 STOUT, ERIC - LVMPD P#4550
7 TOMAINO, DANIEL - LVMPD P#8278
8 TORSIELLO, MICHAEL - LVMPD P#13149
9 UMANA, WILLIAM - LVMPD P#7441
10 WEST, KENNETH - LVMPD P#5759
11 WHITE, JAYCE - C/O AMBER GAINES, 4801 E. TROPICANA RD., LVN 89121
12 WHITE, JODEY - C/O AMBER GAINES, 4801 E. TROPICANA RD., LVN 89121
13 WILSON, ROBERT - 316 ALTAMIRA RD., LVN 89106
14 WILSON, WANDA - 316 ALTAMIRA RD., LVN 89106

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

17
18 BY /s//LIZ MERCER
19 LIZ MERCER
20 Chief Deputy District Attorney
Nevada Bar #010681
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1 **CERTIFICATE OF ELECTRONIC FILING**

2 I hereby certify that service of State's Opposition was made this 12th day of February,
3 2015, by Electronic Filing to:

4 SCOTT COFFEE, Deputy Public Defender
5 E-mail Address: coffeesl@ClarkCountyNV.gov

6 Shellie Warner
7 Secretary for the District Attorney's Office

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28 mmw/GCU

Curriculum Vitae

**Las Vegas Criminalistics Bureau
Statement of Qualifications**

Name: BROWNLEE, Tracy

P# 9975

Date: 09-16-10

CURRENT CLASSIFICATION		
	<i>Classification</i>	<i>Minimum Qualifications</i>
X	Crime Scene Analyst I	AA Degree with major course work in Criminal Justice, Forensic Science, Physical Science or related field, including specialized training in Crime Scene Investigation.
X	Crime Scene Analyst II	18 months - 2 years continuous service with LVMPD as a Crime Scene Analyst I.
	Senior Crime Scene Analyst	Two (2) years as a Crime Scene Analyst II to qualify for the promotional test for Senior Crime Scene Analyst.
	Crime Scene Analyst Supervisor	Four (4) years continuous service with LVMPD and completion of probation as a Senior Crime Scene Analyst. Must have the equivalent of a Bachelor's Degree from an accredited college or university with major course work in Criminal Justice, Forensic Science, Physical Science or related field.
FORMAL EDUCATION		
<i>Institution</i>	<i>Major</i>	<i>Degree/Date</i>
Lower Columbia College	General Transfer	AA 06/03
Eastern Washington Univ.	Criminal Justice	BA 08/05
TESTIMONY		
<i>Yes</i>	<i>No</i>	
EMPLOYMENT HISTORY		
<i>Employer</i>	<i>Title</i>	<i>Date</i>
LVMPD	CSA II	05-14-09 to Present
LVMPD	CSA I	05-17-07 to 05-17-09

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
FORENSIC LABORATORY
STATEMENT OF QUALIFICATIONS**

Date: 07/07/10

Name: Marnie Carter P#: 8179 Classification: Forensic Scientist II

Current Discipline of Assignment: Latent Prints

EXPERIENCE IN THE FOLLOWING DISCIPLINE(S)			
Controlled Substances		Blood Alcohol	
Toolmarks		Breath Alcohol	
Trace Evidence		Arson Analysis	
Toxicology		Firearms	
Latent Prints	X	Crime Scene Investigations	X
Serology		Clandestine Laboratory Response Team	
Document Examination		DNA Analysis	
Quality Assurance		Technical Support /	

EDUCATION			
<i>Institution</i>	<i>Dates Attended</i>	<i>Major</i>	<i>Degree Completed</i>
Drury College	08/97 – 12/99	Biology/Chemistry	B.A.
Nicholls State University	08/91 – 12/93		N/A

ADDITIONAL TRAINING / SEMINARS		
<i>Course / Seminar</i>	<i>Location</i>	<i>Dates</i>
Became a Certified Latent Print Examiner	Las Vegas, NV	12/09
Paper (Chemical Processing) – Indane Dione, Oilredo, and Physical Developer IAD Tri-Division Conference	Las Vegas, NV	10/08/09
Analysis of Distortion in Latent Prints	Las Vegas, NV	02/09/09-02/10/09
GWS-L Latent User Methods and Operations	Las Vegas, NV	09/15/08-09/16/08
RUVIS Training (George Setola; SPeX)	Las Vegas, NV	08/06/08
Application of Statistics to Ridgeology And ACE-V Methodology	Las Vegas, NV	03/31/08-04/04/08

ADDITIONAL TRAINING / SEMINARS		
Course / Seminar	Location	Dates
Forensic Ridgeology	Las Vegas, NV	02/18/08-02/22/08
24-Hour Application Study in Forensic Photography	Las Vegas, NV	02/14/08
Forensic Digital Imaging	Las Vegas, NV	01/07/08-01/10/08
Forensic Imaging Techniques	Las Vegas, NV	01/07/08-01/09/08
Finding Latent Evidence with Chemistry and Light	Henderson, NV	12/11/07-12/14/07
Advanced Palm Prints Comparison Techniques	Fresno, CA	11/13/07-11/15/07
92 nd IAI Conference	San Diego, CA	07/22/07-07/26/07
RAM Chemical Processing and Photography	LVMPD (Forensic Lab)	01/03/07
Firearms Qualification -2 nd , 3 rd , 4 th Quarter	LVMPD	2006
2006 Disciplinary Decision Guide Briefing	LVMPD - UMLV	12/06/06
Death in Infancy & Childhood - Investigation & Pathology Seminar (Instructor: Dr. Tracy Corey, Chief Medical Examiner for the State of Kentucky)	Clark County Coroner's Office	11/16/06-11/17/06
Respirator Recertification - "Clandestine Laboratory Safety/ Annual Refresher Course"	LVMPD	10/25/06
"Courtroom Demeanor" (Instructor: DA Bill Berrett)	LVMPD (DA's Office)	09/27/06
"DA Screening" (Instructor: DA Frank Ponticello)	LVMPD (DA's Office)	09/13/06
Presumptive Standards (Instructor: Shannon Merges)	LVMPD	07/19/06
Incident Command System 100LE	LVMPD - UMLV	06/21/06
Firearms Investigations	LVMPD	05/21/06
Bloodstain Pattern Recognition and Examination of Bloodstained Clothing Workshop	LVMPD	05/10/06
Defensive Tactics (Instructor: Luis Norris, P#5104)	LVMPD	03/15/06
Bloodstain Pattern Recognition - Instructor: Craig C. Moore, Niagara Regional Police Service (Canada)	LMVPD	01/16/06-01/20/06

ADDITIONAL TRAINING / SEMINARS		
Course / Seminar	Location	Dates
Merging Digital Photography/Crime Scene Investigations (Instructor: Mike Perkins)	LVMPD	12/07/05
Terrorism Jeopardy, Part 1	LVMPD - UMLV	11/09/05
Completion of Proficiency Exercise - "Recording Major Case Prints"	LVMPD	11/09/05
Plague	LVMPD (UMLV)	08-25-05
National Incident Management System (NIMS)	LVMPD (UMLV)	08/19/05
Digital Workstation Training (Sheree Norman, CSI Training Coordinator Assistant)	LVMPD	07/05
Handling Bomb Threats	LVMPD (UMLV)	05/06/05
An Introduction to the Physical Makeup of Blood	NSDIAI, 5 th Annual Educational Conference	03/22/05-03/24/05
Homicide Issues: A Prosecutor's Perspective on Presenting Cases to a Jury	NSDIAI, 5 th Annual Educational Conference	03/23/05
DNA - Analysis of Biological Evidence	NSDIAI, 5 th Annual Educational Conference	03/24/05
Crime Scene Technology 2: A Crime Scene Practicum	Institute of Applied Forensic Technology	03/14/05-03/18/05
Practical Homicide Investigation	P.H.I Investigative Consultants, Inc.	03/07/05-03/09/05
Smallpox	LVMPD (UMLV)	03/05/05
Biological Terrorism	LVMPD (UMLV)	03/05/05
Clandestine Laboratory Safety Certification	LVMPD	02/23/05-02/25/05
Testifying in Court	LVMPD	12/11/04
Understanding Death & Grief Issues	LVMPD	12/08/04
Active Member # 20649 (International Association for Identification)	IAI	10/12/04
Forensic Science 101	American Institute of Applied Science	10/08/04

ADDITIONAL TRAINING / SEMINARS		
Course / Seminar	Location	Dates
NV State Division of IAI	NSDIAI	07/27/04
Forensic Photo Techniques	NSDIAI	04/07/04
Lifting Prints off Textured Surfaces	NSDIAI	04/07/04
Defensive Tactics - CSA's	LVMPD	02/02/04
Civilian Use of Force & Firearm Training	LVMPD	02/03/04-02/05/04
Orientation for Civilian Employees - Advanced Training	LVMPD	01/22/04-01/30/04
Criminal Law (Capt. T. Hawkins)	LVMPD	12/04/03
Law Enforcement Response to Alzheimer's (Elderly Abuse/Neglect)	LVMPD	12/04/03
Driver's Training	LVMPD	12/01/03
COURTROOM EXPERIENCE		
Court	Discipline	Number of Times
Grand Jury	Latent Prints	1
District Court, Clark County	Latent Prints	2
District Court, Clark County	Crime Scene Analyst	12
Grand Jury	Crime Scene Analyst	2
Justice Court, Las Vegas	Crime Scene Analyst	2
EMPLOYMENT HISTORY		
Employer	Job Title	Date
LVMPD	Forensic Scientist II	03/10 - Present
LVMPD	Forensic Scientist I	03/07 - 03/10
LVMPD	CSA II	11/05 - 03/07
LVMPD	CSA I	11/03 - 11/05
PROFESSIONAL AFFILIATIONS		
Organization	Date(s)	

PROFESSIONAL AFFILIATIONS	
Organization	Date(s)
International Association For Identification (IAI)	10/2004
Nevada State Division of IAI (NSDIAI)	07/2004
PUBLICATIONS / PRESENTATIONS:	
10/06/09-10/08/09 "Fingerprint Alterations – Disguised, Obliterated, And Mutilated", IAI Tri-Divisional Conference, Las Vegas, NV	
09/16/09-09/23/09 Latent Print Training – To LVMPD Gang Unit, Las Vegas, NV	
09/22/09-09/23/09 Latent Print Training – To LVFR Arson/Bomb Squad, Las Vegas, NV	
01/09/09 "Crime Scene Investigations" Criminalistics Class, Advanced Technologies Academy, Las Vegas, NV	
09/22/08 "Latent Print Evidence" LVMPD CSA Academy, Las Vegas, NV	
09/08/08-09/09/08 "Ridge Flows and Cease Patterns of the Palms", LVMPD Fo/ensic Laboratory, Las Vegas, NV	
9/3/08 "Ridge Flows and Cease Patterns of the Palms", Civil Fingerprinting, Las Vegas, NV	
6/11/08 "Historical and Scientific Development of Latent Print Methodologies", LVMPD, Las Vegas, NV	
03/08 "Latent Print Evidence", CSA Academy, LVMPD, Las Vegas, NV	
11/06/07 "Back to Basics: Ridge Flows and Creases of Hands and Feet" Arizona/Nevada/ Utah Tri-State IAI Conference, Salt Lake City, Utah	
11/06/07 "Who Moved My Latent?: Disguised Fabricated and Forged Fingerprints" Arizona/Nevada/ Utah Tri-State IAI Conference, Salt Lake City, Utah	
08/21/07 "Disguising and Disrupting Fingerprints", LVMPD, Las Vegas, NV	
08/07/07 "Distortion in Latent Prints", LVMPD, Las Vegas, NV	
06/14/07 "Ridge Flows and Crease Patterns of the Hands and Feet", LVMPD, Las Vegas, NV	
05/23/07 "Introduction to Latent Print Collection", LVMPD Laughlin Substation, NV	
OTHER QUALIFICATIONS:	
Certified Latent Print Examiner – IAI, Dec. 2009	

Curriculum Vitae
Las Vegas Criminalistics Bureau
Statement of Qualifications

Name: CARVOUNIARIS, Danielle

P# 12712

Date: 04-17-13

CURRENT CLASSIFICATION		
	<i>Classification</i>	<i>Minimum Qualifications</i>
	Crime Scene Analyst I	AA Degree with major course work in Criminal Justice, Forensic Science, Physical Science or related field, including specialized training in Crime Scene
	Crime Scene Analyst II	18 months - two (2) years continuous service with LVMPD as a Crime Scene Analyst I.
X	Senior Crime Scene Analyst	Two (2) years as a Crime Scene Analyst II to qualify for the promotional test for Senior Crime Scene Analyst.
	Crime Scene Analyst Supervisor	Four (4) years continuous service with LVMPD and completion of probation as a Senior Crime Scene Analyst. Must have the equivalent of a Bachelor's Degree from an accredited college or university with major course work in Criminal Justice, Forensic Science, Physical Science or related field.
FORMAL EDUCATION		
<i>Institution</i>	<i>Major</i>	<i>Degree/Date</i>
University of Nevada Las Vegas	Criminal Justice	Bachelor of Arts/May 2006
TESTIMONY		
<i>Yes</i>	<i>No</i>	
X		District Court, Justice Court, Grand Jury
EMPLOYMENT HISTORY		
<i>Employer</i>	<i>Title</i>	<i>Date</i>
LVMPD	Senior CSA	06-23-12 to Present
LVMPD	CSA II	03-10-10 to 06-23-12
LVMPD	CSA I	03-10-08 to 03-10-10
Malibu Services	Owner	08/06 - 07/07
Dave Groover and Associates	Private Investigator	2002 - 03/07
A Special Memory Wedding Chapel	Florist	2004 - 01/06
Mt. Olive Lutheran Church	Child Care Provider	05/00 - 12/02
Wells Fargo Bank	Teller	05/00 - 12/02

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
FORENSIC LABORATORY
CURRICULUM VITAE**

Date: 11/26/13

Name: Anya Lester P#: 13771 Classification: Forensic Scientist II

Current Discipline of Assignment: Firearms and Toolmarks

EXPERIENCE IN THE FOLLOWING DISCIPLINE(S)			
Controlled Substances		Toxicology/Blood Alcohol	
Toolmarks	X	Toxicology/Breath Alcohol	
Trace Evidence		Toxicology/Drugs	
Arson Analysis		Firearms	X
Latent Prints		Crime Scene Investigations	
Serology		Clandestine Laboratory Response Team	
Document Examination		DNA Analysis	
Quality Assurance		Technical Support /	

EDUCATION			
<i>Institution</i>	<i>Dates Attended</i>	<i>Major</i>	<i>Degree Completed</i>
Oakland Fire Training Institute	2004-2005	Firefighter I and II	Certification, 2005
Henry Ford Community College	1998-2000	Emergency Medical Services - Paramedic	Certification, 2000
Edinboro University	1995-1997	Biology	Graduate courses
Michigan State University	1989-1994	Forensic Science	B.S., 1994

ADDITIONAL TRAINING / SEMINARS		
<i>Course / Seminar</i>	<i>Location</i>	<i>Dates</i>
Toolmark Identification and Comparison Training	Ammendale, MD	07/30 - 08/03/2012
Southern CA Firearms Study Group - BB and Airsoft Training	Los Angeles, CA	12/08/2011
Hi-Point Firearms Armorer's Course	Chicago, IL	06/03/2011
BATFE Machine Gun Conversions/Silencers workshop	Chicago, IL	06/02/2011
AFTE Annual Training Seminar	Chicago, IL	05/29-06/03/2011

ADDITIONAL TRAINING / SEMINARS		
Course / Seminar	Location	Dates
Basic Shooting Reconstruction Course	Las Vegas, NV	01/24/11-01/26/11
ATF Serial Number Restoration Course	Las Vegas, NV	09/27/10-09/29/10
Colt .45/Model "O" and Colt M16/AR-15 Armorer's School	Las Vegas, NV	08/02/10-08/07/10
LAR Manufacturing Factory Tour	West Jordan, UT	07/14/10
North American Arms Factory Tour	Provo, UT	07/13/10
Barnes Bullets Ammunition Factory Tour	Mona, UT	07/13/10
Sig Sauer Classic Pistols Amorer's School	Las Vegas, NV	07/07/10-07/08/10
Sturm Ruger Firearms Factory Tour	Prescott, AZ	06/19/10
Dillon Precision Reloading Factory Tour	Scottsdale, AZ	06/18/10
Schneider Rifle Barrels Factory Tour	Payson, AZ	06/18/10
Benelli M1, M2, M4 Armorer's School	Las Vegas, NV	06/16/10-06/17/10
Beretta 90 Series and Px4 Armorer's School	Las Vegas, NV	06/14/10-06/15/10
AFTE Annual Training Seminar	Henderson, NV	05/02/10-05/07/10
Innov-x XRF Safety and Operator Training	Las Vegas, NV	04/08/10
ATF IBIS Data Acquisition Training	Largo, FL	01/24/10-01/29/10
Glock Armorer's School	Las Vegas, NV	01/20/10
COURTROOM EXPERIENCE		
Court	Discipline	Number of Times
Clark County District Court	Firearms Identification	3
EMPLOYMENT HISTORY		
Employer	Job Title	Date
Las Vegas Metropolitan Police Department	Forensic Scientist I/II	10/2010 - present
Las Vegas Metropolitan Police Department	Forensic Scientist Trainee	10/2009-10/2010
Las Vegas Metropolitan Police Department	Forensic Laboratory Aide	12/2008-10/2009

EMPLOYMENT HISTORY		
<i>Employer</i>	<i>Job Title</i>	<i>Date</i>
College of Southern Nevada	American Heart Association Training Center Coordinator	11/2006-12/2008
College of Southern Nevada	Part-Time Instructor Healthcare Continuing Education	11/2006 - present
Oakland Community College	Laboratory Paraprofessional – Forensic Science and EMS Labs	2001-2006
Oakland Community College	Adjunct Faculty – Medical Terminology and EMS	2001-2006
PROFESSIONAL AFFILIATIONS		
<i>Organization</i>	<i>Date(s)</i>	
Association of Firearm and Toolmark Examiners (AFTE) – Provisional Member	07/2011-present	
PUBLICATIONS / PRESENTATIONS:		
Poster Presentations, "Evaluation of the Forensics Source Short Length Ballistic Fiber Filled Bullet Catcher," "Remington HD Ultimate Home Defense 12 Gauge Shot Shell Ammunition," "Sub-Caliber Shenanigans," and "Proof of Concept (Preliminary) Results on a Method to Cross Check Chronograph Velocities Using Hi-Speed Video Camera," Association of Firearm and Tool Mark Examiners Annual Training Seminar, May 2010		
Accepted Presenter, "How the College of Southern Nevada Met Community Needs Using the American Heart Association Programs for Healthcare Professionals", National Council for Workforce Education Conference, Fall 2007		
Advanced Cardiac Life Support Presenter, Symposium on Emergency, Trauma, and Critical Care Medicine, Spring 2007		
Presenter Michigan EMS EXPO, "Pediatric IV/IO 'When You're More Scared Than They Are'", "Advanced Airway Seminar", "Advanced Patient Assessment", 2004, 2005, 2006		
OTHER QUALIFICATIONS:		
HAZMAT Awareness and Operations Certified		
Certified Paramedic, Certified Firefighter I and II – State of MI		
American Heart Association Instructor Certified – CPR and First Aid		
AHA Emergency Cardiac Care Regional Task Force Member, 2006-2012		

AHA Training Center Faculty Member, 2006-present

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
FORENSIC LABORATORY
STATEMENT OF QUALIFICATIONS**

Date: 01/15/08

Name: Julie Marschner

P#: 8806

Classification: Forensic Scientist II

Current Discipline of Assignment: Biology/DNA

EXPERIENCE IN THE FOLLOWING DISCIPLINE(S)			
Controlled Substances		Blood Alcohol	
Toolmarks		Breath Alcohol	
Trace Evidence		Arson Analysis	
Toxicology		Firearms	
Latent Prints		Crime Scene Investigations	
Serology	X	Clandestine Laboratory Response Team	
Document Examination		DNA Analysis	X
Quality Assurance		Technical Support /	

EDUCATION			
Institution	Dates Attended	Major	Degree Completed
Virginia Commonwealth University	08/2003 - 12/2004	Forensic Science	M.S.
CA Polytechnic State University, San Luis Obispo	06/1997 - 06/2001	Biological Sciences	B.S.

ADDITIONAL TRAINING / SEMINARS		
Course / Seminar	Location	Dates
Internship: Virginia Department of Forensic Science - Forensic Biology and DNA Section	Richmond, VA	6/04 to 08/04
Orientation for Civilian Employees	Las Vegas, NV	10/05
Drivers Training II	Las Vegas, NV	10/05
11 th National CODIS Conference	Arlington, VA	11/05
National Institute of Justice Expert Systems Testbed Project	Huntington, WV	2/06
American Academy of Forensic Sciences 58 th Annual Meeting	Seattle, WA	2/06
Serological Techniques and DNA Screening - Colleen Proffitt, MFS	Las Vegas, NV	5/06
Bode Advanced DNA Technical Workshop	Captiva Island, FL	06/06

Statement of Qualifications

Name: Julie Marschner

Page: 2

ADDITIONAL TRAINING / SEMINARS		
Course / Seminar	Location	Dates
Bode Workshop - "Presenting Statistics in the Courtroom"	Captiva Island, FL	06/06
Differential Extraction	Las Vegas, NV	06/06
Complex Mixture Interpretation	Lakewood, CO	08/06
17 th International Symposium on Human Identification	Nashville, TN	10/06
Advanced Topics in Statistics	Nashville, TN	10/06
CODIS 5.7.3 Software Training	McLean, VA	11/06
Forensic Population Genetics and Statistics	Las Vegas, NV	11/27/06
13 th National CODIS Conference	Burlingame, CA	10/07
FBI DNA Auditor Training	Burlingame, CA	10/07
COURTROOM EXPERIENCE		
Court	Discipline	Number of Times
Clark County District Court	Biology/DNA	4
EMPLOYMENT HISTORY		
Employer	Job Title	Date
Las Vegas Metropolitan Police Department Forensic Lab	Forensic Scientist	07/2005 - Present
Perlegen Sciences, Mountain View, CA	Research Assistant II	07/2001 - 08/2003
PROFESSIONAL AFFILIATIONS		
Organization	Date(s)	
American Academy of Forensic Sciences - Trainee Affiliate in Criminalistics	02/07 - Present	

PROFESSIONAL AFFILIATIONS	
Organization	Date(s)

PUBLICATIONS / PRESENTATIONS:
None

OTHER QUALIFICATIONS:
None

[FL 11/00]

Curriculum Vitae

Las Vegas Criminalistics Bureau Statement of Qualifications

Name: Terry Martin

P# 5946

Date: 10-1-03

CURRENT CLASSIFICATION		
	Classification	Minimum Qualifications
	Crime Scene Analyst I	AA Degree with major course work in Criminal Justice, Forensic Science, Physical Science or related field, including specialized training in Crime Scene Investigation.
	Crime Scene Analyst II	18 months - 2 years continuous service with LVMPD as a Crime Scene Analyst I.
X	Senior Crime Scene Analyst	Two (2) years as a Crime Scene Analyst II to qualify for the promotional test for Senior Crime Scene Analyst.
	Crime Scene Analyst Supervisor	Four (4) years continuous service with LVMPD and completion of probation as a Senior Crime Scene Analyst. Must have the equivalent of a Bachelor's Degree from an accredited college or university with major course work in Criminal Justice, Forensic Science, Physical Science or related field.

FORMAL EDUCATION		
Institution	Major	Degree/Date
U of Texas-San Antonio	Criminal Justice	Bachelors Degree-1996

TESTIMONY		
Yes	No	

EMPLOYMENT HISTORY		
Employer	Title	Date
LVMPD	Sr. Crime Scene Analyst	7-13-98

MARTIN, TERRY

P# 5946

CRIMINALISTICS BUREAU -
FIELD

SENIOR CSA

SS#: 218-90-1956

DOH: 07-13-98

DATE	CLASS TITLE	AGENCY	CREDIT HOURS
8-96	Criminal Justice	U of Texas- San Antonio	Degree
07-28-98	New Civilian Employee Orientation	LVMPD	14
08-10-98	CAPSTUN for Civilians	LVMPD	1.5
08-10-98	Stress Management	LVMPD	4
08-12-98	Civilian Use of Force & Firearms Training	LVMPD	21
08-12-98	Optional Weapon	LVMPD	
08-13-98	Combat Shooting Simulator - FATS	LVMPD	1
07-13 to 08-14-98	Crime Scene Analyst Academy - Criminalistics Bureau	LVMPD	175
08-10-98	Stress Management	LVMPD	4
10-20-98	Criminalistics Bureau - Field Training	LVMPD	400
12-04-98	Duty Weapon Qualification	LVMPD	2
12-07-98	Training - Motor Home Driving	LVMPD	4
12-23-98	Class II - Driver Training	LVMPD	8
03-30-99	Duty Weapon Qualification/Off-Duty Weapon Qualification	LVMPD	2
04-16-99	Duty Weapon Qualification/Off-Duty Weapon Qualification	LVMPD	2
04-21-99	Critical Procedures Test	LVMPD	2
05-17-99	Forensic Science Certificate	American Institute of Applied Science (AIAS)	260
06-03-00	Optional Weapon	LVMPD	15
08-30 to 09-01-99	Clandestine Laboratory Safety Certification Course, Occasional Site Worker	LVMPD	24
09-08-99	Combat Shooting Simulator/FATS	LVMPD	1
09-13 to 09-17-99	Crime Scene Technology 2	Northwestern University, Traffic Institute	40
09-21-99	Duty Weapon Qualification	LVMPD	2

01-20-00	Latent Fingerprint Development Workshop	U.S. Secret Service	8
12-23-00	Crime Scene Analyst Certification Certificate	IAI	
09-20-01	LVMPD Defensive Driving Course	LVMPD	8
12-03 to 12-07-01	Advanced Practical Homicide Investigation	P.H.I. Investigative Consultants, Inc.	40
2-6-02	Crime Scene Analyst (Level 2)	IAI	
03-30-02	Documentation of Footwear & Tire Impressions	LVMPD	1
03-30-02	Forensic Anthropology	LVMPD	1.5
04-01-02	Clandestine Laboratory Safety - Fingerprint Processing	LVMPD	1
04-01-02	Chemical Enhancements of Bloodstains, Preliminary Steps	LVMPD - Criminalistics Bureau	1
04-01-02	Major Case Prints	LVMPD	3
02-03 to 02-05-03	Shooting Incident Reconstruction - Forensic Identification Training Seminars	LVMPD	24
02-06 to 02-08-03	Advanced Shooting Incident Reconstruction - Forensic Identification Training Seminars	LVMPD	24

Curriculum Vitae

**Las Vegas Criminalistics Bureau
Statement of Qualifications**

Name: Moretta McIntyre

P# 13207

Date: 03-25-08

CURRENT CLASSIFICATION		
	<i>Classification</i>	<i>Minimum Qualifications</i>
X	Crime Scene Analyst I	AA Degree with major course work in Criminal Justice, Forensic Science, Physical Science or related field, including specialized training in Crime Scene
	Crime Scene Analyst II	18 months - two (2) years continuous service with LVMPD as a Crime Scene Analyst I.
	Senior Crime Scene Analyst	Two (2) years as a Crime Scene Analyst II to qualify for the promotional test for Senior Crime Scene Analyst.
	Crime Scene Analyst Supervisor	Four (4) years continuous service with LVMPD and completion of probation as a Senior Crime Scene Analyst. Must have the equivalent of a Bachelor's Degree from an accredited college or university with major course work in Criminal Justice, Forensic Science, Physical Science or related field.
FORMAL EDUCATION		
<i>Institution</i>	<i>Major</i>	<i>Degree/Date</i>
Grossmont College	Forensic Technology	Associate/May 2007
TESTIMONY		
<i>Yes</i>	<i>No</i>	
EMPLOYMENT HISTORY		
<i>Employer</i>	<i>Title</i>	<i>Date</i>
LVMPD	Crime Scene Analyst I	03-10-08 to Present
Seirus Innovations	Accounting Clerk	01/02 - 08/07
Agri-Beef Company	Accounting Assistant	10/99 - 12/01
Kitsap P.U.D.	Accounting Intern	12/98 - 07/99
Todd McLean	Nanny	06/96 - 12/98

Curriculum Vitae

**Las Vegas Criminalistics Bureau
Statement of Qualifications**

Name: REINER, Jennifer

P# 8167

Date: 04-01-13

CURRENT CLASSIFICATION		
	<i>Classification</i>	<i>Minimum Qualifications</i>
	Crime Scene Analyst I	AA Degree with major course work in Criminal Justice, Forensic Science, Physical Science or related field, including specialized training in Crime Scene Investigation.
	Crime Scene Analyst II	18 months – 2 years continuous service with LVMPD as a Crime Scene Analyst I.
X	Senior Crime Scene Analyst	Two (2) years as a Crime Scene Analyst II to qualify for the promotional test for Senior Crime Scene Analyst.
	Crime Scene Analyst Supervisor	Four (4) years continuous service with LVMPD and completion of probation as a Senior Crime Scene Analyst. Must have the equivalent of a Bachelor's Degree from an accredited college or university with major course work in Criminal Justice, Forensic Science, Physical Science or related field.
FORMAL EDUCATION		
<i>Institution</i>	<i>Major</i>	<i>Degree/Date</i>
University of South Dakota	Criminal Justice	B.S.- May 2001
TESTIMONY		
<i>Yes</i>	<i>No</i>	
X		District Court, Justice Court, Grand Jury
EMPLOYMENT HISTORY		
<i>Employer</i>	<i>Title</i>	<i>Date</i>
LVMPD	Senior CSA	10-27-12 to Present
LVMPD	Crime Scene Analyst II	08-30-10 to 10-27-12
LVMPD	Crime Scene Analyst I	08-30-08 to 08-30-10
LVMPD	Evidence Technician	May 2007 to August 2008
LVMPD	LEST	Oct 2003 to May 2007

Curriculum Vitae
Las Vegas Criminalistics Bureau
Statement of Qualifications

Name: Louise Renhard
 SS#: 574-22-3560

P# 5223
 DOH: 07-29-96

Date: 11-24-03

CURRENT CLASSIFICATION		
	<i>Classification</i>	<i>Minimum Qualifications</i>
	Crime Scene Analyst I	AA Degree with major course work in Criminal Justice, Forensic Science, Physical Science or related field, including specialized training in Crime Scene Investigation.
	Crime Scene Analyst II	18 months - 2 years continuous service with LVMPD as a Crime Scene Analyst I.
X	Senior Crime Scene Analyst	Two (2) years as a Crime Scene Analyst II to qualify for the promotional test for Senior Crime Scene Analyst.
	Crime Scene Analyst Supervisor	Four (4) years continuous service with LVMPD and completion of probation as a Senior Crime Scene Analyst. Must have the equivalent of a Bachelor's Degree from an accredited college or university with major course work in Criminal Justice, Forensic Science, Physical Science or related field.

FORMAL EDUCATION		
<i>Institution</i>	<i>Major</i>	<i>Degree/Date</i>
University of Alaska	Police Administration	AA degree/1976

TESTIMONY		
Yes	No	

EMPLOYMENT HISTORY		
<i>Employer</i>	<i>Title</i>	<i>Date</i>
LVMPD	Sr. Crime Scene Analyst	7-29-96

Education

DATE	CLASS TITLE	AGENCY	CREDIT HOURS
12-1977	Police Administration	U of Alaska	Associates Degree 1976

Renhard Louise
 Curriculum Vitae
 LVMPD
 - 1 -

07-29 to 08-16-96	Crime Scene Analyst Academy	LVMPD	105
08-16-96	CAPSTUN for Civilians	LVMPD	1.5
09-18,19 & 09-26-96	Civilian Firearm/Use of Force	LVMPD	21
09-20-96	NCIC - Phase II - Limited Access	LVMPD	4
09-27-96	DT Weaponless Defense/Handcuff	LVMPD	3
09-27-96	Combat Shooting Simulator/FATS	LVMPD	1
09-30-96	Duty Weapon Qualification	LVMPD	2
10-24-96	Driver Training - Level 2	LVMPD	8
11-27-96	Ultraviolet (UV) Light Orientation and Safety Presentation	LVMPD	1
02-25-97 to 02-27- 97	Top Gun Training	LVMPD	21
02-27-97	Moot Court - Video	LVMPD	2
03-05-97	Basic Windows 3.1	LVMPD	4
03-30-97	Duty Weapon Qualification	LVMPD	2
04-07-97	Forensic Science	American Institute of Applied Science (AIAS)	260
06-13-97	NCIC - Phase I - Video	LVMPD	20 Min.
07-02-97	Duty Weapon Qualification	LVMPD	2
09-08 to 09-12-97	Crime Scene Technology Workshop 2	Northwestern University, Traffic Institute	40
09-30-97	Duty Weapon Qualification	LVMPD	2
10-02-97	Critical Procedures Test	LVMPD	2
11-03 to 11-07-97	Courtroom Presentation of Evidence: Effective Expert Witness Testimony Workshop	CAT/NWAFS/SWAFS/S AT Joint Meeting	7
12-15 to 12-19-97	Advanced On-Scene Accident Investigation	LVMPD	40

Renhard Louise
Curriculum Vitae
LVMPD
- 2 -

12-31-97	Duty Weapon Qualification	LVMPD	2
01-09-98	Combat Shooting Simulator/FATS	LVMPD	1
01-30-98	Domestic Violence	LVMPD	1
02-11-98	Trauma Shooting - Video	LVMPD	30 Min.
02-26-98	Clandestine Lab Dangers - Video	LVMPD	30 Min.
03-06-98	Secondary Devices - Video	LVMPD	30 Min.
03-09-98	Cardio-Pulmonary Resuscitation (CPD)	LVMPD	4
03-31-98	Duty Weapon Qualification	LVMPD	2
05-01-98	Applied Neurolinguistic Programming	LVMPD	7
06-06-98	Duty Weapon Qualification	LVMPD	2
08-24 to 08-28-98	Bloodstain Evidence Workshop I	Northwestern University, Traffic Institute	40
09-10-98	Critical Procedures Test	LVMPD	2
09-25-98	Optional Weapon	LVMPD	
12-07-98	Training - Motor Home Driving	LVMPD	4
12-19-98	Duty Weapon Qualification	LVMPD	2
02-23 to 02-25-99	Latent Print Identification	Law Enforcement Officers Training School, sponsored by LVMPD	24
03-16-99	Award Presentation and PR Photography - LVMPD	LVMPD	2
03-30-99	Duty Weapon Qualification	LVMPD	2
06-15-99	Duty Weapon Qualification	LVMPD	2
08-30 to 09-01-99	Clandestine Laboratory Safety Certification Course, Occasional Site Worker	LVMPD	24
09-21-99	Duty Weapon Qualification	LVMPD	2
08-23 to 08-27-99	Bloodstain Evidence Workshop 2	Northwestern University, Traffic Institute	40
01-20-00	Latent Fingerprint Development Workshop	U.S. Secret Service	8
05-22 to	Practical Homicide Investigation	P.H.I., Investigative	

Renhard Louise
Curriculum Vitae
LVMPD

05-24-00	(Advanced Course of Instruction)	Consultants, Inc.	24
06-13-00	Crime Scene Analyst Certification (Certificate being sent)	IAI	
08-01 to 08-02-00	C.P.R. Instructor Course	LVMPD	14
09-06 to 09-08-00	Shooting Incident Reconstruction	Forensic Identification Training Seminars	24
04-11 to 04-13-01	3 rd Annual Educational Conference Officer Involved Shootings	NSDIAI	3
"	Expert Witness	"	2
"	Death Investigations	"	2
	04-17-02 *****		
10-08-01	Bloodstain Pattern Analysis - Certificate # 10 - completed proficiency exercises	LVMPD	3
11-13-01	Bloodstain Pattern Analysis - Angle of Impact Proficiency Exercise - Certificate #26	LVMPD - Criminalistics Bureau	3
04-03-02	Documentation of Footwear & Tire Impressions	LVMPD - Criminalistics Bureau	1
04-01-02	Clandestine Laboratory Safety - Fingerprint Processing	LVMPD - Criminalistics Bureau	1
04-02-02	Forensic Anthropology	LVMPD - Criminalistics Bureau	1.5
04-01-02	Chemical Enhancements of Bloodstains, Preliminary Steps	LVMPD - Criminalistics Bureau	1
05-06-02	Major Case Prints	LVMPD - Criminalistics Bureau	3
08-04 to 08-10-02	87 th International Educational Conference - See below	IAI	
"	Forensic Archaeology/Scenes Involving Skeletal Remains	"	8
"	W-11: Forensic Archaeology/Scenes Involving Skeletal Remains (Buried Remains) Field Exercise	"	8

Renhard Louise
Curriculum Vitae
LVMPD
- 4 -

“	W-14: Forensic Archaeology/Scenes Involving Skeletal Remains (Scattered Surface Remains) Field Exercise	“	8
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Curriculum Vitae

JEFFREY SCOTT

Las Vegas Criminalistics Bureau

Crime Scene Analyst I

P# 9618

EMPLOYMENT

10/06

Las Vegas Metro Police Department

CSA I

EDUCATION

12/91

Northern Arizona University

B.S. Physical Science

➤

American Institute of Applied Science (AIAS)

Forensic Science 101B, 178 hours

➤

American Institute of Applied Science (AIAS)

Forensic Science 201, 230 hours

JEFFREY SCOTT

Curriculum Vitae

Page - 1 -

Curriculum Vitae
JEFFREY MARC SMITH
Las Vegas Criminalistics Bureau
P# 8177

EMPLOYMENT

11/03 – Present **Las Vegas Metropolitan Police Department**
CSA I, CSA II

EDUCATION

12/95 **Texas Tech. University**
B. B. S. Degree, Accounting

➤ **American Institute of Applied Science (AIAS)**
Forensic Science 101, 230 hours

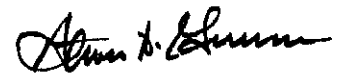
➤ **American Institute of Applied Science (AIAS)**
Forensic Science 201, 230 hours

COURT TESTIMONY

- District Court
- Federal Court
- Justice Court
- Grand Jury

JEFFREY MARC SMITH
Curriculum Vitae
Page - 1 -

ORIGINAL



CLERK OF THE COURT

1 EXPT

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

5 LIZ MERCER

6 Chief Deputy District Attorney
7 Nevada Bar #10681
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2211
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 TROY RICHARD WHITE,
13 #1383512

14 Defendant.

Case No. C-12-286357-1

Dept No. XI

15 **EX PARTE PETITION FOR CERTIFICATION OF MATERIALITY OF WITNESS;**
16 **and TO SECURE ATTENDANCE OF WITNESS, PURSUANT TO THE UNIFORM**
17 **ACT TO SECURE ATTENDANCE OF WITNESSES FROM WITHOUT-A-STATE**

18 COMES NOW THE STATE OF NEVADA, by and through the undersigned Clark
19 County Deputy District Attorney, and moves this Court for a Certificate of Materiality of an
20 Out-of-State Witness and to Secure Attendance of Witness pursuant to the Uniform Act to
21 Secure the Attendance of a Witness From Without a State in Criminal Proceedings, as
22 codified in Nevada under N.R.S. 174.395 to N.R.S. 174.445, and as codified under Section
23 1334 et seq. of the California Penal Code, and as grounds therefore states:

24 1. The defendant, Troy White, is charged with **MURDER WITH USE OF A**
25 **DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165); ATTEMPT**
26 **MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010,**
27 **200.030, 193.330, 193.165), CARRYING A CONCEALED FIREARM OR OTHER**
28 **DEADLY WEAPON (Category C Felony - NRS 202.350(1)(d)(3)), and CHILD ABUSE,**
NEGLECT, OR ENDANGERMENT (Category B Felony - NRS 200.508(1)); trial is

1 currently set for March 30, 2015 at the Clark County Courthouse and will likely last for up to
2 two weeks.

3 2. The witness, the Custodian of Records for Facebook, Inc. provided account
4 services to the defendant, Troy White, and the testimony of this witness will certify that
5 Facebook, Inc. provided subscriber account records to the State of Nevada, which included
6 account information for Troy White.

7 The authentication of these records are essential to the State's case because the
8 information provided by Facebook, Inc. which determined that the login name of
9 "TroyWhiteSanDiego#!/TroyWhiteSanDiego" belongs to defendant, Troy White, of Las
10 Vegas, Nevada. This same login name and Facebook account contains evidence to be used
11 in the prosecution of Defendant for the crimes of **MURDER WITH USE OF A DEADLY**
12 **WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165); ATTEMPT**
13 **MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010,**
14 **200.030, 193.330, 193.165), CARRYING A CONCEALED FIREARM OR OTHER**
15 **DEADLY WEAPON (Category C Felony - NRS 202.350(1)(d)(3)), and CHILD ABUSE,**
16 **NEGLECT, OR ENDANGERMENT (Category B Felony - NRS 200.508(1))** for which
17 the defendant, Troy White, is charged.

18 3. The Custodian of Records for Facebook, Inc. is located at 1601 California
19 Ave., Palo Alto, California, and falls within the jurisdiction of the Superior Court of
20 California, San Mateo County.

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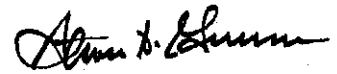
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1 4. The State of Nevada is prepared to pay reasonable and ordinary expenses
2 incurred by this witness in traveling to and attending the trial in Las Vegas, Nevada
3 including airfare, transportation, lodging and meals.

4
5 STEVEN B. WOLFSON
6 DISTRICT ATTORNEY
7 Nevada Bar #001565

8 BY


9 LIZ MERCER
10 Chief Deputy District Attorney
11 Nevada Bar #0010681
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CLERK OF THE COURT

ORDR

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LIZ MERCER
Chief Deputy District Attorney
Nevada Bar #010681
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,
Plaintiff,

-vs-

TROY RICHARD WHITE,
#1383512

Defendant.

Case No. C-12-286357-1

Dept No. XI

**EX PARTE MOTION AND ORDER RELEASING
ALL MEDICAL RECORDS**

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, District Attorney, through LIZ MERCER, Chief Deputy District Attorney, and moves this Honorable Court for an Order Releasing certain evidence held in the custody of UNIVERSITY MEDICAL CENTER consisting of all medical records for patient JOSEPH AVERMAN, DOB: 07/22/84, admitted on or about 7/27/14, be released to a representative of the DISTRICT ATTORNEY'S OFFICE for the purpose of prosecuting the above referenced case.

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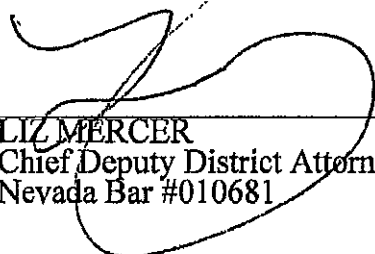
1 **IT IS HEREBY ORDERED** that the all evidence in the custody of the UNIVERSITY
2 MEDICAL CENTER, consisting of all medical records for patient: JOSEPH AVERMAN,
3 DOB: 07/22/84, be released to a representative of the DISTRICT ATTORNEY'S OFFICE.

4 DATED this 13th day of February, 2015.

5
6 
7 DISTRICT JUDGE
8

9 STEVEN B. WOLFSON
10 DISTRICT ATTORNEY
11 Nevada Bar #001565

12 BY

13 
14 LIZ MERCER
15 Chief Deputy District Attorney
16 Nevada Bar #010681
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27 mmw/GCU
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ORIGINAL

CERT

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

LIZ MERCER
Chief Deputy District Attorney
Nevada Bar #0010681
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

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CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA

Plaintiff

Case No. C-12-286357-1

Dept No. XI

TROY RICHARD WHITE

#1383512

Defendant

**CERTIFICATE PURSUANT TO THE UNIFORM ACT TO SECURE
ATTENDANCE OF WITNESS FROM WITHOUT-A-STATE**

This matter having come before the Court, a Court of Record in and for the County of Clark, State of Nevada, upon Petition by the State of Nevada to issue a Certificate pursuant to the Uniform Act to Secure Attendance of Witnesses from Without a State in Criminal Proceedings in this Court, as codified in the State of Nevada under N.R.S. 174.395 to N.R.S. 174.445 and as codified under Section 1334 et seq. of the California Penal Code, after reviewing the Petition, hereby certifies the following findings of fact:

1. The defendant, Troy White, is charged with **MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165); ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165), CARRYING A CONCEALED FIREARM OR OTHER**

1 **DEADLY WEAPON (Category C Felony - NRS 202.350(1)(d)(3)), and CHILD ABUSE,**
2 **NEGLECT, OR ENDANGERMENT (Category B Felony - NRS 200.508(1));** trial is
3 currently set for March 30, 2015 at the Clark County Courthouse and will likely last for up to
4 two weeks.

5 2. The witness, the Custodian of Records for Facebook, Inc. provided account
6 services to the defendant, Troy White, and the testimony of this witness will certify that
7 Facebook, Inc. provided subscriber account records to the State of Nevada, which included
8 account information for Troy White.

9 The authentication of these records are essential to the State's case because the
10 information provided by Facebook, Inc. which determined that the login name of
11 "TroyWhiteSanDiego#!/TroyWhiteSanDiego" belongs to defendant, Troy White, of Las
12 Vegas, Nevada. Information contained in this account is evidence the State seeks to
13 introduce to prove the charges of **MURDER WITH USE OF A DEADLY WEAPON**
14 **(Category A Felony - NRS 200.010, 200.030, 193.165); ATTEMPT MURDER WITH**
15 **USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330,**
16 **193.165), CARRYING A CONCEALED FIREARM OR OTHER DEADLY WEAPON**
17 **(Category C Felony - NRS 202.350(1)(d)(3)), and CHILD ABUSE, NEGLECT, OR**
18 **ENDANGERMENT (Category B Felony - NRS 200.508(1))** for which the defendant,
19 Troy White, is charged.

20 3. The Custodian of Records for Facebook, Inc. is located at 1601 California
21 Ave., Palo Alto, California and falls within the jurisdiction of the Superior Court of
22 California, San Mateo County.

23 4. The State of Nevada is prepared to pay reasonable and ordinary expenses
24 incurred by this witness in traveling to and attending the trial in Las Vegas, Nevada
25 including airfare, transportation, lodging and meals.

26 It is requested that the presiding Judge of the Superior Court of California, San Mateo
27 County, take the necessary actions pursuant to the Uniform Act of California, to secure the
28

1 attendance of the Custodian of Records for Facebook, Inc. for the Court of County of Clark,
2 State of Nevada on March 30, 2015, until the witness testifies or the trial is completed.

3 It is further requested that in the event this witness will not voluntarily come to the
4 State of Nevada on March 30, 2015, pursuant to the Uniform Act of California, that the
5 witness be taken into immediate custody and be delivered to the custody of any law
6 enforcement officer for the State of Nevada, who is directed by this Court to take whatever
7 measures necessary to ensure the attendance of this witness before the Court for Clark
8 County, State of Nevada on March 30, 2015.

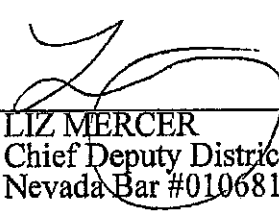
ORDER

THEREFORE, IT IS HEREBY ORDERED that the Petition For Certification of Materiality of Witness and To Secure Attendance of Witness, Pursuant to the Uniform Act to Secure Attendance of Witnessed From Without-A-State shall be, and it is, hereby GRANTED.

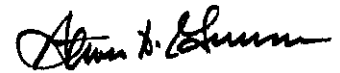
DATED this 13th day of February, 2015


DISTRICT JUDGE

BY


LIZ MERCER
Chief Deputy District Attorney
Nevada Bar #010681

ORIGINAL



CLERK OF THE COURT

1 **EXPT**

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 LIZ MERCER
6 Chief Deputy District Attorney
7 Nevada Bar #10681
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2211
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT

8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,)

10 Plaintiff,)

Case No. C-12-286357-1

11 -vs-)

Dept No. XI

12 TROY RICHARD WHITE,
13 #1383512)

14 Defendant.)

15 **EX PARTE PETITION FOR CERTIFICATION OF MATERIALITY OF WITNESS;**
16 **and TO SECURE ATTENDANCE OF WITNESS, PURSUANT TO THE UNIFORM**
17 **ACT TO SECURE ATTENDANCE OF WITNESSES FROM WITHOUT-A-STATE**

18 COMES NOW THE STATE OF NEVADA, by and through the undersigned Clark
19 County Deputy District Attorney, and moves this Court for a Certificate of Materiality of an
20 Out-of-State Witness and to Secure Attendance of Witness pursuant to the Uniform Act to
21 Secure the Attendance of a Witness From Without a State in Criminal Proceedings, as
22 codified in Nevada under N.R.S. 174.395 to N.R.S. 174.445, and as codified under Section
23 1334 et seq. of the California Penal Code, and as grounds therefore states:

24 1. The defendant, Troy White, is charged with **MURDER WITH USE OF A**
25 **DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165); ATTEMPT**
26 **MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010,**
27 **200.030, 193.330, 193.165), CARRYING A CONCEALED FIREARM OR OTHER**
28 **DEADLY WEAPON (Category C Felony - NRS 202.350(1)(d)(3)), and CHILD ABUSE,**
NEGLECT, OR ENDANGERMENT (Category B Felony - NRS 200.508(1)); trial is

1 currently set for March 30, 2015 at the Clark County Courthouse and will likely last for up to
2 two weeks.

3 2. The witness, the Custodian of Records for Facebook, Inc. provided account
4 services to the defendant, Troy White, and the testimony of this witness will certify that
5 Facebook, Inc. provided subscriber account records to the State of Nevada, which included
6 account information for Troy White.

7 The authentication of these records are essential to the State's case because the
8 information provided by Facebook, Inc. which determined that the login name of
9 "TroyWhiteSanDiego#!/TroyWhiteSanDiego" belongs to defendant, Troy White, of Las
10 Vegas, Nevada. This same login name and Facebook account contains evidence to be used
11 in the prosecution of Defendant for the crimes of **MURDER WITH USE OF A DEADLY**
12 **WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165); ATTEMPT**
13 **MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010,**
14 **200.030, 193.330, 193.165), CARRYING A CONCEALED FIREARM OR OTHER**
15 **DEADLY WEAPON (Category C Felony - NRS 202.350(1)(d)(3)), and CHILD ABUSE,**
16 **NEGLECT, OR ENDANGERMENT (Category B Felony - NRS 200.508(1))** for which
17 the defendant, Troy White, is charged.

18 3. The Custodian of Records for Facebook, Inc. is located at 1601 Willow Road
19 Menlo Park, California, and falls within the jurisdiction of the Superior Court of California,
20 San Mateo County.

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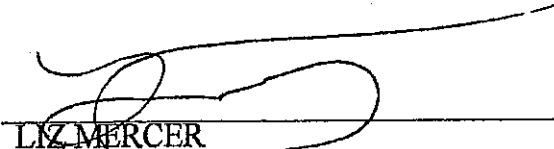
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1 4. The State of Nevada is prepared to pay reasonable and ordinary expenses
2 incurred by this witness in traveling to and attending the trial in Las Vegas, Nevada
3 including airfare, transportation, lodging and meals.

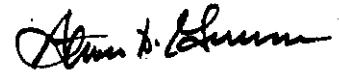
4
5 STEVEN B. WOLFSON
6 DISTRICT ATTORNEY
7 Nevada Bar #001565

8 BY

9 
10 LIZ MERCER
11 Chief Deputy District Attorney
12 Nevada Bar #0010681
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1 **CERT**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **LIZ MERCER**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #0010681**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

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CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA

11 Plaintiff

Case No. C-12-286357-1

Dept No. XI

13 TROY RICHARD WHITE

14 #1383512

15 Defendant

16 **CERTIFICATE PURSUANT TO THE UNIFORM ACT TO SECURE**
17 **ATTENDANCE OF WITNESS FROM WITHOUT-A-STATE**

18 This matter having come before the Court, a Court of Record in and for the County of
19 Clark, State of Nevada, upon Petition by the State of Nevada to issue a Certificate pursuant
20 to the Uniform Act to Secure Attendance of Witnesses from Without a State in Criminal
21 Proceedings in this Court, as codified in the State of Nevada under N.R.S. 174.395 to N.R.S.
22 174.445 and as codified under Section 1334 et seq. of the California Penal Code, after
23 reviewing the Petition, hereby certifies the following findings of fact:

24 1. The defendant, Troy White, is charged with **MURDER WITH USE OF A**
25 **DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165); ATTEMPT**
26 **MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010,**
27 **200.030, 193.330, 193.165), CARRYING A CONCEALED FIREARM OR OTHER**
28

1 **DEADLY WEAPON (Category C Felony - NRS 202.350(1)(d)(3)), and CHILD ABUSE,**
2 **NEGLECT, OR ENDANGERMENT (Category B Felony - NRS 200.508(1));** trial is
3 currently set for March 30, 2015 at the Clark County Courthouse and will likely last for up to
4 two weeks.

5 2. The witness, the Custodian of Records for Facebook, Inc. provided account
6 services to the defendant, Troy White, and the testimony of this witness will certify that
7 Facebook, Inc. provided subscriber account records to the State of Nevada, which included
8 account information for Troy White.

9 The authentication of these records are essential to the State's case because the
10 information provided by Facebook, Inc. which determined that the login name of
11 "TroyWhiteSanDiego#!/TroyWhiteSanDiego" belongs to defendant, Troy White, of Las
12 Vegas, Nevada. Information contained in this account is evidence the State seeks to
13 introduce to prove the charges of **MURDER WITH USE OF A DEADLY WEAPON**
14 **(Category A Felony - NRS 200.010, 200.030, 193.165); ATTEMPT MURDER WITH**
15 **USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330,**
16 **193.165), CARRYING A CONCEALED FIREARM OR OTHER DEADLY WEAPON**
17 **(Category C Felony - NRS 202.350(1)(d)(3)), and CHILD ABUSE, NEGLECT, OR**
18 **ENDANGERMENT (Category B Felony - NRS 200.508(1))** for which the defendant,
19 Troy White, is charged.

20 3. The Custodian of Records for Facebook, Inc. is located at 1601 Willow Road
21 Menlo Park, California and falls within the jurisdiction of the Superior Court of California,
22 San Mateo County.

23 4. The State of Nevada is prepared to pay reasonable and ordinary expenses
24 incurred by this witness in traveling to and attending the trial in Las Vegas, Nevada
25 including airfare, transportation, lodging and meals.

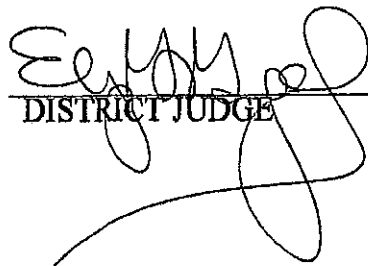
26 It is requested that the presiding Judge of the Superior Court of California, San Mateo
27 County, take the necessary actions pursuant to the Uniform Act of California, to secure the
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ORDER

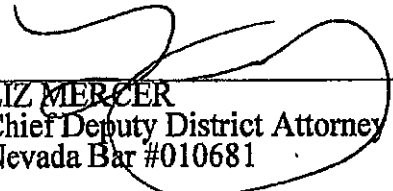
THEREFORE, IT IS HEREBY ORDERED that the Petition For Certification of Materiality of Witness and To Secure Attendance of Witness, Pursuant to the Uniform Act to Secure Attendance of Witnessed From Without-A-State shall be, and it is, hereby GRANTED.

DATED this 9th day of March, 2015.



DISTRICT JUDGE

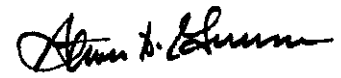
BY



LIZ MERCER
Chief Deputy District Attorney
Nevada Bar #010681

1 attendance of the Custodian of Records for Facebook, Inc. for the Court of County of Clark,
2 State of Nevada on March 30, 2015, until the witness testifies or the trial is completed.

3 It is further requested that in the event this witness will not voluntarily come to the
4 State of Nevada on March 30, 2015, pursuant to the Uniform Act of California, that the
5 witness be taken into immediate custody and be delivered to the custody of any law
6 enforcement officer for the State of Nevada, who is directed by this Court to take whatever
7 measures necessary to ensure the attendance of this witness before the Court for Clark
8 County, State of Nevada on March 30, 2015.



CLERK OF THE COURT

1 NOTC
2 PHILIP J. KOHN, PUBLIC DEFENDER
3 NEVADA BAR NO. 0556
4 SCOTT L. COFFEE
5 Deputy Public Defender
6 Nevada Bar No. 5607
7 309 South Third Street, Suite #226
8 Las Vegas, Nevada 89155
9 (702) 455-4685
10 Attorney for Defendant

11 DISTRICT COURT
12 CLARK COUNTY, NEVADA

13 THE STATE OF NEVADA,

14 Plaintiff,

15 v.

16 TROY RICHARD WHITE,

17 Defendant.

CASE NO. C-12-286357-1

DEPT. NO. XI

18 DEFENDANT'S NOTICE OF WITNESSES, PURSUANT TO NRS 174.234

19 TO: CLARK COUNTY DISTRICT ATTORNEY:

20 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the Defendant,

21 TROY RICHARD WHITE, intends to call the following witness in his case in chief:

22	<u>NAME</u>	<u>ADDRESS</u>
23	ADAY, CHARLES	LVFD, 500 N. Casino Center Blvd., Las Vegas, NV 89101
24	AIKENS, EDIN	CLARK COUNTY CORONER'S OFFICE
25	ALDRIGE, JED	LVMPD P#7951
26	ALLEN, HERMAN	6255 W. Tropicana Ave., LVN 89103
27	AVERMAN, JOSEPH	8777 Tom Noon Ave., LVN 89178
28	AYALA, JORGE	LVMPD P#7906
	BAKKE, SAM	4307 Dover Place, Las Vegas, NV 89107
	BENTLEY, C P#4834	YAVAPAI COUNTY SHERIFF'S OFFICE, PRESCOTT, AZ
	BERGHUIS, BRAD	LVMPD P#4154 (or Designee)

1	BOELTS, LT.	YAVAPAI COUNTY SHERIFF'S OFFICE, PRESCOTT, AZ
2	BOKOWSKI, ANDREA	AMR, 7201 West Post Rd., Las Vegas, NV
3	BRADLEY, ROBERT	LVMPD P#13123
4	BRAY, SHAINA	YAVAPAI COUNTY DETENTION CENTER, Prescott, AZ
5	BROOKS, RACHEL	7305 Bridgeview Ave., Las Vegas, NV 89147
6	BROWNLEE, TRACY	LVMPD P#9975 (or Designee)
7	BURNS, ZACK	LVMPD P#7577
8	BYRD, TRENT	LVMPD P#13958
9	CABRAL, DENA	7072 Caribou Ridge St., Las Vegas, NV 89149
10	CALATA, ESTHER	LVMPD P#9486
11	CARRAL, MICHAEL	LVMPD P#13246
12	CARREON, ALBERT	LVMPD P#9025
13	CARTER, MARNIE	LVMPD P#8179 (or Designee)
14	CARVOUNIARIS, DANIELLE	LVMPD P#12712 (or Designee)
15	CASPER, MICHELE	LVMPD P#6549
16	COATES, LAURA	LVMPD P#8717
17	CUSTODIAN OF RECORDS	CLARK COUNTY DETENTION CENTER
18	CUSTODIAN OF RECORDS	FACEBOOK
19	CUSTODIAN OF RECORDS	LVMPD COMMUNICATIONS
20	CUSTODIAN OF RECORDS	LVMPD RECORDS
21	DIAZ, FERNANDO	409 Altamira Rd., Las Vegas NV 89145
22	DUMAS, JOHN	110356 Via Rancho San Diego, Unit E, El Cajon CA 92019
23	EDENS, JOSEPH	LVMPD P#9874
24	FALKNER, BILL	District Attorney Investigator
25	FILDES, DR.	University Medical Center, 1800 W. Charleston Blvd, LVN
26	FUTRELL, AARON	LVFD, 500 N. Casino Center Blvd, Las Vegas, NV 89101
27	GAINES, AMBER	4801 E. Tropicana Ave., Las Vegas, NV 89121
28	GAINES, MIKE	4801 E. Tropicana Ave., Las Vegas, NV 89121

1	GARCIA, RUBEN	CLARK COUNTY PUBLIC DEFENDER INVESTIGATOR
2	GILLIS, MATTHEW	LVMPD P#6225
3	GOHR, CHASTITY	LVMPD P#7470
4	GRANT, JULIA	LVMPD P#7784
5	GULLO, PETE	1404 Stacey Dr., Boulder City, NV 89005
6	HADFIELD, LAWRENCE	LVMPD P#7171
7	HELM, MORGAN	LVFD, 500 N. Casino Center Blvd, Las Vegas, NV 89101
8	HENDERSON, MELISSA	363 W. US Highway 36, Rockville, IN 47672
9	HENDERSON, ROBERTO	LVMPD P#4556
10	HENDERSON, TIM	363 W. US Highway 36, Rockville, IN 47672
11	HERNANDEZ, JOSE	LVMPD P#5850
12	HIBBETTS, BRIAN	LVMPD P#4799
13	HOLLAND, ROBERT	LVMPD P#3410
14	HONAKER, JAMIE	District Attorney Investigator
15	HORLSEY, RORY	LVMPD P#4652
16	HOSFORD, ROGER	CLARK COUNTY PUBLIC DEFENDER INVESTIGATOR
17	HURWITZ, DAVID	LVMPD P#5430
18	IVIE, TRAVIS	LVMPD P#6405
19	JAEGER, JAMES, P#8268	YAVAPAI COUNTY DETENTION CENTER, Prescott, AZ
20	JARAMILLO, NOVA	CLARK COUNTY CORONER INVESTIGATOR
21	JENSEN, BARRY	LVMPD P#3662
22	KARTCHNER, KOBY	LVMPD P#6632
23	KISNER, JOEL	LVMPD P#4656
24	KWON, M.D., ED	University Medical Center, 1800 W. Charleston Blvd, LVNV
25	LAYTHORPE, MICHAEL	LVMPD P#5448
26	LESTER, ANYA "SANKO"	LVMPD P#13771 (or Designee)
27	LONG, DOROTHY	5408 Glenna Lane, Las Vegas, NV 89107
28	LUNDQUIST, ROBERT	LVMPD P#4095

1	MARQUEZ, ALEX	LVMPD P#6250
2	MARSCHNER, JULIE	LVMPD P#8806 (or Designee)
3	MARSHALL, BRADLEY	7429 Forest Ivy St., Las Vegas, NV 89131
4	MARTIN, TERRY	LVMPD P#5946 (or Designee)
5	MARTINE, DARREN	LVMPD P#4751
6	MATTHEWS, KACEY	LVMPD P#4372
7	MCCLEERY, HEATHER	LVMPD P#4951
8	MCGRATH, JOHN	LVMPD P#4347
9	MCINTYRE, MORETTA	LVMPD P#13207 (or Designee)
10	MILLER, PHILLIP	LVMPD P#1791
11	MITCHELL, MICHAEL	LVMPD P#6273
12	MONTALTO, MICHAEL	8917 Loggers Mill Ave., Las Vegas, NV 89143
13	MORGAN, BARBARA	LVMPD P#4216
14	O'BRIEN, CHRIS	LVMPD P#6801
15	O'BRIEN, MATTHEW	LVMPD P#3506
16	ORTIZ, WILLIAM	ADDRESS UNKNOWN
17	PAGNOTTA, MICHAEL	LVMPD P#5300
18	PIERCE, KORY	LVMPD P#9009
19	PRALL, JEFFREY	LVMPD P#8714
20	RASCHKE, SANDY	LVMPD P#4899
21	REINER, JENNIFER	LVMPD P#8167 (or Designee)
22	REINHARD, LOUISE	LVMPD P#5223 (or Designee)
23	RENS, JOANNA	6005 Secret Island Dr., Las Vegas, NV 89139
24	REVELS, JEROME	District Attorney Investigator
25	RINETTI, LAWRENCE	LVMPD P#9036
26	ROBINSON, COREY	1005 Carpenter Dr., Las Vegas, NV 89107
27	RUMERY, FRANK	LVMPD P#5817
28	SCHMIDT, ROBERT	LVMPD P#3389

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of DEFENDANT'S NOTICE OF WITNESSES, was made this 23rd day of March, 2015, by Electronic Filing to:

CLARK COUNTY DISTRICT ATTORNEY'S OFFICE
Motions@clarkcountysda.com

ELIZABETH MERCER, Chief Deputy District Attorney
E-Mail: elizabeth.mercer@clarkcountysda.com

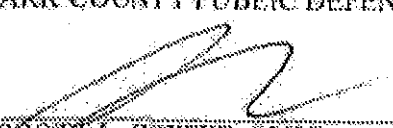
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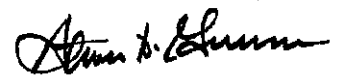
Sara Russo
Secretary for the Public Defender's Office

1 SCHMITT, JOSE LVMPD P#3411
2 SCHREIBER, DOUGLAS ADDRESS UNKNOWN
3 SCHREIBER, PAUL c/o CCDA, 200 Lewis Ave., Las Vegas, NV 89101
4 SCOTT, JEFFREY LVMPD P#9618 (or Designee)
5 SCOTT, JON LVMPD P#4532
6 SHANNON, GILBERT LVMPD P#4111
7 SMITH, JEFFREY LVMPD P#8177 (or Designee)
8 STOUT, ERIC LVMPD P#4550
9 TODD, MISTY 6100 Carmen Blvd #2002, Las Vegas, NV 89108
10 TODD, TERRY 6124 Chinook Way, Las Vegas, NV 89108
11 TOMAINO, DANIEL LVMPD P#8278
12 TORSIELLO, MICHAEL LVMPD P#13149
13 UMANA, WILLIAM LVMPD P#7441
14 WEST, KENNETH LVMPD P#5759
15 WHITE, JAYCE c/o Amber Gaines, 4801 E. Tropicana Rd., LVN 89121
16 WHITE, JODEY c/o Amber Gaines, 4801 E. Tropicana Rd., LVN 89121
17 WILSON, ROBERT 316 Altamira Rd., Las Vegas, NV 89106
18 WILSON, WANDA 316 Altamira Rd., Las Vegas, NV 89106

19
20 DATED this 23 day of March, 2015.

21 PHILIP J. KOHN
22 CLARK COUNTY PUBLIC DEFENDER

23 By: 
24 SCOTT L. COFFEE, #5607
25 Deputy Public Defender
26
27
28



CLERK OF THE COURT

AINF
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LIZ MERCER
Chief Deputy District Attorney
Nevada Bar #010681
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

TROY RICHARD WHITE,
#1383512

Defendant.

CASE NO: C-12-286357-1

DEPT NO: IX

**AMENDED
INFORMATION**

STATE OF NEVADA }
COUNTY OF CLARK } ss.

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

That TROY RICHARD WHITE, the Defendant above named, having committed the crimes of **MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165); ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165), CARRYING A CONCEALED FIREARM OR OTHER DEADLY WEAPON (Category C Felony - NRS 202.350(1)(d)(3)), and CHILD ABUSE, NEGLECT, OR ENDANGERMENT (Category B Felony - NRS 200.508(1))**, on or about the 27th day of July, 2012, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

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1 COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON

2 did then and there willfully, feloniously, without authority of law, and with malice
3 aforethought, kill ECHO LUCAS WHITE, a human being, by shooting at and into the body
4 of the said ECHO LUCAS WHITE, with a deadly weapon, to-wit: a firearm, said killing
5 having been willful, premeditated and deliberate.

6 COUNT 2 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

7 did then and there, without authority of law, and malice aforethought, willfully and
8 feloniously attempt to kill JOSEPH AVERMAN, a human being, by shooting at and into the
9 body of the said JOSEPH AVERMAN, with a deadly weapon, to-wit: a firearm.

10 COUNT 3 - CARRYING CONCEALED FIREARM OR OTHER DEADLY WEAPON

11 did then and there, wilfully, intentionally, unlawfully and feloniously carry concealed
12 upon his person, a firearm or other deadly weapon, to-wit: a Black Taurus PT 92C 9mm semi-
13 automatic handgun bearing Serial No. TOA33791.

14 COUNT 4 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

15 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
16 wit: JODEY WHITE, being approximately nine (9) years of age, to suffer unjustifiable
17 physical pain or mental suffering as a result of abuse or neglect, and/or cause the said JODEY
18 WHITE to be placed in a situation where he might have suffered unjustifiable physical pain
19 or mental suffering as a result of abuse or neglect, by discharging a firearm inside the child's
20 home within close proximity to the child and/or shooting the child's mother, Echo White,
21 failing to seek assistance for Echo White, and allowing her to die while the said JODEY
22 WHITE was coming in and out of the room and/or was in the near vicinity.

23 COUNT 5 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

24 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
25 wit: JESSE WHITE, being approximately five (5) years of age, to suffer unjustifiable physical
26 pain or mental suffering as a result of abuse or neglect, and/or cause the said JESSE WHITE
27 to be placed in a situation where he might have suffered unjustifiable physical pain or mental
28

1 suffering as a result of abuse or neglect, by discharging a firearm inside the child's home within
2 close proximity to the child and/or shooting the child's mother, Echo White, failing to seek
3 assistance for Echo White, and allowing her to die while the said JETT WHITE was coming
4 in and out of the room and/or was in the near vicinity.

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

8 BY /s/ LIZ MERCER
9 LIZ MERCER
Chief Deputy District Attorney
Nevada Bar #10681
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26 DA#12F12500X/mmw/GCU
27 LVMPD EV#1207271826
28 (TK4)

1 suffering as a result of abuse or neglect, by discharging a firearm inside the child's home within
2 close proximity to the child and/or shooting the child's mother, Echo White, failing to seek
3 assistance for Echo White, and allowing her to die while the said JESSE WHITE was coming
4 in and out of the room and/or was in the near vicinity.

5 COUNT 6 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

6 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
7 wit: JAYCE WHITE, being approximately eight (8) years of age, to suffer unjustifiable
8 physical pain or mental suffering as a result of abuse or neglect, and/or cause the said JAYCE
9 WHITE to be placed in a situation where he might have suffered unjustifiable physical pain
10 or mental suffering as a result of abuse or neglect, by discharging a firearm inside the child's
11 home within close proximity to the child and/or shooting the child's mother, Echo White,
12 failing to seek assistance for Echo White, and allowing her to die while the said JAYCE
13 WHITE was coming in and out of the room and/or was in the near vicinity.

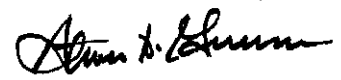
14 COUNT 7 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

15 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
16 wit: JAZZY WHITE, being approximately six (6) months of age, to suffer unjustifiable
17 physical pain or mental suffering as a result of abuse or neglect, and/or cause the said JAZZY
18 WHITE to be placed in a situation where he might have suffered unjustifiable physical pain
19 or mental suffering as a result of abuse or neglect, by discharging a firearm inside the child's
20 home within close proximity to the child and/or shooting the child's mother, Echo White,
21 failing to seek assistance for Echo White, and allowing her to die while the said JAZZY
22 WHITE was coming in and out of the room and/or was in the near vicinity.

23 COUNT 8 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

24 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
25 wit: JETT WHITE, being approximately two (2) years of age, to suffer unjustifiable physical
26 pain or mental suffering as a result of abuse or neglect, and/or cause the said JETT WHITE to
27 be placed in a situation where he might have suffered unjustifiable physical pain or mental
28

	<u>NAME</u>	<u>ADDRESS</u>
1		
2	ADAY, CHARLES - LVFD 500 N. Casino Center Boulevard, Las Vegas, NV 89101 - He is	
3	a clinician, trained to respond quickly to emergency situations regarding medical issues and	
4	traumatic injuries and will testify regarding the treatment of Echo Lucas and/or Joseph	
5	Averman.	
6	AIKENS, EDIN - CLARK COUNTY CORONER'S OFFICE	
7	ALDRIDGE, JED - LVMPD P#7951	
8	ALLEN, HERMAN - 6255 W. TROPICANA AVE., LVN 89103	
9	AVERMAN, JOSEPH - 8777 TOM NOON AVE., LVN 89178	
10	AYALA, JORGE - LVMPD P#7906	
11	BENTLEY, C. - P#4834, YAVAPAI COUNTY SHERIFF'S OFFICE, PRESCOTT, AZ	
12	BERGHUIS, BRAD - LVMPD P#4154 (or designee) - Will testify as an expert in the area of	
13	cellular phones, including but not limited to, cellular system technology including cell tower	
14	generation of calls and ability to determine the location where generated, collection and	
15	handling of cellular phones for evidentiary purposes, and preservation and retrieval of cellular	
16	call and text records/data, photos and/or video. Further, this expert will testify to the results	
17	of any and all examinations performed on the cellular phones in this case.	
18	BOELTS, LT. - YAVAPAI COUNTY SHERIFF'S OFFICE, PRESCOTT, AZ	
19	BOKOWSKI, ANDREA - AMR, 7201 West Post Rd., Las Vegas, NV - He is a clinician,	
20	trained to respond quickly to emergency situations regarding medical issues and traumatic	
21	injuries and will testify regarding the treatment of Echo Lucas and/or Joseph Averman.	
22	BRADLEY, ROBERT - LVMPD P#13123	
23	BRAY, SHAINA - YAVAPAI COUNTY DETENTION CENTER, PRESCOTT, AZ	
24	BROWNLEE, TRACY - LVMPD P#9975 (or designee): CRIME SCENE ANALYST:	
25	Expert in the identification, documentation, collection and preservation of evidence and is	
26	expected to testify as an expert to the identification, documentation, collection and	
27	preservation of the evidence in this case.	
28	BURNS, ZACK - LVMPD P#7577	



CLERK OF THE COURT

NWEW
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LIZ MERCER
Chief Deputy District Attorney
Nevada Bar #010681
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

TROY RICHARD WHITE,
#1383512

Defendant.

CASE NO: C-12-286357-1

DEPT NO: IX

**SUPPLEMENTAL NOTICE OF WITNESSES AND/OR EXPERT WITNESSES
[NRS 174.234]**

TO: TROY RICHARD WHITE, Defendant; and

TO: SCOTT COFFEE, DEPUTY PUBLIC DEFENDER, Counsel of Record:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF
NEVADA intends to call the following witnesses and/or expert witnesses in its case in chief.

These witnesses are in addition to those witnesses endorsed on the Information or
Indictment and any other witness for which a separate Notice of Witnesses and/or Expert
Witnesses has been filed.

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

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

***Indicates an additional witness**

//

1 *FRADY, JULIET – ADDRESS UNKNOWN
2 FUTRELL, AARON - LVFD 500 N. Casino Center Boulevard, Las Vegas, NV 89101 - He is
3 a clinician, trained to respond quickly to emergency situations regarding medical issues and
4 traumatic injuries and will testify regarding the treatment of Echo Lucas and/or Joseph
5 Averno.
6 GAINES, AMBER – 4801 E. TROPICANA AVE., LVN 89178
7 GAINES, MIKE – 4801 E. TROPICANA AVE., LVN 89121
8 GILLIS, MATTHEW - LVMPD P#6225
9 GOHR, CHASTITY - LVMPD P#7470
10 GRANT, JULIA - LVMPD P#7784
11 HADFIELD, LAWRENCE - LVMPD P#7171
12 HELM, MORGAN - LVFD 500 N. Casino Center Boulevard, Las Vegas, NV 89101 - He is a
13 clinician, trained to respond quickly to emergency situations regarding medical issues and
14 traumatic injuries and will testify regarding the treatment of Echo Lucas and/or Joseph
15 Averno.
16 HENDERSON, ROBERTO - LVMPD P#4556
17 HERNANDEZ, JOSE – LVMPD P#5850
18 HIBBETTS, BRIAN - LVMPD P#4799
19 HOLLAND, ROBERT - LVMPD P#3410
20 HONAKER, JAMIE – DISTRICT ATTORNEY INVESTIGATOR
21 HORLSEY, RORY - LVMPD P#4652
22 HURWITZ, DAVID - LVMPD P#5430
23 IVIE, TRAVIS – LVMPD P#6405
24 JAEGAR, JAMES – P#8268, YAVAPAI COUNTY DETENTION CTR, PRESCOTT, AZ
25 JARAMILLO, NOVA – CLARK COUNTY CORONER INVESTIGATOR
26 JENSEN, BARRY - LVMPD P#3662
27 *JONES, JEANIE – ADDRESS UNKNOWN
28 KARTCHNER, KOLBY - LVMPD P#6632

1 BYRD, TRENT - LVMPD P#13958
2 CALATA, ESTHER - LVMPD P#9486
3 CARRAL, MICHAEL - LVMPD P#13246
4 CARREON, ALBERT - LVMPD P#9025
5 CARTER, MARNIE – LVMPD P#8179 (or designee): LATENT PRINT EXAMINER II -
6 Expert in the science and techniques of fingerprint comparison, and comparisons done in this
7 case and any reports prepared therefrom.
8 CARVOUNIARIS, DANIELLE - LVMPD P#12712 (or designee): SENIOR CRIME SCENE
9 ANALYST: Expert in the identification, documentation, collection and preservation of
10 evidence and is expected to testify as an expert to the identification, documentation, collection
11 and preservation of the evidence in this case.
12 CASPER, MICHELE - LVMPD P#6549
13 COATES, LAURA - LVMPD P#8717
14 CUSTODIAN OF RECORDS – CLARK COUNTY DETENTION CENTER
15 CUSTODIAN OF RECORDS – Facebook: He or she is expected to give testimony as to how
16 Facebook operate and maintains records. Specifically, he or she will testify as to records
17 provided by them associated with the account of Defendant Troy White, and as to mechanisms
18 by which access to account information is limited by password, how accounts are created, the
19 information that subscribers are required to provide at the time accounts are created, and
20 throughout the time the account is open, and other related matters.
21 CUSTODIAN OF RECORDS – LVMPD COMMUNICATIONS
22 CUSTODIAN OF RECORDS – LVMPD RECORDS
23 DIAZ, FERNANDO – 409ALTAMIRA RD., LVN 89145
24 EDENS, JOSEPH - LVMPD P#9874
25 FALKNER, BILL – DISTRICT ATTORNEY INVESTIGATOR
26 FILDES, DR. - UNIVERSITY MEDICAL CENTER: 1800 W. Charleston Blvd., Las Vegas,
27 NV – He is a medical doctor and works in emergency medicine, and will testify regarding
28 treatment of Echo Lucas, DOB 1/20/84 on or about 7/27/12.

1 MONTALTO, MICHAEL – 8917 LOGGERS MILL AVE., LVN 89143
2 MORGAN, BARBARA - LVMPD P#4216
3 O'BRIEN, CHRIS - LVMPD P#6801
4 O'BRIEN, MATTHEW - LVMPD P#3506
5 ORTIZ, WILLIAM – ADDRESS UNKNOWN
6 PAGNOTTA, MICHAEL – LVMPD P#5300
7 PIERCE, KORY - LVMPD P#9009
8 PRALL, JEFFREY - LVMPD P#8714
9 RASCHKE, SANDY - LVMPD P#4899
10 REINER, JENNIFER – LVMPD P#8167 (or designee): SENIOR CRIME SCENE
11 ANALYST: Expert in the identification, documentation, collection and preservation of
12 evidence and is expected to testify as an expert to the identification, documentation, collection
13 and preservation of the evidence in this case.
14 RENHARD, LOUISE – LVMPD P#5223 (or designee): CRIME SCENE ANALYST: Expert
15 in the identification, documentation, collection and preservation of evidence and is expected
16 to testify as an expert to the identification, documentation, collection and preservation of the
17 evidence in this case.
18 REVELS, JEROME – DISTRICT ATTORNEY INVESTIGATOR
19 RINETTI, LAWRENCE - LVMPD P#9036
20 RUMERY, FRANK - LVMPD P#5817
21 SCHMIDT, ROBERT - LVMPD P#3389
22 SCHMITT, JOSE - LVMPD P#3411
23 SCHREIBER, DOUGLAS – ADDRESS UNKNOWN
24 SCHREIBER, PAUL – C/O CCDA, 200 LEWIS AVE., LVN 89101
25 SCOTT, JEFFREY – LVMPD P#9618 (or designee): CRIME SCENE ANALYST: Expert in
26 the identification, documentation, collection and preservation of evidence and is expected to
27 testify as an expert to the identification, documentation, collection and preservation of the
28 evidence in this case.

1 KISNER, JOEL - LVMPD P#4656
2 KWON, M.D., ED – UNIVERSITY MEDICAL CENTER: 1800 W. Charleston Blvd., Las
3 Vegas, NV – He is a medical doctor and works in emergency medicine, and will testify
4 regarding treatment of Echo Lucas, DOB 1/20/84 on or about 7/27/12.
5 LAYTHORPE, MICHAEL - LVMPD P#5448
6 LESTER, ANYA “SANKO” – LVMPD P#13771 (or designee): FIREARMS/TOOLMARK
7 EXAMINER with the Las Vegas Metropolitan Police Department. She is an expert in the field
8 of firearm and toolmark comparisons and is expected to testify thereto.
9 LUNDQUIST, ROBERT - LVMPD P#4095
10 MARQUEZ, ALEX - LVMPD P#6250
11 MARSCHNER, JULIE – LVMPD P#8806 (or designee): Expert in the field of DNA
12 extractions, comparisons, analysis, and the identification of bodily fluids and is expected to
13 testify thereto.
14 MARSHALL, BRADLEY – 7429 FOREST IVY ST., LVN 89131
15 MARTIN, TERRY – LVMPD P#5946 (or designee): CRIME SCENE ANALYST: Expert in
16 the identification, documentation, collection and preservation of evidence and is expected to
17 testify as an expert to the identification, documentation, collection and preservation of the
18 evidence in this case.
19 MARTINE, DARREN - LVMPD P#4751
20 MATTHEWS, KACEY - LVMPD P#4372
21 MCCLEERY, HEATHER - LVMPD P#4951
22 MCGRATH, JOHN - LVMPD P#4347
23 MCINTYRE, MORETTA – LVMPD P#13207 (or designee): CRIME SCENE ANALYST:
24 Expert in the identification, documentation, collection and preservation of evidence and is
25 expected to testify as an expert to the identification, documentation, collection and
26 preservation of the evidence in this case.
27 MILLER, PHILLIP - LVMPD P#1791
28 MITCHELL, MICHAEL - LVMPD P#6273

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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of State's Opposition was made this 3rd day of April, 2015,
by Electronic Filing to:

SCOTT COFFEE, Deputy Public Defender
E-mail Address: coffeesl@ClarkCountyNV.gov

Shellie Warner
Secretary for the District Attorney's Office

mmw/GCU

1 SCOTT, JON - LVMPD P#4532

2 SHANNON, GILBERT - LVMPD P#4111

3 SMITH, JEFFREY - LVMPD P#8177 (or designee): CRIME SCENE ANALYST: Expert in
4 the identification, documentation, collection and preservation of evidence and is expected to
5 testify as an expert to the identification, documentation, collection and preservation of the
6 evidence in this case.

7 STOUT, ERIC - LVMPD P#4550

8 TOMAINO, DANIEL - LVMPD P#8278

9 TORSIELLO, MICHAEL - LVMPD P#13149

10 UMANA, WILLIAM - LVMPD P#7441

11 WEST, KENNETH - LVMPD P#5759

12 WHITE, JAYCE - C/O AMBER GAINES, 4801 E. TROPICANA RD., LVN 89121

13 WHITE, JODEY - C/O AMBER GAINES, 4801 E. TROPICANA RD., LVN 89121

14 WILSON, ROBERT - 316 ALTAMIRA RD., LVN 89106

15 WILSON, WANDA - 316 ALTAMIRA RD., LVN 89106

16 STEVEN B. WOLFSON
17 Clark County District Attorney
Nevada Bar #001565

18
19 BY /s//LIZ MERCER
20 LIZ MERCER
21 Chief Deputy District Attorney
22 Nevada Bar #010681
23
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25
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1 COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON

2 did then and there willfully, feloniously, without authority of law, and with malice
3 aforethought, kill ECHO LUCAS WHITE, a human being, by shooting at and into the body
4 of the said ECHO LUCAS WHITE, with a deadly weapon, to-wit: a firearm, said killing
5 having been willful, premeditated and deliberate.

6 COUNT 2 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

7 did then and there, without authority of law, and malice aforethought, willfully and
8 feloniously attempt to kill JOSEPH AVERMAN, a human being, by shooting at and into the
9 body of the said JOSEPH AVERMAN, with a deadly weapon, to-wit: a firearm.

10 COUNT 3 - CARRYING CONCEALED FIREARM OR OTHER DEADLY WEAPON

11 did then and there, wilfully, intentionally, unlawfully and feloniously carry concealed
12 upon his person, a firearm or other deadly weapon, to-wit: a Black Taurus PT 92C 9mm semi-
13 automatic handgun bearing Serial No. TOA33791.

14 COUNT 4 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

15 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
16 wit: JODEY WHITE, being approximately nine (9) years of age, to suffer unjustifiable
17 physical pain or mental suffering as a result of abuse or neglect, to wit: negligent treatment or
18 maltreatment, and/or cause the said JODEY WHITE to be placed in a situation where he might
19 have suffered unjustifiable physical pain or mental suffering as a result of abuse or neglect, to
20 wit: negligent treatment or maltreatment, by discharging a firearm inside the child's home
21 within close proximity to the child and/or shooting the child's mother, Echo White, failing to
22 seek assistance for Echo White, and allowing her to die while the said JODEY WHITE was
23 coming in and out of the room and/or was in the near vicinity.

24 COUNT 5 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

25 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
26 wit: JESSE WHITE, being approximately five (5) years of age, to suffer unjustifiable physical
27 pain or mental suffering as a result of abuse or neglect, to wit: negligent treatment or
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ORIGINAL

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

APR 06 2015

BY 
DULCE MARIE ROMEA, DEPUTY

1 AINF
STEVEN B. WOLFSON
2 Clark County District Attorney
Nevada Bar #001565
3 LIZ MERCER
Chief Deputy District Attorney
4 Nevada Bar #010681
200 Lewis Avenue
5 Las Vegas, Nevada 89155-2212
(702) 671-2500
6 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,

CASE NO: C-12-286357-1

10 -VS-

DEPT NO: IX

11 TROY RICHARD WHITE,
12 #1383512
13 Defendant.

SECOND AMENDED

INFORMATION

C-12-286357-1
AINF
Amended Information
4447442



14
15 STATE OF NEVADA }
16 COUNTY OF CLARK } ss.

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

20 That TROY RICHARD WHITE, the Defendant above named, having committed the
21 crimes of MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS
22 200.010, 200.030, 193.165); ATTEMPT MURDER WITH USE OF A DEADLY
23 WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165), CARRYING
24 A CONCEALED FIREARM OR OTHER DEADLY WEAPON (Category C Felony -
25 NRS 202.350(1)(d)(3)), and CHILD ABUSE, NEGLECT, OR ENDANGERMENT
26 (Category B Felony - NRS 200.508(1)), on or about the 27th day of July, 2012, within the
27 County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such
28 cases made and provided, and against the peace and dignity of the State of Nevada,

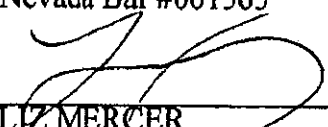
W:\2012F\12500\12F12500-AINF-(WHITE_TROY)-002.DOCX

1 COUNT 8 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

2 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
3 wit: JETT WHITE, being approximately two (2) years of age, to suffer unjustifiable physical
4 pain or mental suffering as a result of abuse or neglect, to wit: negligent treatment or
5 maltreatment, and/or cause the said JETT WHITE to be placed in a situation where he might
6 have suffered unjustifiable physical pain or mental suffering as a result of abuse or neglect, to
7 wit: negligent treatment or treatment, by discharging a firearm inside the child's home within
8 close proximity to the child and/or shooting the child's mother, Echo White, failing to seek
9 assistance for Echo White, and allowing her to die while the said JETT WHITE was coming
10 in and out of the room and/or was in the near vicinity.

11
12 STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

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14 BY

15 
LIZ MERCER
Chief Deputy District Attorney
Nevada Bar #10681
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26 DA#12F12500X/mmw/GCU
27 LVMPD EV#1207271826
28 (TK4)

1 maltreatment, and/or cause the said JESSE WHITE to be placed in a situation where he might
2 have suffered unjustifiable physical pain or mental suffering as a result of abuse or neglect, to
3 wit: negligent treatment or maltreatment, by discharging a firearm inside the child's home
4 within close proximity to the child and/or shooting the child's mother, Echo White, failing to
5 seek assistance for Echo White, and allowing her to die while the said JESSE WHITE was
6 coming in and out of the room and/or was in the near vicinity.

7 COUNT 6 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

8 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
9 wit: JAYCE WHITE, being approximately eight (8) years of age, to suffer unjustifiable
10 physical pain or mental suffering as a result of abuse or neglect, to wit: negligent treatment or
11 maltreatment, and/or cause the said JAYCE WHITE to be placed in a situation where he might
12 have suffered unjustifiable physical pain or mental suffering as a result of abuse or neglect, to
13 wit: negligent treatment or maltreatment, by discharging a firearm inside the child's home
14 within close proximity to the child and/or shooting the child's mother, Echo White, failing to
15 seek assistance for Echo White, and allowing her to die while the said JAYCE WHITE was
16 coming in and out of the room and/or was in the near vicinity.

17 COUNT 7 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

18 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
19 wit: JAZZY WHITE, being approximately six (6) months of age, to suffer unjustifiable
20 physical pain or mental suffering as a result of abuse or neglect, to wit: negligent treatment or
21 maltreatment, and/or cause the said JAZZY WHITE to be placed in a situation where he might
22 have suffered unjustifiable physical pain or mental suffering as a result of abuse or neglect, to
23 wit: negligent treatment or maltreatment, by discharging a firearm inside the child's home
24 within close proximity to the child and/or shooting the child's mother, Echo White, failing to
25 seek assistance for Echo White, and allowing her to die while the said JAZZY WHITE was
26 coming in and out of the room and/or was in the near vicinity.

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TROY RICHARD WHITE,) No. 68632
)
Appellant,)
)
v.)
)
THE STATE OF NEVADA,)
)
Respondent.)
)

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12

15

STEVE 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

Counsel for Respondent

17

18
19
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21

HOWARD S. BROOKS
SCOTT COFFEE

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23

TROY WHITE
NDOC # 1143868
c/o HIGH DESERT STATE PRISON
PO Box 650
Indian Springs, NV 89070

BY [Signature]
Employee, Clark County Public Defender's Office

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Respondent.

Electronically Filed
Feb 17 2016 08:34 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

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Counsel for Respondent

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Case No. 68632

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JUSTICE COURT LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA

JUL 30 12 07 PM '12

THE STATE OF NEVADA,

Plaintiff,

-VS-

TROY RICHARD WHITE #1383512,

Defendant.

JUSTICE COURT
LAS VEGAS NEVADA

BY

OFFICE CASE NO: 12F12500X

DEPT NO: 5

FILED UNDER SEAL

All materials, except the Criminal Complaint, are being filed under seal in obedience to Section 239B.030 of the Nevada Revised Statutes and pursuant to the Order issued by the Honorable Douglas E. Smith, signed December 28, 2006.

12F12500X
1329157





ORIGINAL

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

FILED IN OPEN
COURT ON

12-12-12
[Signature]
Court Clerk

3 THE STATE OF NEVADA,

4 Plaintiff,

5 -vs-

6 TROY RICHARD WHITE #1383512,

7 Defendant.

CASE NO: 12F12500X

DEPT NO: 5

AMENDED

CRIMINAL COMPLAINT

8
9 The Defendant above named having committed the crimes of BURGLARY WHILE
10 IN POSSESSION OF A FIREARM (Category B Felony - NRS 205.060); MURDER WITH
11 USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165);
12 ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS
13 200.010, 200.030, 193.330, 193.165), CARRYING A CONCEALED FIREARM OR
14 OTHER DEADLY WEAPON (Category C Felony - NRS 202.350(1)(d)(3)), and CHILD
15 ABUSE, NEGLECT, OR ENDANGERMENT (Category B Felony - NRS 200.508(1)) in the
16 manner following, to-wit: That the said Defendant, on or about the 27th day of July, 2012,
17 at and within the County of Clark, State of Nevada,

18 COUNT 1 - BURGLARY WHILE IN POSSESSION OF A FIREARM

19 did, then and there wilfully, unlawfully, and feloniously enter, while in possession of
20 a firearm, with intent to commit a felony, to-wit: murder and/or battery and/or assault, that
21 certain building occupied by ECHO LUCAS WHITE, located at 325 Altamira Road, Las
22 Vegas, Clark County, Nevada, the Defendant did possess and/or gain possession of a deadly
23 weapon consisting of a firearm during the commission of the crime and/or before leaving the
24 structure.

25 COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON

26 did, then and there willfully, feloniously, without authority of law, and with malice
27 aforethought, kill ECHO LUCAS WHITE, a human being, by shooting at and into the body
28 of the said ECHO LUCAS WHITE, with a deadly weapon, to-wit: a firearm, said killing

1 having been willful, premeditated and deliberate and/or committed during the perpetration or
2 the attempted perpetration of a burglary, to-wit: by the defendant entering 325 Altamira
3 Road, Las Vegas, Clark County, Nevada with the intent to assault and/or batter and/or kill
4 the said ECHO LUCAS WHITE and/or JOSEPH AVERMAN.

5 COUNT 3 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

6 did, then and there, without authority of law, and malice aforethought, willfully and
7 feloniously attempt to kill JOSEPH AVERMAN, a human being, by shooting at and into the
8 body of the said JOSEPH AVERMAN, with a deadly weapon, to-wit: a firearm.

9 COUNT 4 - CARRYING CONCEALED FIREARM OR OTHER DEADLY WEAPON

10 did, then and there, wilfully, intentionally, unlawfully and feloniously carry concealed
11 upon his person, a firearm or other deadly weapon, to-wit: a Black Taurus PT 92C 9mm
12 semi-automatic handgun bearing Ser. No. TOA33791.

13 COUNT 5 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

14 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
15 wit: JODEY WHITE, being approximately 9 year(s) of age, to suffer unjustifiable physical
16 pain or mental suffering as a result of abuse or neglect, and/or cause the said JODEY
17 WHITE to be placed in a situation where he might have suffered unjustifiable physical pain
18 or mental suffering as a result of abuse or neglect, by discharging a firearm inside the child's
19 home within close proximity to the child.

20 COUNT 6 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

21 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
22 wit: JODEY WHITE, being approximately 9 year(s) of age, to suffer unjustifiable physical
23 pain or mental suffering as a result of abuse or neglect, and/or cause the said JODEY
24 WHITE to be placed in a situation where he might have suffered unjustifiable physical pain
25 or mental suffering as a result of abuse or neglect, shooting the child's mother, Echo White,
26 failing to seek assistance for Echo White, and allowing her to die while the said JODEY
27 WHITE was coming in and out of the room and/or was in the near vicinity.

28 ///

1 COUNT 7 – CHILD ABUSE, NEGLECT, OR ENDANGERMENT

2 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
3 wit: JESSE WHITE, being approximately 5 year(s) of age, to suffer unjustifiable physical
4 pain or mental suffering as a result of abuse or neglect, and/or cause the said JESSE WHITE
5 to be placed in a situation where he might have suffered unjustifiable physical pain or mental
6 suffering as a result of abuse or neglect, by discharging a firearm inside the child's home
7 within close proximity to the child.

8 COUNT 8 – CHILD ABUSE, NEGLECT, OR ENDANGERMENT

9 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
10 wit: JESSE WHITE, being approximately 5 year(s) of age, to suffer unjustifiable physical
11 pain or mental suffering as a result of abuse or neglect, and/or cause the said JESSE WHITE
12 to be placed in a situation where he might have suffered unjustifiable physical pain or mental
13 suffering as a result of abuse or neglect, shooting the child's mother, Echo White, failing to
14 seek assistance for Echo White, and allowing her to die while the said JESSE WHITE was
15 coming in and out of the room and/or was in the near vicinity.

16 COUNT 9 – CHILD ABUSE, NEGLECT, OR ENDANGERMENT

17 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
18 wit: JAYCE WHITE, being approximately 8 year(s) of age, to suffer unjustifiable physical
19 pain or mental suffering as a result of abuse or neglect, and/or cause the said JAYCE
20 WHITE to be placed in a situation where he might have suffered unjustifiable physical pain
21 or mental suffering as a result of abuse or neglect, by discharging a firearm inside the child's
22 home within close proximity to the child.

23 COUNT 10 – CHILD ABUSE, NEGLECT, OR ENDANGERMENT

24 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
25 wit: JAYCE WHITE, being approximately 8 year(s) of age, to suffer unjustifiable physical
26 pain or mental suffering as a result of abuse or neglect, and/or cause the said JAYCE
27 WHITE to be placed in a situation where he might have suffered unjustifiable physical pain
28 or mental suffering as a result of abuse or neglect, shooting the child's mother, Echo White,

1 failing to seek assistance for Echo White, and allowing her to die while the said JAYCE
2 WHITE was coming in and out of the room and/or was in the near vicinity.

3 COUNT 11 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

4 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
5 wit: JAZZY WHITE, being approximately 6 months of age, to suffer unjustifiable physical
6 pain or mental suffering as a result of abuse or neglect, and/or cause the said JAZZY
7 WHITE to be placed in a situation where he might have suffered unjustifiable physical pain
8 or mental suffering as a result of abuse or neglect, by discharging a firearm inside the child's
9 home within close proximity to the child.

10 COUNT 12 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

11 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
12 wit: JAZZY WHITE, being approximately 6 mos of age, to suffer unjustifiable physical
13 pain or mental suffering as a result of abuse or neglect, and/or cause the said JAZZY
14 WHITE to be placed in a situation where he might have suffered unjustifiable physical pain
15 or mental suffering as a result of abuse or neglect, shooting the child's mother, Echo White,
16 failing to seek assistance for Echo White, and allowing her to die while the said JAZZY
17 WHITE was coming in and out of the room and/or was in the near vicinity.

18 COUNT 13 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT


19 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
20 wit: JETT WHITE, being approximately 2 year(s) of age, to suffer unjustifiable physical
21 pain or mental suffering as a result of abuse or neglect, and/or cause the said JETT WHITE
22 to be placed in a situation where he might have suffered unjustifiable physical pain or mental
23 suffering as a result of abuse or neglect, by discharging a firearm inside the child's home
24 within close proximity to the child.

25 COUNT 14 - CHILD ABUSE, NEGLECT OR ENDANGERMENT

26 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
27 wit: JETT WHITE, being approximately 2 year(s) of age, to suffer unjustifiable physical
28 pain or mental suffering as a result of abuse or neglect, and/or cause the said JETT WHITE

1 to be placed in a situation where he might have suffered unjustifiable physical pain or mental
2 suffering as a result of abuse or neglect, shooting the child's mother, Echo White, failing to
3 seek assistance for Echo White, and allowing her to die while the said JETT WHITE was
4 coming in and out of the room and/or was in the near vicinity.

5 All of which is contrary to the form, force and effect of Statutes in such cases made
6 and provided and against the peace and dignity of the State of Nevada. Said Complainant
7 makes this declaration subject to the penalty of perjury.

8
9 12/11/2012 

10 12F12500X/ts
11 LVMPD EV# 1207271826
12 (TK5)
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JUSTICE COURT, LAS VEGAS TOWNSHIP

STATE VS. WHITE, TROY RICHARD

CASE NO. 12F12500X

PAGE: 1

DATE, JUDGE
OFFICERS OF COURT
PRESENT

APPEARANCES - HEARING

CONTINUED TO:

JULY 30, 2012	CRIMINAL COMPLAINT FILED: COUNT 1 – BURGLARY WHILE IN POSSESSION OF A FIREARM COUNT 2 – MURDER WITH USE OF A DEADLY WEAPON COUNT 3 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON	DMC
JULY 30, 2012 M. SARAGOSA FOR W. JANSEN J. ADAIR, CLK	DEFENDANT NOT PRESENT IN COURT ARREST WARRANT ISSUED – BAIL SET: SIC – ALL COUNTS	DMC
AUGUST 13, 2012	MEDIA REQUEST AND ORDER ALLOWING CAMERA ACCESS TO COURT PROCEEDINGS FILED (KVVU FOX 5)	SLS
AUGUST 14, 2012	MEDIA REQUEST AND ORDER ALLOWING CAMERA ACCESS TO COURT PROCEEDINGS FILED (8 NEWS NOW)	SLS
AUGUST 14, 2012 W. JANSEN LIZ MERCER, DA C. JASPER, CR L. FOY, CLK	INITIAL ARRAIGNMENT DEFENDANT PRESENT IN COURT IN CUSTODY DEFENDANT ADVISED OF CHARGES/WAIVES READING OF COMPLAINT PASSED BY COURT FOR STATUS CHECK TO SEE IF PUBLIC DEFENDER HAS REPRESENTED THE VICTIMS AND IF PUBLIC DEFENDER MURDER TEAM WILL BE HANDLING THIS CASE DEFENDANT REMANDED TO THE CUSTODY OF THE SHERIFF	8/16/12 7:30 #5 DMC
AUGUST 16, 2012 W. JANSEN M. THOMSON, DA S. COFFEE, PD C. JASPER, CR L. FOY, CLK	DEFENDANT PRESENT IN COURT *IN CUSTODY* PRELIMINARY HEARING DATE SET DEFENDANT WAIVES THE 15 DAY RULE DEFENDANT REMANDED TO THE CUSTODY OF THE SHERIFF	12/12/12 8:30 AM #5 EM
AUGUST 15, 2012	MEDIA REQUEST AND ORDER ALLOWING CAMERA ACCESS TO COURT PROCEEDINGS FILED (KSNV LAS VEGAS CHANNEL 3 NBC)	SLS
AUGUST 20, 2012	MEDIA REQUEST AND ORDER ALLOWING CAMERA ACCESS TO COURT PROCEEDINGS FILED (KTNV)	SLS

**Justice Court, Las Vegas Township
Clark County, Nevada**

Court Minutes



12F12500X State of Nevada vs White, Troy Richard

12/12/2012 8:30:00 AM Preliminary Hearing

Result: Bound Over

PARTIES Attorney Coffee, Scott L.
PRESENT: Defendant White, Troy Richard

Judge: Jansen, William D.

Prosecutor: Mercer, Elizabeth

Court Reporter: Jasper, Carlila

Court Clerk: Foy, Linda

DA Clerk: Miller, Tina

PROCEEDINGS

Exhibits: Document, Photograph, Etc. (ID: 1) Admitted
Document, Photograph, Etc. (ID: 2) Offered

Events: Amended Criminal Complaint

filed in open court

Custody Status Slip (No Custody Change)

Motion to Exclude Witnesses - Defense

Motion granted

State Calls Witnesses

Joseph Averman - Witness ID deft.

State Rests

Defendant Advised of Rights

to Make a Statement, to Waive Making a Statement and/or of the Right to Call Witnesses

Defendant Waives the Right to Make a Statement

Defense Rests

Defendant Bound Over to District Court as Charged

Probable Cause Found. Defendant bound over to District Court as Charged. Defendant to appear in Lower Level Arraignment Courtroom A.

District Court Appearance Date Set

to appear: JANUARY 2, 2013 @ 1:30 PM DCA *IN CUSTODY*

Bail Stands

Remand Counts 4-5-6-7-8-9-10-11-12-13-14

Case Closed - Bound Over

Charges: 4: CARRYING A CONCEALED WEAPON

5: Child abuse or neglect, first offense - with intent to promote or assist a criminal gang

6: Child abuse or neglect, first offense - with intent to promote or assist a criminal gang

7: Child abuse or neglect, first offense - with intent to promote or

Las Vegas Justice Court: Department 05

LVJC_Criminal_MinuteOrder

12/12/2012 2:42 PM

1 C-12-286357-1
2 IN THE JUSTICE COURT OF THE LAS VEGAS TOWNSHIP
3 IN AND FOR THE COUNTY OF CLARK
4

5
6 THE STATE OF NEVADA,))
7 Plaintiff,) CASE NO. 12F12500X
8) DEPT. NO. 5
9 TROY WHITE,)
10 Defendant,))
11)
12)
13)
14)

15 BEFORE THE HONORABLE WILLIAM D. JANSEN
16 JUSTICE OF THE PEACE
17 REPORTER'S TRANSCRIPT OF
18 PRELIMINARY HEARING
19 TAKEN ON WEDNESDAY, DECEMBER 12, 2012
20 AT 8:30 O'CLOCK A.M.

21 APPEARANCES:

22 For the State: J. MERCER, ESQ.
23 B. TURNER, ESQ.
24 Deputy District Attorneys
25 For the Defendant: S. COFFEE, ESQ.
D. NEGRETE-LOPEZ, ESQ.
Special Deputy Public Defenders

1 INDEX OF EXAMINATION

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8 Recross-examination by Mr. Coffee 52
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Alma L. Lujan

CLERK OF THE COURT

3

4

1 INDEX OF EXHIBITS

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4 State's Exhibit 1 53 M A
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1 LAS VEGAS JUSTICE COURT, WEDNESDAY, DECEMBER 12, 201
2 *** PROCEEDINGS ***
3

4 THE COURT: All right. Then, Mr. Coffee,
5 are you ready to proceed?

6 MR. COFFEE: Yes.

7 THE COURT: All right. This is now the
8 time and place for the preliminary hearing in
9 the State of Nevada versus Troy Richard White.

10 Let the record reflect that the -- the
11 exclusionary rule will be invoked.

12 MS. MERCER: Liz Mercer, Your Honor.

13 THE COURT: It's been a while since I've
14 seen you.

15 MS. MERCER: Yeah. I've been in DV court.

16 THE COURT: Yeah.

17 I know you, Brad.

18 MR. TURNER: Yes, sir.

19 THE COURT: Okay. Let the record reflect
20 the defendant is present, along with his
21 attorney, Mr. Coffee. And I don't know the
22 individual --

23 MR. LOPEZ-NEGRETE: David Lopez-Negrete
24 for the record.

25 THE COURT: David Lopez?

1 MR. LOPEZ-NEGRETTE: Yes.
 2 THE COURT: Okay. And then for the State
 3 there's Brad Turner and Liz Mercer.
 4 MS. MERCER: Yes.
 5 THE COURT: So, let me ask you this, how
 6 many witnesses do you anticipate?
 7 MR. TURNER: Judge, it looks like at this
 8 point we're only going to need one to put this
 9 on.
 10 THE COURT: All right. Now, are there any
 11 other potential witnesses in the courtroom that
 12 would be subject to be called. Because if so,
 13 I am going to have to ask them to be excluded
 14 from the courtroom just in case if something
 15 comes down the line.
 16 MS. MERCER: Your Honor, we don't believe
 17 so at this time.
 18 THE COURT: Now, if they are in the
 19 courtroom, I can't allow them to testify.
 20 You understand that?
 21 MS. MERCER: Yes.
 22 THE COURT: You all understand that?
 23 Now, Mr. Coffee, do you have any
 24 witnesses, other than possibly the defendant
 25 himself to testify?

7

1 THE COURT: Well, my policy is if they're
 2 subpoenaed witnesses to be here, those are the
 3 only ones to be excluded.
 4 MS. MERCER: They have not been
 5 subpoenaed.
 6 THE COURT: And they've not been
 7 subpoenaed, and I can only do it for this
 8 hearing. So, therefore, your motion to exclude
 9 them for this hearing, I'm not going to grant,
 10 so we'll proceed.
 11 MR. COFFEE: That's fine, Judge. Pursuant
 12 to any possible motions, I request we get the
 13 names of the people that are in the courtroom
 14 and sitting through the proceedings, so that we
 15 have it in the record if we need it later.
 16 MS. MERCER: And, Your Honor, this entire
 17 side of the courtroom is full of people related
 18 to the victim, so...
 19 THE COURT: Well, if you want to stand and
 20 give your names, each one want to stand and
 21 give your name for the record, we will go for
 22 it.
 23 THE COURT REPORTER: Can we please take a
 24 paper and pass it around so they can write
 25 their names and spell them?

1 MR. COFFEE: I don't, Judge.
 2 Can I speak to the District Attorney,
 3 please?
 4 THE COURT: Sure.
 5 MR. COFFEE: Judge, after a conversation
 6 with the District Attorney, I don't know if
 7 this is going to be a capital case one way or
 8 the other. It's too early in the process to
 9 know that. They have more review to do.
 10 The concern that I have is there are a
 11 number of people in the courtroom who may well
 12 be victim impact witnesses at a penalty phase,
 13 if we get to that point, if this is a capital
 14 case.
 15 I talked to the District Attorney, and
 16 they agree with that proposition. I think
 17 they're probably going to say that it would be
 18 a penalty phase issue, not a trial issue.
 19 While I understand the difference, the
 20 Supreme Court said penalty phase, trial, all
 21 the same thing for evidentiary purposes, so I
 22 have some concerns about leaving those people
 23 in the courtroom during this testimony.
 24 And I would object and submit it to your
 25 discretion.

8

1 THE COURT: Maybe that would be better,
 2 yeah. Take a legal pad and then we'll read it
 3 off for the record. That might be a better
 4 idea.
 5 MR. COFFEE: We have to notice all of them
 6 anyway.
 7 MR. TURNER: I understand.
 8 MR. COFFEE: But if you didn't notice
 9 them, there would be a breach you didn't notice
 10 them.
 11 (Whereupon, an unrelated matter was
 12 heard.)
 13 THE COURT: Now, in the Troy Richard White
 14 case, the charges are Burglary While in
 15 Possession of Firearm, Murder With Use of a
 16 Deadly Weapon, and Attempt Murder With Use of a
 17 Deadly Weapon.
 18 Oh, wait a minute, I've got the amended
 19 criminal complaint. Burglary While in
 20 Possession of a Firearm -- I just got that.
 21 Murder With Use of a Deadly Weapon, Attempt
 22 Murder With Use of a Deadly Weapon, Carrying a
 23 Concealed Firearm or Other Deadly Weapon, and
 24 Child Abuse and Neglect or Endangerment.
 25 MR. COFFEE: And they notified us

1 beforehand that they were going to be filing an
 2 amended. We have no objection.
 3 THE COURT: All right. So, then, you can
 4 go ahead and call your first witness, State.
 5 MS. MERCER: Your Honor, the State calls
 6 Joseph Averman.
 7 THE COURT: Joseph who?
 8 MS. MERCER: Averman.
 9 THE COURT: I thought you said Immerman,
 10 and I was going to say.
 11 THE MARSHAL: Step up here, sir. Remain
 12 standing, face the clerk over there, and raise
 13 your right hand.
 14 THE CLERK: Do you solemnly swear to tell
 15 the truth, the whole truth, and nothing but the
 16 truth, so help you God?
 17 THE WITNESS: I do.
 18 THE CLERK: Please be seated. State your
 19 full name and spell your name, please.
 20 THE WITNESS: Joseph Douglas Averman.
 21 J-O-S-E-P-H, Douglas, D-O-U-G-L-A-S, Averman,
 22 A-V, as in Victor, E-R-M-A-N.
 23 MS. MERCER: May I proceed, Your Honor?
 24 THE COURT: Now, Mr. Averman, if the
 25 question is asked of you by either one of these

1 attorneys calls for a "yes" or "no" answer,
 2 please state "yes" or "no." Do not just shake
 3 your head or say "ugh-huh," because down below
 4 you is a court reporter, and she cannot record
 5 those types of responses.
 6 Do you understand that?
 7 THE WITNESS: Yes, Your Honor.
 8 THE COURT: So why don't you scoot up
 9 close to the mic so everyone can hear you.
 10 Okay?
 11 THE WITNESS: Yes, sir.
 12 THE COURT: All right. You may proceed.
 13 MS. MERCER: Thank you, Your Honor.
 14
 15 **JOSEPH AVERMAN,**
 16 Having been first duly sworn to tell
 17 the truth, the whole truth and nothing but
 18 the truth testified as follows:
 19
 20 **DIRECT EXAMINATION**
 21 BY MS. MERCER:
 22 Q Sir, do you know an individual by the name
 23 of Troy White?
 24 A Yes, I do.
 25 Q And do you see him in the courtroom today?

11

12

1 A. Yes, I do.
 2 Q Could you please point to him for me and
 3 identify an article of clothing that he is wearing
 4 today?
 5 A He is sitting right there with a blue
 6 sleeveless shirt.
 7 MS. MERCER: Your Honor, may the record
 8 reflect that he's identified the defendant?
 9 THE COURT: So reflect.
 10 BY MS. MERCER:
 11 Q And, sir, did you also know an individual
 12 by the name of Echo Lucas White?
 13 A Yes, I did.
 14 Q And when did you first meet Echo Lucas
 15 White?
 16 A About eight years ago.
 17 Q About eight years ago.
 18 Where did the two of you meet?
 19 A We originally met at church.
 20 Q And did the two of you have a close
 21 friendship in that eight years or just see each
 22 other infrequently?
 23 A Close friendship.
 24 Q To your knowledge, were the defendant and
 25 Echo Lucas White married?

1 A Yes.
 2 Q Earlier this year, did you become aware
 3 that the two had separated?
 4 A Yes.
 5 Q Do you recall when that was?
 6 A About in June.
 7 Q June of 2012?
 8 A Yes.
 9 Q Do you recall whether it was early in June
 10 or late in June?
 11 A Early in June.
 12 Q And after the two had separated, did you
 13 and Echo develop a relationship?
 14 A Yes.
 15 Q And that relationship was a romantic
 16 relationship?
 17 A Yes.
 18 Q At some point, did you move in with Echo?
 19 A Yes.
 20 Q Where did you move into?
 21 A To her house.
 22 Q Do you recall where that house was?
 23 A On Altamira.
 24 Q Okay. And that's here in Clark County?
 25 A Yes.

1 Q What are the closest cross streets?
 2 A Buffalo and Alta.
 3 Q Okay. Who else resided in the house with
 4 you and Echo?
 5 A Her kids.
 6 Q And what are the children's names for the
 7 record?
 8 A Jodey, Jayce, Jesse, Jett, and Jazzy.
 9 Q And could you do me a favor and spell
 10 those names for the court reporter?
 11 A Jodey is J-O-D-E-Y. Jayce, J-A-Y-C-E.
 12 Jesse, J-E-S-S-E. Jett, J-E-T-T. Jazzy, J-A-Z-Z-Y.
 13 Q Okay. And do you know the children's
 14 ages?
 15 A I believe Jodey was ten, Jayce was nine,
 16 Jesse is six, Jett is two, and Jazzy is almost a
 17 year.
 18 Q What did you say about Jazzy, I'm sorry?
 19 A Almost a year.
 20 Q Okay. When is Jazzy's birthday?
 21 A January 16th.
 22 Q So back in June she would have been -- or
 23 July she would have been about six months?
 24 A Six months.
 25 Q During the time that you resided with Echo

1 and her children, were you familiar with or did you
 2 know the defendant had visitation with the children?
 3 A Yes.
 4 Q And do you know how that visitation took
 5 place?
 6 A On the weekends.
 7 Q And what was the arrangement?
 8 A He would come and pick them up on Fridays
 9 after he got off work, and then Sunday nights he
 10 would have the kids back.
 11 Q Did he stay in the home at some point on
 12 the weekends?
 13 A On the weekends.
 14 Q And was that because of the number of
 15 children it was just easier to do it that way?
 16 A Yes.
 17 Q You indicated that his visitation would
 18 begin when he got off work on Fridays?
 19 A Yes.
 20 Q About what time would he typically show up
 21 for visitation?
 22 A It would be somewhere between two and
 23 three.
 24 Q In the afternoon?
 25 A Yes.

1 Q Okay. During the time period of your
 2 relationship with Echo, did you learn that the
 3 defendant was upset about the separation?
 4 A Yes.
 5 Q And how did you become aware of that?
 6 A Between Echo and harassing phone calls and
 7 text messages.
 8 Q When you say harassing phone calls and
 9 text messages, was the defendant calling her and
 10 texting her continuously?
 11 A Yes.
 12 Q And is it something that occurred every
 13 day throughout the day, or every other day? You
 14 know, what kind of frequency are we talking about?
 15 A Every day.
 16 Q And you were with her when she would
 17 receive those text messages and phone calls?
 18 A Yes.
 19 Q Did he ever make -- did he know that the
 20 two of you were dating?
 21 A Yes.
 22 Q And when I say "the two of you," I mean
 23 you and Echo?
 24 A Yes.
 25 Q Did he ever make any threats to you

1 because of your relationship with Echo?
 2 A Yes, he did.
 3 Q And when did he make those threats?
 4 A A few different times over texts and voice
 5 mails.
 6 Q And when did those threats begin?
 7 A About in June.
 8 Q June of 2012?
 9 A Yes.
 10 Q I apologize if I already asked you this,
 11 but what point in June did you move into the
 12 residence?
 13 A Later on in June towards the end of the
 14 month.
 15 Q And was the defendant aware that you were
 16 living there?
 17 A Yes.
 18 Q What kind of specific threats was he
 19 making to you?
 20 A He said that "If you don't stay away, I'm
 21 going to fucking kill you."
 22 Q And when he made those threats to you, was
 23 it over the phone or in person?
 24 A Voice mails.
 25 Q Voice mails.

1 Okay. I want to fast-forward to
 2 July 27th of 2012. On that date, were you at the
 3 residence with Echo and the children?
 4 A Yes, I was.
 5 Q And what day of the week was that for the
 6 record?
 7 A A Friday.
 8 Q Did something unusual happen about
 9 2:00 a.m. that morning?
 10 A About 2:00 in the morning, there was a big
 11 bang, which I thought was on the front door.
 12 THE COURT: Excuse me, what date did you
 13 say? July what?
 14 MS. MERCER: July 27th.
 15 THE COURT: July 27th, okay. I thought
 16 you said -- that is a Friday. You're correct,
 17 that is a Friday.
 18 Go ahead.
 19 MS. MERCER: Thank you, Your Honor.
 20 BY MS. MERCER:
 21 Q I'm sorry, you heard a big bang and you
 22 thought what?
 23 A I thought there was a bang on the front
 24 door, and I guess it was on the bedroom window from
 25 what Echo had told me.

1 Q What was the loud bang?
 2 A He was pounding on the door or the window.
 3 Q I'm sorry, it was what?
 4 A He was pounding on the door or the window.
 5 Q And by "he," you mean the defendant?
 6 A Troy.
 7 Q The defendant?
 8 A Yes.
 9 Q Did he come into the residence at that
 10 point?
 11 A No.
 12 Q Where were you when that occurred?
 13 A In the living room.
 14 Q The living room of the residence?
 15 A Yes.
 16 Q And that's the house on Altamira?
 17 A Yes.
 18 Q After the banging, what happened? Did the
 19 two of you just go to sleep?
 20 A Echo had called Troy after the banging
 21 because he had texted her and called her numerous
 22 times, and she didn't respond. She was doing her
 23 hair. All you guys know how Echo loved to do her
 24 hair.
 25 Q Okay.

19

20

1 THE COURT: All women like to do their
 2 hair, not just Echo, all of them. I have one
 3 that does it all the time.
 4 BY MS. MERCER:
 5 Q When you said that she was doing her hair,
 6 what did you mean?
 7 A She was putting her hair in braids.
 8 Q And did she have something on her hands?
 9 A She had some gel or whatever to help her
 10 do her hair. I'm not really for sure exactly what
 11 it was.
 12 Q Okay. But she couldn't answer the phone
 13 with that substance on her hands?
 14 A Yes.
 15 Q Okay. And she called him because he was
 16 constantly calling and texting throughout that
 17 period?
 18 A Well, at that time, she wasn't responding
 19 until after the banging on the door.
 20 Q Okay. And then she called him?
 21 A And then she called him.
 22 Q And then what happened?
 23 A She had asked him basically "What are you
 24 doing? You can't be coming over here banging on the
 25 door or window. We have our kids over here.

1 They're trying to sleep." And the other part of the
 2 conversation I don't know.
 3 Q Did he eventually leave the area?
 4 A He eventually left.
 5 Q And then did the two of you go to sleep
 6 after that, shortly after that?
 7 A Yes.
 8 Q Do you recall about what time you woke up
 9 later that morning?
 10 A I want to say around seven or eight.
 11 Q And were the children all still with you
 12 at this point?
 13 A Yes.
 14 Q What were you all doing that day, that
 15 morning when you woke up?
 16 A Had some breakfast, cleaning, and then we
 17 were watching "I Shouldn't Be Alive."
 18 Q Is that a TV show?
 19 A Yes.
 20 Q And what was Echo doing?
 21 A She was doing some laundry, folding
 22 laundry, and then she fell asleep on the couch from
 23 being awake all night.
 24 Q Okay. So she took a nap on the sofa?
 25 A She took a nap.

1 Q And that was in the living room?
2 A Yes.
3 Q Where you and the children were watching
4 TV?
5 A Yes, which was around 10:30 in the
6 morning.
7 Q 10:30 in the morning?
8 A Yes.
9 Q Was she still receiving communications
10 from the defendant during this period?
11 A At that time, I'm not for sure.
12 Q At some point, did she wake up from her
13 nap on the sofa?
14 A Yes.
15 Q And what time did she wake up?
16 A About ten to 12.
17 Q Ten to 12?
18 A Quarter to 12.
19 Q And when she woke up, do you know whether
20 she received any communication?
21 A She told me that there was numerous texts
22 and phone calls and voice mails.
23 Q That she missed --
24 A Yes.
25 Q -- while she was napping?

23

1 first she told him that he wasn't supposed to be
2 there yet. You know, "Come back whenever or later
3 when you are supposed to get the kids, and we'll
4 talk then."
5 And he looked at me and he said,
6 "Joe, please, just give me five minutes. She hasn't
7 returned my calls or my texts all day long. I just
8 need to talk to her."
9 Q Okay. Let me stop you for a minute.
10 When he came into the house, did you
11 see him carrying anything?
12 A No.
13 Q Did you see a gun in his hand?
14 A No.
15 Q Okay. So after he asked you to let him
16 speak with Echo for five minutes, what happens next?
17 A Echo looked at me and she said, "All
18 right, just give me five minutes."
19 Q And then did they have a discussion?
20 A They went into the back bedroom, the spare
21 bedroom.
22 Q Where is the spare bedroom in relation to
23 the master bedroom in which the crib was in?
24 A Directly across the hall.
25 Q Okay. And that spare bedroom, what kinds

1 A Yes.
2 Q What happened after she woke up?
3 A She woke up. She apologized for falling
4 asleep and having me sit there with the kids, and I
5 told her it was fine. And I told her why didn't she
6 go lay down in bed. So she went to go lay down in
7 bed, and I had -- I was holding Jazzy, and I put her
8 to sleep, so as Echo was going to lay down in the
9 bed, they have the crib in the bedroom.
10 Q In the master bedroom where Echo sleeps?
11 A Yes.
12 And I went to put Jazzy in bed to lay
13 her down in her crib, and shortly after, Troy comes
14 to the house.
15 Q And how did you know that he was there?
16 A 'Cause the two older boys, Jodey and
17 Jayce, were saying, "Mommy, Mommy, Daddy's here."
18 Q Do you know how he entered the residence?
19 A He still had a key for that so he came in
20 with the key.
21 Q Okay. Once the defendant was inside, what
22 happened?
23 A He had asked to speak to her.
24 Q Asked who?
25 A Troy had asked Echo to talk to her, and

24

1 of things were kept in it?
2 A Just a bunch of crafting stuff.
3 Q Okay. So the defendant and Echo go into
4 the spare bedroom?
5 A Yes.
6 Q Where are you at this point?
7 A I'm in the master bedroom.
8 Q With Jazzy?
9 A Yes.
10 Q At the time that he walked into the
11 bedroom, did you see anything in his hand?
12 A No.
13 Q When you went into the master bedroom, did
14 you have the door open or shut?
15 A I shut -- it wasn't completely shut, but I
16 closed it some way.
17 Q And why did you close it?
18 A Just, I'm not sure. I just closed it.
19 Q Okay. When Echo and the defendant went
20 into the spare bedroom, did they have the door open
21 or shut?
22 A Shut.
23 Q At some point when you were in the master
24 bedroom with Jazzy, did you become alarmed?
25 A Yes.

1 Q And why?
 2 A Because I heard Echo say, "Troy, no,
 3 please don't, and stop."
 4 Q When you heard that, what did you do?
 5 A I opened the door to go make sure she was
 6 okay. From prior abuse that he's done to her, I was
 7 making sure that he wasn't hurting her.
 8 Q When you opened the door, was the door to
 9 the craft room open at this point?
 10 A It was -- she was trying to come out of
 11 the bedroom.
 12 Q And what did you see?
 13 A He grabbed her arm and he pulled her back
 14 into the room.
 15 Q When you say that "he pulled her back in
 16 the room," which room are we talking about?
 17 A The spare room.
 18 Q So he pulled her back into the craft room
 19 when she was trying to walk away?
 20 A Yes.
 21 Q And when you saw him grab her, what
 22 happened after that?
 23 A He pushed her to the wall and then he shot
 24 her.
 25 Q Could you tell where she was shot?

1 A It looked like she was shot in the
 2 stomach, but I'm not for sure.
 3 Q What led you to believe that she was shot
 4 in the stomach?
 5 A Just how she -- how she buckled over.
 6 Q When he shot her, did you see the gun in
 7 his hand?
 8 A Can you repeat that?
 9 Q When he shot her, did you actually see the
 10 gun in his hand?
 11 A Yes.
 12 Q And where was he holding the firearm?
 13 A About waist high.
 14 Q At the point that he shot her, where were
 15 all of the children in the house?
 16 A They were -- I believe the two oldest boys
 17 were in the hallway.
 18 Q And the two oldest boys are?
 19 A Jodey and Jayce.
 20 Jesse and Jett, I'm not for sure
 21 where they were. And Jazzy was in her crib.
 22 Q And when you say that he pushed her
 23 against the wall, which wall to the bedroom was it
 24 that he pushed her?
 25 A I'm -- it's --

1 Q In relation to where the door to enter the
 2 room is, which wall was it?
 3 A It was the wall that the door is right up
 4 against.
 5 Q On the same wall as the door?
 6 A Yes.
 7 Q And is that the wall that is against the
 8 hallway that divides that room from the hallway?
 9 A Yes.
 10 Q So that wall is directly across from where
 11 the baby was situated?
 12 A Yes.
 13 Q Then after you saw Echo buckle over, what
 14 happened?
 15 A He turned and he shot me.
 16 THE COURT: I didn't hear you. What did
 17 you say?
 18 THE WITNESS: Troy shot me.
 19 BY MS. MERCER:
 20 Q Where were you shot?
 21 A I was shot once in the right arm and twice
 22 in the abdomen.
 23 Q After you were shot, what did you do?
 24 A I fell over.
 25 Q And where were you at the time that he

1 shot you?
 2 A In the master bedroom.
 3 Q Okay. So had he come into the master
 4 bedroom or was he still standing in the hallway?
 5 A He was basically in the doorway of the
 6 spare bedroom. When I was shot, I was in the
 7 doorway of the master bedroom.
 8 Q And did he look at you when he shot you?
 9 A Yes.
 10 Q Did he say anything to you when he shot
 11 you?
 12 A When he first shot me, no.
 13 Q Where was the defendant standing when he
 14 shot Echo?
 15 A Directly in front of her, about arm's
 16 length away.
 17 Q At the time that you were shot, where were
 18 the children?
 19 A I'm not for sure.
 20 Q After you fell to the floor, what
 21 happened?
 22 A Troy comes to the bedroom.
 23 Q When you say that he came to the bedroom,
 24 what was he doing in the bedroom? Was he talking to
 25 you? Was he just wandering around? What was he

1 doing?
 2 A He came in the bedroom and he said, "I
 3 told you this would happen." And then I believe it
 4 was Jodey and Jayce that come into the bedroom, but
 5 they were right there in the hallway in between the
 6 doors, and they were checking on Echo and me.
 7 Q And how were they behaving at the time?
 8 A Hysterical.
 9 Q When you say hysterical --
 10 A Crying.
 11 Q -- were they saying anything?
 12 A They said, "We need to call for help. You
 13 killed Mommy."
 14 Q They told the defendant that?
 15 A Troy.
 16 Q What happened at that point?
 17 A He said that -- Troy had said that he was
 18 trying to call but his phone wasn't working.
 19 Q And then what happened?
 20 A Then I guess he tried to corral the kids
 21 all into one room, and Jayce managed to get by.
 22 Jayce had come back into the room where I was at, to
 23 the master bedroom.
 24 Q Why did he go back to the room where you
 25 were at?

1 A I guess to check on me.
 2 Q Okay. Did he have anything with him when
 3 he went back there?
 4 A No.
 5 Q And what happened at that point?
 6 A I told Jayce to go get my phone that was
 7 on the nightstand so I could call.
 8 Q Did he get your phone?
 9 A Yes, he did.
 10 Q And what happened once he had the phone?
 11 A He had told Troy he got my phone so I
 12 could call for help.
 13 Q So the child told Troy that he was getting
 14 you the phone to call for help?
 15 A Yes.
 16 Q And how did the defendant respond to that?
 17 A He came back into the room and stood over
 18 me with the gun to my head, and he took my phone and
 19 said, "You ain't calling nobody."
 20 Q What happened at that point?
 21 A I'm not sure which children it was, a few
 22 of them, they had come back into the room to the
 23 master bedroom.
 24 Q Where you were?
 25 A Where I was and distracted Troy to try to

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1 push the kids back into the other room.
 2 Q And then what happened?
 3 A And Troy come back into the room, and he
 4 told me, you know, "You're a coward. I told you
 5 this was going to happen. I told you to stay away."
 6 And...
 7 Q Did he make any comments to you about him
 8 going to prison?
 9 A He said if he -- he mentioned if I'm going
 10 to go to prison, that he was going to kill me.
 11 Q Did you ever ask the defendant to call for
 12 help?
 13 A No. Oh, yes, I did. I'm sorry. Yes, I
 14 did.
 15 Q What specifically did you tell him?
 16 A I told him, "Forget me. Let me die. I
 17 don't care. Just call for help and get her help."
 18 Echo.
 19 Q And what did he say to you?
 20 A I can't recall.
 21 Q Did he call for help, to your knowledge?
 22 A Not that I'm aware of.
 23 Q At some point, did you become aware the
 24 police were called?
 25 A I didn't know that they were called.

1 Q Did they come into the house?
 2 A Yes, they did.
 3 Q While you were still lying on the master
 4 bedroom floor?
 5 A Yes.
 6 Q And were you ultimately removed from the
 7 house in an ambulance?
 8 A Yes.
 9 Q Which hospital were you taken to?
 10 A I believe it was UMC.
 11 Q And how long were you in the hospital?
 12 A Three days.
 13 Q Three days?
 14 A Three days.
 15 Q Do you know what kind of car Echo had?
 16 A She had a Durango. It was silver or gray.
 17 Q A Dodge Durango?
 18 A Dodge Durango.
 19 Q And was that car there in the morning when
 20 you got up on July 27th of 2012?
 21 A Yes, it was.
 22 Q When you were taken to the hospital, was
 23 the car still there?
 24 A No.
 25 Q When the police arrived to the house, was

1 the defendant still there?
 2 A No.
 3 Q Did you have any firearms on you on that
 4 day?
 5 A No.
 6 Q To your knowledge, did Echo have any
 7 firearms?
 8 A No.
 9 Q During the time period that the defendant
 10 was at the house, did either one of you ever have a
 11 weapon?
 12 A Repeat that.
 13 Q During the time the defendant was at the
 14 house on July 27th of 2012, did either you or Echo
 15 ever have a weapon?
 16 A No.
 17 Q Did you see the firearm that the defendant
 18 shot Echo and yourself with?
 19 A Yes.
 20 Q And what did it look like?
 21 A A pistol.
 22 Q Okay. Was it a revolver or --
 23 A Semiautomatic.
 24 Q Okay. Do you recall what color it was?
 25 A Black.

1 MS. MERCER: Court's indulgence?
 2 I'll pass the witness, Your Honor.
 3 THE COURT: All right. Mr. Coffee?
 4

5 CROSS-EXAMINATION

6 BY MR. COFFEE:
 7 Q Good morning, Mr. Averman.
 8 A Good morning.
 9 Q I'm going to ask you some questions, and
 10 if anything I ask you is confusing, please stop me
 11 and I'll try to do more to make sure it is clear.
 12 All right?
 13 A Yes, sir.
 14 Q Okay. Very good. It's Scott or
 15 Mr. Coffee. You don't need to call me sir.
 16 You talked a moment ago about
 17 Mr. White coming back and forth in the room saying
 18 something about a coward or mentioning the word
 19 coward. Do you remember that?
 20 A Yes.
 21 Q When you talked to the police, do you
 22 remember saying what he said is "Who's a coward
 23 now?"
 24 A Yes.
 25 Q Does that sound like what he actually said

1 when he was coming back and forth, "Who's a coward
 2 now?"
 3 A Yes.
 4 Q He had made some threats in the past to
 5 you?
 6 A Yes.
 7 Q You didn't necessarily take those threats
 8 very seriously, though, did you?
 9 A No, I didn't.
 10 Q Why not?
 11 A I guess just, I don't know, didn't seem
 12 like that kind of a person.
 13 Q You had known him for a number of years,
 14 right?
 15 A Yes.
 16 Q You said you had met Echo about eight
 17 years before. You met Troy around the same time?
 18 A Yes.
 19 Q You were a family friend; is that a fair
 20 characterization?
 21 A Yes.
 22 Q Friends with Mr. White, as well as with
 23 Echo?
 24 A Yes.
 25 Q You'd seen him around his children?

1 A Yes.
 2 Q There were five children in the household?
 3 A Yes.
 4 Q Three were Mr. White's?
 5 A Yes.
 6 Q The house -- there was a Dodge Durango
 7 that eventually left the home that night, right?
 8 A Yes.
 9 Q Echo drove that car?
 10 A Yes.
 11 Q It was registered to Mr. White; is that
 12 true?
 13 A Yes.
 14 Q Same thing with the home, the home was
 15 actually in Mr. White's name, correct?
 16 A Yes.
 17 Q And you said that he would come to visit,
 18 he would stay there on the weekends to take care of
 19 the children; is that a fair characterization?
 20 A Yes.
 21 Q He took good care of the children, yes?
 22 Let me put it this way. You cared
 23 about the children?
 24 A Yes.
 25 Q If you thought he was abusing the

1 children, you would have reported it to somebody?
 2 A Yes.
 3 Q You never made any of those reports?
 4 A No.
 5 Q You never had information that he was
 6 abusing those children, correct?
 7 A No.
 8 Q In fact, he moved out of the home that was
 9 in his name, left the car that was in his name with
 10 Echo, so she could help provide for those children;
 11 is that fair?
 12 A Yes.
 13 Q You said that you moved in in June?
 14 A Yes.
 15 Q And you said your relationship started in
 16 June?
 17 A Yes.
 18 Q Had there been a relationship before that?
 19 A It -- there was not a serious -- we had
 20 started talking a little bit before that, but it
 21 became --
 22 Q How much before?
 23 A Around April.
 24 Q April.
 25 Is it fair to say that Mr. White was

1 aware these sorts of conversations or suspected
 2 there was something going on with you and his wife,
 3 Echo?
 4 A Yes.
 5 Q And he confronted you about that?
 6 A Yes.
 7 Q He wasn't happy about it?
 8 A No.
 9 Q That's why he made the threats to you?
 10 A Yes.
 11 Q Mr. White leaves the house in June?
 12 A Yes.
 13 Q And you move in in June?
 14 A Yes.
 15 Q How soon after Mr. White left the house
 16 did you move in, if I might ask?
 17 A He moved out towards the beginning of
 18 June, and I started staying there towards the end of
 19 June.
 20 Q Fairly quickly. Not immediately, but
 21 within a few weeks?
 22 A Yes.
 23 Q Had you had a discussion with Echo and
 24 Mr. White about the relationship when the three of
 25 you talked about you moving into the house?

1 A Yes.
 2 Q Did Mr. White eventually give his blessing
 3 to that, at least temporarily? I mean, I know it
 4 didn't turn out that way.
 5 A Yes. Not to me, but to Echo.
 6 Q Okay. From living there, though, it was
 7 clear that Mr. White was having problems getting
 8 over the relationship; is that fair?
 9 A Yes.
 10 Q Wanted desperately to have the
 11 relationship back, wasn't he?
 12 A Yes.
 13 Q I want to move forward to the day of the
 14 shooting, if I might.
 15 You said there was a knock at the
 16 door or a knock on the window at two in the morning?
 17 A Yes.
 18 Q Did you actually see Mr. White knock on
 19 the window?
 20 A No.
 21 Q Do you know for certain it was Mr. White?
 22 A From what Echo said, yes.
 23 Q But you didn't actually see it yourself?
 24 A No.
 25 Q And I suppose that brings up another

1 point. You talked about there being perhaps other
 2 abuse in the past.
 3 Did you ever actually see Mr. White
 4 abuse Echo?
 5 A No.
 6 Q Now, the day in question, he comes into
 7 the house. He still has a key?
 8 A Yes.
 9 Q Does he still have some things there for
 10 when he stays on the weekends?
 11 A I'm not for sure.
 12 Q Okay. He has a key, he comes into the
 13 house, and he tells you "I need to talk to Echo,"
 14 something along those lines?
 15 A Yes.
 16 Q At that point, can you describe his
 17 demeanor for me?
 18 A He seemed a little irate or irritated.
 19 Q Said that his calls hadn't been returned
 20 all night by Echo?
 21 A Yes.
 22 Q Not openly angered?
 23 A Correct.
 24 Q Did not make any particular threats
 25 towards you at that point?

1 A No.
 2 Q Did not pull out a handgun and wave it
 3 towards you at that point?
 4 A No.
 5 Q Okay. You didn't see the gun at that
 6 point?
 7 A No.
 8 Q Didn't make any threats towards Echo?
 9 A No.
 10 Q If you had thought anything was out of the
 11 ordinary, I would imagine -- how old are you, sir,
 12 if I might ask?
 13 A Twenty-eight.
 14 Q Twenty-eight.
 15 You are old enough to know how to
 16 dial 9-1-1 obviously?
 17 A Yes.
 18 Q If there had been anything out of the
 19 ordinary, unusual, if you thought the situation was
 20 going to explode, you know enough to call 9-1-1?
 21 A Yes.
 22 Q Okay. Or to perhaps intervene on your
 23 own?
 24 A Yes. That's why I stayed right there by
 25 the back door.

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1 A Yes.
 2 Q Were you in the military during the time
 3 that you knew them?
 4 A I eventually joined the military, yes.
 5 Q Okay. There we go.
 6 You said there weren't any weapons
 7 around the house; true? No weapons around your
 8 house?
 9 A My house, no.
 10 Q But you're familiar with weapons. In the
 11 military, you learned how to shoot them. I know
 12 that?
 13 A Yes.
 14 Q And were able to identify the gun that was
 15 used, for example, in this case, as a semiautomatic.
 16 You know the difference between that and a revolver
 17 and pistol?
 18 A Yes.
 19 Q They go into a room and the door is
 20 closed?
 21 A Yes.
 22 Q And at first, you don't hear much; is that
 23 fair?
 24 A Correct.
 25 Q But the conversation escalates at some

1 Q That's why you stayed back there.
 2 You weren't necessarily frightened of
 3 Mr. White; is that fair?
 4 A Yes.
 5 Q Now you obviously would be frightened of
 6 Mr. White, you know what he might be capable of with
 7 a weapon, but at the time, you weren't necessarily
 8 frightened of him; true?
 9 A Yes.
 10 Q You've actually got -- you were in the
 11 military?
 12 A Yes.
 13 Q What branch?
 14 A Army National Guard.
 15 Q For how long?
 16 A Almost three years.
 17 Q Was that while you had the relationship,
 18 or relationship is an inappropriate word. Is that
 19 while you were a family friend of Mr. White's and
 20 Echo?
 21 A Can you repeat that?
 22 Q Yeah.
 23 You've known him for about eight
 24 years, so that means you met him when you were
 25 around 20; is that true?

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1 point; is that right?
 2 A Yes.
 3 Q When the conversation escalates, you
 4 become concerned?
 5 A Yes.
 6 Q Were you able to hear what led to the
 7 escalation of the conversation or why the
 8 conversation escalated? Did you hear any of those
 9 things?
 10 A No.
 11 Q You don't know what was said back and
 12 forth?
 13 A No.
 14 Q Don't know what happened up until the
 15 point you hear Echo say something along the lines of
 16 "Troy, don't" or "Troy, stop"?
 17 A That's correct.
 18 Q And that's the first time that you become
 19 concerned?
 20 A Yes.
 21 Q Become concerned enough to enter into the
 22 room; yes?
 23 A I didn't enter the room.
 24 Q Opened the door. I'm sorry.
 25 A Open the door.

1 Q Okay. You open the door, and you see
 2 Mr. White with a weapon; yes? Or did you notice the
 3 weapon then?
 4 A Not at that point.
 5 Q Okay. Did the fight -- is it fair to say
 6 Mr. White's demeanor had changed from the time he
 7 walked in until the time you opened that door?
 8 A Yes.
 9 Q How had it changed?
 10 A More angry and aggressive.
 11 Q Angry, aggressive, upset?
 12 A Yes.
 13 Q Irrational to some extent?
 14 A Yes.
 15 Q You open the door and there is a shot
 16 fired. That happens pretty quickly I imagine?
 17 A Yes.
 18 Q Okay. And before you can either run in or
 19 run out to call 9-1-1, Mr. White turns and shoots
 20 you?
 21 A Correct.
 22 Q How quickly did that happen between the
 23 time Echo is shot and the time you were shot? Is it
 24 a matter of seconds?
 25 A Yes.

1 Q Now, afterward, the police do arrive?
 2 A Yes.
 3 Q You were unable to call 9-1-1? You just
 4 weren't physically able to do it, right?
 5 A He took the phone.
 6 Q He took the phone.
 7 You told the police at one point that
 8 you thought that Mr. White may have called 9-1-1,
 9 you just don't know; is that true?
 10 A Correct.
 11 Q Mr. White mentioned threats when he was
 12 standing over you?
 13 A Yes.
 14 Q Had a gun, said "If I'm going" -- and I
 15 think we paraphrased it before. Tell me if I'm
 16 pretty close to what he says. You understand what
 17 the question is going to be, right?
 18 A Yes.
 19 Q He says something along the lines of "If I
 20 am going to go to prison anyway, I should just kill
 21 you, too," or "I can just kill you, too," something
 22 along those lines?
 23 A Yes.
 24 Q Okay. But he just leaves eventually,
 25 correct?

1 A After he heard the sirens coming, yes.
 2 Q Okay. How long did that go on in the
 3 house? How long was he going in and out of the room
 4 making threats?
 5 A I'm not for sure.
 6 Q And, obviously, you're injured, you don't
 7 have a stopwatch, I understand.
 8 Fair to say everything does move
 9 pretty quickly in that situation? It's a tense
 10 situation?
 11 A Yes.
 12 Q You were hit three times, twice in the
 13 stomach, once in the wrist; is that right?
 14 A Once in the arm.
 15 Q Once in the arm.
 16 Do you know how many shots were
 17 fired? And I understand it is a tense situation,
 18 but I thought there was going to be a stipulation at
 19 some point that there were three shell casings found
 20 in the house. We're going to be stipulating to
 21 that.
 22 Do you know if there were actually
 23 four shots fired or three? And it's not critical if
 24 you don't. I'm just curious.
 25 A I don't know.

1 Q Okay. When all of this was going on, did
 2 you hear any threats to the children at all?
 3 A No.
 4 Q Did Mr. White work, to your knowledge?
 5 A I'm sorry?
 6 Q Did Mr. White work?
 7 A Yes.
 8 Q Where did he work?
 9 A Yesco.
 10 Q Young Electric Sign Company?
 11 A Yes.
 12 Q Had he been there for a while?
 13 A Yes.
 14 MR. COFFEE: Court's indulgence?
 15 Thank you for answering my questions. We
 16 appreciate it.
 17 Pass the witness.
 18 MS. MERCER: Briefly, Your Honor.
 19 THE COURT: Sure.

REDIRECT EXAMINATION

22 BY MS. MERCER:
 23 Q Sir, the gun that you saw the defendant
 24 with that night, had you seen that gun on any prior
 25 occasions?

1 A Yes.
 2 Q And when?
 3 A I can't recall the date, but he brought it
 4 out and showed it to me.
 5 Q And when you say "he," you're --
 6 A Troy.
 7 Q -- referring to the defendant?
 8 A Yes.
 9 Q Okay. Now, defense counsel asked you
 10 about how you knew that it was the defendant
 11 knocking on the window at 2:00 in the morning. You
 12 indicated that you didn't personally see him or hear
 13 his voice?
 14 A Correct.
 15 Q Were you present when Echo called him and
 16 told him to knock it off?
 17 A Yes.
 18 Q You were also asked about whether or not
 19 you witnessed any incidents of prior abuse by the
 20 defendant against the victim. Do you recall that
 21 question?
 22 A Yes.
 23 Q And I believe your response was no?
 24 A Correct.
 25 Q Did you ever have the opportunity to

1 observe any injuries on Echo's person that she
 2 claimed was from the defendant?
 3 A She had had some bruises and scratches on
 4 her back.
 5 Q And she showed you those?
 6 A Yes.
 7 Q Defense counsel also asked you whether or
 8 not you were frightened of the defendant when he
 9 came to the house around noon on July 27th of 2012.
 10 Do you recall that question?
 11 A Yes.
 12 Q You indicated that you weren't personally
 13 afraid for your safety?
 14 A Correct.
 15 Q What was it that made you stay so close to
 16 the defendant and Echo?
 17 A For Echo's sake and the kids.
 18 Q Okay, so you believed that he might harm
 19 Echo?
 20 A Yes.
 21 Q After the defendant shot you and Echo, did
 22 you see the children going in and out of the room
 23 where Echo was lying?
 24 A I could not see.
 25 Q Okay. Could you hear them in the

1 vicinity?
 2 A Yes.
 3 Q And from the time that you were shot and
 4 the time that the police arrived on scene, did the
 5 demeanor of the children change at all, or did they
 6 remain hysterical the entire time?
 7 A Hysterical.
 8 Q Were they crying?
 9 A Yes.
 10 Q You indicated that the defendant was not
 11 screaming at the children or being angry towards
 12 them. Did you hear him trying to console them in
 13 any way?
 14 A No.
 15 Q How many times did the defendant come in
 16 and out of the room which you were in before the
 17 police arrived on scene after he shot you?
 18 A I believe at least three times.
 19 Q At the time that you were shot by the
 20 defendant, you indicated that you were standing in
 21 the doorway of the master bedroom where the crib was
 22 situated, correct?
 23 A Correct.
 24 Q Where were you standing in relation to the
 25 crib in that room?

1 A Right next to it. It was off to my right
 2 side.
 3 Q And Jazzy was still in it?
 4 A Yes.
 5 MS. MERCER: No further questions, Your
 6 Honor.

RECROSS-EXAMINATION

8 BY MR. COFFEE:
 9 Q The children, just so we're clear, three
 10 were Mr. White's and two were not. Echo had had
 11 them before she met Mr. White?
 12 A Correct.
 13 Q Was he abusive to the two that weren't his
 14 biological children or did he treat the children, by
 15 and large, the same?
 16 A Very much the same.
 17 Q Pretty much the same.
 18 MR. COFFEE: Okay. Thank you,
 19 Mr. Averman.
 20 THE COURT: Anything else?
 21 MS. MERCER: No, Your Honor.
 22 THE COURT: How did you meet Echo? If you
 23 did say that, I didn't hear you.
 24 THE WITNESS: I met her at church.
 25 THE COURT: Okay. Okay. I guess you're

1 excused then. Thank you for coming and
 2 testifying.
 3 Any other witnesses?
 4 MR. TURNER: Your Honor, at this time, I
 5 believe that the parties just have to put on
 6 the stipulations.
 7 THE COURT: Okay.
 8 MR. TURNER: I think we do have a State's
 9 Proposed Exhibit I, which is an affidavit from
 10 Sergeant E.T. Brown, with the concealed
 11 firearms detail, that indicates in the exhibit
 12 that he did a thorough search for subject, Troy
 13 White, with the defendant's ID number, 1383512.
 14 After that diligent search, he was unable
 15 to locate any concealed firearm permit for that
 16 particular individual.
 17 And I would move to admit that proposed
 18 exhibit.
 19 MR. COFFEE: No objection.
 20 THE COURT: So admitted.
 21 (State's Proposed Exhibit No. 1
 22 was marked for identification
 23 and admitted into evidence.)
 24 MS. MERCER: And then just, Your Honor,
 25 it's my understanding that defense counsel at

1 this time is willing to stipulate that Dr. Lisa
 2 Gavin, with the Clark County Coroner's office,
 3 performed an autopsy on the victim in this
 4 case, Echo Lucas White, and that she
 5 determined, pursuant to that autopsy, that the
 6 cause of death was a gunshot wound to the
 7 abdomen, and that the manner of death was
 8 homicide, and that he's stipulating to the
 9 identity of the victim for purposes of
 10 preliminary hearing.
 11 MR. COFFEE: Correct, as well.
 12 THE COURT: Okay.
 13 MR. TURNER: And finally, Your Honor, the
 14 final stipulation would be to the following
 15 facts: That Detective Travis Ivie, the last
 16 name I-V-I-E, who's with the homicide detail of
 17 the Las Vegas Metropolitan Police Department,
 18 responded to the crime scene in this case, that
 19 being at 325 Altamira on July 27th of this
 20 year, approximately 1:44 p.m. and he was there
 21 to investigate the homicide of Echo White and
 22 the shooting of Joe Averman.
 23 And that while there, he observed the
 24 following items of evidence at that crime
 25 scene. In the driveway of that residence, Your

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1 Honor, he observed a spent bullet that was
 2 located in the driveway. There was a black and
 3 white backpack. Inside of that backpack was an
 4 empty holster for a handgun. There was also a
 5 bullet hole on the exterior of the front of
 6 that residence.
 7 That he went inside the residence, and in
 8 the northwest bedroom, which would have been
 9 the crafts room, as testified by Mr. Averman,
 10 he located a spent shell casing for a
 11 9-millimeter. That would be a 9-millimeter
 12 Win, capital W-I-N, 9-millimeter Luger head
 13 stamp on that. And that that door was open
 14 when he went through the residence.
 15 That in the southwest bedroom, which has
 16 been described as the master bedroom, he
 17 located the baby crib, which is in close
 18 proximity to that doorway, as well as a bullet
 19 hole with a direct trajectory, indicating that
 20 that bullet hole went through that bedroom, and
 21 it openly exited out the front, which is
 22 consistent with where the bullet was recovered
 23 in the driveway.
 24 That he also in the hallway between those
 25 two bedrooms, in proximity to those two

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1 bedrooms, he located a third spent shell
 2 casing, also 9-millimeter Win Luger consistent
 3 with the other two shell casings that he
 4 recovered.

5 Later that same day, Your Honor,
 6 July 27th, approximately 8:00 p.m., Detective
 7 Ivie, with another detective and a crime scene
 8 analyst, responded to Yavapai, the spelling is
 9 Y-A-V-A-P-A-I, County Sheriff's office in
 10 Prescott, Arizona. There he came into contact
 11 with the defendant, Troy White.

12 He was also present during the execution
 13 of the search warrant of Mr. White's vehicle, a
 14 silver Durango, license plate NV USN3PYZ. That
 15 there was a bullet strike to the bottom
 16 driver's side door of that vehicle.

17 That additionally, in the trunk of that
 18 vehicle, that was ultimately impounded, was a
 19 black Torres 9-millimeter with a serial number
 20 of TOA33791. That firearm was unloaded.

21 However, next to the firearm were two
 22 magazines for a 9-millimeter handgun. In those
 23 magazines, one magazine contained 12 cartridge
 24 cases for a Win 9-millimeter Luger. The second
 25 cartridge case had nine Win 9-millimeter Luger

1 shell casings in it.
 2 And I believe that concludes the
 3 stipulation.
 4 MR. COFFEE: We agree.
 5 THE COURT: So that is all stipulated to?
 6 MR. COFFEE: Yes.
 7 THE COURT: And all that testimony is in
 8 and stipulated to.
 9 MR. TURNER: And I believe with that, Your
 10 Honor, the State would rest.
 11 MR. COFFEE: Judge, I've advised Mr. White
 12 of his right to testify, and he's not going to
 13 avail himself of that today.
 14 I would ask that the list of names of
 15 those people that may be potential witnesses in
 16 the penalty phase that was taken earlier, and I
 17 thank everybody for providing those names, I'd
 18 ask that that be made part of the record.
 19 THE COURT: What I am going to do now
 20 because I want to make sure I have these names
 21 correct, I'm going to call these names for the
 22 record, and acknowledge that you signed it,
 23 okay?
 24 Is there, first of all, a Betty Blake, the
 25 grandmother of the victim. Did you sign your

1 name to that?
 2 MS. BETTY BLAKE: Yes.
 3 THE COURT: Okay. There is an Amber -- is
 4 that Gaines?
 5 MS. AMBER GAINES: Yes.
 6 THE COURT: And listed as the mother of
 7 the victim; is that correct?
 8 MS. AMBER GAINES: Yes.
 9 THE COURT: Then there's a Michael Gaines,
 10 a stepfather. Is that you?
 11 MR. MICHAEL GAINES: Yes, sir.
 12 THE COURT: And then there's a Brad Blake.
 13 I can't read the first name.
 14 MR. BRAD BLAKE: Uncle.
 15 THE COURT: Is that uncle? Uncle Brad
 16 Blake.
 17 And then there's a Florence H. Potter, a
 18 friend?
 19 MS. FLORENCE M. POTTER: M. Potter.
 20 THE COURT: And what?
 21 MS. FLORENCE M. POTTER: M, as in Mary.
 22 Florence M. Potter.
 23 THE COURT: Oh, Florence M. Potter. I'm
 24 sorry.
 25 And then a Nancy Manning, a cousin; is

1 that correct?
 2 MS. NANCY MANNING: Here.
 3 THE COURT: And a Theresa -- is that
 4 Sheahan?
 5 MS. THERESA SHEAHAN: Yes.
 6 THE COURT: A cousin; is that correct?
 7 MS. THERESA SHEAHAN: Correct.
 8 THE COURT: And an Ashley and --
 9 MS. ASHLEY OWSLEY: Owsley.
 10 THE COURT: Owsley. Is that O-U --
 11 MS. ASHLEY OWSLEY: O-W-S-L-E-Y.
 12 THE COURT: O-W-S-L-E-Y. That's why it's
 13 important we get the spelling for the record.
 14 That's all.
 15 And then there is a Jennifer Gaines, a
 16 sister?
 17 MS. JENNIFER GAINES: Yes.
 18 THE COURT: And then there's a Joanna --
 19 is that Rens?
 20 MS. JOANNA RENS: Yes.
 21 THE COURT: R-E-N-S?
 22 MS. JOANNA RENS: Yes.
 23 THE COURT: And you're listed as a friend;
 24 is that correct?
 25 MS. JOANNA RENS: Correct.

1 THE COURT: And then there's a Misty Todd,
 2 a friend?
 3 MS. MISTY TODD: Yes.
 4 THE COURT: A Jacqueline Trujillo, a
 5 friend; is that correct?
 6 MS. JACQUELINE TRUJILLO: Yes.
 7 THE COURT: Diego -- Diego Trujillo?
 8 MR. DIEGO TRUJILLO: Diego.
 9 THE COURT: I have as a friend.
 10 MR. DIEGO TRUJILLO: Yes.
 11 THE COURT: Raquel Brooks as a friend.
 12 MS. RAQUEL BROOKS: Yes.
 13 THE COURT: You have best friend.
 14 MS. RAQUEL BROOKS: Yes.
 15 THE COURT: I didn't want to get anything
 16 going.
 17 All right. Then Jennifer, and what is
 18 that -- who is Jennifer? I have Jennifer
 19 A-R-T-U-R-O; is that right?
 20 A FEMALE VOICE: She stepped out, Your
 21 Honor.
 22 THE COURT: Is that correct? Is that her
 23 name?
 24 And then Crystal Becker. Okay.
 25 And then it looks like -- is that

1 Romandia?
 2 MS. SHEENA ROMANDIA: Correct.
 3 THE COURT: What's your first name?
 4 MS. SHEENA ROMANDIA: Sheena.
 5 THE COURT: Sheena, S-H-E-E-N-A. Okay.
 6 And that's spelled R-O-M-A-N-D-I-A?
 7 MS. SHEENA ROMANDIA: Yes.
 8 THE COURT: As a friend.
 9 Nichole Robertson listed as a family
 10 friend; is that correct?
 11 And Bruce -- is that Behl?
 12 MR. BRYCE BEHL: Bryce.
 13 THE COURT: What is it?
 14 MR. BRYCE BEHL: Bryce.
 15 THE COURT: I have Bruce B-E-H-L.
 16 MR. BRYCE BEHL: B-R-Y-C-E.
 17 THE COURT: B what?
 18 MS. MERCER: B-R-Y-C-E.
 19 THE COURT: Oh, B-R -- all right, Bryce.
 20 I'm sorry. And your last name is?
 21 MR. BRYCE BEHL: Behl.
 22 THE COURT: B-E-H-L?
 23 MR. BRYCE BEHL: Yes.
 24 THE COURT: Listed as a friend.
 25 Okay. Did you get all that now? Leave

1 the list. And these are the names, and you get
 2 them for the record.
 3 MS. MERCER: Your Honor, I believe that
 4 side of the room did not get the paper to sign,
 5 unfortunately.
 6 THE COURT: Okay. Then we'll get those
 7 papers signed, and I want you to -- and when
 8 you're done signing that, then I will have
 9 those for the record.
 10 MR. COFFEE: Thank you, Judge.
 11 THE COURT: Okay. Now, when I say the
 12 relatives and the friends and the names I just
 13 called, they were all relatives and friends of
 14 the victim in this case, of Echo Lucas White;
 15 is that correct?
 16 A FEMALE VOICE: Correct.
 17 THE COURT: Okay.
 18 Let's wait until they get signed and then
 19 we'll proceed on.
 20 Okay. I'm going to call these names now
 21 and acknowledge that you signed it.
 22 I have a Nicole -- is that Antill,
 23 A-N-T-I-L-L? And I presume you're a friend of
 24 the defendant; is that correct or not?
 25 MS. NICOLE ANTILL: No.

1 THE COURT: You're a friend of?
 2 MS. NICOLE ANTILL: Echo.
 3 THE COURT: Okay. And then we have Gina
 4 Antill, also a friend of Echo.
 5 Then we have Sara Spencer, I presume also
 6 a friend of Echo.
 7 And then we have Patricia Lucas; is that
 8 right? And you're a friend of Echo. And
 9 Nicole, again, R-O-M-A-N-D-I-A, and you're a
 10 friend of Echo?
 11 MS. NICOLE ROMANDIA: Yes.
 12 THE COURT: Okay. Now, the Court is going
 13 to take both of these lists and make them as
 14 exhibits for the State, if you have no
 15 objection.
 16 MR. TURNER: No, Your Honor.
 17 MS. MERCER: No, Your Honor.
 18 THE COURT: And I'm going to ask that they
 19 be entered into evidence for the people who are
 20 here today, who may be called at future
 21 hearings, put it that way.
 22 MR. COFFEE: I appreciate it.
 23 THE COURT: Okay. And I've done that at
 24 the request of the defense attorney.
 25 Are you satisfied or do you want anything

1 else?
 2 MR. COFFEE: No. And I thank everybody
 3 for their cooperation.
 4 (State's Proposed Exhibit No. 2
 5 was marked for identification
 6 and admitted into evidence.)
 7 THE COURT: Okay. All right. Now, you
 8 may proceed.
 9 I think the State rests now.
 10 MR. COFFEE: Defense rests.
 11 THE COURT: Okay. So any argument?
 12 MS. MERCER: We'll waive and reserve, Your
 13 Honor.
 14 THE COURT: Okay.
 15 MR. COFFEE: A couple things, and the
 16 amended is fairly long, so it's going to take a
 17 few more minutes to go through them and try to
 18 do it a piece at a time.
 19 THE COURT: Go ahead. Take your time. If
 20 you want time to read it, go ahead.
 21 MR. COFFEE: No, I've familiarized myself
 22 with it.
 23 And the first thing I'm going to question
 24 about, Judge, is Count I, the Burglary in
 25 Possession of a Firearm. It is clear that the

1 home is in Mr. White's name. He has a key to
2 the home that he resides there on the weekends
3 with the children. So there's a couple legal
4 questions I think.

5 First off, can you burglarize your own
6 house? Second off, did they show an intent to
7 commit one of the underlying things that they
8 have alleged here? They alleged assault,
9 battery, those were the things upon entry.

10 I know he comes into the house with a gun.
11 That's the testimony you have before you
12 anyway. Is that enough to show an intent to
13 commit assault or battery because what we have
14 is testimony that his demeanor when entering
15 the house was nothing out of the usual. They
16 go into a room and things escalate. That's not
17 burglary necessarily.

18 I think for those two reasons the burglary
19 count as alleged in Count I should bail, I
20 think. Rather than try to confuse things,
21 maybe we should deal with it at the end of the
22 time because --

23 THE COURT: I agree.

24 MR. COFFEE: -- this might get long.

25 THE COURT: I agree.

1 MS. MERCER: Your Honor, I'm not aware of
2 any case law that says you can't burglarize
3 your own home. The issue is the intent when
4 you enter the residence.

5 And in this case, you heard testimony that
6 in the weeks leading up to the murder and
7 attempted murder, the defendant was threatening
8 Joseph Averman, that he was constantly calling,
9 texting, harassing Echo.

10 That when he showed up at the house, the
11 testimony wasn't that he was calm, cool, and
12 collected. The testimony was that he was
13 agitated, that he was upset that she wasn't
14 returning his phone calls.

15 That when she awoke from her nap in the
16 minutes leading up to her death, she had
17 several missed telephone calls and text
18 messages. That he had showed up at the house
19 at two a.m. the night before, upset with her,
20 banging on the bedroom window.

21 Certainly you can draw the inference that
22 when he arrived at the residence with a firearm
23 concealed on his person and an empty backpack
24 that was found in the driveway with a -- or not
25 an empty backpack, a backpack with an empty gun

1 holster, he entered that residence with the
2 intent to shoot somebody. That's an assault or
3 battery and/or kill.

4 And I think that's it with regard to the
5 burglary count, Your Honor.

6 MR. COFFEE: I don't know if you need more
7 argument or not.

8 THE COURT: What?

9 MR. COFFEE: I don't know if you need any
10 more input from our side or not.

11 THE COURT: I know that the house is in
12 joint tenancy, and that they both are the
13 owners of it, but who -- at the time, who had
14 the primary possession of the house?

15 MR. COFFEE: Well, it is a switch thing.
16 He showed up earlier on switch days, so I
17 suppose the argument is that it is, you know,
18 burglary for showing up early that day. But
19 he's got a key. Nobody tells him not to be
20 there. So we've got that issue.

21 Additionally, while I would like to say
22 there was agitation beforehand, he might have
23 been agitated the night before. When he comes
24 in, what we heard from the gentleman who was
25 there, Mr. Averman, is when he walked in he

1 didn't think there was anything particularly
2 unusual about his demeanor.

3 "I stayed by the door because of past
4 incidences, but there was nothing that told me
5 there was doing to be a fight. I know enough
6 to call 9-1-1. I didn't do it, wasn't that
7 concerned about it."

8 It escalated, started slow and it
9 escalated. That's not burglary, and I think
10 for those two reasons, the burglary can't
11 stand.

12 MR. TURNER: Well, Judge, home invasion, I
13 think counsel is mixing up his felonies here.
14 Home invasion, you can't do a home invasion to
15 your own home. With a burglary, certainly you
16 can.

17 If you go into your residence with the
18 intent to commit a crime, murder, whatever it
19 may be, you are guilty of burglary. It being
20 your own home is not a defense.

21 MR. COFFEE: With all due respect, I'm not
22 mixing up anything. If that is the case, if it
23 is burglary any time you commit a felony in
24 your own home, then the statute is void for
25 vagueness, and I can give you a very simple

1 example.
 2 If I go into my house and smoke
 3 methamphetamine, under his theory that would be
 4 a felony burglary also. That seems a
 5 ridiculous extension of the law. I have never
 6 seen it charged that way because it wouldn't
 7 hold up to scrutiny. It would be void for
 8 vagueness. You couldn't figure out what you
 9 were doing inside your own house.
 10 So while I appreciate the difference
 11 between burglary and home invasion, I'm not
 12 mixing up the two.
 13 MR. TURNER: Well, I'm just telling you,
 14 that's the state of the law. If we could
 15 somehow prove in every case the individual went
 16 in their home with the intent to commit a
 17 felony, then we could.
 18 I know *Crawford* case where we allege
 19 burglary where he went into the house, and you
 20 can commit a burglary in your own home. Home
 21 invasion, you can't. I don't know of any case
 22 law where counsel can point to.
 23 I know the elements of the offense are you
 24 enter into a structure with the intent to
 25 commit a crime, assault, battery, petit larceny

1 or a felony. I don't know of any case law that
 2 says anything different than that.
 3 I know with home invasion, it is
 4 specifically within it, it can't be your own
 5 residence for that particular offense.
 6 MR. COFFEE: But with all due respect,
 7 Counsel, *Crawford* was my case, and I took the
 8 issue up to the Supreme Court. It wasn't
 9 Mr. Crawford's house. It was the home of his
 10 girlfriend.
 11 MR. TURNER: Okay.
 12 MR. COFFEE: I can give her name and the
 13 verse, if you'd like. What it says is you
 14 don't have to charge individual rooms in a home
 15 particularly --
 16 THE COURT: With burglary.
 17 MR. COFFEE: -- when you come in for a
 18 burglary. It's just individual rooms of the
 19 home, but it wasn't his home. He drove from
 20 Pahrump with his gun. The prelim was in front
 21 of this Court, in fact.
 22 MR. TURNER: Okay. Either way, it doesn't
 23 change the fact. I think we've proven the
 24 elements for a burglary.
 25 THE COURT: Right now, I don't know the

1 answer without doing some research, okay? So
 2 I'll be truthful on that.
 3 MR. COFFEE: Okay.
 4 THE COURT: I think it's best to let it
 5 go, I'll bind it up, and then you can argue
 6 that and have it researched in front of the
 7 District Court Judge.
 8 MR. COFFEE: I'd ask this Court to
 9 consider doing some of the research. I know
 10 you only have a couple weeks left, but I trust
 11 this Court's opinion on things, and I hate to
 12 bind something up when it may not be legally
 13 appropriate.
 14 THE COURT: I'll be glad to do it, if you
 15 want to.
 16 MS. MERCER: Your Honor, the statute
 17 specifically says --
 18 THE COURT: Let me have the statute. Let
 19 me have it.
 20 MR. COFFEE: The statute says any room
 21 residence.
 22 MS. MERCER: It's 205.060.
 23 THE COURT: 205 --
 24 MS. MERCER: 060.
 25 THE COURT: Let me get it. 205.060.

1 MR. COFFEE: The statute doesn't make a
 2 distinguishment between your home or somebody
 3 else's home.
 4 THE COURT: That's the --
 5 MR. COFFEE: I agree with that.
 6 MS. MERCER: Or would there be one that
 7 states that there's not.
 8 MR. COFFEE: You'd think there would be
 9 something. I think there probably is.
 10 *Crawford* is not it.
 11 MR. TURNER: And I'd also ask the Court to
 12 review the home invasion statute where it talks
 13 about to enter a residence or structure without
 14 permission, so that there is that added element
 15 that we have to prove.
 16 MR. COFFEE: And so the playing field
 17 is --
 18 THE COURT: Well, I think the issue is
 19 whether a person can be charged with burglary
 20 by entering a home which the person owns.
 21 MR. COFFEE: That is the issue because
 22 there are some cases that say what Mr. Turner
 23 is saying. For example, by going into a
 24 7/eleven, even though I have a public license
 25 to enter that place, that can certainly be a

1 burglary. There's some Nevada cases on point
 2 on that.
 3 I don't know that there's anything on
 4 point when it is your own home. That's really
 5 just the crux of the question, and I think it
 6 is a different property issue, by the way, than
 7 it is when I enter a 7-Eleven under some sort
 8 of false pretense. I'm entering my own home.
 9 How can I be entering under some sort of false
 10 pretense?
 11 MR. TURNER: Consent just isn't --
 12 permission isn't an element. I'd just ask the
 13 Court for a plain reading of the statute, as
 14 opposed to home invasion, which requires
 15 permission, and you have to show that it was
 16 done without permission. And in this one, that
 17 doesn't matter. It's enters --
 18 THE COURT: Well, does the person need
 19 permission to enter a person's home?
 20 MR. TURNER: Well, we have to prove -- in
 21 other words, a homeowner is always going to
 22 have permission to enter into his own home.
 23 THE COURT: Right.
 24 MR. TURNER: So in a home invasion, we
 25 have to establish that they didn't have a right

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1 according to the legislature.
 2 And what we're talking about here, I know
 3 he's talking about these other potential
 4 scenarios, but what we're talking about here is
 5 the facts of this case.
 6 I believe the constitutionality of the
 7 burglary statute has been upheld multiple
 8 times. It is a clear reading. If you go into
 9 a structure with the intent to commit a felony,
 10 it's a burglary, whatever it may be.
 11 MS. MERCER: And if he's challenging the
 12 constitutionality of the statute, it has to be
 13 done by a written motion and served on the
 14 A.G.'s office. This isn't the appropriate
 15 forum to challenge that.
 16 MR. COFFEE: So I'm just explaining why my
 17 statutory interpretation is correct, because if
 18 we adopt here, it would be unconstitutional.
 19 THE COURT: Well, I can do one of two
 20 things. I've got to admit I don't know the
 21 answer to it without sufficient research of
 22 whether a person can be charged with burglary
 23 for entering his or her own home when they have
 24 a key and all that. That's the issue.
 25 MR. COFFEE: And there might be some law

1 to be there.
 2 THE COURT: Right.
 3 MR. TURNER: It was done without
 4 permission. In a burglary, that's not
 5 required. We just have to prove a specific
 6 intent. We have to prove entry and a specific
 7 intent to commit one of the enumerated
 8 offenses.
 9 MR. COFFEE: But, again, if it's that
 10 broad, if I call somebody to commit a fraud on
 11 the telephone, I've committed a burglary --
 12 MR. TURNER: Yes.
 13 MR. COFFEE: -- by making a call in my own
 14 house to say, "Please buy these vitamins that
 15 aren't actually good for you," or whatever it
 16 might be. That seems unduly expansive and
 17 seems unconstitutional.
 18 MR. TURNER: Well, now he's arguing the
 19 constitutionality of it.
 20 MR. COFFEE: I'm arguing both. I'm
 21 arguing either it doesn't apply, or if it does
 22 apply, it's unconstitutional.
 23 MR. TURNER: I mean we don't charge those,
 24 but because we elect not to charge them in the
 25 D.A.'s office, doesn't mean it's not a burglary

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1 that I'm not aware of.
 2 THE COURT: I can do one of two things,
 3 you know, send it up, and you can address it
 4 and argue it in District Court. I think that
 5 would be the best where you have more time,
 6 because you are going to have briefs and
 7 briefs, and my time here is short, as you well
 8 know.
 9 MS. MERCER: Correct.
 10 THE COURT: So I think it is best. I
 11 don't know the answer. I'll let the record
 12 know, but I think it should be researched and
 13 it should be argued in the District Court, and
 14 properly briefed, and at that time, allow the
 15 District Court Judge to make a decision.
 16 MR. COFFEE: And in regards to that,
 17 working on that assumption, the Court is making
 18 a factual finding that coming into the house is
 19 enough to support probable cause for burglary,
 20 coming into the house with a weapon?
 21 THE COURT: Do what now?
 22 MR. COFFEE: There's a factual question
 23 and a legal question. Can you burglarize your
 24 own house? You got a factual question. Did
 25 they establish factually a burglary, to

1 establish probable cause for a burglary
2 factually?
3 MR. TURNER: I think --
4 MR. COFFEE: Can he --
5 MR. TURNER: Is there sufficient evidence
6 to support a specific intent when he entered
7 that he was going to commit assault and/or
8 battery and --
9 MS. MERCER: Or murder.
10 MR. TURNER: -- or murder. And we've
11 already submitted on that argument.
12 THE COURT: Well, that will be a question
13 of fact for the jury to determine as far as I'm
14 concerned.
15 I think the State's met the burden, as far
16 as I'm concerned, that a person who enters a
17 house with a gun and, you know, with the
18 intent.
19 MR. COFFEE: Fair enough. That was the
20 only question as to whether or not the Court
21 was finding probable cause and the intent,
22 because if we do do a writ at some point, it
23 would probably be on both issues, and it's
24 better to have a clear ruling on the record.
25 Moving forward.

1 THE COURT: Okay. And I'm going to have
2 that looked up myself because before I leave I
3 want to get an answer.
4 MR. COFFEE: I will submit on Counts II
5 through IV, Count V and Count VI, and there is
6 one argument, rather than going in -- in five
7 and six.
8 MR. TURNER: Okay.
9 MR. COFFEE: I think that Counts V and VI
10 should be combined. I think Counts VI and
11 VII -- let's see, let me make sure I'm doing
12 this right. Five and six, six and seven, eight
13 and nine, and it is every other count. I think
14 there should be one count of child abuse and
15 neglect for each child, not two counts.
16 The way they pled it, if you take a look
17 at the way this is pled, and it's essentially a
18 consistent pleading for each child, right?
19 MR. TURNER: Correct.
20 MR. COFFEE: Okay. The way they've pled
21 it, it says, okay, on Count V, by discharging a
22 firearm inside the child's home, in the
23 proximity of the child.
24 If you take a look at Count VI, it says by
25 shooting the child's mother. Okay. It is part

1 and parcel. It is really the same activity.
2 It is shooting with children nearby.
3 Now, I think there is a question
4 factually, but it is probably a jury question,
5 is whether it is child abuse and neglect simply
6 firing a weapon inside a home, which is what
7 they've pled. This is another issue that we
8 will writ. But we'll submit on that at this
9 point.
10 But I think it's really one count child
11 abuse and neglect. It's one incident. It's
12 not two firings of the weapon. I don't think
13 there's been any facts to support two charges.
14 I think they should be combined, one count to
15 each of the children, and we'd submit that to
16 the Court.
17 MR. TURNER: And, Judge, what we've done
18 in those two counts, as the Court can see, is
19 we did allege two separate counts for each
20 child, but what we're alleging are two separate
21 things.
22 As the Court is aware, with child abuse,
23 you have a situation where you either cause
24 physical injury or place the child in a
25 situation where physical injury may result.

1 We've charged that for each of those for him
2 discharging that firearm in the residence with
3 the children being present.
4 But there's also the alternative, the
5 other theory under child abuse, which is cause
6 them to suffer unjustifiable mental injury or
7 be placed in a situation where mental injury
8 may result.
9 So there may be a circumstance where the
10 jury, when we go in front of the jury, they may
11 decide that, you know what, there wasn't a risk
12 of harm to this child, physical harm, but
13 nevertheless, him murdering their mother in
14 their presence, not seeking help for her,
15 leaving the children there, that would result
16 in mental injury to that child.
17 So that is a separate act or separate
18 circumstance that we're arguing under that same
19 statute, and the statute allows two separate
20 theories.
21 MR. COFFEE: What I would suggest is
22 combining the counts into a single count and
23 making them disjunctive, or by doing this, or
24 doing that. I don't have a problem doing it
25 that way.

1 THE COURT: I think that would be the best
2 way of doing it. I think by going in, I think
3 where the endangerment took place is not when
4 he entered in at first, but when the shooting
5 took place. That's where it is, so I sort of
6 agree with counsel that you can reword that and
7 have one count with each child.
8 MR. COFFEE: And I don't mind binding
9 over -- combining the language again from both
10 counts. I'm just stating it's disjunctive,
11 that he prove either theory that they like, but
12 what they can't do is charge him separate
13 counts for that. That's the problem.
14 MR. TURNER: Well, I don't know of any
15 case law for that either. I mean while we can
16 combine the two and/or. I mean what we're
17 alleging is two separate --
18 THE COURT: I agree with counsel there. I
19 agree that the fact that coming in with the
20 child in danger with the gun and when the
21 shooting took place. That would do it.
22 In other words, he coming in, they did not
23 see the gun, and went into the room. And after
24 the shooting took place is where the child was
25 in danger. They didn't know what was going to

1 take place. He was home. He could walk in.
2 He was their dad. So I agree with counsel. I
3 agree.

4 MS. MERCER: But, Your Honor, the way that
5 we pled it is the --

6 THE COURT: Well, why don't you plead it
7 like that in one count?

8 MS. MERCER: We're not alleging that he
9 endangered the child when he came into the
10 residence. We're alleging that he endangered
11 the child when he fired a firearm in close
12 proximity of them, and then separately that he
13 continued to endanger them or --

14 THE COURT: I think it is an all
15 continuation thing. I agree with counsel. I
16 agree with counsel.

17 MR. COFFEE: Would ask that it be amended
18 again. I don't think they should have to do up
19 this hearing.

20 MR. TURNER: Then we'll just consolidate
21 it and/or, so...

22 MS. MERCER: But there still will be five
23 separate counts of child abuse.

24 THE COURT: Yes, there will still be five
25 separate charges.

1 MR. TURNER: Yes, Judge.
2 THE COURT: And/or, but not two in each
3 one.
4 MR. TURNER: Okay.
5 THE COURT: Yeah, I agree with counsel
6 that to have that amended as to and/or where
7 there's five counts of child abuse and neglect,
8 instead of ten.
9 MR. COFFEE: So, Judge, just so we're
10 clear on what the Court will be doing is
11 binding over Count V, incorporating the
12 language of Count VI in the alternative. Is
13 that appropriate, Counsel?
14 MR. TURNER: I think that's what the
15 Court's ruling is to combine those in theory as
16 to one.
17 THE COURT: Right.
18 MR. COFFEE: And the same thing with seven
19 and eight, binding over Count VII, and
20 incorporating language in Count VIII in the
21 alternative. Same thing with nine and ten, and
22 11 and 12, and 13 and 14.
23 THE COURT: That's correct. Now, what
24 we're doing is. What we'll do is -- hold it.
25 We'll bind them over like on Count V with

1 and/or in placing them in mental suffering, and
2 then dismiss Count VI.

3 MR. COFFEE: So the even numbered counts
4 would be eliminated.

5 THE COURT: Yeah, the even numbered counts
6 would be --

7 MR. COFFEE: Six, eight, ten, 12 and 14.

8 THE COURT: Right.

9 MR. TURNER: Consolidated.

10 THE COURT: Consolidated in Count --
11 Count VI would be consolidated in five. That
12 would be for Jodey.

13 And Count VIII would be consolidated in
14 seven for Jesse.

15 Count X would be consolidated in Count IX
16 for Jayce.

17 Count XII would be consolidated into
18 Count XI for Jazzy.

19 And Count XIV would be consolidated into
20 Count XIII for Jett.

21 MR. TURNER: Yes, Your Honor.

22 THE COURT: Okay. I think that is the
23 appropriate way of doing it.

24 MR. COFFEE: Very good.

25 MR. TURNER: Thank you, Your Honor.

1 THE COURT: And you've still got it there.
 2 You've still got the and/or, and you still have
 3 the whole thing.
 4 MR. TURNER: Okay.
 5 THE COURT: I think it's not a separate
 6 count.
 7 So, therefore, I'm not done yet, so,
 8 therefore, it appearing to me from the
 9 complaint on file herein that crimes have been
 10 committed, and those are the crimes that are
 11 set forth now in the amended criminal complaint
 12 in Case 12F12500X, and those are the crimes in
 13 Count I, Burglary While in Possession of a
 14 Firearm; Count II, Murder With Use of a Deadly
 15 Weapon; Count III, Attempt Murder With Use of a
 16 Deadly Weapon; Count IV, Carrying a Concealed
 17 Firearm or Other Deadly Weapon; and then
 18 Count V, Child Abuse and Neglect; as well as
 19 Count VII, Child Abuse and Neglect; as well as
 20 Count IX, Child Abuse and Neglect; as well as
 21 Count XI, Child Abuse and Neglect; and 13, as
 22 to Child Abuse and Neglect, and there's
 23 reasonable cause to believe that the defendant,
 24 Troy Richard White, committed these crimes, I
 25 hereby order said defendant to be held to

1 answer to said charges in the Eighth Judicial
 2 District Court, State of Nevada, in and for the
 3 County of Clark.
 4 MR. TURNER: Thank you, Your Honor.
 5 MS. MERCER: Thank you, Your Honor.
 6 MR. COFFEE: Thank you, Your Honor.
 7 THE CLERK: January 2nd, 1:30. Lower
 8 level, Courtroom A.
 9 MR. TURNER: May I approach briefly on an
 10 unrelated matter?
 11 MS. MERCER: What time was that?
 12 THE CLERK: Are you setting bail on this?
 13 THE COURT: I'll get with you in just a
 14 minute.
 15 MS. MERCER: What was the time?
 16 THE CLERK: 1:30.
 17 MR. COFFEE: Thanks, Judge. Good seeing
 18 you again.
 19 THE COURT: All righty.
 20 MS. MERCER: Your Honor, we've added four,
 21 five, seven and nine. It should be set in
 22 court.
 23 THE COURT: I think what we did was we
 24 have him held on no bail. So let's just hold
 25 him on no bail at this time.

1
 2 (Whereupon, the proceedings
 3 concluded.)
 4
 5 ATTEST: Full, true, and
 6 accurate transcript of
 7 proceedings.
 8
 9 /s/ Carlila Jasper
 10 Carlila Jasper, CCR #346
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CLERK OF THE COURT

INFM
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LIZ MERCER
Chief Deputy District Attorney
Nevada Bar #10681
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

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PD

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

TROY RICHARD WHITE,
#1383512

Defendant.

CASE NO: C-12-286357-1

DEPT NO: IX

INFORMATION

STATE OF NEVADA }
COUNTY OF CLARK } ss.

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

That TROY RICHARD WHITE, the Defendant(s) above named, having committed the crimes of **BURGLARY WHILE IN POSSESSION OF A FIREARM (Category B Felony - NRS 205.060); MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165); ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165), CARRYING A CONCEALED FIREARM OR OTHER DEADLY WEAPON (Category C Felony - NRS 202.350(1)(d)(3)), and CHILD ABUSE, NEGLECT, OR ENDANGERMENT (Category B Felony - NRS 200.508(1))**, on or about the 27th day of

1 July, 2012, within the County of Clark, State of Nevada, contrary to the form, force and
2 effect of statutes in such cases made and provided, and against the peace and dignity of the
3 State of Nevada,

4 COUNT 1 - BURGLARY WHILE IN POSSESSION OF A FIREARM

5 did, then and there wilfully, unlawfully, and feloniously enter, while in possession of
6 a firearm, with intent to commit a felony, to-wit: murder and/or battery and/or assault, that
7 certain building occupied by ECHO LUCAS WHITE, located at 325 Altamira Road, Las
8 Vegas, Clark County, Nevada, the Defendant did possess and/or gain possession of a deadly
9 weapon consisting of a firearm during the commission of the crime and/or before leaving the
10 structure.

11 COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON

12 did, then and there willfully, feloniously, without authority of law, and with malice
13 aforethought, kill ECHO LUCAS WHITE, a human being, by shooting at and into the body
14 of the said ECHO LUCAS WHITE, with a deadly weapon, to-wit: a firearm, said killing
15 having been willful, premeditated and deliberate and/or committed during the perpetration or
16 the attempted perpetration of a burglary, to-wit: by the defendant entering 325 Altamira
17 Road, Las Vegas, Clark County, Nevada with the intent to assault and/or batter and/or kill
18 the said ECHO LUCAS WHITE and/or JOSEPH AVERMAN.

19 COUNT 3 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

20 did, then and there, without authority of law, and malice aforethought, willfully and
21 feloniously attempt to kill JOSEPH AVERMAN, a human being, by shooting at and into the
22 body of the said JOSEPH AVERMAN, with a deadly weapon, to-wit: a firearm.

23 COUNT 4 - CARRYING CONCEALED FIREARM OR OTHER DEADLY WEAPON

24 did, then and there, wilfully, intentionally, unlawfully and feloniously carry concealed
25 upon his person, a firearm or other deadly weapon, to-wit: a Black Taurus PT 92C 9mm
26 semi-automatic handgun bearing Ser. No. TOA33791.

27 COUNT 5- CHILD ABUSE, NEGLECT, OR ENDANGERMENT

28 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-

1 wit: JODEY WHITE, being approximately 9 (nine) year(s) of age, to suffer unjustifiable
2 physical pain or mental suffering as a result of abuse or neglect, and/or cause the said
3 JODEY WHITE to be placed in a situation where he might have suffered unjustifiable
4 physical pain or mental suffering as a result of abuse or neglect, by discharging a firearm
5 inside the child's home within close proximity to the child and/or shooting the child's mother,
6 Echo White, failing to seek assistance for Echo White, and allowing her to die while the said
7 JODEY WHITE was coming in and out of the room and/or was in the near vicinity.

8 COUNT 6- CHILD ABUSE, NEGLECT, OR ENDANGERMENT

9 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
10 wit: JESSE WHITE, being approximately 5 (five) year(s) of age, to suffer unjustifiable
11 physical pain or mental suffering as a result of abuse or neglect, and/or cause the said JESSE
12 WHITE to be placed in a situation where he might have suffered unjustifiable physical pain
13 or mental suffering as a result of abuse or neglect, by discharging a firearm inside the child's
14 home within close proximity to the child and/or shooting the child's mother, Echo White,
15 failing to seek assistance for Echo White, and allowing her to die while the said JESSE
16 WHITE was coming in and out of the room and/or was in the near vicinity.

17 COUNT 7- CHILD ABUSE, NEGLECT, OR ENDANGERMENT

18 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
19 wit: JAYCE WHITE, being approximately 8 (eight) year(s) of age, to suffer unjustifiable
20 physical pain or mental suffering as a result of abuse or neglect, and/or cause the said JESSE
21 WHITE to be placed in a situation where he might have suffered unjustifiable physical pain
22 or mental suffering as a result of abuse or neglect, by discharging a firearm inside the child's
23 home within close proximity to the child and/or shooting the child's mother, Echo White,
24 failing to seek assistance for Echo White, and allowing her to die while the said JODEY
25 WHITE was coming in and out of the room and/or was in the near vicinity.

26 COUNT 8- CHILD ABUSE, NEGLECT, OR ENDANGERMENT

27 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
28 wit: JAZZY WHITE, being approximately 6 months year(s) of age, to suffer unjustifiable

1 physical pain or mental suffering as a result of abuse or neglect, and/or cause the said
2 JAZZY WHITE to be placed in a situation where he might have suffered unjustifiable
3 physical pain or mental suffering as a result of abuse or neglect, by discharging a firearm
4 inside the child's home within close proximity to the child and/or shooting the child's mother,
5 Echo White, failing to seek assistance for Echo White, and allowing her to die while the said
6 JODEY WHITE was coming in and out of the room and/or was in the near vicinity.

7 COUNT 9- CHILD ABUSE, NEGLECT, OR ENDANGERMENT

8 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
9 wit: JETT WHITE, being approximately 2 (two) year(s) of age, to suffer unjustifiable
10 physical pain or mental suffering as a result of abuse or neglect, and/or cause the said JETT
11 WHITE to be placed in a situation where he might have suffered unjustifiable physical pain
12 or mental suffering as a result of abuse or neglect, by discharging a firearm inside the child's
13 home within close proximity to the child and/or shooting the child's mother, Echo White,
14 failing to seek assistance for Echo White, and allowing her to die while the said JODEY
15 WHITE was coming in and out of the room and/or was in the near vicinity.

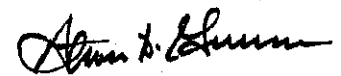
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18 STEVEN B. WOLFSON
19 Clark County District Attorney
20 Nevada Bar #001565

21 BY /s/ LIZ MERCER
22 LIZ MERCER
23 Chief Deputy District Attorney
24 Nevada Bar #10681
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27 DA#12F12500X/da
28 LVMPD EV#1207271826
(TK4)

Names of witnesses known to the District Attorney's Office at the time of filing this
Information are as follows:

<u>NAME</u>	<u>ADDRESS</u>
AVERMAN, JOSEPH	1678 SHERWIN LN LV NV
CUSTODIAN OF RECORDS	CCDC
CUSTODIAN OF RECORDS	LVMPD COMMUNICATIONS
CUSTODIAN OF RECORDS	LVMPD RECORDS
CUSTODIAN OF RECORDS	GUN REGISTRATION
GAINES, AMBER	3601 E. WYOMING AVE #504 LV NV
KNEPP, ELAINE/OR DESIGNEE	D.A. INVESTIGATOR
LUCAS, DONALD	5129 MEADOW ROCK AVE LV NV
SANBORN, TATE	LVMPD #5450



CLERK OF THE COURT

PWHC
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
SCOTT L. COFFEE
Deputy Public Defender
Nevada Bar No. 5607
309 South Third Street, Suite #226
Las Vegas, Nevada 89155
(702) 455-4685
Attorney for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the Application of,

CASE NO. C-12-286357-1

DEPT. NO. XI

Troy Richard White,
for a Writ of Habeas Corpus.

DATE: March 27, 2013
TIME: 9:00 a.m.

PETITION FOR WRIT OF HABEAS CORPUS

TO: The Honorable Judge of the Eighth Judicial District Court of
The State of Nevada, in and for the County of Clark

The Petition of TROY RICHARD WHITE submitted by SCOTT L. COFFEE,
Deputy Public Defender, as attorney for the above-captioned individual, respectfully affirms:

1. That he is a duly qualified, practicing and licensed attorney in the City of Las Vegas, County of Clark, State of Nevada.

2. That Petitioner makes application for a Writ of Habeas Corpus; that the place where the Petitioner is imprisoned actually or constructively imprisoned and restrained of his liberty is the Clark County Detention Center; that the officer by whom he is imprisoned and restrained is Doug Gillespie, Sheriff.

3. That the imprisonment and restraint of said Petitioner is unlawful in that: Count one of the information charging Burglary must be dismissed as a legal impossibility and/or the State failed to produce probable cause at preliminary hearing to support Count 1.

1 4. That Petitioner consents that if Petition is not decided within 15 days before
2 the date set for trial, the Court may, without notice of hearing, continue the trial indefinitely to a date
3 designated by the Court.

4 5. That Petitioner personally authorized his aforementioned attorneys to
5 commence this action.

6 WHEREFORE, Petitioner prays that this Honorable Court make an Order directing
7 the Court Clerk for the County of Clark to issue a Writ of Habeas Corpus directed to the said Doug
8 Gillespie, Sheriff of Clark County, Nevada, instruction said Sheriff to produce the body of the
9 Petitioner before this Court.

10 DATED this 4 of February, 2013.

11 PHILIP J. KOHN
12 CLARK COUNTY PUBLIC DEFENDER

13 By: 
14 SCOTT E. COFFEE, #5607

15 Deputy Public Defender
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DECLARATION

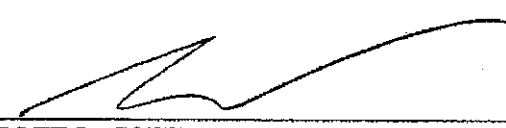
SCOTT L. COFFEE makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and I am familiar with the facts and circumstances of this case.

2. That I am the attorney of record for Petitioner in the above matter; that I have read the foregoing Petition, know the contents thereof, and that the same is true of my own knowledge, except for those matters therein stated on information and belief, and as to those matters, I believe them to be true; that Petitioner, TROY RICHARD WHITE, personally authorizes me to commence this Writ of Habeas Corpus action.

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

EXECUTED this 4 day of February, 2013.



SCOTT L. COFFEE

1 **MEMORANDUM OF POINTS AND AUTHORITIES**
2 **IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

3 COMES NOW the Petitioner, TROY RICHARD WHITE, by and through his
4 counsel, SCOTT L. COFFEE, Deputy Public Defender, and submits the following Points and
5 Authorities in Support of Defendant's Petition for a pre-trial Writ of Habeas Corpus.

6
7 **STATEMENT OF FACTS**

8 Defendant, TROY WHITE, is charged by way of Criminal Complaint with Burglary While
9 in Possession of a Firearm, Murder with Use of a Deadly Weapon, Attempt Murder with Use of a
10 Deadly Weapon, Carrying a Concealed Firearm or Other Deadly Weapon and Child Abuse and
11 Neglect or Endangerment. See Exhibit A- Preliminary Hearing Transcript (PHT). A
12 Preliminary Hearing was held on December 12, 2012 in Justice Court Department 5. This Writ is
13 addressed solely to the charge of burglary.

14 Prior to June 2011, Defendant Troy White and Echo Lucas were married. In June 2011,
15 Defendant Troy White was told by Echo Lucas and family friend Joseph Averman that there was an
16 ongoing affair between the two. White and Lucas were separated. Averman moved into the White
17 residence during the week, but White returned home on weekends to help care for the family
18 children. PHT 14:11-13. Although Joseph Averman, Mrs. Lucas' boyfriend, moved into the
19 residence during the week, Mr. White retained full title to the home. PHT 36:14-16. Mr. White also
20 kept his keys to the home and continued to enter the residence at any time he desired. PHT 22:18-20

21 On July 27, 2011, Mr. White went to the residence after several failed attempts to reach Mrs.
22 Lucas. Mr. White left the residence but returned later that day. At the preliminary hearing, Mr.
23 Averman acknowledged that Mr. White still had the key for the purpose of entering the house.
24 Furthermore, Mr. Averman acknowledged he was aware Mr. White is the owner of the residence.
25 Mr. White came back to the house and, as always, used his key to enter. Mr. Averman
26 acknowledged that Mr. White made no threats to either him or Mrs. Lucas and did not feel anything
27 out of the ordinary or unusual that would prompt him to call the police. PHT 41:18-20.

28 ///

1 A Conversation began between Mr. White and Mrs. Lucas. Mr. Averman enters the room
2 after several minutes when the conversation escalates. Prior to this time, Mr. Averman did not feel
3 frightened of Mr. White. PHT 42:5-8. At this time, Mr. White's demeanor changed and as Mr.
4 Averman described, Mr. White became irrational. PHT 45:10-14.

5 Mr. White is now charged with multiple counts including burglary, even though he never
6 moved entirely out of the residence, never gave up ownership, did not surrender his keys and
7 continued to enter the home at will. There was no restraining order or other legal mechanism to
8 encumber White's right to enter the home. In Short, White has been charged with burglarizing his
9 own home. For the reasons that are set forth below said burglary charge cannot stand.

10 11 LEGAL ARGUMENT

12 **I. It is legally impossible to burglarize your own home.**

13 At common law, burglary was the breaking and entering the house of another in the
14 nighttime, with intent to commit a felony therein, whether the felony is actually committed or not.
15 Smith v. First Judicial District Court. 347 P.2d 526, 75 Nev. 526 (1959).

16 Nevada, like many other states, has statutorily enlarged the definition of burglary. See NRS
17 205.060. The enlargement of the burglary statute did not eviscerate its purpose, a point recognized
18 by The Nevada Supreme Court when it affirmed and adopted the Supreme Court of Washington's
19 explanation of the evolution of common law burglary which had held: "While there has been an
20 enlargement of the definition, the central idea which has obtained for hundreds of years, the
21 unlawful breaking and entering of some kind of an enclosed structure, has been retained." Id. The
22 Nevada Supreme Court stated that Washington's reasoning "is directly in point and we approved its
23 reasoning." Id. Simply put, the legislative intent in adopting the current burglary statute was to
24 broaden the definition of a structure, not to abandon in its entirety the common law underpinnings of
25 the charge. Id.

26 NRS 205.060 defines burglary as:

27 A person who, by day or night, enters any house, room, apartment, tenement, shop,
28 warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, vehicle, vehicle
trailer, semitrailer or house trailer, airplane, glider, boat or railroad car, with the intent to

1 commit grand or petit larceny, assault or battery on any person or any felony, or to obtain
2 money or property by false pretenses.

3 Despite this statute having been in place for decades, there are no cases directly on point as to
4 whether a person may be convicted of burglarizing their own home, perhaps a good indication that
5 the state seldom seeks to stretch the definition of burglary to such unreasonable lengths. There are
6 Nevada cases such as State v. Adams, 94 Nev. 503 (1978), and Thomas v. State, 94 Nev. 605
7 (1978), which hold that consent to entry is no defense to a charge of burglary, but said cases are not
8 on point to the issue at hand. The aforementioned cases are premised on the idea that the authority
9 to enter a building open to the public is limited to those persons entering for a purpose consistent
10 with the reason the building is open, hence entry with the intent to commit larceny (or some other
11 felony), cannot be said to be within the authority to enter which is granted to customers. If anything,
12 the reasoning behind Adams and Thompson buttresses the position that Nevada's burglary statute
13 maintains the common law requirement of unlawful entry.

14 While Nevada has not directly decided the issue, other jurisdictions have. The most
15 exhaustive discussion of the issue probably occurs in the California case of People v. Gauze, 15
16 Cal.3d 709 (1975). At the onset it is important to note that the language of California's burglary
17 statute mirrors that of Nevada in that it too has broadened the definition of structure well beyond the
18 common law.¹

19
20
21 ¹ In Bedard v. State, 118 Nev. 410, 413 (2002), our high court noted: "California Penal Code § 459,
the California burglary statute, is very similar to NRS 205.060."

22 CPC § 459 reads: Every person who enters any house, room, apartment, tenement, shop,
23 warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, as defined in Section 21
24 of the Harbors and Navigation Code, floating home, as defined in subdivision (d) of Section
25 18075.55 of the Health and Safety Code, railroad car, locked or sealed cargo container, whether or
26 not mounted on a vehicle, trailer coach, as defined in Section 635 of the Vehicle Code, any house
27 car, as defined in Section 362 of the Vehicle Code, inhabited camper, as defined in Section 243 of
28 the Vehicle Code, vehicle as defined by the Vehicle Code, when the doors are locked, aircraft as
defined by Section 21012 of the Public Utilities Code, or mine or any underground portion thereof,
with intent to commit grand or petit larceny or any felony is guilty of burglary. As used in this
chapter, "inhabited" means currently being used for dwelling purposes, whether occupied or not. A
house, Trailer, vessel designed for habitation, or portion of a building is currently being used for
dwelling purposes if, at the time of the burglary, it was not occupied solely because a natural or
other disaster caused the occupants to leave the premises.

1 Gauze recognized that the common law notion of unlawful entry is implied even in the
2 revised burglary statute, and that therefore a person cannot be convicted of burglarizing their own
3 home. In Gauze, the defendant shared an apartment with his roommate and had the right to enter the
4 premises at all times. Id. at 714. After a heated argument, defendant shot his roommate in their
5 apartment. Id. Court held that defendant could not be charged with burglary "because his entry into
6 the home, even for a felonious purpose, invaded no possessory right of habitation, only the entry of
7 an intruder could have done so."

8 Burglary is, at its most basic, a crime against property. The Statute defining burglary, NRS
9 205.060, is found in the "crimes against property" chapter of the NRS. It is not possible to commit a
10 property crime against your own property, indeed the very notion of private property implies an
11 absolute right upon the owner to do with that property as he sees fit. A burglary is an entry that
12 invades a possessory right in a structure and has no right to enter that structure. Gauze at 714. A
13 defendant cannot be charged with burglary because the defendant does not invade a possessory right
14 of another. Id.

15 Here, Mr. White had title to the home. He retained the right to enter the premises at all times
16 and stayed at the house on weekends. The day of the shooting was actually a day in which White
17 normally stayed at the home. White never gave up his keys to the home. Further, there is no
18 indication that there was some legal prohibition, such as a restraining order, preventing Mr. White
19 from entering the premises as he saw fit. Thus, Mr. White owned the home and had the absolute
20 legal right to enter the home. He cannot be charged with burglary for said entry.

21 22 CONCLUSION

23 It is clear that the common law definition of burglary still impacts the current statutory
24 interpretation and thus, unlawful entry is still needed for the crime of burglary. At no time did Mr.
25 White enter the residence unlawfully and he cannot be charged with burglary. The motion to
26 dismiss the burglary charge should be granted.

27 ///

28 ///


1 As to the alternative filing of the instant motion as a Writ of Habeas Corpus, as a person
2 cannot be found guilty of burglary for entry into their own home, the State failed to produce
3 probable cause to hold the defendant to answer on a charge of burglary and his current detention is
4 unlawful in that respect.

5 Therefore, and based on the foregoing, Troy White respectfully requests this Honorable
6 Court to grant this Motion to Dismiss Burglary Count/Writ of Habeas Corpus.

7
8
9 DATED this 4 of February, 2013.

10 PHILIP J. KOHN
11 CLARK COUNTY PUBLIC DEFENDER

12
13 By:


14 SCOTT L. COFFEE, #5607
15 Deputy Public Defender
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NOTICE

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing PETITION FOR WRIT OF
HABEAS CORPUS will be heard on 27th day of March, 2013, at 9:00 a.m., in Department No. XI
District Court.

DATED this 4 day of February, 2013.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: 
SCOTT L. COFFEE, #5607
Deputy Public Defender

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of PETITION FOR WRIT OF HABEAS CORPUS, was
made this 2/14 day of February, 2013 to:

CLARK COUNTY DISTRICT ATTORNEY'S OFFICE
PDMotions@ccdavn.com

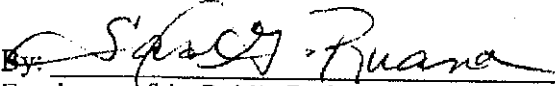
By: 
Employee of the Public Defender's Office

EXHIBIT "A"

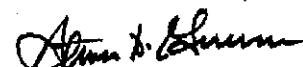
1 C-12-286357-1
 2 IN THE JUSTICE COURT OF THE LAS VEGAS TOWNSHIP
 3 IN AND FOR THE COUNTY OF CLARK
 4
 5 THE STATE OF NEVADA,)
 6 Plaintiff,) CASE NO. 12F12500X
 7 DEPT. NO. 5
 8 TROY WHITE,)
 9 Defendant.)
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 15 BEFORE THE HONORABLE WILLIAM D. JANSEN
 16 JUSTICE OF THE PEACE
 17 REPORTER'S TRANSCRIPT OF
 18 PRELIMINARY HEARING
 19 TAKEN ON WEDNESDAY, DECEMBER 12, 2012
 20 AT 8:30 O'CLOCK A.M.
 21
 22 APPEARANCES:
 23 For the State: I. MERCER, ESQ.
 24 B. TURNER, ESQ.
 25 Deputy District Attorneys
 For the Defendant: S. COFFEE, ESQ.
 D. NEGRETE-LOPEZ, ESQ.
 Special Deputy Public Defenders

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CLERK OF THE COURT

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LAS VEGAS JUSTICE COURT, WEDNESDAY, DECEMBER 12, 201

*** PROCEEDINGS ***

THE COURT: All right. Then, Mr. Coffee,
 are you ready to proceed?

MR. COFFEE: Yes.

THE COURT: All right. This is now the
 time and place for the preliminary hearing in
 the State of Nevada versus Troy Richard White.

Let the record reflect that the -- the
 exclusionary rule will be invoked.

MS. MERCER: Liz Mercer, Your Honor.

THE COURT: It's been a while since I've
 seen you.

MS. MERCER: Yeah. I've been in DV court.

THE COURT: Yeah.

I know you, Brad.

MR. TURNER: Yes, sir.

THE COURT: Okay. Let the record reflect
 the defendant is present, along with his
 attorney, Mr. Coffee. And I don't know the
 individual --

MR. LOPEZ-NEGRETE: David Lopez-Negrete
 for the record.

THE COURT: David Lopez?

1 MR. LOPEZ-NEGRETTE: Yes.
 2 THE COURT: Okay. And then for the State
 3 there's Brad Turner and Liz Mercer.
 4 MS. MERCER: Yes.
 5 THE COURT: So, let me ask you this, how
 6 many witnesses do you anticipate?
 7 MR. TURNER: Judge, it looks like at this
 8 point we're only going to need one to put this
 9 on.
 10 THE COURT: All right. Now, are there any
 11 other potential witnesses in the courtroom that
 12 would be subject to be called. Because if so,
 13 I am going to have to ask them to be excluded
 14 from the courtroom just in case if something
 15 comes down the line.
 16 MS. MERCER: Your Honor, we don't believe
 17 so at this time.
 18 THE COURT: Now, if they are in the
 19 courtroom, I can't allow them to testify.
 20 You understand that?
 21 MS. MERCER: Yes.
 22 THE COURT: You all understand that?
 23 Now, Mr. Coffee, do you have any
 24 witnesses, other than possibly the defendant
 25 himself to testify?

7

1 THE COURT: Well, my policy is if they're
 2 subpoenaed witnesses to be here, those are the
 3 only ones to be excluded.
 4 MS. MERCER: They have not been
 5 subpoenaed.
 6 THE COURT: And they've not been
 7 subpoenaed, and I can only do it for this
 8 hearing. So, therefore, your motion to exclude
 9 them for this hearing, I'm not going to grant,
 10 so we'll proceed.
 11 MR. COFFEE: That's fine, Judge. Pursuant
 12 to any possible motions, I request we get the
 13 names of the people that are in the courtroom
 14 and sitting through the proceedings, so that we
 15 have it in the record if we need it later.
 16 MS. MERCER: And, Your Honor, this entire
 17 side of the courtroom is full of people related
 18 to the victim, so...
 19 THE COURT: Well, if you want to stand and
 20 give your names, each one want to stand and
 21 give your name for the record, we will go for
 22 it.
 23 THE COURT REPORTER: Can we please take a
 24 paper and pass it around so they can write
 25 their names and spell them?

1 MR. COFFEE: I don't, Judge.
 2 Can I speak to the District Attorney,
 3 please?
 4 THE COURT: Sure.
 5 MR. COFFEE: Judge, after a conversation
 6 with the District Attorney, I don't know if
 7 this is going to be a capital case one way or
 8 the other. It's too early in the process to
 9 know that. They have more review to do.
 10 The concern that I have is there are a
 11 number of people in the courtroom who may well
 12 be victim impact witnesses at a penalty phase,
 13 if we get to that point, if this is a capital
 14 case.
 15 I talked to the District Attorney, and
 16 they agree with that proposition. I think
 17 they're probably going to say that it would be
 18 a penalty phase issue, not a trial issue.
 19 While I understand the difference, the
 20 Supreme Court said penalty phase, trial, all
 21 the same thing for evidentiary purposes, so I
 22 have some concerns about leaving those people
 23 in the courtroom during this testimony.
 24 And I would object and submit it to your
 25 discretion.

8

1 THE COURT: Maybe that would be better.
 2 yeah. Take a legal pad and then we'll read it
 3 off for the record. That might be a better
 4 idea.
 5 MR. COFFEE: We have to notice all of them
 6 anyway.
 7 MR. TURNER: I understand.
 8 MR. COFFEE: But if you didn't notice
 9 them, there would be a breach you didn't notice
 10 them.
 11 (Whereupon, an unrelated matter was
 12 heard.)
 13 THE COURT: Now, in the Troy Richard White
 14 case, the charges are Burglary While in
 15 Possession of Firearm, Murder With Use of a
 16 Deadly Weapon, and Attempt Murder With Use of a
 17 Deadly Weapon.
 18 Oh, wait a minute, I've got the amended
 19 criminal complaint. Burglary While in
 20 Possession of a Firearm -- I just got that.
 21 Murder With Use of a Deadly Weapon, Attempt
 22 Murder With Use of a Deadly Weapon, Carrying a
 23 Concealed Firearm or Other Deadly Weapon, and
 24 Child Abuse and Neglect or Endangerment.
 25 MR. COFFEE: And they notified us

1 beforehand that they were going to be filing an
 2 amended. We have no objection.
 3 THE COURT: All right. So, then, you can
 4 go ahead and call your first witness, State.
 5 MS. MERCER: Your Honor, the State calls
 6 Joseph Averman.
 7 THE COURT: Joseph who?
 8 MS. MERCER: Averman.
 9 THE COURT: I thought you said Immerman,
 10 and I was going to say.
 11 THE MARSHAL: Step up here, sir. Remain
 12 standing, face the clerk over there, and raise
 13 your right hand.
 14 THE CLERK: Do you solemnly swear to tell
 15 the truth, the whole truth, and nothing but the
 16 truth, so help you God?
 17 THE WITNESS: I do.
 18 THE CLERK: Please be seated. State your
 19 full name and spell your name, please.
 20 THE WITNESS: Joseph Douglas Averman.
 21 J-O-S-E-P-H, Douglas, D-O-U-G-L-A-S, Averman,
 22 A-V, as in Victor, E-R-M-A-N.
 23 MS. MERCER: May I proceed, Your Honor?
 24 THE COURT: Now, Mr. Averman, if the
 25 question is asked of you by either one of these

1 attorneys calls for a "yes" or "no" answer,
 2 please state "yes" or "no." Do not just shake
 3 your head or say "ugh-huh," because down below
 4 you is a court reporter, and she cannot record
 5 those types of responses.
 6 Do you understand that?
 7 THE WITNESS: Yes, Your Honor.
 8 THE COURT: So why don't you scoot up
 9 close to the mic so everyone can hear you.
 10 Okay?
 11 THE WITNESS: Yes, sir.
 12 THE COURT: All right. You may proceed.
 13 MS. MERCER: Thank you, Your Honor.

JOSEPH AVERMAN

16 Having been first duly sworn to tell
 17 the truth, the whole truth and nothing but
 18 the truth testified as follows:

DIRECT EXAMINATION

21 BY MS. MERCER:
 22 Q Sir, do you know an individual by the name
 23 of Troy White?
 24 A Yes, I do.
 25 Q And do you see him in the courtroom today?

11

12

1 A Yes, I do.
 2 Q Could you please point to him for me and
 3 identify an article of clothing that he is wearing
 4 today?
 5 A He is sitting right there with a blue
 6 sleeveless shirt.
 7 MS. MERCER: Your Honor, may the record
 8 reflect that he's identified the defendant?
 9 THE COURT: So reflect.
 10 BY MS. MERCER:
 11 Q And, sir, did you also know an individual
 12 by the name of Echo Lucas White?
 13 A Yes, I did.
 14 Q And when did you first meet Echo Lucas
 15 White?
 16 A About eight years ago.
 17 Q About eight years ago.
 18 Where did the two of you meet?
 19 A We originally met at church.
 20 Q And did the two of you have a close
 21 friendship in that eight years or just see each
 22 other infrequently?
 23 A Close friendship.
 24 Q To your knowledge, were the defendant and
 25 Echo Lucas White married?

1 A Yes.
 2 Q Earlier this year, did you become aware
 3 that the two had separated?
 4 A Yes.
 5 Q Do you recall when that was?
 6 A About in June.
 7 Q June of 2012?
 8 A Yes.
 9 Q Do you recall whether it was early in June
 10 or late in June?
 11 A Early in June.
 12 Q And after the two had separated, did you
 13 and Echo develop a relationship?
 14 A Yes.
 15 Q And that relationship was a romantic
 16 relationship?
 17 A Yes.
 18 Q At some point, did you move in with Echo?
 19 A Yes.
 20 Q Where did you move into?
 21 A To her house.
 22 Q Do you recall where that house was?
 23 A On Altamira.
 24 Q Okay. And that's here in Clark County?
 25 A Yes.

1 Q What are the closest cross streets?
 2 A Buffalo and Alta.
 3 Q Okay. Who else resided in the house with
 4 you and Echo?
 5 A Her kids.
 6 Q And what are the children's names for the
 7 record?
 8 A Jodey, Jayce, Jesse, Jett, and Jazzy.
 9 Q And could you do me a favor and spell
 10 those names for the court reporter?
 11 A Jodey is J-O-D-E-Y. Jayce, J-A-Y-C-E.
 12 Jesse, J-E-S-S-E. Jett, J-E-T-T. Jazzy, J-A-Z-Z-Y.
 13 Q Okay. And do you know the children's
 14 ages?
 15 A I believe Jodey was ten, Jayce was nine,
 16 Jesse is six, Jett is two, and Jazzy is almost a
 17 year.
 18 Q What did you say about Jazzy, I'm sorry?
 19 A Almost a year.
 20 Q Okay. When is Jazzy's birthday?
 21 A January 16th.
 22 Q So back in June she would have been -- or
 23 July she would have been about six months?
 24 A Six months.
 25 Q During the time that you resided with Echo

15

1 Q Okay. During the time period of your
 2 relationship with Echo, did you learn that the
 3 defendant was upset about the separation?
 4 A Yes.
 5 Q And how did you become aware of that?
 6 A Between Echo and harassing phone calls and
 7 text messages.
 8 Q When you say harassing phone calls and
 9 text messages, was the defendant calling her and
 10 texting her continuously?
 11 A Yes.
 12 Q And is it something that occurred every
 13 day throughout the day, or every other day? You
 14 know, what kind of frequency are we talking about?
 15 A Every day.
 16 Q And you were with her when she would
 17 receive those text messages and phone calls?
 18 A Yes.
 19 Q Did he ever make -- did he know that the
 20 two of you were dating?
 21 A Yes.
 22 Q And when I say "the two of you," I mean
 23 you and Echo?
 24 A Yes.
 25 Q Did he ever make any threats to you

1 and her children, were you familiar with or did you
 2 know the defendant had visitation with the children?
 3 A Yes.
 4 Q And do you know how that visitation took
 5 place?
 6 A On the weekends.
 7 Q And what was the arrangement?
 8 A He would come and pick them up on Fridays
 9 after he got off work, and then Sunday nights he
 10 would have the kids back.
 11 Q Did he stay in the home at some point on
 12 the weekends?
 13 A On the weekends.
 14 Q And was that because of the number of
 15 children it was just easier to do it that way?
 16 A Yes.
 17 Q You indicated that his visitation would
 18 begin when he got off work on Fridays?
 19 A Yes.
 20 Q About what time would he typically show up
 21 for visitation?
 22 A It would be somewhere between two and
 23 three.
 24 Q In the afternoon?
 25 A Yes.

16

1 because of your relationship with Echo?
 2 A Yes, he did.
 3 Q And when did he make those threats?
 4 A A few different times over texts and voice
 5 mails.
 6 Q And when did those threats begin?
 7 A About in June.
 8 Q June of 2012?
 9 A Yes.
 10 Q I apologize if I already asked you this,
 11 but what point in June did you move into the
 12 residence?
 13 A Later on in June towards the end of the
 14 month.
 15 Q And was the defendant aware that you were
 16 living there?
 17 A Yes.
 18 Q What kind of specific threats was he
 19 making to you?
 20 A He said that "If you don't stay away, I'm
 21 going to fucking kill you."
 22 Q And when he made those threats to you, was
 23 it over the phone or in person?
 24 A Voice mails.
 25 Q Voice mails.

1 Okay. I want to fast-forward to
2 July 27th of 2012. On that date, were you at the
3 residence with Echo and the children?
4 A Yes, I was.
5 Q And what day of the week was that for the
6 record?
7 A A Friday.
8 Q Did something unusual happen about
9 2:00 a.m. that morning?
10 A About 2:00 in the morning, there was a big
11 bang, which I thought was on the front door.
12 THE COURT: Excuse me, what date did you
13 say? July what?
14 MS. MERCER: July 27th.
15 THE COURT: July 27th, okay. I thought
16 you said -- that is a Friday. You're correct,
17 that is a Friday.
18 Go ahead.
19 MS. MERCER: Thank you, Your Honor.
20 BY MS. MERCER:
21 Q I'm sorry, you heard a big bang and you
22 thought what?
23 A I thought there was a bang on the front
24 door, and I guess it was on the bedroom window from
25 what Echo had told me.

1 Q What was the loud bang?
2 A He was pounding on the door or the window.
3 Q I'm sorry, it was what?
4 A He was pounding on the door or the window.
5 Q And by "he," you mean the defendant?
6 A Troy.
7 Q The defendant?
8 A Yes.
9 Q Did he come into the residence at that
10 point?
11 A No.
12 Q Where were you when that occurred?
13 A In the living room.
14 Q The living room of the residence?
15 A Yes.
16 Q And that's the house on Altamira?
17 A Yes.
18 Q After the banging, what happened? Did the
19 two of you just go to sleep?
20 A Echo had called Troy after the banging
21 because he had texted her and called her numerous
22 times, and she didn't respond. She was doing her
23 hair. All you guys know how Echo loved to do her
24 hair.
25 Q Okay.

1 THE COURT: All women like to do their
2 hair, not just Echo, all of them. I have one
3 that does it all the time.
4 BY MS. MERCER:
5 Q When you said that she was doing her hair,
6 what did you mean?
7 A She was putting her hair in braids.
8 Q And did she have something on her hands?
9 A She had some gel or whatever to help her
10 do her hair. I'm not really for sure exactly what
11 it was.
12 Q Okay. But she couldn't answer the phone
13 with that substance on her hands?
14 A Yes.
15 Q Okay. And she called him because he was
16 constantly calling and texting throughout that
17 period?
18 A Well, at that time, she wasn't responding
19 until after the banging on the door.
20 Q Okay. And then she called him?
21 A And then she called him.
22 Q And then what happened?
23 A She had asked him basically "What are you
24 doing? You can't be coming over here hanging on the
25 door or window. We have our kids over here.

1 They're trying to sleep." And the other part of the
2 conversation I don't know.
3 Q Did he eventually leave the area?
4 A He eventually left.
5 Q And then did the two of you go to sleep
6 after that, shortly after that?
7 A Yes.
8 Q Do you recall about what time you woke up
9 later that morning?
10 A I want to say around seven or eight.
11 Q And were the children all still with you
12 at this point?
13 A Yes.
14 Q What were you all doing that day, that
15 morning when you woke up?
16 A Had some breakfast, cleaning, and then we
17 were watching "I Shouldn't Be Alive."
18 Q Is that a TV show?
19 A Yes.
20 Q And what was Echo doing?
21 A She was doing some laundry, folding
22 laundry, and then she fell asleep on the couch from
23 being awake all night.
24 Q Okay. So she took a nap on the sofa?
25 A She took a nap.

1 Q And that was in the living room?
 2 A Yes.
 3 Q Where you and the children were watching
 4 TV?
 5 A Yes, which was around 10:30 in the
 6 morning.
 7 Q 10:30 in the morning?
 8 A Yes.
 9 Q Was she still receiving communications
 10 from the defendant during this period?
 11 A At that time, I'm not for sure.
 12 Q At some point, did she wake up from her
 13 nap on the sofa?
 14 A Yes.
 15 Q And what time did she wake up?
 16 A About ten to 12.
 17 Q Ten to 12?
 18 A Quarter to 12.
 19 Q And when she woke up, do you know whether
 20 she received any communication?
 21 A She told me that there was numerous texts
 22 and phone calls and voice mails.
 23 Q That she missed --
 24 A Yes.
 25 Q -- while she was napping?

1 A Yes.
 2 Q What happened after she woke up?
 3 A She woke up. She apologized for falling
 4 asleep and having me sit there with the kids, and I
 5 told her it was fine. And I told her why didn't she
 6 go lay down in bed. So she went to go lay down in
 7 bed, and I had -- I was holding Jazzy, and I put her
 8 to sleep, so as Echo was going to lay down in the
 9 bed, they have the crib in the bedroom.
 10 Q In the master bedroom where Echo sleeps?
 11 A Yes.
 12 And I went to put Jazzy in bed to lay
 13 her down in her crib, and shortly after, Troy comes
 14 to the house.
 15 Q And how did you know that he was there?
 16 A 'Cause the two older boys, Jodey and
 17 Jayce, were saying, "Mommy, Mommy, Daddy's here."
 18 Q Do you know how he entered the residence?
 19 A He still had a key for that so he came in
 20 with the key.
 21 Q Okay. Once the defendant was inside, what
 22 happened?
 23 A He had asked to speak to her.
 24 Q Asked who?
 25 A Troy had asked Echo to talk to her, and

1 first she told him that he wasn't supposed to be
 2 there yet. You know, "Come back whenever or later
 3 when you are supposed to get the kids, and we'll
 4 talk then."
 5 And he looked at me and he said,
 6 "Joe, please, just give me five minutes. She hasn't
 7 returned my calls or my texts all day long. I just
 8 need to talk to her."
 9 Q Okay. Let me stop you for a minute.
 10 When he came into the house, did you
 11 see him carrying anything?
 12 A No.
 13 Q Did you see a gun in his hand?
 14 A No.
 15 Q Okay. So after he asked you to let him
 16 speak with Echo for five minutes, what happens next?
 17 A Echo looked at me and she said, "All
 18 right, just give me five minutes."
 19 Q And then did they have a discussion?
 20 A They went into the back bedroom, the spare
 21 bedroom.
 22 Q Where is the spare bedroom in relation to
 23 the master bedroom in which the crib was in?
 24 A Directly across the hall.
 25 Q Okay. And that spare bedroom, what kinds

1 of things were kept in it?
 2 A Just a bunch of crafting stuff.
 3 Q Okay. So the defendant and Echo go into
 4 the spare bedroom?
 5 A Yes.
 6 Q Where are you at this point?
 7 A I'm in the master bedroom.
 8 Q With Jazzy?
 9 A Yes.
 10 Q At the time that he walked into the
 11 bedroom, did you see anything in his hand?
 12 A No.
 13 Q When you went into the master bedroom, did
 14 you have the door open or shut?
 15 A I shut -- it wasn't completely shut, but I
 16 closed it some way.
 17 Q And why did you close it?
 18 A Just, I'm not sure. I just closed it.
 19 Q Okay. When Echo and the defendant went
 20 into the spare bedroom, did they have the door open
 21 or shut?
 22 A Shut.
 23 Q At some point when you were in the master
 24 bedroom with Jazzy, did you become alarmed?
 25 A Yes.

1 Q And why?
 2 A Because I heard Echo say, "Troy, no,
 3 please don't, and stop."
 4 Q When you heard that, what did you do?
 5 A I opened the door to go make sure she was
 6 okay. From prior abuse that he's done to her, I was
 7 making sure that he wasn't hurting her.
 8 Q When you opened the door, was the door to
 9 the craft room open at this point?
 10 A It was -- she was trying to come out of
 11 the bedroom.
 12 Q And what did you see?
 13 A He grabbed her arm and he pulled her back
 14 into the room.
 15 Q When you say that "he pulled her back in
 16 the room," which room are we talking about?
 17 A The spare room.
 18 Q So he pulled her back into the craft room
 19 when she was trying to walk away?
 20 A Yes.
 21 Q And when you saw him grab her, what
 22 happened after that?
 23 A He pushed her to the wall and then he shot
 24 her.
 25 Q Could you tell where she was shot?

1 Q In relation to where the door to enter the
 2 room is, which wall was it?
 3 A It was the wall that the door is right up
 4 against.
 5 Q On the same wall as the door?
 6 A Yes.
 7 Q And is that the wall that is against the
 8 hallway that divides that room from the hallway?
 9 A Yes.
 10 Q So that wall is directly across from where
 11 the baby was situated?
 12 A Yes.
 13 Q Then after you saw Echo buckle over, what
 14 happened?
 15 A He turned and he shot me.
 16 THE COURT: I didn't hear you. What did
 17 you say?
 18 THE WITNESS: Troy shot me.
 19 BY MS. MERCER:
 20 Q Where were you shot?
 21 A I was shot once in the right arm and twice
 22 in the abdomen.
 23 Q After you were shot, what did you do?
 24 A I fell over.
 25 Q And where were you at the time that he

1 A It looked like she was shot in the
 2 stomach, but I'm not for sure.
 3 Q What led you to believe that she was shot
 4 in the stomach?
 5 A Just how she -- how she buckled over.
 6 Q When he shot her, did you see the gun in
 7 his hand?
 8 A Can you repeat that?
 9 Q When he shot her, did you actually see the
 10 gun in his hand?
 11 A Yes.
 12 Q And where was he holding the firearm?
 13 A About waist high.
 14 Q At the point that he shot her, where were
 15 all of the children in the house?
 16 A They were -- I believe the two oldest boys
 17 were in the hallway.
 18 Q And the two oldest boys are?
 19 A Jodey and Jayce.
 20 Jesse and Jett, I'm not for sure
 21 where they were. And Jazzy was in her crib.
 22 Q And when you say that he pushed her
 23 against the wall, which wall to the bedroom was it
 24 that he pushed her?
 25 A I'm -- it's --

1 shot you?
 2 A In the master bedroom.
 3 Q Okay. So had he come into the master
 4 bedroom or was he still standing in the hallway?
 5 A He was basically in the doorway of the
 6 spare bedroom. When I was shot, I was in the
 7 doorway of the master bedroom.
 8 Q And did he look at you when he shot you?
 9 A Yes.
 10 Q Did he say anything to you when he shot
 11 you?
 12 A When he first shot me, no.
 13 Q Where was the defendant standing when he
 14 shot Echo?
 15 A Directly in front of her, about arm's
 16 length away.
 17 Q At the time that you were shot, where were
 18 the children?
 19 A I'm not for sure.
 20 Q After you fell to the floor, what
 21 happened?
 22 A Troy comes to the bedroom.
 23 Q When you say that he came to the bedroom,
 24 what was he doing in the bedroom? Was he talking to
 25 you? Was he just wandering around? What was he

1 doing?
 2 A He came in the bedroom and he said, "I
 3 told you this would happen." And then I believe it
 4 was Jodey and Jayce that come into the bedroom, but
 5 they were right there in the hallway in between the
 6 doors, and they were checking on Echo and me.
 7 Q And how were they behaving at the time?
 8 A Hysterical.
 9 Q When you say hysterical --
 10 A Crying.
 11 Q -- were they saying anything?
 12 A They said, "We need to call for help. You
 13 killed Mommy."
 14 Q They told the defendant that?
 15 A Troy.
 16 Q What happened at that point?
 17 A He said that -- Troy had said that he was
 18 trying to call but his phone wasn't working.
 19 Q And then what happened?
 20 A Then I guess he tried to corral the kids
 21 all into one room, and Jayce managed to get by.
 22 Jayce had come back into the room where I was at, to
 23 the master bedroom.
 24 Q Why did he go back to the room where you
 25 were at?

1 A I guess to check on me.
 2 Q Okay. Did he have anything with him when
 3 he went back there?
 4 A No.
 5 Q And what happened at that point?
 6 A I told Jayce to go get my phone that was
 7 on the nightstand so I could call.
 8 Q Did he get your phone?
 9 A Yes, he did.
 10 Q And what happened once he had the phone?
 11 A He had told Troy he got my phone so I
 12 could call for help.
 13 Q So the child told Troy that he was getting
 14 you the phone to call for help?
 15 A Yes.
 16 Q And how did the defendant respond to that?
 17 A He came back into the room and stood over
 18 me with the gun to my head, and he took my phone and
 19 said, "You ain't calling nobody."
 20 Q What happened at that point?
 21 A I'm not sure which children it was, a few
 22 of them, they had come back into the room to the
 23 master bedroom.
 24 Q Where you were?
 25 A Where I was and distracted Troy to try to

1 push the kids back into the other room.
 2 Q And then what happened?
 3 A And Troy come back into the room, and he
 4 told me, you know, "You're a coward. I told you
 5 this was going to happen. I told you to stay away."
 6 And...
 7 Q Did he make any comments to you about him
 8 going to prison?
 9 A He said if he -- he mentioned if I'm going
 10 to go to prison, that he was going to kill me.
 11 Q Did you ever ask the defendant to call for
 12 help?
 13 A No. Oh, yes, I did. I'm sorry. Yes, I
 14 did.
 15 Q What specifically did you tell him?
 16 A I told him, "Forget me. Let me die. I
 17 don't care. Just call for help and get her help."
 18 Echo.
 19 Q And what did he say to you?
 20 A I can't recall.
 21 Q Did he call for help, to your knowledge?
 22 A Not that I'm aware of.
 23 Q At some point, did you become aware the
 24 police were called?
 25 A I didn't know that they were called.

1 Q Did they come into the house?
 2 A Yes, they did.
 3 Q While you were still lying on the master
 4 bedroom floor?
 5 A Yes.
 6 Q And were you ultimately removed from the
 7 house in an ambulance?
 8 A Yes.
 9 Q Which hospital were you taken to?
 10 A I believe it was UMC.
 11 Q And how long were you in the hospital?
 12 A Three days.
 13 Q Three days?
 14 A Three days.
 15 Q Do you know what kind of car Echo had?
 16 A She had a Durango. It was silver or gray.
 17 Q A Dodge Durango?
 18 A Dodge Durango.
 19 Q And was that car there in the morning when
 20 you got up on July 27th of 2012?
 21 A Yes, it was.
 22 Q When you were taken to the hospital, was
 23 the car still there?
 24 A No.
 25 Q When the police arrived to the house, was

1 the defendant still there?
 2 A No.
 3 Q Did you have any firearms on you on that
 4 day?
 5 A No.
 6 Q To your knowledge, did Echo have any
 7 firearms?
 8 A No.
 9 Q During the time period that the defendant
 10 was at the house, did either one of you ever have a
 11 weapon?
 12 A Repeat that.
 13 Q During the time the defendant was at the
 14 house on July 27th of 2012, did either you or Echo
 15 ever have a weapon?
 16 A No.
 17 Q Did you see the firearm that the defendant
 18 shot Echo and yourself with?
 19 A Yes.
 20 Q And what did it look like?
 21 A A pistol.
 22 Q Okay. Was it a revolver or --
 23 A Semiautomatic.
 24 Q Okay. Do you recall what color it was?
 25 A Black.

1 when he was coming back and forth, "Who's a coward
 2 now?"
 3 A Yes.
 4 Q He had made some threats in the past to
 5 you?
 6 A Yes.
 7 Q You didn't necessarily take those threats
 8 very seriously, though, did you?
 9 A No, I didn't.
 10 Q Why not?
 11 A I guess just, I don't know, didn't seem
 12 like that kind of a person.
 13 Q You had known him for a number of years,
 14 right?
 15 A Yes.
 16 Q You said you had met Echo about eight
 17 years before. You met Troy around the same time?
 18 A Yes.
 19 Q You were a family friend; is that a fair
 20 characterization?
 21 A Yes.
 22 Q Friends with Mr. White, as well as with
 23 Echo?
 24 A Yes.
 25 Q You'd seen him around his children?

1 MS. MERCER: Court's indulgence?
 2 I'll pass the witness, Your Honor.
 3 THE COURT: All right, Mr. Coffee?

CROSS-EXAMINATION

6 BY MR. COFFEE:
 7 Q Good morning, Mr. Averman.
 8 A Good morning.
 9 Q I'm going to ask you some questions, and
 10 if anything I ask you is confusing, please stop me
 11 and I'll try to do more to make sure it is clear.
 12 All right?
 13 A Yes, sir.
 14 Q Okay. Very good. It's Scott or
 15 Mr. Coffee. You don't need to call me sir.
 16 You talked a moment ago about
 17 Mr. White coming back and forth in the room saying
 18 something about a coward or mentioning the word
 19 coward. Do you remember that?
 20 A Yes.
 21 Q When you talked to the police, do you
 22 remember saying what he said is "Who's a coward
 23 now?"
 24 A Yes.
 25 Q Does that sound like what he actually said

1 A Yes.
 2 Q There were five children in the household?
 3 A Yes.
 4 Q Three were Mr. White's?
 5 A Yes.
 6 Q The house -- there was a Dodge Durango
 7 that eventually left the home that night, right?
 8 A Yes.
 9 Q Echo drove that car?
 10 A Yes.
 11 Q It was registered to Mr. White; is that
 12 true?
 13 A Yes.
 14 Q Same thing with the home, the home was
 15 actually in Mr. White's name, correct?
 16 A Yes.
 17 Q And you said that he would come to visit,
 18 he would stay there on the weekends to take care of
 19 the children; is that a fair characterization?
 20 A Yes.
 21 Q He took good care of the children, yes?
 22 Let me put it this way. You cared
 23 about the children?
 24 A Yes.
 25 Q If you thought he was abusing the

1 A No.
 2 Q Did not pull out a handgun and wave it
 3 towards you at that point?
 4 A No.
 5 Q Okay. You didn't see the gun at that
 6 point?
 7 A No.
 8 Q Didn't make any threats towards Echo?
 9 A No.
 10 Q If you had thought anything was out of the
 11 ordinary, I would imagine -- how old are you, sir,
 12 if I might ask?
 13 A Twenty-eight.
 14 Q Twenty-eight.
 15 You are old enough to know how to
 16 dial 9-1-1 obviously?
 17 A Yes.
 18 Q If there had been anything out of the
 19 ordinary, unusual, if you thought the situation was
 20 going to explode, you know enough to call 9-1-1?
 21 A Yes.
 22 Q Okay. Or to perhaps intervene on your
 23 own?
 24 A Yes. That's why I stayed right there by
 25 the back door.

1 Q That's why you stayed back there.
 2 You weren't necessarily frightened of
 3 Mr. White; is that fair?
 4 A Yes.
 5 Q Now you obviously would be frightened of
 6 Mr. White, you know what he might be capable of with
 7 a weapon, but at the time, you weren't necessarily
 8 frightened of him; true?
 9 A Yes.
 10 Q You've actually got -- you were in the
 11 military?
 12 A Yes.
 13 Q What branch?
 14 A Army National Guard.
 15 Q For how long?
 16 A Almost three years.
 17 Q Was that while you had the relationship,
 18 or relationship is an inappropriate word. Is that
 19 while you were a family friend of Mr. White's and
 20 Echo?
 21 A Can you repeat that?
 22 Q Yeah.
 23 You've known him for about eight
 24 years, so that means you met him when you were
 25 around 20; is that true?

1 A Yes.
 2 Q Were you in the military during the time
 3 that you knew them?
 4 A I eventually joined the military, yes.
 5 Q Okay. There we go.
 6 You said there weren't any weapons
 7 around the house; true? No weapons around your
 8 house?
 9 A My house, no.
 10 Q But you're familiar with weapons. In the
 11 military, you learned how to shoot them. I know
 12 that?
 13 A Yes.
 14 Q And were able to identify the gun that was
 15 used, for example, in this case, as a semiautomatic.
 16 You know the difference between that and a revolver
 17 and pistol?
 18 A Yes.
 19 Q They go into a room and the door is
 20 closed?
 21 A Yes.
 22 Q And at first, you don't hear much; is that
 23 fair?
 24 A Correct.
 25 Q But the conversation escalates at some

1 point; is that right?
 2 A Yes.
 3 Q When the conversation escalates, you
 4 become concerned?
 5 A Yes.
 6 Q Were you able to hear what led to the
 7 escalation of the conversation or why the
 8 conversation escalated? Did you hear any of those
 9 things?
 10 A No.
 11 Q You don't know what was said back and
 12 forth?
 13 A No.
 14 Q Don't know what happened up until the
 15 point you hear Echo say something along the lines of
 16 "Troy, don't" or "Troy, stop"?
 17 A That's correct.
 18 Q And that's the first time that you become
 19 concerned?
 20 A Yes.
 21 Q Become concerned enough to enter into the
 22 room; yes?
 23 A I didn't enter the room.
 24 Q Opened the door. I'm sorry.
 25 A Open the door.

1 Q Okay. You open the door, and you see
 2 Mr. White with a weapon; yes? Or did you notice the
 3 weapon then?
 4 A Not at that point.
 5 Q Okay. Did the fight -- is it fair to say
 6 Mr. White's demeanor had changed from the time he
 7 walked in until the time you opened that door?
 8 A Yes.
 9 Q How had it changed?
 10 A More angry and aggressive.
 11 Q Angry, aggressive, upset?
 12 A Yes.
 13 Q Irrational to some extent?
 14 A Yes.
 15 Q You open the door and there is a shot
 16 fired. That happens pretty quickly I imagine?
 17 A Yes.
 18 Q Okay. And before you can either run in or
 19 run out to call 9-1-1, Mr. White turns and shoots
 20 you?
 21 A Correct.
 22 Q How quickly did that happen between the
 23 time Echo is shot and the time you were shot? Is it
 24 a matter of seconds?
 25 A Yes.

1 Q Now, afterward, the police do arrive?
 2 A Yes.
 3 Q You were unable to call 9-1-1? You just
 4 weren't physically able to do it, right?
 5 A He took the phone.
 6 Q He took the phone.
 7 You told the police at one point that
 8 you thought that Mr. White may have called 9-1-1,
 9 you just don't know; is that true?
 10 A Correct.
 11 Q Mr. White mentioned threats when he was
 12 standing over you?
 13 A Yes.
 14 Q Had a gun, said "If I'm going" -- and I
 15 think we paraphrased it before. Tell me if I'm
 16 pretty close to what he says. You understand what
 17 the question is going to be, right?
 18 A Yes.
 19 Q He says something along the lines of "If I
 20 am going to go to prison anyway, I should just kill
 21 you, too," or "I can just kill you, too," something
 22 along those lines?
 23 A Yes.
 24 Q Okay. But he just leaves eventually,
 25 correct?

1 A After he heard the sirens coming, yes.
 2 Q Okay. How long did that go on in the
 3 house? How long was he going in and out of the room
 4 making threats?
 5 A I'm not for sure.
 6 Q And, obviously, you're injured, you don't
 7 have a stopwatch, I understand.
 8 Fair to say everything does move
 9 pretty quickly in that situation? It's a tense
 10 situation?
 11 A Yes.
 12 Q You were hit three times, twice in the
 13 stomach, once in the wrist; is that right?
 14 A Once in the arm.
 15 Q Once in the arm.
 16 Do you know how many shots were
 17 fired? And I understand it is a tense situation,
 18 but I thought there was going to be a stipulation at
 19 some point that there were three shell casings found
 20 in the house. We're going to be stipulating to
 21 that.
 22 Do you know if there were actually
 23 four shots fired or three? And it's not critical if
 24 you don't. I'm just curious.
 25 A I don't know.

1 Q Okay. When all of this was going on, did
 2 you hear any threats to the children at all?
 3 A No.
 4 Q Did Mr. White work, to your knowledge?
 5 A I'm sorry?
 6 Q Did Mr. White work?
 7 A Yes.
 8 Q Where did he work?
 9 A Yesco.
 10 Q Young Electric Sign Company?
 11 A Yes.
 12 Q Had he been there for a while?
 13 A Yes.
 14 MR. COFFEE: Court's indulgence?
 15 Thank you for answering my questions. We
 16 appreciate it.
 17 Pass the witness.
 18 MS. MERCER: Briefly, Your Honor.
 19 THE COURT: Sure.

REDIRECT EXAMINATION

22 BY MS. MERCER:
 23 Q Sir, the gun that you saw the defendant
 24 with that night, had you seen that gun on any prior
 25 occasions?

1 A Yes.
 2 Q And when?
 3 A I can't recall the date, but he brought it
 4 out and showed it to me.
 5 Q And when you say "he," you're --
 6 A Troy.
 7 Q -- referring to the defendant?
 8 A Yes.
 9 Q Okay. Now, defense counsel asked you
 10 about how you knew that it was the defendant
 11 knocking on the window at 2:00 in the morning. You
 12 indicated that you didn't personally see him or hear
 13 his voice?
 14 A Correct.
 15 Q Were you present when Echo called him and
 16 told him to knock it off?
 17 A Yes.
 18 Q You were also asked about whether or not
 19 you witnessed any incidents of prior abuse by the
 20 defendant against the victim. Do you recall that
 21 question?
 22 A Yes.
 23 Q And I believe your response was no?
 24 A Correct.
 25 Q Did you ever have the opportunity to

1 observe any injuries on Echo's person that she
 2 claimed was from the defendant?
 3 A She had had some bruises and scratches on
 4 her back.
 5 Q And she showed you those?
 6 A Yes.
 7 Q Defense counsel also asked you whether or
 8 not you were frightened of the defendant when he
 9 came to the house around noon on July 27th of 2012.
 10 Do you recall that question?
 11 A Yes.
 12 Q You indicated that you weren't personally
 13 afraid for your safety?
 14 A Correct.
 15 Q What was it that made you stay so close to
 16 the defendant and Echo?
 17 A For Echo's sake and the kids.
 18 Q Okay, so you believed that he might harm
 19 Echo?
 20 A Yes.
 21 Q After the defendant shot you and Echo, did
 22 you see the children going in and out of the room
 23 where Echo was lying?
 24 A I could not see.
 25 Q Okay. Could you hear them in the

1 vicinity?
 2 A Yes.
 3 Q And from the time that you were shot and
 4 the time that the police arrived on scene, did the
 5 demeanor of the children change at all, or did they
 6 remain hysterical the entire time?
 7 A Hysterical.
 8 Q Were they crying?
 9 A Yes.
 10 Q You indicated that the defendant was not
 11 screaming at the children or being angry towards
 12 them. Did you hear him trying to console them in
 13 any way?
 14 A No.
 15 Q How many times did the defendant come in
 16 and out of the room which you were in before the
 17 police arrived on scene after he shot you?
 18 A I believe at least three times.
 19 Q At the time that you were shot by the
 20 defendant, you indicated that you were standing in
 21 the doorway of the master bedroom where the crib was
 22 situated, correct?
 23 A Correct.
 24 Q Where were you standing in relation to the
 25 crib in that room?

1 A Right next to it. It was off to my right
 2 side.
 3 Q And Jazzy was still in it?
 4 A Yes.
 5 MS. MERCER: No further questions, Your
 6 Honor.

RE-CROSS-EXAMINATION

8 BY MR. COFFEE:
 9 Q The children, just so we're clear, three
 10 were Mr. White's and two were not. Echo had had
 11 them before she met Mr. White?
 12 A Correct.
 13 Q Was he abusive to the two that weren't his
 14 biological children or did he treat the children, by
 15 and large, the same?
 16 A Very much the same.
 17 Q Pretty much the same.
 18 MR. COFFEE: Okay. Thank you,
 19 Mr. Averman.
 20 THE COURT: Anything else?
 21 MS. MERCER: No, Your Honor.
 22 THE COURT: How did you meet Echo? If you
 23 did say that, I didn't hear you.
 24 THE WITNESS: I met her at church.
 25 THE COURT: Okay. Okay. I guess you're

1 excused then. Thank you for coming and
 2 testifying.
 3 Any other witnesses?
 4 MR. TURNER: Your Honor, at this time, I
 5 believe that the parties just have to put on
 6 the stipulations.
 7 THE COURT: Okay.
 8 MR. TURNER: I think we do have a State's
 9 Proposed Exhibit 1, which is an affidavit from
 10 Sergeant E.T. Brown, with the concealed
 11 firearms detail, that indicates in the exhibit
 12 that he did a thorough search for subject, Troy
 13 White, with the defendant's ID number, 1383512.
 14 After that diligent search, he was unable
 15 to locate any concealed firearm permit for that
 16 particular individual.
 17 And I would move to admit that proposed
 18 exhibit.
 19 MR. COFFEE: No objection.
 20 THE COURT: So admitted.
 21 (State's Proposed Exhibit No. 1
 22 was marked for identification
 23 and admitted into evidence.)
 24 MS. MERCER: And then just, Your Honor,
 25 it's my understanding that defense counsel at

1 this time is willing to stipulate that Dr. Lisa
 2 Gavin, with the Clark County Coroner's office,
 3 performed an autopsy on the victim in this
 4 case, Echo Lucas White, and that she
 5 determined, pursuant to that autopsy, that the
 6 cause of death was a gunshot wound to the
 7 abdomen, and that the manner of death was
 8 homicide, and that he's stipulating to the
 9 identity of the victim for purposes of
 10 preliminary hearing.
 11 MR. COFFEE: Correct, as well.
 12 THE COURT: Okay.
 13 MR. TURNER: And finally, Your Honor, the
 14 final stipulation would be to the following
 15 facts: That Detective Travis Ivie, the last
 16 name I-V-I-E, who's with the homicide detail of
 17 the Las Vegas Metropolitan Police Department,
 18 responded to the crime scene in this case, that
 19 being at 325 Altamira on July 27th of this
 20 year, approximately 1:44 p.m. and he was there
 21 to investigate the homicide of Echo White and
 22 the shooting of Joe Averman.
 23 And that while there, he observed the
 24 following items of evidence at that crime
 25 scene. In the driveway of that residence, Your

1 Honor, he observed a spent bullet that was
 2 located in the driveway. There was a black and
 3 white backpack. Inside of that backpack was an
 4 empty holster for a handgun. There was also a
 5 bullet hole on the exterior of the front of
 6 that residence.
 7 That he went inside the residence, and in
 8 the northwest bedroom, which would have been
 9 the crafts room, as testified by Mr. Averman,
 10 he located a spent shell casing for a
 11 9-millimeter. That would be a 9-millimeter
 12 Win, capital W-I-N, 9-millimeter Luger head
 13 stamp on that. And that that door was open
 14 when he went through the residence.
 15 That in the southwest bedroom, which has
 16 been described as the master bedroom, he
 17 located the baby crib, which is in close
 18 proximity to that doorway, as well as a bullet
 19 hole with a direct trajectory, indicating that
 20 that bullet hole went through that bedroom, and
 21 it openly exited out the front, which is
 22 consistent with where the bullet was recovered
 23 in the driveway.
 24 That he also in the hallway between those
 25 two bedrooms, in proximity to those two

1 bedrooms, he located a third spent shell
 2 casing, also 9-millimeter Win Luger consistent
 3 with the other two shell casings that he
 4 recovered.
 5 Later that same day, Your Honor,
 6 July 27th, approximately 8:00 p.m., Detective
 7 Ivie, with another detective and a crime scene
 8 analyst, responded to Yavapai, the spelling is
 9 Y-A-V-A-P-A-I, County Sheriff's office in
 10 Prescott, Arizona. There he came into contact
 11 with the defendant, Troy White.
 12 He was also present during the execution
 13 of the search warrant of Mr. White's vehicle, a
 14 silver Durango, license plate NV USN3PYZ. That
 15 there was a bullet strike to the bottom
 16 driver's side door of that vehicle.
 17 That additionally, in the trunk of that
 18 vehicle, that was ultimately impounded, was a
 19 black Torres 9-millimeter with a serial number
 20 of TOA33791. That firearm was unloaded.
 21 However, next to the firearm were two
 22 magazines for a 9-millimeter handgun. In those
 23 magazines, one magazine contained 12 cartridge
 24 cases for a Win 9-millimeter Luger. The second
 25 cartridge case had nine Win 9-millimeter Luger

1 shell casings in it.
 2 And I believe that concludes the
 3 stipulation.
 4 MR. COFFEE: We agree.
 5 THE COURT: So that is all stipulated to?
 6 MR. COFFEE: Yes.
 7 THE COURT: And all that testimony is in
 8 and stipulated to.
 9 MR. TURNER: And I believe with that, Your
 10 Honor, the State would rest.
 11 MR. COFFEE: Judge, I've advised Mr. White
 12 of his right to testify, and he's not going to
 13 avail himself of that today.
 14 I would ask that the list of names of
 15 those people that may be potential witnesses in
 16 the penalty phase that was taken earlier, and I
 17 thank everybody for providing those names, I'd
 18 ask that that be made part of the record.
 19 THE COURT: What I am going to do now
 20 because I want to make sure I have these names
 21 correct, I'm going to call these names for the
 22 record, and acknowledge that you signed it,
 23 okay?
 24 Is there, first of all, a Betty Blake, the
 25 grandmother of the victim. Did you sign your

1 name to that?
 2 MS. BETTY BLAKE: Yes.
 3 THE COURT: Okay. There is an Amber -- is
 4 that Gaines?
 5 MS. AMBER GAINES: Yes.
 6 THE COURT: And listed as the mother of
 7 the victim; is that correct?
 8 MS. AMBER GAINES: Yes.
 9 THE COURT: Then there's a Michael Gaines,
 10 a stepfather. Is that you?
 11 MR. MICHAEL GAINES: Yes, sir.
 12 THE COURT: And then there's a Brad Black.
 13 I can't read the first name.
 14 MR. BRAD BLAKE: Uncle.
 15 THE COURT: Is that uncle? Uncle Brad
 16 Blake.
 17 And then there's a Florence H. Potter, a
 18 friend?
 19 MS. FLORENCE M. POTTER: M. Potter.
 20 THE COURT: And what?
 21 MS. FLORENCE M. POTTER: M, as in Mary.
 22 Florence M. Potter.
 23 THE COURT: Oh, Florence M. Potter. I'm
 24 sorry.
 25 And then a Nancy Manning, a cousin; is

1 that correct?
 2 MS. NANCY MANNING: Here.
 3 THE COURT: And a Theresa -- is that
 4 Sheahan?
 5 MS. THERESA SHEAHAN: Yes.
 6 THE COURT: A cousin; is that correct?
 7 MS. THERESA SHEAHAN: Correct.
 8 THE COURT: And an Ashley and --
 9 MS. ASHLEY OWSLEY: Owsley.
 10 THE COURT: Owsley. Is that O-U --
 11 MS. ASHLEY OWSLEY: O-W-S-L-E-Y.
 12 THE COURT: O-W-S-L-E-Y. That's why it's
 13 important we get the spelling for the record.
 14 That's all.
 15 And then there is a Jennifer Gaines, a
 16 sister?
 17 MS. JENNIFER GAINES: Yes.
 18 THE COURT: And then there's a Joanna --
 19 is that Rens?
 20 MS. JOANNA RENS: Yes.
 21 THE COURT: R-E-N-S?
 22 MS. JOANNA RENS: Yes.
 23 THE COURT: And you're listed as a friend;
 24 is that correct?
 25 MS. JOANNA RENS: Correct.

1 THE COURT: And then there's a Misty Todd,
 2 a friend?
 3 MS. MISTY TODD: Yes.
 4 THE COURT: A Jacqueline Trujillo, a
 5 friend; is that correct?
 6 MS. JACQUELINE TRUJILLO: Yes.
 7 THE COURT: Diego -- Diego Trujillo?
 8 MR. DIEGO TRUJILLO: Diego.
 9 THE COURT: I have as a friend.
 10 MR. DIEGO TRUJILLO: Yes.
 11 THE COURT: Raquel Brooks as a friend.
 12 MS. RAQUEL BROOKS: Yes.
 13 THE COURT: You have best friend.
 14 MS. RAQUEL BROOKS: Yes.
 15 THE COURT: I didn't want to get anything
 16 going.
 17 All right. Then Jennifer, and what is
 18 that -- who is Jennifer? I have Jennifer
 19 A-R-T-U-R-O; is that right?
 20 A FEMALE VOICE: She stepped out, Your
 21 Honor.
 22 THE COURT: Is that correct? Is that her
 23 name?
 24 And then Crystal Becker. Okay.
 25 And then it looks like -- is that

1 Romandia?
 2 MS. SHEENA ROMANDIA: Correct.
 3 THE COURT: What's your first name?
 4 MS. SHEENA ROMANDIA: Sheena.
 5 THE COURT: Sheena, S-H-E-E-N-A. Okay.
 6 And that's spelled R-O-M-A-N-D-I-A?
 7 MS. SHEENA ROMANDIA: Yes.
 8 THE COURT: As a friend.
 9 Nichole Robertson listed as a family
 10 friend; is that correct?
 11 And Bruce -- is that Behl?
 12 MR. BRYCE BEHL: Bryce.
 13 THE COURT: What is it?
 14 MR. BRYCE BEHL: Bryce.
 15 THE COURT: I have Bruce B-E-H-L.
 16 MR. BRYCE BEHL: B-R-Y-C-E.
 17 THE COURT: B what?
 18 MS. MERCER: B-R-Y-C-E.
 19 THE COURT: Oh, B-R -- all right, Bryce.
 20 I'm sorry. And your last name is?
 21 MR. BRYCE BEHL: Behl.
 22 THE COURT: B-E-H-L?
 23 MR. BRYCE BEHL: Yes.
 24 THE COURT: Listed as a friend.
 25 Okay. Did you get all that now? Leave

1 THE COURT: You're a friend of?
 2 MS. NICOLE ANTILL: Echo.
 3 THE COURT: Okay. And then we have Gina
 4 Antill, also a friend of Echo.
 5 Then we have Sara Spencer, I presume also
 6 a friend of Echo.
 7 And then we have Patricia Lucas; is that
 8 right? And you're a friend of Echo. And
 9 Nicole, again, R-O-M-A-N-D-I-A, and you're a
 10 friend of Echo?
 11 MS. NICOLE ROMANDIA: Yes.
 12 THE COURT: Okay. Now, the Court is going
 13 to take both of these lists and make them as
 14 exhibits for the State, if you have no
 15 objection.
 16 MR. TURNER: No, Your Honor.
 17 MS. MERCER: No, Your Honor.
 18 THE COURT: And I'm going to ask that they
 19 be entered into evidence for the people who are
 20 here today, who may be called at future
 21 hearings, put it that way.
 22 MR. COFFEE: I appreciate it.
 23 THE COURT: Okay. And I've done that at
 24 the request of the defense attorney.
 25 Are you satisfied or do you want anything

1 the list. And these are the names, and you get
 2 them for the record.
 3 MS. MERCER: Your Honor, I believe that
 4 side of the room did not get the paper to sign,
 5 unfortunately.
 6 THE COURT: Okay. Then we'll get those
 7 papers signed, and I want you to -- and when
 8 you're done signing that, then I will have
 9 those for the record.
 10 MR. COFFEE: Thank you, Judge.
 11 THE COURT: Okay. Now, when I say the
 12 relatives and the friends and the names I just
 13 called, they were all relatives and friends of
 14 the victim in this case, of Echo Lucas White;
 15 is that correct?
 16 A FEMALE VOICE: Correct.
 17 THE COURT: Okay.
 18 Let's wait until they get signed and then
 19 we'll proceed on.
 20 Okay. I'm going to call these names now
 21 and acknowledge that you signed it.
 22 I have a Nicole -- is that Antill,
 23 A-N-T-I-L-L? And I presume you're a friend of
 24 the defendant; is that correct or not?
 25 MS. NICOLE ANTILL: No,

1 else?
 2 MR. COFFEE: No. And I thank everybody
 3 for their cooperation.
 4 (State's Proposed Exhibit No. 2
 5 was marked for identification
 6 and admitted into evidence.)
 7 THE COURT: Okay. All right. Now, you
 8 may proceed.
 9 I think the State rests now.
 10 MR. COFFEE: Defense rests.
 11 THE COURT: Okay. So any argument?
 12 MS. MERCER: We'll waive and reserve, Your
 13 Honor.
 14 THE COURT: Okay.
 15 MR. COFFEE: A couple things, and the
 16 amended is fairly long, so it's going to take a
 17 few more minutes to go through them and try to
 18 do it a piece at a time.
 19 THE COURT: Go ahead. Take your time. If
 20 you want time to read it, go ahead.
 21 MR. COFFEE: No, I've familiarized myself
 22 with it.
 23 And the first thing I'm going to question
 24 about, Judge, is Count I, the Burglary in
 25 Possession of a Firearm. It is clear that the

1 home is in Mr. White's name. He has a key to
2 the home that he resides there on the weekends
3 with the children. So there's a couple legal
4 questions I think.

5 First off, can you burglarize your own
6 house? Second off, did they show an intent to
7 commit one of the underlying things that they
8 have alleged here? They alleged assault,
9 battery, those were the things upon entry.

10 I know he comes into the house with a gun.
11 That's the testimony you have before you
12 anyway. Is that enough to show an intent to
13 commit assault or battery because what we have
14 is testimony that his demeanor when entering
15 the house was nothing out of the usual. They
16 go into a room and things escalate. That's not
17 burglary necessarily.

18 I think for those two reasons the burglary
19 count as alleged in Count I should bail, I
20 think. Rather than try to confuse things,
21 maybe we should deal with it at the end of the
22 time because --

23 THE COURT: I agree.

24 MR. COFFEE: -- this might get long.

25 THE COURT: I agree.

1 MS. MERCER: Your Honor, I'm not aware of
2 any case law that says you can't burglarize
3 your own home. The issue is the intent when
4 you enter the residence.

5 And in this case, you heard testimony that
6 in the weeks leading up to the murder and
7 attempted murder, the defendant was threatening
8 Joseph Averman, that he was constantly calling,
9 texting, harassing Echo.

10 That when he showed up at the house, the
11 testimony wasn't that he was calm, cool, and
12 collected. The testimony was that he was
13 agitated, that he was upset that she wasn't
14 returning his phone calls.

15 That when she awoke from her nap in the
16 minutes leading up to her death, she had
17 several missed telephone calls and text
18 messages. That he had showed up at the house
19 at two a.m. the night before, upset with her,
20 banging on the bedroom window.

21 Certainly you can draw the inference that
22 when he arrived at the residence with a firearm
23 concealed on his person and an empty backpack
24 that was found in the driveway with a -- or not
25 an empty backpack, a backpack with an empty gun

1 holster, he entered that residence with the
2 intent to shoot somebody. That's an assault or
3 battery and/or kill.

4 And I think that's it with regard to the
5 burglary count, Your Honor.

6 MR. COFFEE: I don't know if you need more
7 argument or not.

8 THE COURT: What?

9 MR. COFFEE: I don't know if you need any
10 more input from our side or not.

11 THE COURT: I know that the house is in
12 joint tenancy, and that they both are the
13 owners of it, but who -- at the time, who had
14 the primary possession of the house?

15 MR. COFFEE: Well, it is a switch thing.
16 He showed up earlier on switch days, so I
17 suppose the argument is that it is, you know,
18 burglary for showing up early that day. But
19 he's got a key. Nobody tells him not to be
20 there. So we've got that issue.

21 Additionally, while I would like to say
22 there was agitation beforehand, he might have
23 been agitated the night before. When he comes
24 in, what we heard from the gentleman who was
25 there, Mr. Averman, is when he walked in he

1 didn't think there was anything particularly
2 unusual about his demeanor.

3 "I stayed by the door because of past
4 incidences, but there was nothing that told me
5 there was going to be a fight. I know enough
6 to call 9-1-1. I didn't do it, wasn't that
7 concerned about it."

8 It escalated, started slow and it
9 escalated. That's not burglary, and I think
10 for those two reasons, the burglary can't
11 stand.

12 MR. TURNER: Well, Judge, home invasion, I
13 think counsel is mixing up his felonies here.
14 Home invasion, you can't do a home invasion to
15 your own home. With a burglary, certainly you
16 can.

17 If you go into your residence with the
18 intent to commit a crime, murder, whatever it
19 may be, you are guilty of burglary. It being
20 your own home is not a defense.

21 MR. COFFEE: With all due respect, I'm not
22 mixing up anything. If that is the case, if it
23 is burglary any time you commit a felony in
24 your own home, then the statute is void for
25 vagueness, and I can give you a very simple

1 example.
 2 If I go into my house and smoke
 3 methamphetamine, under his theory that would be
 4 a felony burglary also. That seems a
 5 ridiculous extension of the law. I have never
 6 seen it charged that way because it wouldn't
 7 hold up to scrutiny. It would be void for
 8 vagueness. You couldn't figure out what you
 9 were doing inside your own house.
 10 So while I appreciate the difference
 11 between burglary and home invasion, I'm not
 12 mixing up the two.
 13 MR. TURNER: Well, I'm just telling you,
 14 that's the state of the law. If we could
 15 somehow prove in every case the individual went
 16 in their home with the intent to commit a
 17 felony, then we could.
 18 I know *Crawford* case where we allege
 19 burglary where he went into the house, and you
 20 can commit a burglary in your own home. Home
 21 invasion, you can't. I don't know of any case
 22 law where counsel can point to.
 23 I know the elements of the offense are you
 24 enter into a structure with the intent to
 25 commit a crime, assault, battery, petit larceny

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1 answer without doing some research, okay? So
 2 I'll be truthful on that.
 3 MR. COFFEE: Okay.
 4 THE COURT: I think it's best to let it
 5 go, I'll bind it up, and then you can argue
 6 that and have it researched in front of the
 7 District Court Judge.
 8 MR. COFFEE: I'd ask this Court to
 9 consider doing some of the research. I know
 10 you only have a couple weeks left, but I trust
 11 this Court's opinion on things, and I hate to
 12 bind something up when it may not be legally
 13 appropriate.
 14 THE COURT: I'll be glad to do it, if you
 15 want to.
 16 MS. MERCER: Your Honor, the statute
 17 specifically says --
 18 THE COURT: Let me have the statute. Let
 19 me have it.
 20 MR. COFFEE: The statute says any room
 21 residence.
 22 MS. MERCER: It's 205.060.
 23 THE COURT: 205 --
 24 MS. MERCER: 060.
 25 THE COURT: Let me get it. 205.060.

1 or a felony. I don't know of any case law that
 2 says anything different than that.
 3 I know with home invasion, it is
 4 specifically within it, it can't be your own
 5 residence for that particular offense.
 6 MR. COFFEE: But with all due respect,
 7 Counsel, *Crawford* was my case, and I took the
 8 issue up to the Supreme Court. It wasn't
 9 Mr. Crawford's house. It was the home of his
 10 girlfriend.
 11 MR. TURNER: Okay.
 12 MR. COFFEE: I can give her name and the
 13 verse, if you'd like. What it says is you
 14 don't have to charge individual rooms in a home
 15 particularly --
 16 THE COURT: With burglary.
 17 MR. COFFEE: -- when you come in for a
 18 burglary. It's just individual rooms of the
 19 home, but it wasn't his home. He drove from
 20 Pahrump with his gun. The prelim was in front
 21 of this Court, in fact.
 22 MR. TURNER: Okay. Either way, it doesn't
 23 change the fact. I think we've proven the
 24 elements for a burglary.
 25 THE COURT: Right now, I don't know the

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1 MR. COFFEE: The statute doesn't make a
 2 distinction between your home or somebody
 3 else's home.
 4 THE COURT: That's the --
 5 MR. COFFEE: I agree with that.
 6 MS. MERCER: Or would there be one that
 7 states that there's not.
 8 MR. COFFEE: You'd think there would be
 9 something. I think there probably is.
 10 *Crawford* is not it.
 11 MR. TURNER: And I'd also ask the Court to
 12 review the home invasion statute where it talks
 13 about to enter a residence or structure without
 14 permission, so that there is that added element
 15 that we have to prove.
 16 MR. COFFEE: And so the playing field
 17 is --
 18 THE COURT: Well, I think the issue is
 19 whether a person can be charged with burglary
 20 by entering a home which the person owns.
 21 MR. COFFEE: That is the issue because
 22 there are some cases that say what Mr. Turner
 23 is saying. For example, by going into a
 24 7/11, even though I have a public license
 25 to enter that place, that can certainly be a

1 burglary. There's some Nevada cases on point
 2 on that.
 3 I don't know that there's anything on
 4 point when it is your own home. That's really
 5 just the crux of the question, and I think it
 6 is a different property issue, by the way, than
 7 it is when I enter a 7-Eleven under some sort
 8 of false pretense. I'm entering my own home.
 9 How can I be entering under some sort of false
 10 pretense?
 11 MR. TURNER: Consent just isn't --
 12 permission isn't an element. I'd just ask the
 13 Court for a plain reading of the statute, as
 14 opposed to home invasion, which requires
 15 permission, and you have to show that it was
 16 done without permission. And in this one, that
 17 doesn't matter. It's enters --
 18 THE COURT: Well, does the person need
 19 permission to enter a person's home?
 20 MR. TURNER: Well, we have to prove -- in
 21 other words, a homeowner is always going to
 22 have permission to enter into his own home.
 23 THE COURT: Right.
 24 MR. TURNER: So in a home invasion, we
 25 have to establish that they didn't have a right

1 according to the legislature.
 2 And what we're talking about here, I know
 3 he's talking about these other potential
 4 scenarios, but what we're talking about here is
 5 the facts of this case.
 6 I believe the constitutionality of the
 7 burglary statute has been upheld multiple
 8 times. It is a clear reading. If you go into
 9 a structure with the intent to commit a felony,
 10 it's a burglary, whatever it may be.
 11 MS. MERCER: And if he's challenging the
 12 constitutionality of the statute, it has to be
 13 done by a written motion and served on the
 14 A.G.'s office. This isn't the appropriate
 15 forum to challenge that.
 16 MR. COFFEE: So I'm just explaining why my
 17 statutory interpretation is correct, because if
 18 we adopt here, it would be unconstitutional.
 19 THE COURT: Well, I can do one of two
 20 things. I've got to admit I don't know the
 21 answer to it without sufficient research of
 22 whether a person can be charged with burglary
 23 for entering his or her own home when they have
 24 a key and all that. That's the issue.
 25 MR. COFFEE: And there might be some law

1 to be there.
 2 THE COURT: Right.
 3 MR. TURNER: It was done without
 4 permission. In a burglary, that's not
 5 required. We just have to prove a specific
 6 intent. We have to prove entry and a specific
 7 intent to commit one of the enumerated
 8 offenses.
 9 MR. COFFEE: But, again, if it's that
 10 broad, if I call somebody to commit a fraud on
 11 the telephone, I've committed a burglary --
 12 MR. TURNER: Yes.
 13 MR. COFFEE: -- by making a call in my own
 14 house to say, "Please buy these vitamins that
 15 aren't actually good for you," or whatever it
 16 might be. That seems unduly expansive and
 17 seems unconstitutional.
 18 MR. TURNER: Well, now he's arguing the
 19 constitutionality of it.
 20 MR. COFFEE: I'm arguing both. I'm
 21 arguing either it doesn't apply, or if it does
 22 apply, it's unconstitutional.
 23 MR. TURNER: I mean we don't charge those,
 24 but because we elect not to charge them in the
 25 D.A.'s office, doesn't mean it's not a burglary

1 that I'm not aware of.
 2 THE COURT: I can do one of two things,
 3 you know, send it up, and you can address it
 4 and argue it in District Court. I think that
 5 would be the best where you have more time,
 6 because you are going to have briefs and
 7 briefs, and my time here is short, as you well
 8 know.
 9 MS. MERCER: Correct.
 10 THE COURT: So I think it is best. I
 11 don't know the answer. I'll let the record
 12 know, but I think it should be researched and
 13 it should be argued in the District Court, and
 14 properly briefed, and at that time, allow the
 15 District Court Judge to make a decision.
 16 MR. COFFEE: And in regards to that,
 17 working on that assumption, the Court is making
 18 a factual finding that coming into the house is
 19 enough to support probable cause for burglary,
 20 coming into the house with a weapon?
 21 THE COURT: Do what now?
 22 MR. COFFEE: There's a factual question
 23 and a legal question. Can you burglarize your
 24 own house? You got a factual question. Did
 25 they establish factually a burglary, to

1 establish probable cause for a burglary
2 factually?
3 MR. TURNER: I think --
4 MR. COFFEE: Can he --
5 MR. TURNER: Is there sufficient evidence
6 to support a specific intent when he entered
7 that he was going to commit assault and/or
8 battery and --
9 MS. MERCER: Or murder.
10 MR. TURNER: -- or murder. And we've
11 already submitted on that argument.
12 THE COURT: Well, that will be a question
13 of fact for the jury to determine as far as I'm
14 concerned.
15 I think the State's met the burden, as far
16 as I'm concerned, that a person who enters a
17 house with a gun and, you know, with the
18 intent.
19 MR. COFFEE: Fair enough. That was the
20 only question as to whether or not the Court
21 was finding probable cause and the intent,
22 because if we do a writ at some point, it
23 would probably be on both issues, and it's
24 better to have a clear ruling on the record.
25 Moving forward.

1 THE COURT: Okay. And I'm going to have
2 that looked up myself because before I leave I
3 want to get an answer.
4 MR. COFFEE: I will submit on Counts II
5 through IV, Count V and Count VI, and there is
6 one argument, rather than going in -- in five
7 and six.
8 MR. TURNER: Okay.
9 MR. COFFEE: I think that Counts V and VI
10 should be combined. I think Counts VI and
11 VII -- let's see, let me make sure I'm doing
12 this right. Five and six, six and seven, eight
13 and nine, and it is every other count. I think
14 there should be one count of child abuse and
15 neglect for each child, not two counts.
16 The way they pled it, if you take a look
17 at the way this is pled, and it's essentially a
18 consistent pleading for each child, right?
19 MR. TURNER: Correct.
20 MR. COFFEE: Okay. The way they've pled
21 it, it says, okay, on Count V, by discharging a
22 firearm inside the child's home, in the
23 proximity of the child.
24 If you take a look at Count VI, it says by
25 shooting the child's mother. Okay. It is part

1 and parcel. It is really the same activity.
2 It is shooting with children nearby.
3 Now, I think there is a question
4 factually, but it is probably a jury question,
5 is whether it is child abuse and neglect simply
6 firing a weapon inside a home, which is what
7 they've pled. This is another issue that we
8 will writ. But we'll submit on that at this
9 point.
10 But I think it's really one count child
11 abuse and neglect. It's one incident. It's
12 not two firings of the weapon. I don't think
13 there's been any facts to support two charges.
14 I think they should be combined, one count to
15 each of the children, and we'd submit that to
16 the Court.
17 MR. TURNER: And, Judge, what we've done
18 in those two counts, as the Court can see, is
19 we did allege two separate counts for each
20 child, but what we're alleging are two separate
21 things.
22 As the Court is aware, with child abuse,
23 you have a situation where you either cause
24 physical injury or place the child in a
25 situation where physical injury may result.

1 We've charged that for each of those for him
2 discharging that firearm in the residence with
3 the children being present.
4 But there's also the alternative, the
5 other theory under child abuse, which is cause
6 them to suffer unjustifiable mental injury or
7 be placed in a situation where mental injury
8 may result.
9 So there may be a circumstance where the
10 jury, when we go in front of the jury, they may
11 decide that, you know what, there wasn't a risk
12 of harm to this child, physical harm, but
13 nevertheless, him murdering their mother in
14 their presence, not seeking help for her,
15 leaving the children there, that would result
16 in mental injury to that child.
17 So that is a separate act or separate
18 circumstance that we're arguing under that same
19 statute, and the statute allows two separate
20 theories.
21 MR. COFFEE: What I would suggest is
22 combining the counts into a single count and
23 making them disjunctive, or by doing this, or
24 doing that. I don't have a problem doing it
25 that way.

1 THE COURT: I think that would be the best
2 way of doing it. I think by going in, I think
3 where the endangerment took place is not when
4 he entered in at first, but when the shooting
5 took place. That's where it is, so I sort of
6 agree with counsel that you can reword that and
7 have one count with each child.
8 MR. COFFEE: And I don't mind binding
9 over -- combining the language again from both
10 counts. I'm just stating it's disjunctive,
11 that he prove either theory that they like, but
12 what they can't do is charge him separate
13 counts for that. That's the problem.
14 MR. TURNER: Well, I don't know of any
15 case law for that either. I mean while we can
16 combine the two and/or. I mean what we're
17 alleging is two separate --
18 THE COURT: I agree with counsel there. I
19 agree that the fact that coming in with the
20 child in danger with the gun and when the
21 shooting took place. That would do it.
22 In other words, he coming in, they did not
23 see the gun, and went into the room. And after
24 the shooting took place is where the child was
25 in danger. They didn't know what was going to

1 MR. TURNER: Yes, Judge.
2 THE COURT: And/or, but not two in each
3 one.
4 MR. TURNER: Okay.
5 THE COURT: Yeah, I agree with counsel
6 that to have that amended as to and/or where
7 there's five counts of child abuse and neglect,
8 instead of ten.
9 MR. COFFEE: So, Judge, just so we're
10 clear on what the Court will be doing is
11 binding over Count V, incorporating the
12 language of Count VI in the alternative. Is
13 that appropriate, Counsel?
14 MR. TURNER: I think that's what the
15 Court's ruling is to combine those in theory as
16 to one.
17 THE COURT: Right.
18 MR. COFFEE: And the same thing with seven
19 and eight, binding over Count VII, and
20 incorporating language in Count VIII in the
21 alternative. Same thing with nine and ten, and
22 11 and 12, and 13 and 14.
23 THE COURT: That's correct. Now, what
24 we're doing is. What we'll do is -- hold it.
25 We'll bind them over like on Count V with

1 take place. He was home. He could walk in.
2 He was their dad. So I agree with counsel. I
3 agree.
4 MS. MERCER: But, Your Honor, the way that
5 we pled it is the --
6 THE COURT: Well, why don't you plead it
7 like that in one count?
8 MS. MERCER: We're not alleging that he
9 endangered the child when he came into the
10 residence. We're alleging that he endangered
11 the child when he fired a firearm in close
12 proximity of them, and then separately that he
13 continued to endanger them or --
14 THE COURT: I think it is an all
15 continuation thing. I agree with counsel. I
16 agree with counsel.
17 MR. COFFEE: Would ask that it be amended
18 again. I don't think they should have to do up
19 this hearing.
20 MR. TURNER: Then we'll just consolidate
21 it and/or, so...
22 MS. MERCER: But there still will be five
23 separate counts of child abuse.
24 THE COURT: Yes, there will still be five
25 separate charges.

1 and/or in placing them in mental suffering, and
2 then dismiss Count VI.
3 MR. COFFEE: So the even numbered counts
4 would be eliminated.
5 THE COURT: Yeah, the even numbered counts
6 would be --
7 MR. COFFEE: Six, eight, ten, 12 and 14.
8 THE COURT: Right.
9 MR. TURNER: Consolidated.
10 THE COURT: Consolidated in Count --
11 Count VI would be consolidated in five. That
12 would be for Jodey.
13 And Count VIII would be consolidated in
14 seven for Jesse.
15 Count X would be consolidated in Count IX
16 for Jayce.
17 Count XII would be consolidated into
18 Count XI for Jazzy.
19 And Count XIV would be consolidated into
20 Count XIII for Jett.
21 MR. TURNER: Yes, Your Honor.
22 THE COURT: Okay. I think that is the
23 appropriate way of doing it.
24 MR. COFFEE: Very good.
25 MR. TURNER: Thank you, Your Honor.

1 THE COURT: And you've still got it there.
 2 You've still got the and/or, and you still have
 3 the whole thing.
 4 MR. TURNER: Okay.
 5 THE COURT: I think it's not a separate
 6 count.
 7 So, therefore, I'm not done yet, so,
 8 therefore, it appearing to me from the
 9 complaint on file herein that crimes have been
 10 committed, and those are the crimes that are
 11 set forth now in the amended criminal complaint
 12 in Case 12F12500X, and those are the crimes in
 13 Count I, Burglary While in Possession of a
 14 Firearm; Count II, Murder With Use of a Deadly
 15 Weapon; Count III, Attempt Murder With Use of a
 16 Deadly Weapon; Count IV, Carrying a Concealed
 17 Firearm or Other Deadly Weapon; and then
 18 Count V, Child Abuse and Neglect; as well as
 19 Count VII, Child Abuse and Neglect; as well as
 20 Count IX, Child Abuse and Neglect; as well as
 21 Count XI, Child Abuse and Neglect; and 13, as
 22 to Child Abuse and Neglect, and there's
 23 reasonable cause to believe that the defendant,
 24 Troy Richard White, committed these crimes, I
 25 hereby order said defendant to be held to

1 answer to said charges in the Eighth Judicial
 2 District Court, State of Nevada, in and for the
 3 County of Clark.
 4 MR. TURNER: Thank you, Your Honor.
 5 MS. MERCER: Thank you, Your Honor.
 6 MR. COFFEE: Thank you, Your Honor.
 7 THE CLERK: January 2nd, 1:30. Lower
 8 level, Courtroom A.
 9 MR. TURNER: May I approach briefly on an
 10 unrelated matter?
 11 MS. MERCER: What time was that?
 12 THE CLERK: Are you setting bail on this?
 13 THE COURT: I'll get with you in just a
 14 minute.
 15 MS. MERCER: What was the time?
 16 THE CLERK: 1:30.
 17 MR. COFFEE: Thanks, Judge. Good seeing
 18 you again.
 19 THE COURT: All righty.
 20 MS. MERCER: Your Honor, we've added four,
 21 five, seven and nine. It should be set in
 22 court.
 23 THE COURT: I think what we did was we
 24 have him held on no bail. So let's just hold
 25 him on no bail at this time.

1
 2 (Whereupon, the proceedings
 3 concluded.)

4
 5 ATTEST: Full, true, and
 6 accurate transcript of
 7 proceedings.

8 /s/ Carlita Jasper
 9 Carlita Jasper, CCR #346
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	able [3] 43/14 44/6 46/4	and/or [8] 67/3 77/7 81/16 82/21 83/2 83/6 84/1 85/2
'Cause [1] 22/16	about [37] 6/22 11/16 11/17 12/6 13/18 13/23 14/20 15/3 15/14 16/7 17/8 17/10 20/8 21/16 25/16 26/13 28/15 31/7 34/16 34/18 35/16 36/23 38/5 38/7 38/24 38/25 40/1 42/23 49/10 49/18 64/24 68/2 68/7 72/13 75/2 75/3 75/4	angered [1] 40/22
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so [1] 50/18	abusing [2] 36/25 37/6	another [3] 39/25 56/7 79/7
/	abusive [1] 52/13	answer [7] 10/1 19/12 71/1 75/21 76/11 78/3 86/1
/S [1] 87/8	according [1] 75/1	answering [1] 48/15
0	accurate [1] 87/6	anticipate [1] 5/6
060 [1] 71/24	acknowledge [2] 57/22 62/21	Antill [2] 62/22 63/4
1	across [2] 23/24 27/10	any [29] 5/10 5/23 7/12 15/25 21/20 31/7 33/3 33/6 37/3 40/24 41/8 43/6 44/8 48/2 48/24 49/19 50/1 51/13 53/3 53/15 64/11 66/2 67/9 68/23 69/21 70/1 71/20 79/13 81/14
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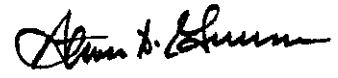
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		<p>X</p> <p>XI [2] 84/18 85/21</p> <p>XII [1] 84/17</p> <p>XIII [1] 84/20</p> <p>XIV [1] 84/19</p> <p>Y</p> <p>Y-A-V-A-P-A-I [1] 56/9</p> <p>Yavapai [1] 56/8</p> <p>yeah [6] 4/15 4/16 8/2 42/22 83/5 84/5</p> <p>year [4] 12/2 13/17 13/19 54/20</p> <p>years [7] 11/16 11/17 11/21 35/13 35/17 42/16 42/24</p> <p>yes [163]</p> <p>Yesco [1] 48/9</p> <p>yet [2] 23/2 85/7</p> <p>you [353]</p> <p>you'd [3] 35/25 70/13 72/8</p> <p>you're [12] 17/16 31/4 43/10 47/6 49/5 52/25 59/23 62/8 62/23 63/1 63/8 63/9</p> <p>you've [4] 42/10 42/23 85/1 85/2</p> <p>Young [1] 48/10</p> <p>your [71] 4/12 5/16 6/24 7/8 7/16 7/20 7/21 9/4 9/5 9/13 9/18 9/19 9/23 10/3 10/7 10/13 11/7 11/24 15/1 16/1 17/19 30/8 31/21 33/6 34/2 37/15 41/22 43/7 48/4 48/18 49/23 50/13 52/5 52/21 53/4 53/24 54/13 54/25 56/5 57/9 57/25 60/20 61/3 61/20 62/3 63/16 63/17 64/12 64/19 65/5 66/1 66/3 67/5 68/15 68/17 68/20 68/24 69/9 69/20 70/4 71/16 72/2 73/4 76/23 82/4 84/21 84/25 86/4 86/5 86/6 86/20</p> <p>yourself [2] 33/18 39/23</p>



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5 DISTRICT COURT
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7 THE STATE OF NEVADA,

8 Plaintiff,

9 v.

10 TROY RICHARD WHITE,

11 Defendant.

CASE NO. C-12-286357-1

DEPT. NO. XI

12 ORDER


13 The Petition of TROY RICHARD WHITE submitted by SCOTT L. COFFEE,
14 Deputy Public Defender, as attorney for the above-captioned individual, having been filed in the
15 above-entitled matter,

16 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that you, STEVE
17 GRIERSON, Clerk of the Eighth Judicial District Court of the State of Nevada, in and for the
18 County of Clark, issue a Writ of Habeas Corpus.

19 DATED AND DONE at Las Vegas, Nevada, this 22nd of February, 2013.

20 
21 ELIZABETH GONZALEZ
22 DISTRICT COURT JUDGE

23
24 Submitted By:
25 PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

26
27 By 
28 SCOTT L. COFFEE, #5607
Deputy Public Defender

Alvin L. Quinn

CLERK OF THE COURT

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

5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,
8 Plaintiff,

CASE NO. C-12-286357-1

DEPT. NO. XI

9
10 TROY RICHARD WHITE,
11 Defendant.

12
13 WRIT OF HABEAS CORPUS

14 To: Clark County Sheriff
15 Clark County, Nevada

16 GREETINGS:

17 We command that you have the body of the above-captioned person, by you
18 imprisoned and detained, as it is alleged, together with the time and cause of such imprisonment and
19 detention, by whatever name said above-captioned person shall be called or charged, before the
20 Honorable Elizabeth Gonzalez, District Court Judge, at her chambers or her courtroom in the
21 Regional Justice Center, 200 Lewis Avenue, Las Vegas, Nevada, in the City of Las Vegas, County
22 of Clark, State of Nevada, on March 27, 2013 at the hour of 9:00 a.m., to do and receive that which
23 shall then and there be considered concerning the said above-captioned person; and have you then
24 and there this Writ.

25 DATED AND DONE this _____ of February, 2013.

26 STEVE GRIERSON, COUNTY CLERK

27 By: *[Signature]*

DEPUTY

LOVE HAWKINS

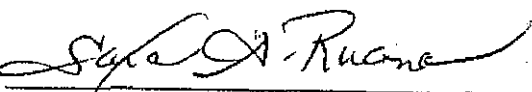
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CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of WRIT OF HABEAS CORPUS, was made this 28th
day of February, 2013 to:

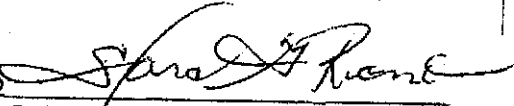
CLARK COUNTY DISTRICT ATTORNEY'S OFFICE
PDMotions@ccdancv.com

By: 
Employee of the Public Defender's Office

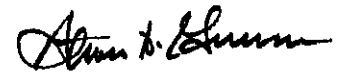
CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that service of the foregoing WRIT OF HABEAS CORPUS, was
made this 28 day of February, 2013, by facsimile transmission to:

CLARK COUNTY DETENTION CENTER
FAX # (702) 671-3763

By: /s/ S. Ruano 
Employee of the Public Defender's Office

Case Name: TROY RICHARD WHITE
Case No.: C-12-286357-1
Dept. No. XI



CLERK OF THE COURT

RWHC
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LIZ MERCER
Chief Deputy District Attorney
Nevada Bar #010681
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
State of Nevada

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of Application,
of
TROY WHITE, #1383512
for a Writ of Habeas Corpus.

Case No. **C-12-286357-1**

Dept No. **XI**

RETURN TO WRIT OF HABEAS CORPUS

DATE OF HEARING: MARCH 27, 2012
TIME OF HEARING: 9:00 A.M.

COMES NOW, DOUGLAS C. GILLESPIE, Sheriff of Clark County, Nevada,
Respondent, through his counsel, STEVEN B. WOLFSON, District Attorney, through LIZ
MERCER, Chief Deputy District Attorney, in obedience to a writ of habeas corpus issued
out of and under the seal of the above-entitled Court, and made returnable on the 27th day of
March, 2013, at the hour of 9:00 o'clock A.M., before the above-entitled Court, and states as
follows:

//

//

1. Respondent admits the allegations of Paragraph(s) 1-2 of the Petitioner's Petition for Writ of Habeas Corpus.

2. Respondent denies the allegations set forth in Paragraph 3 of the Petitioner's Petition for Writ of Habeas Corpus.

3. Paragraph(s) 4-5 do not require admission or denial.

4. The Petitioner is in the actual or constructive custody of DOUGLAS C. GILLESPIE, Clark County Sheriff, Respondent herein, pursuant to a Criminal Information or Indictment, a copy of which is attached hereto as Exhibit 1 and incorporated by reference herein.

Wherefore, Respondent prays that the Writ of Habeas Corpus be discharged and the Petition be dismissed.

DATED this 19th day of March, 2013.

Respectfully submitted,

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

BY /s/ LIZ MERCER

LIZ MERCER
Chief Deputy District Attorney
Nevada Bar #010681

POINTS AND AUTHORITIES

STATEMENT OF FACTS

In June of 2012, Echo Lucas White and Defendant, Troy White, separated. Preliminary Hearing Transcripts, 11-12.¹ Once they separated, Echo developed a relationship with Joseph Averman, with whom she had an eight (8) year long friendship. PHT 11-12. Joseph moved into the home with Echo and the five children (Jodey, Jayce, Jesse, Jett, and Jazzy) who belonged to Echo and Defendant toward the end of June. PHT

¹ Preliminary Hearing Transcripts is hereinafter abbreviated, "PHT."

1 12-13, 16. Three of the children were his biological children, but the oldest two boys were
2 not. PHT, 35-36. Defendant exercised visitation with the children on the weekends. PHT,
3 13-14. Typically, Defendant showed up at the house for his visitation after he got off of
4 work on Friday afternoons at about two or three. PHT, 14. Defendant would stay at the
5 house on Altamira during the weekend and Echo and Joseph would leave the house. PHT,
6 14.

7 Defendant was upset about his separation from Echo. PHT, 15. In fact, he was so
8 upset that he would constantly harass Echo with telephone calls and text messages. PHT, 15.
9 Once Defendant learned of the relationship between Echo and Joseph, he began threatening
10 Joseph. PHT, 16. More specifically, Defendant would say things like, "If you don't stay
11 away, I'm going to fucking kill you." PHT, 16.

12 On Friday, June 27, 2012, Joseph was at the house on Altamira with Echo and the
13 five (5) children. PHT, 17. Throughout the night of the 26th and early morning hours of the
14 27th, Defendant was calling and texting Echo incessantly. PHT, 18-20. Echo couldn't
15 answer the phone because she had gel on her hands from doing her hair. PHT, 19. Then, At
16 about 2:00 a.m. on that date, Defendant showed up at the house and was banging on the
17 bedroom window. PHT, 18-19. After Echo heard the banging, she called Defendant and
18 told him he couldn't show up and do that kind of thing because the children were sleeping.
19 PHT, 19-20. After that, Joseph and Echo went to sleep. PH, 20.

20 At about seven (7) or eight (8) o'clock the morning of the July 27, 2012, Joseph and
21 Echo awoke with the children. PHT, 20. That morning, they had breakfast and watched TV.
22 PHT, 20. Echo washed and folded laundry. PHT, 20. Later in the morning, at about 10:30,
23 Echo laid down on the couch and fell asleep. PHT, 20. Echo woke up from her nap at about
24 11:45 a.m. that morning. PHT, 21. When, she awoke, she saw several missed texts and
25 phone calls from Defendant. PHT, 23.

26 Joseph told Echo to go lay down in the master bedroom and take a nap. PHT, 22.
27 When Echo got up from the couch, to go to the bedroom, Joseph followed with the baby,
28 Jazz. PHT, 22. Joseph was going to put Jazzy in her crib for a nap. PHT, 22. As he walked

1 to the master bedroom, he heard the two (2) older boys, Jodey and Jayce, saying, "Mommy,
2 Mommy, Daddy's here." PHT, 22. Once inside, Defendant asked to speak to Echo. PHT,
3 22. Echo responded by telling him that they could just talk when he came back later to visit
4 the children. PHT, 23. At that point, Defendant looked at Joseph and said, "Joe, please, just
5 give me five minutes. She hasn't returned my calls or my texts all day long. I just need to
6 talk to her." PHT, 23. At that point, Echo looked at Joseph and told him, "Alright, just give
7 me five minutes." PHT, 23. Defendant appeared irritated. PHT, 40.

8 Echo and Defendant went into the spare bedroom. PHT, 23. The spare bedroom was
9 directly across from the master bedroom, where the baby's crib was placed. PHT, 23.
10 Joseph stayed in the master bedroom with Jazzy. PHT, 24. At the time Defendant entered
11 the house, Joseph did not see anything in Defendant's hands, and he still didn't see anything
12 in his hands at the time Echo and Defendant went into the bedroom. PHT, 23-24. Joseph
13 left the master bedroom door partially opened. PHT, 24.

14 While Joseph was in the bedroom with the baby, he heard Echo cry out, "Troy, no,
15 please don't" and "Stop!" PHT, 25. Joseph was alarmed by this and opened the door. PHT,
16 24-25. When he opened the master bedroom door, Joseph saw Echo trying to come out of
17 the door to the spare bedroom. PHT, 25. Next, Joseph saw Defendant pull Echo back into
18 the room, push her into the wall, and then shoot her. PHT, 25. The wall that Defendant
19 shoved Echo into separated the room from the hallway and was directly across from the
20 baby's crib. PHT, 27. Defendant had the gun in his hand and was holding it at waist level.
21 PHT, 26. After being shot, Echo buckled over and fell to the floor. PHT, 26. At that point,
22 Defendant turned and shot Joseph in the arm and the abdomen. PHT, 27. When Joseph was
23 shot, he was standing in the doorway of the master bedroom and Defendant was standing in
24 the doorway to the spare bedroom. PH, 28. Joseph fell to the floor in the masterbedroom
25 after being shot. PHT, 27-28.

26 Once Joseph was shot, Defendant came into the master bedroom. PHT, 28. He told
27 Joseph, "I told you this would happen." PHT, 29. Jodey and Jayce then came to where
28 Joseph and Echo were laying to check on them. PHT, 29. The two became hysterical. PHT,

1 29. The children shouted at Defendant, "We need to call for help. You killed Mommy."
2 PHT, 29. Defendant responded by telling them that he tried to call but his phone wasn't
3 working. PHT, 29. Then, Defendant began trying to corral the kids into the same room.
4 PHT, 29.

5 Jayce got out of the room and went to check on Joseph. PHT, 30. Joseph asked Jayce
6 to go get his cell phone. PHT, 30. Jayce got the phone and told Defendant that he was
7 giving it to Joseph to call for help. PHT, 30. Troy then went to the master bedroom and
8 stood over Joseph with the gun to his head, took the phone, and told him, "You ain't calling
9 nobody." PHT, 30. Defendant also told him that if he was going to prison, he was going to
10 make it worth it. PHT, 31.

11 Eventually, the police and paramedics arrived and took Joseph to the hospital. PHT,
12 32. When Joseph was being loaded into the ambulance, he noticed that Echo's car (a Silver
13 Dodge Durango) was missing. PHT, 32.

14 At the time their mother was shot, the two oldest boys, Jayce and Jodey, were in the
15 hallway, Jazzy was in her crib, and the two other boys were somewhere in the house. PHT,
16 26. When Joseph was shot, he was standing immediately next to Jazzy's crib in which she
17 was situated. PHT, 51-52. After Joseph and Echo were shot, the children were crying and
18 hysterical. PHT, 51-52.

19 Det. Travis Ivie responded to the scene at 325 Altamira on July 27, 2012 to
20 investigate the homicide of Echo White and shooting of Joseph Averman. PHT, 54. Upon
21 arrival, he observed a spent bullet in the driveway. There was also a black and white
22 backpack on the driveway with an empty gun holster inside. PHT, 55. In addition, they
23 located a bullet hole on the exterior of the residence. PHT, 55. Also, when he entered the
24 residence, he located a spent shell casing for a 9 millimeter handgun in the spare bedroom
25 (craft room). PHT, 55. Inside the master bedroom, he located a bullet hole indicating that
26 the bullet went through the bedroom and exited out of the front of the house. PHT, 55. A
27 third spent shell casing in the hallway. PHT, 56.

28 //

1 Later that day, Det. Ivie traveled to the Yavapai County Sheriff's Office in Prescott,
2 Arizona and came into contact with Defendant. While at that office, a search warrant was
3 executed on the Silver Dodge Durango which Defendant took from the residence after
4 shooting Echo and Joseph. PHT, 56. During the search of the vehicle, they located a 9 mm
5 firearm bearing Serial No. TOA33791. The firearm was unloaded but next to the firearm
6 were two magazines. PHT, 56. One magazine contained 12 rounds and the other contained
7 9. PHT, 56. The headstamp on the cartridge cases matched those found at the scene. PHT,
8 56. Defendant had no concealed carry permit on the date of the offense. PHT, 53.

9 An autopsy conducted by Dr. Lisa Gavin of the Coroner's office determined that the
10 cause of Echo's death was the gunshot wound to her abdomen and the manner of death was
11 homicide. PHT, 53-54.

12 Following the preliminary hearing Defendant was held to answer the charges
13 contained in the Information. Defendant was arraigned on January 9, 2013. The instant
14 Petition for Writ of Habeas Corpus was filed on February 4, 2013. The State's Return
15 follows.

16 ARGUMENT

17 **I. SUFFICIENT EVIDENCE WAS PRESENTED TO ESTABLISH SLIGHT OR** 18 **MARGINAL EVIDENCE THAT DEFENDANT COMMITTED THE** **CHARGED CRIMES.**

19 In determining whether there is probable cause to hold the Defendant to answer for
20 trial in the District Court, the Court is not "concerned with the prospect that the evidence
21 presently in the record may, by itself, be insufficient to sustain a conviction." Sheriff v.
22 Hodes, 96 Nev. 184, 186, 606 P.2d 178, 180 (1980). Instead, the court's finding of
23 "[p]robable cause to support a criminal charge '[m]ay be based on slight, even 'marginal'
24 evidence . . . because it does not involve a determination of the guilt or innocence of an
25 accused.'" Sheriff v. Steward, 109 Nev. 831, 835, 858 P.2d 48, 51 (1993) (quoting Sheriff v.
26 Hodes, 96 Nev. 184, 186, 606 P.2d 178, 180 (1980)). Furthermore, "[t]o commit an
27 accused for trial, the State is...only [required] to present enough evidence to support a
28 reasonable inference that the accused committed the offense." Kinsey v. Sheriff, 87 Nev.

1 361, 363, 487 P.2d 340, 341 (1971); see also, Sheriff v. Milton, 109 Nev. 412, 851 P.2d 417
2 (1993). Additionally, as long as the State has presented sufficient legal evidence to establish
3 probable cause, a grand jury indictment will be sustained even if inadmissible evidence may
4 have been offered. Dettloff v. State, 120 Nev. 588, 595, 97 P.3d 586, 591 (2004). Likewise,
5 “The accused’s explanation for the [events], being in the nature of a defense, whether true or
6 false, is for the trier of facts to consider at trial,” and it is not appropriately considered when
7 determining the issue of probable cause. State v. Fuchs, 78 Nev. 63, 68, 368 P.2d 869,
8 871 (1962).

9 Defendant fails to cite any apposite, binding legal authority for his proposition that
10 one cannot burglarize his or her own home. Because the law in the Nevada does not support
11 that position, the State respectfully submits that Defendant’s Petition for Writ of Habeas
12 Corpus should be denied, as set forth more fully below.

13 **A. SUFFICIENT EVIDENCE WAS PRESENTED TO SUSTAIN THE**
14 **BURGLARY CHARGE AS CONSENT TO ENTER IS NOT A**
15 **DEFENSE.**

16 Burglary requires entry with the intent to commit a certain enumerated illegal act,
17 including any felony. NRS 205.060. The Nevada Supreme Court has determined that
18 unlawful entry is not an element of burglary. See State v. Adams, 94 Nev. 503, 505, 581
19 P.2d 868, 869 (1979) (holding that common-law breaking is not essential element of crime
20 of burglary and only an entry with intent to commit larceny or other felony is required).
21 Furthermore, the Court has also held that consent to enter is not a defense. See, Hernandez
22 v. State, 118 Nev. 513, 531, 50 P.3d 1100, 1113 (2002)(holding that evidence was sufficient
23 to sustain the aggravator that the murder was committed in the commission of the burglary
24 of the defendant’s ex-wife’s home, regardless of whether the victim originally consented to
25 the entry); see also, Barrett v. State, 105 Nev. 361, 364, 775 P.2d 1276, 1277
26 (1989)(Defendant was properly convicted of burglary of apartment where he had been
27 staying at apartment for 10 days preceding the date of the offense and paid money toward
28 expenses because consent is not a defense to Burglary). The Nevada Supreme Court has also
refused to read other various common law elements into the statutory burglary definition.

1 See State v. Adams, *supra*, 94 Nev. 503, 581 P.2d 868 (1978); McNeely v. State, 81 Nev.
2 663, 409 P.2d 135 (1966)(*rejecting Defendant's argument that the common law element of*
3 *breaking still existed despite its absence in NRS 205.060 and noting that legislature rewrote*
4 *the burglary statute in a broader form*); Page v. State, 88 Nev. 188, 495 P.2d 356 (1972);
5 State v. Dan, 18 Nev. 345, 4 P. 336 (1884). More importantly, the Court has previously
6 upheld a burglary conviction where defendant claimed that he lived at the home of his
7 murdered ex-girlfriend, which he entered to murder her. See generally, Chappell v. State,
8 114 Nev. 1403, 1405, 972 P.2d 838, 839 (1998).

9 Because consent to enter, permission to enter, and ownership of property are not
10 defenses to the crime of Burglary, Defendant's Petition for Writ of Habeas Corpus should be
11 denied.

12 **B. THE BURGLARY STATUTE IS CLEAR AND UNAMBIGUOUS SO IT**
13 **WOULD BE IMPROPER FOR THIS COURT TO READ INTO IT A**
14 **REQUIREMENT THAT IS NOT PRESENT.**

15 Furthermore, to the extent that defense counsel asks this Court to read into the statute,
16 a limitation that does not exist, that would be improper. "It is well established that when the
17 language of a statute is plain and unambiguous, and its meaning clear and unmistakable,
18 there is no room for construction, and the courts are not permitted to search for its meaning
19 beyond the statute itself." *Nelson v. Heer*, 123 Nev. 26, --, 163 P.3d 420, 425 (2007).
20 However, when a statute is ambiguous, or it does not speak to the issue before the Court, it
21 may be examined through legislative history, reason, and public policy to ascertain the
22 legislature's intent. *Id.* "The meaning of the words used may be determined by examining
23 the context and the spirit of the law..." *Id.* A statute should be read as a whole, and should
24 be read to give meaning to all its parts. *Matter of Petition of Phillip A.C.*, 122 Nev. --, 149
25 P.3d 51, 57-58 (2006). Its interpretation should avoid meaningless or unreasonable results.
Id.

26 The burglary statute clearly reads,

27 A person who, by day or night, enters any house, room,
28 apartment, tenement, shop, warehouse, store, mill, barn, stable,
outhouse or other building, tent, vessel, vehicle, vehicle trailer,

1 semitrailer or house trailer, airplane, glider, boat or railroad car,
2 with the intent to commit grand or petit larceny, assault or
battery on any person or any felony, or to obtain money or
property by false pretenses, is guilty of burglary.

3 NRS 205.060. The language of the statute allows for an individual to be charged with
4 burglary of his or her own home. Conspicuously absent from the statute is any language
5 limiting its application to only residences that the offender does not have permission to enter.
6 Had the legislature intended to limit its application to only those scenarios where the
7 offender does not have permission to enter, the legislature would have worded the statute in
8 a manner similar to Home Invasion statute. More specifically, NRS 205.067, which applies
9 to Home Invasions, states, "A person who, by day or night, forcibly enters an inhabited
10 dwelling **without permission of the owner, resident or lawful occupant**, whether or not a
11 person is present at the time of the entry, is guilty of invasion of the home."

12 Given that the language of the statute is plain and unambiguous, this Court may not
13 read into the statute a requirement that does not exist. As such, the State respectfully
14 submits that Defendant's Petition for Writ of Habeas Corpus should be denied.

15 CONCLUSION

16 In light of the foregoing, the State respectfully requests that this Honorable Court
17 DENY Defendant's Writ of Habeas Corpus.

18 DATED this 19th day of March, 2013.

19 Respectfully submitted,

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

22
23 BY /s/ LIZ MERCER

24 LIZ MERCER
25 Chief Deputy District Attorney
26 Nevada Bar #0010681
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SCOTT COFFEE, DPD
e-mail: coffeesl@ClarkCountyNV.gov

hjc/SVU:DVU


CLERK OF THE COURT

1 NOAS
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 STEVEN S. OWENS
6 Chief Deputy District Attorney
7 Nevada Bar #004352
8 200 Lewis Street
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 v.

12 TROY RICHARD WHITE,
13 Defendant(s).

Case No. 12-C286357-1
Dept. No. XI

NOTICE OF APPEAL

14 TO: TROY RICHARD WHITE, Defendant; and

15 TO: SCOTT L. COFFEE, Deputy Public Defender for Defendant and


16 TO: ELIZABETH GONZALEZ, District Judge, Eighth Judicial District Court,
17 Dept. No. XI

18 NOTICE IS HEREBY GIVEN THAT THE STATE OF NEVADA, Plaintiff in the
19 above entitled matter, appeals to the Supreme Court of Nevada, pursuant to NRS
20 177.015(1)(b) from the district court's dismissal of a Count of Burglary on March 27, 2013.

21 Dated this 27th day of March, 2013.

22 STEVEN B. WOLFSON,
23 Clark County District Attorney

24 BY


25 STEVEN S. OWENS
26 Chief Deputy District Attorney
27 Nevada Bar #004352
28

1 CERTIFICATE OF MAILING

2 I hereby certify that service of the above and foregoing NOTICE OF APPEAL was
3 made this 27th day of March, 2013, by depositing a copy in the U.S. Mail, postage pre-paid,
4 addressed to:

5
6 SCOTT L. COFFEE
Deputy Public Defender
7 309 South Third Street, Ste. 226
Las Vegas, Nevada 89155

8
9 ELIZABETH GONZALEZ
Eighth Judicial District Court, Dept. XI
10 Regional Justice Center
200 Lewis Avenue
11 Las Vegas, Nevada 89101

12
13
14 BY Elleen Davis
15 Employee, District Attorney's Office

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27 SSO/ed
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ORIGINAL

Alan L. Shuman
CLERK OF THE COURT

TRAN

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

TROY RICHARD WHITE,

Defendant.

CASE NO. C286357

DEPT. XI

Transcript of Proceedings

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

HEARING ON DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS

WEDNESDAY, MARCH 27, 2013

APPEARANCES:

For the State:

ELIZABETH A. MERCER, ESQ.
Deputy District Attorney

For the Defendant:

SCOTT L. COFFEE, ESQ.
DAVID LOPEZ-NEGRETTE, ESQ.
Deputy Public Defenders

RECORDED BY: JILL HAWKINS, COURT RECORDER

CLERK OF THE COURT

APR 03 2013

RECEIVED

33

1 LAS VEGAS, NEVADA, WEDNESDAY, MARCH 27, 2013, 10:34 A.M.

2 (Court was called to order)

3 THE COURT: All right. Anybody else before I go to Mr.
4 Coffee's case, which is page 13? I felt like I was in business
5 court when I was thinking about this. It's a very interesting
6 legal issue as to whether you can burgle your own house.

7 MR. COFFEE: Scott Coffee for the Clark County Public
8 Defender's office on behalf of Mr. White, along with my co-counsel,
9 David Negrete.

10 MS. MERCER: And Liz Mercer for the State, Your Honor.

11 THE COURT: Okay. And I've been hyping your case all
12 day. I was hoping people would stay for CLE credit on this very
13 interesting legal issue that both of you have briefed very well.
14 It's your motion.

15 MR. COFFEE: I agree with the Court that it's a very
16 interesting legal issue. I think it's important to note at the
17 onset that there's no Nevada case on point. I know the State cites
18 to Chappell. I'll get to that in a moment as to why it's not
19 directly on point.

20 I'm going to start with the common law, which we don't
21 hear about that much anymore because we've litigated so many things
22 in the past and we have so many directions from the Nevada Supreme
23 Court, but at common law you couldn't be guilty of burglarizing
24 your own house. And it was very simple just because it is a
25 property right. A person has an absolute right to their own