

Ann K. Lindeman
CLERK OF THE COURT

1 NOA
2 MELVYN P. SPROWSON, JR.

3 CCDC

4 330 S. Casino Center Blvd.

5 Las Vegas, NV 89101

6 Defendant - Pro Se

Electronically Filed
Sep 11 2015 08:54 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

RECEIVED

SEP - 8 2015

CLERK OF THE COURT

7
8 EIGHTH JUDICIAL DISTRICT COURT
9 CLARK COUNTY, NEVADA
10

11 THE STATE OF NEVADA,
12 Plaintiff

13 VS.

14 MELVYN P. SPROWSON, JR.,
15 (5996049)

16 Defendant

Case No. C-14-295158-1
Dept. NO. XXIII

17 NOTICE OF APPEAL
18

19 COMES NOW, MELVYN P. SPROWSON, JR.,
20 Defendant, hereby notifies this Honorable
21 Court, that the Defendant is moving to
22 appeal the Court's decision and order of the
23 Motion to Suppress Evidence hearing, heard on
24 July 01, 2015.

25 Dated this 1st day of September, 2015.
26
27

28 *M. Sprowson Jr.*

29 MELVYN P. SPROWSON, JR.

RECEIVED

SEP 08 2015

CLERK OF THE COURT

51

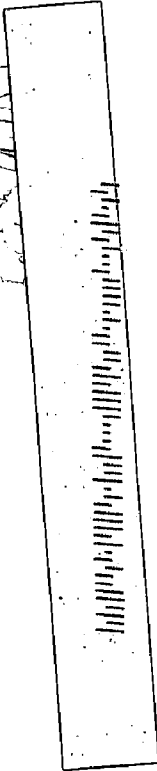
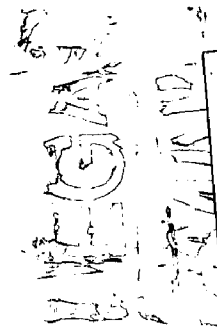
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29

Melvyn R. Sprowson, Jr. (5996049)
330 Casino Center Blvd.
Las Vegas, NV 89101

Clerk of the Court
200 Lewis Avenue 3RD Floor
Las Vegas, NV 89155-1160



SPAT EDWIN PAGE


CLERK OF THE COURT

ASTA

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK**

STATE OF NEVADA,

Plaintiff(s),

vs.

MELVYN PERRY SPROWSON, JR.,

Defendant(s),

Case No: C-14-295158-1

Dept No: XXIII

CASE APPEAL STATEMENT

1. Appellant(s): Melvyn P. Sprowson, Jr.

2. Judge: Stefany Miley

3. Appellant(s): Melvyn P. Sprowson, Jr.

Counsel:

Melvyn P. Sprowson, Jr. #5996049
330 S. Casino Center Blvd.
Las Vegas, NV 89101

4. Respondent: The State of Nevada

Counsel:

Steven B. Wolfson, District Attorney
200 Lewis Ave.
Las Vegas, NV 89101

(702) 671-2700

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Appellant Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

9. Date Commenced in District Court: January 10, 2014

10. Brief Description of the Nature of the Action: Criminal

Type of Judgment or Order Being Appealed: Misc. Order

11. Previous Appeal: No

Supreme Court Docket Number(s): N/A

12. Child Custody or Visitation: N/A

Dated This 9 day of September 2015.

Steven D. Grierson, Clerk of the Court



Mary Kielty, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Melvyn P. Sprowson, Jr.

DEPARTMENT 23
CASE SUMMARY
CASE NO. C-14-295158-1

State of Nevada
vs
Melvyn Sprowson, Jr.

§	Location:	Department 23
§	Judicial Officer:	Miley, Stefany
§	Filed on:	01/10/2014
§	Cross-Reference Case	C295158
§	Number:	
§	Defendant's Scope ID #:	5996049
§	ITAG Booking Number:	1300056900
§	ITAG Case ID:	1665338
§	Lower Court Case # Root:	13F17841
§	Lower Court Case Number:	13F17841X

CASE INFORMATION

Offense	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. FIRST DEGREE KIDNAPPING	F	07/01/2013	Case Flags:	Appealed to Supreme Court
Arrest: 11/01/2013				Bail Modified
2. CHILD ABUSE , NEGLECT, OR ENDANGERMENT WITH SUBSTANTIAL BODILY OR MENTAL HARM	F	07/01/2013		\$150,000.00
3. UNLAWFUL USE OF A MINOR IN THE PRODUCTION OF PORNOGRAPHY	F	07/01/2013		No Bail Set
4. UNLAWFUL USE OF A MINOR IN THE PRODUCTION OF PORNOGRAPHY	F	07/01/2013		Custody Status - Defendant
5. UNLAWFUL USE OF A MINOR IN THE PRODUCTION OF PORNOGRAPHY	F	07/01/2013		Remanded to CCDC
6. UNLAWFUL USE OF A MINOR IN THE PRODUCTION OF PORNOGRAPHY	F	07/01/2013		Defendant Designated Pro Per; Attorney on Standby only
				Public Defender
				Charge Description Updated
				In Custody - CCDC

Bonds

Surety #C250-70102662 \$150,000.00
5/5/2014 Active
Counts: 1, 2, 3, 4, 5, 6

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	C-14-295158-1
Court	Department 23
Date Assigned	01/10/2014
Judicial Officer	Miley, Stefany



PARTY INFORMATION

Defendant	Sprowson, Melvyn Perry, Jr.	<i>Lead Attorneys</i>
		Pro Se
Plaintiff	State of Nevada	Wolfson, Steven B 702-671-2700(W)


















DATE

EVENTS & ORDERS OF THE COURT
















INDEX

01/10/2014	 Criminal Bindover <i>Criminal Bindover</i>
01/13/2014	 Information <i>Information</i>
01/15/2014	

DEPARTMENT 23
CASE SUMMARY
CASE NO. C-14-295158-1









	 Transcript of Proceedings <i>Reporter's Transcript of Preliminary Hearing, Volume 2, January 8, 2014</i>
01/15/2014	 Initial Arraignment (1:30 PM) (Judicial Officer: De La Garza, Melisa) Events: 01/10/2014 Criminal Bindover
01/29/2014	 Arraignment Continued (1:30 PM) (Judicial Officer: De La Garza, Melisa)
02/04/2014	 Media Request and Order Party: Plaintiff State of Nevada <i>Media Request And Order Allowing Camera Access To Court Proceedings</i>
02/18/2014	 Media Request and Order <i>Media Request And Order Allowing Camera To Court Proceedings</i>
02/18/2014	 Media Request and Order <i>Media Request And Order Allowing Camera To Court Proceedings</i>
02/18/2014	 Order <i>Order</i>
02/18/2014	 Application <i>Application for Ex Parte Order to Extend Time in Which to file the Pre-Trial Writ of Habeas Corpus</i>
02/18/2014	 Receipt of Copy <i>Resceipt of Copy</i>
03/07/2014	 Petition <i>Petition for Writ of Habeas Corpus, Motion to Dismiss, and Memorandum of Points and Authorities</i>
03/07/2014	 Receipt of Copy <i>Receipt of Copy</i>
03/13/2014	 Order <i>Order to Issue Writ of Habeas Corpus</i>
03/14/2014	 Writ <i>Writ of Habeas Corpus</i>
03/14/2014	 Receipt of Copy <i>Receipt of Copy</i>
03/17/2014	 Writ <i>Writ of Habeas Corpus</i>
03/19/2014	 Calendar Call (9:30 AM) (Judicial Officer: Miley, Stefany)
03/24/2014	 Reporters Transcript <i>Reporter's Transcript of Preliminary Hearing 12/30/2013</i>

DEPARTMENT 23
CASE SUMMARY
CASE NO. C-14-295158-1














03/24/2014	CANCELED Jury Trial (1:00 PM) (Judicial Officer: Miley, Stefany) <i>Vacated - per Judge</i>
03/27/2014	 Notice of Rescheduling <i>Notice Resetting Time of Hearing</i>
03/31/2014	 Filed Under Seal Filed By: Defendant Sprowson, Melvyn Perry, Jr. <i>Return to Writ of Habeas Corpus and Opposition To Motion to Dismiss Filed Under Seal</i>
04/07/2014	 Notice of Rescheduling <i>Notice of Change of Hearing</i>
04/07/2014	 Reply <i>Reply To Return To Writ Of Habeas Corpus And Opposition To Motion To Dismiss</i>
04/07/2014	 Motion <i>Motion For Bail Reduction</i>
04/07/2014	 Receipt of Copy <i>Receipt Of Copy</i>
04/11/2014	 Opposition <i>Opposition to Defendant's Motion to Defendant's Motion for Bail Reduction</i>
04/14/2014	 Motion (9:30 AM) (Judicial Officer: Miley, Stefany) 04/14/2014, 04/21/2014 <i>Motion for Bail Reduction</i>
04/30/2014	 Petition for Writ of Habeas Corpus (11:00 AM) (Judicial Officer: Miley, Stefany)
05/05/2014	 Bail Bond <i>All Star Bonding, Inc #C250-70102662 for the Amount of \$150,000.00</i>
05/09/2014	 Notice of Motion <i>Notice of Motion and Motion to Set Conditions of Defendant's Release Upon Defendant Posting Bail</i>
05/12/2014	 Motion (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Defendants' Notice of Motion and Motion to Set Conditions of Defendant's Release Upon Defendant Posting Bail</i>
05/22/2014	 Ex Parte <i>Ex Parte Motion and Order for Release of Records</i>
05/22/2014	 Ex Parte <i>Ex Parte Motion and Order for Release of Records</i>
05/23/2014	 Motion to Continue <i>Defendant's Motion to Continue Jury Trial</i>
05/28/2014	Calendar Call (11:00 AM) (Judicial Officer: Miley, Stefany)

CASE SUMMARY


CASE NO. C-14-295158-1

05/28/2014	Motion to Continue Trial (11:00 AM) (Judicial Officer: Miley, Stefany) <i>Defendant's Motion to Continue Jury Trial</i>
05/28/2014	 All Pending Motions (11:00 AM) (Judicial Officer: Miley, Stefany)
06/02/2014	CANCELED Jury Trial (1:00 PM) (Judicial Officer: Miley, Stefany) <i>Vacated - per Judge</i>
08/26/2014	 Motion <i>Motion for Discovery</i>
08/28/2014	 Notice of Motion <i>Notice of Motion and Motion for Independent Psychological/Psychiatric Examination of the Complaining Witness</i>
09/05/2014	 Notice of Rescheduling <i>Notice of Change of Hearing</i>
09/05/2014	 Notice of Motion <i>Notice of Motion and Motion in Limine to Preclude Evidence of Victim's Prior Sexual Abuse at Trial</i>
09/05/2014	 Opposition <i>State's Opposition to Defendant's Motion for Independent Psychological/Psychiatric Examination of the Complaining Witness</i>
09/08/2014	 Motion to Continue <i>Defendant's Motion to Continue Trial Date</i>
09/10/2014	 Motion to Continue Trial (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Defendant's Motion to Continue Trial Date</i>
09/10/2014	 Order to Release Medical Records <i>Ex Parte Motion and Order for Release of Medical Records</i>
09/10/2014	 Order to Release Medical Records <i>Ex Parte Motion and Order for Release of Medical Records</i>
09/11/2014	 Opposition to Motion <i>State's Opposition to Defendant's Motion for Discovery</i>
09/18/2014	 Notice of Rescheduling <i>Notice of Change of Hearing</i>
09/22/2014	CANCELED Trial Setting (9:30 AM) (Judicial Officer: Thompson, Charles) <i>Vacated</i>
10/08/2014	CANCELED Calendar Call (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Vacated - per Judge</i>
10/13/2014	 Reply to Opposition <i>Reply to State's Opposition to Defendant's Motion for Independent Psychological/Psychiatric Examination of the Complaining Witness and Discovery Request for Her Medical/Mental Health Treatment Records</i>



DEPARTMENT 23
CASE SUMMARY
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10/13/2014	 Receipt of Copy <i>Receipt of Copy</i>
10/13/2014	CANCELED Jury Trial (1:00 PM) (Judicial Officer: Miley, Stefany) <i>Vacated - per Judge</i>
10/14/2014	 Notice of Rescheduling <i>Notice of Change of Hearing</i>
10/14/2014	 Opposition to Motion <i>Opposition to State's Motion In Limine to Preclude Evidence of Victim's Prior Sexual Abuse at Trial</i>
11/05/2014	Motion for Discovery (9:30 AM) (Judicial Officer: Miley, Stefany)
11/05/2014	Motion for Independent Medical Examination (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Defendant's Notice of Motion and Motion for Independent Psychological/Psychiatric Examination of the Complaining Witness</i>
11/05/2014	Motion in Limine (9:30 AM) (Judicial Officer: Miley, Stefany) <i>State's Notice of Motion and Motion in Limine to Preclude Evidence of Victim's Prior Sexual Abuse at Trial</i>
11/05/2014	 All Pending Motions (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Defendant's Notice of Motion and Motion for Independent Psychological/Psychiatric Examination of the Complaining Witness; State's Motion in Limine to Preclude Evidence of Victim's Prior Sexual Abuse at Trial; Deft's Motion for Discovery</i>
11/17/2014	 Order to Release Medical Records <i>Ex Parte Motion and Order for Release of Medical Records</i>
11/17/2014	 Order to Release Medical Records <i>Ex Parte Motion and Order for Release of Medical Records</i>
11/17/2014	 Order to Release Medical Records <i>Ex Parte Motion and Order for Release of Medical Records</i>
11/17/2014	 Order to Release Medical Records <i>Ex Parte Motion and Order for Release of Medical Records</i>
11/17/2014	 Order to Release Medical Records <i>Ex Parte Motion and Order for Release of Medical Records</i>
01/29/2015	 Notice of Motion <i>Notice of Motion and State's Motion to Revoke Defendant's Bail</i>
02/03/2015	 Response <i>Response to State's Motion to Revoke Defendant's Bail</i>
02/04/2015	 Motion to Revoke Bail (9:30 AM) (Judicial Officer: Miley, Stefany) <i>State's Motion to Revoke Defendant's Bail</i>
05/06/2015	 Receipt of Copy

DEPARTMENT 23
CASE SUMMARY
CASE NO. C-14-295158-1

	<i>Receipt of Copy</i>
05/06/2015	 Motion to Suppress <i>Motion to Suppress Evidence</i>
05/08/2015	 Notice of Motion <i>Ex Parte Application for Court Approval of Payment of Specific Categories of Ancillary Defense Costs</i>
05/27/2015	 Decision <i>Decision</i>
05/27/2015	 Motion (3:54 PM) (Judicial Officer: Miley, Stefany) <i>Defendant's Ex Parte Application for Court Approval of Payment of Specific Categories of Ancillary Defense Costs - MOTION GRANTED SUMMARILY - NO HEARING - DECISION ISSUED BY JUDGE - SEE DECISION FILED ON MAY 27, 2015</i>
05/27/2015	CANCELED All Pending Motions (3:54 PM) (Judicial Officer: Miley, Stefany) <i>Vacated - Set in Error</i> <i>Defendant's Ex Parte Application for Court Approval of Payment of Specific Categories of Ancillary Defense Costs; Deft's Motion to Suppress Evidence</i>
06/17/2015	 Opposition <i>State's Opposition to Defendant's Motion to Suppress Evidence</i>
07/01/2015	Motion to Suppress (11:00 AM) (Judicial Officer: Miley, Stefany) <i>Defendant's Motion to Suppress Evidence</i>
07/01/2015	Evidentiary Hearing (11:00 AM) (Judicial Officer: Miley, Stefany) <i>Evidentiary Hearing - See Decision filed on May 27, 2015.</i>
07/01/2015	 All Pending Motions (11:00 AM) (Judicial Officer: Miley, Stefany) <i>Evidentiary Hearing ; Defendant's Motion to Suppress Evidence</i>
07/06/2015	 Motion <i>Defendant's Motion To Continue Trial Date</i>
07/13/2015	 Receipt of Copy <i>Receipt of Copy Of Protected Information And Records From Montevista Hospital, Willow Springs Center, Hope Counseling, Desert Behavioral Health, Doctor Robin Donaldson, And Doctor Eugene Rosenman</i>
07/14/2015	 Receipt of Copy <i>Receipt of Copy of Protected Information And Records From Montevista Hospital, Willow Springs Center, Hope Counseling, Desert Behavioral Health, Doctor Robin Donaldson, And Doctor Eugene Ronsenman</i>
07/17/2015	 Receipt of Copy <i>Amended - To Specify Number of Exhibits - Court Exhibits 1 Through 7; Receipt of Copy of Protected Information And Records From Montevista Hospital, Willow Springs Center, Hope Counseling, Desert Behavioral Health, Doctor Robin Donaldson, and Doctor Eugene Ronsenman</i>
07/20/2015	 Motion to Continue Trial (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Defendant's Motion To Continue Trial Date</i>

DEPARTMENT 23
CASE SUMMARY
CASE NO. C-14-295158-1

07/21/2015	 Motion <i>Motion to Withdraw as Counsel of Record</i>
07/22/2015	Status Check (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Status Check: Resetting of Trial</i>
07/22/2015	Motion to Withdraw as Counsel (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Motion to Withdraw as Counsel of Record</i>
07/22/2015	 All Pending Motions (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Status Check: Resetting of Trial; John Momot Esq.'s Motion to Withdraw as Counsel</i>
07/29/2015	CANCELED Calendar Call (9:30 AM) (Judicial Officer: Bixler, James) <i>Vacated</i>
08/03/2015	CANCELED Jury Trial (1:00 PM) (Judicial Officer: Miley, Stefany) <i>Vacated</i>
08/13/2015	 Media Request and Order <i>Media Request And Order for Camera Access To Court Proceedings</i>
08/19/2015	 Status Check (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Status Check: New Counsel/Resetting of Trial</i>
08/19/2015	Motion <i>Motion to Proceed Pro Se</i>
08/24/2015	 All Pending Motions (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Status Check: Faretta Canvas/Resetting of Trial; Deft's Motion to Proceed Pro Se</i>
08/24/2015	Status Check (11:00 AM) (Judicial Officer: Miley, Stefany) <i>Status Check: Faretta Canvas/Resetting of Trial</i>
08/24/2015	 Motion (11:00 AM) (Judicial Officer: Miley, Stefany) <i>Deft's Motion to Proceed Pro Se</i>
08/28/2015	 Decision <i>Decision and Order</i>
08/31/2015	 Status Check (9:30 AM) (Judicial Officer: Miley, Stefany) 08/31/2015, 09/21/2015 <i>STATUS CHECK: DISCOVERY</i>
09/08/2015	 Notice of Appeal (criminal) <i>Notice of Appeal</i>
09/09/2015	 Case Appeal Statement <i>Case Appeal Statement</i>
10/28/2015	Calendar Call (9:30 AM) (Judicial Officer: Miley, Stefany)
11/02/2015	Jury Trial (1:00 PM) (Judicial Officer: Miley, Stefany)

DISTRICT COURT
CLARK COUNTY, NEVADA


CLERK OF THE COURT

STATE OF NEVADA,

Plaintiff,

v.

MELVYN SPROWSON, JR.

Defendant.

CASE NO.: C295158

DEPARTMENT XXIII

DECISION AND ORDER

This matter came before the court on Monday, July 1, 2015, at 11:00 A.M. for an evidentiary hearing on Defendant's Motion to Suppress Evidence, filed May 6, 2015. The State filed an Opposition to that Motion on June 17, 2015. Defendant Sprowson was present in custody at the July 1, 2015 hearing, represented by counsels John Momot, Esq. and Yi Lin Zheng, Esq. Counsel Jacqueline Bluth, Esq. was present on behalf of the State of Nevada.

Defendant argued that all evidence and the fruits thereof, should be suppressed because they were obtained pursuant to a warrantless and pretextual search on or about November 1, 2013. Defendant further argued that the police utilized personnel at the Defendant's apartment complex as instruments/agents of the State. Thus, the "knock and talk" police subsequently conducted at Defendant's residence and the evidence gathered violated the United States and Nevada constitutions. The State objected to Defendant's contentions and denied that apartment complex personnel acted as instruments/agents of the state or that the police acted improperly in obtaining evidence.

1 Following introductions by opposing counsel, the State called witnesses Kathy
2 Young-Harris, Gilbert Lindsey, and Detective Gary Abbott to testify as to their accounts of
3 the events that transpired on November 1, 2013, the date the victim in the instant case was
4 found at the Defendant's apartment. After the State's witnesses testified, the Defendant's
5 counsel called Defendant to testify. The testimonies given during the July 1, 2015 hearing
6 are summarized in the following section of this Decision.
7

8 I. FINDINGS OF FACT

9 A. Testimony of Kathy Young-Harris

10 On direct examination by the State, Ms. Young-Harris (hereinafter "Harris") testified
11 that she had been the manager of Mesa Town Homes, located near the intersection of
12 Russell and Nellis streets, for the last twelve years. Her job duties include tenant selection,
13 responding to complaints, collecting rent from tenants, and responding to various other
14 tenant issues. With respect to the Defendant, Harris testified she did not see him every day;
15 however, she was aware what he looked like from her encounters with him at the complex.
16 Harris was able to identify Defendant in Court. Harris also noted that she never saw others
17 coming or going from Defendant's apartment.
18

19 Harris testified that she was at work on November 1, 2013, the date at issue. On this
20 date, there was an issue with a fire alarm going off near Defendant's apartment. The tenants
21 in apartments 146 and 142 brought the fire alarm to Harris' attention. Harris indicated
22 Defendant lived in apartment one hundred forty three (143), located in building 7. Each
23 building in the apartment complex was a four-plex, and the Defendant's apartment shared a
24 building with apartments numbered 144, 145, and 146. Based upon the complaints, the
25 alarm noise was believed to originate in Building 2, Building 8, or Building 7. Building 7 is
26 located in between Building 2 and 8.
27
28

1 Harris noted that there had previously been a fire at the complex, and that she was
2 "terrified" of another fire occurring at the complex. Harris indicated that the prior fire had
3 been burning for a while before it was finally discovered, and because of that, Harris was
4 very cautious regarding reports of fire alarms going off. However, Harris indicated that
5 most reports of fire alarms turned out to be alarm clocks that residents neglected to turn off.
6

7 In response to the alarm reports on November 1, 2013, Harris asked the maintenance
8 man, Gilbert Lindsey, to go unit to unit and check to see if a fire alarm or smoke detector
9 was going off in any unit. As Harris was talking to Gilbert Lindsey, Officer Abbott arrived
10 at the management office. Harris indicated that Officer Abbott was dressed in a police
11 uniform and explained that he was looking for a minor that could be on the property.
12

13 Harris testified that each tenant in the apartment complex agrees to give the complex
14 permission access to enter his or her respective apartments to conduct emergency
15 maintenance work. Harris indicated she stayed in constant communication with Lindsey
16 while he checked the units. According to Harris, in the course of his inspection, Lindsey
17 talked to the tenant in apartment 146, who was sitting outside of building seven. Thereafter
18 Lindsey went to apartments 143, 144, and 145 to check the alarms in those apartments. Unit
19 144 was vacant. Defendant's apartment 143, shared a wall with unit 144. Lindsey decided
20 to contact unit 143 to see if it was the origin of the alarm. Lindsey reported to Harris that
21 he first knocked on the door of 143, announced his presence, and went inside after receiving
22 no response. Upon entry, Lindsey discovered a female in the residence who told him that
23 she was 18 years old and was the Defendant's niece. Upon identifying herself, Lindsey left
24 the residence. Harris stated that after going into apartment, 143 Lindsey continued to check
25 other apartments at the request of Harris, including apartments in Building 2.
26

27 According to Harris, Officer Abbott was in the office when Lindsey entered
28 apartment 143. Harris denied Officer Abbott asking her to go into or send someone into the

1 Defendant's unit and denied giving the Officer any access to the apartment. Harris also
2 testified that on this date she told Officer Abbott that a private investigator had previously
3 visited the complex asking questions about the defendant.

4 COURT FINDS the testimony of Kathy Young-Harris credible.

5 **B. Testimony of Gilbert Lindsey**

6 On direct examination by the State, Gilbert Lindsey (hereinafter "Lindsey") testified
7 that he was employed by Mesa Ridge Townhomes, and had worked there for the last eight
8 years. His job duties included responding to and repairing all maintenance issues at the
9 apartment complex.
10

11 Lindsey testified that on November 1, 2013, he was working at the complex and
12 dealing with a fire alarm issue. He first became aware of the alarm when Harris called him
13 and spoke with him about the tenant complaints regarding a possible fire alarm noise.
14 Lindsey stated he always investigates when a fire alarm goes off because of the prior fire at
15 the complex.
16

17 Harris told Lindsey the general area that the fire alarm was building seven or eight.
18 After receiving the call from Harris about the fire alarm, Lindsey went to the management
19 office to get the keys to the apartments in those buildings. Lindsey stated that upon arriving
20 at apartment 143, he knocked on the front door and announced his presence as
21 "maintenance." Hearing no response, Lindsey used his key to enter apartment 143. When
22 Lindsey entered the apartment, the television was on and it appeared as though someone had
23 just eaten, due to the leftover food in the living area. Lindsey first checked the downstairs
24 smoke detector to see if it was making any noises. Not hearing any noise from the
25 downstairs smoke detector Lindsey then went upstairs to check the other smoke detector.
26 On the way to the second smoke detector, however, Lindsey ran into a woman. He first
27 asked for the woman's age, because if she were too young then he would have to leave the
28

1 apartment. The woman in the apartment identified herself as the Defendant's niece, and
2 stated that she was 18 years old. Lindsey then checked the upstairs alarm and left the
3 apartment. As Lindsey was leaving the apartment, he shut the front door, turned around, and
4 saw an officer standing behind him outside the front door. The officer asked Lindsey if
5 anyone was in the apartment, to which Lindsey answered "yes, a woman." Lindsey added
6 that while he was checking the alarm in apartment 143, he was on the phone with Harris.
7

8 Lindsey testified that he did not open the apartment door for the officer, but that the
9 officer himself knocked on the front door. After the officer knocked, Lindsey testified that
10 the woman in the apartment opened the front door. Lindsey then left apartment 143 and
11 continued searching a few other apartments for the source of the alarm. When Lindsey
12 went to apartment 146, the tenants were home so he did not have to use his key to enter.
13

14 On cross-examination, Lindsey stated that he does not keep a record of the
15 apartments he checks. He only documents anything in regards to specific apartments if he
16 needs to create a work order for repairs. Lindsey stated that on November 1, 2013, Harris
17 asked him to check all units in Building 7 and the vicinity, asking him "to check them all
18 out." Lindsey went to apartment 143 first because it was the closest unit from the office
19 when he used the shortcut he normally used. When he approached unit 143, however,
20 Lindsey testified that he could not hear any noise in the vicinity.
21

22 COURT FINDS the testimony of Gilbert Lindsey credible.

23 **C. Testimony of Detective Gary Abbott**

24 On direct examination by the State, Detective Gary Abbott (hereinafter "Abbott")
25 testified that he was a Detective for the Clark County School Police and was involved in the
26 2013 investigation concerning the victim in the instant case. Abbott testified that the
27 Defendant was a person of interest regarding the victim's whereabouts, and on November 1,
28 2013, Abbott chose to investigate the apartment complex where the Defendant resided.

1 Upon arriving at the complex, Abbott made contact with the apartment manager
2 Kathy Young-Harris. She stated that the Defendant was the only person listed on the lease.
3 Abbott stated that when he arrived at the management office, he and Harris were the only
4 people in the office. During his conversation with Harris, she stated that a fire alarm might
5 be going off in apartment 143 or 144. While Abbott was in the office, Harris sent the
6 maintenance man Gilbert Lindsey to check on those units. Abbott testified that he never
7 asked Harris to check either apartment 143 or 144 and never asked her for access into either
8 apartment.
9

10 Shortly thereafter, Lindsey radioed back to Harris that there was a woman present in
11 apartment 143. Abbott then told Harris he was going to go to the Defendant's apartment.
12 Upon arriving at apartment 143, Abbott made contact with Lindsey at the apartment's front
13 door. After making contact with Lindsey, Abbott knocked on the front door of apartment
14 143. After Abbott knocked on the door, he recognized the woman who answered the door
15 as the minor he was searching for. After opening the door and seeing Detective Abbott, the
16 woman began yelling telling Abbott he had "no business being here." She also told Abbott
17 he could not come into the apartment. The minor stood by the living room couch and
18 continued yelling at Abbott. Abbott then entered the apartment and told the woman that he
19 knew who she was. Abbott stated the door was open at all times while Abbott was in the
20 residence. Abbott never left the entryway of the residence. While standing in the doorway,
21 Abbott radioed for backup units and waited for those units to arrive. Abbott testified that he
22 did not conduct any search or walk around the apartment while waiting for backup units to
23 arrive.
24

25
26 The other units arrived approximately ten to fifteen minutes after Abbott radioed for
27 them. After the backup units arrived, Officer Schell and Sergeant Maciszak talked to the
28 minor before Abbott transported her first to Child Haven and then back to her home. Abbott

1 remained outside the apartment while the other officers conducted the interview with the
2 alleged victim.

3 On cross-examination, Abbott testified that he did not know what the other officers
4 did while they were in the residence. When asked about whether school police normally
5 investigate missing person reports, Abbott testified that school police do not normally
6 investigate those matters. However, in this case, Abbott got involved because he
7 encountered the mother of the alleged victim on a regular basis. Abbott also testified that he
8 does not know whether there is a specific procedure for locating missing persons or
9 runaways. When asked about why the other officers went into the house with the alleged
10 victim, Abbott recalled that the victim, a 16-year-old girl, was dressed only in a t-shirt and
11 underwear when she opened the door. A female officer accompanied the alleged victim
12 upstairs while she changed into appropriate clothing. Counsel for the Defendant then
13 questioned Abbott about whether he recalled the maintenance man being in the maintenance
14 office when Abbott arrived at the complex. Abbott stated he did not recall Lindsey being in
15 the office while he was in the office. Defense counsel noted that his testimony differed from
16 that given at the preliminary hearing, where Abbott stated, "He was actually in the room.
17 And then he went – the maintenance person was there." Preliminary hearing transcript, p.
18 228, ll. 12-13.

19 On further cross-examination, Abbott stated he spoke with Harris while in the
20 maintenance office and discovered that a private investigator had come to the complex
21 roughly one month earlier looking for the victim. Abbott also noted that Harris said
22 something about fire alarms going off in apartments 143 or 144.

23 Although Officer Abbott's testimony given during cross-examination at the
24 evidentiary hearing differed slightly from that given at the preliminary hearing,
25

26 COURT FINDS the testimony of Gary Abbott credible.
27
28

1 **D. Testimony of Defendant Melvyn Sprowson, Jr.**

2 Defendant Sprowson requested to give testimony during the evidentiary hearing, and
3 pursuant to that request, defense counsel called Sprowson as their only witness. Sprowson
4 testified he never gave officers or apartment management permission to enter his apartment,
5 including for maintenance emergencies. Sprowson stated that his first contact with Harris
6 was when he initially moved to the department. He denied ever signing any documents
7 giving management the right to enter his apartment without notice or permission. On past
8 occasions, Sprowson did have contact with Lindsey while he was performing work in his
9 apartment. However, Sprowson indicated that Lindsey only had permission to enter the
10 apartment when Sprowson was physically in the apartment with Lindsey, and denied having
11 any oral conversation with the apartment management permitting unauthorized entrance into
12 the residence.
13
14

15 **II. DISCUSSION**

16 The defendant requests all evidence found after Officer Abbott's allegedly illegal
17 search and seizure, suppressed, including, *inter alia*, the alleged victim's statements to
18 police officers, her laptop, and cell phone. Further, because a search warrant was issued
19 based on the items recovered from the instant search, Defendant suggests that all items of
20 evidence gained from that search warrant are the fruit of the poisonous tree. That latter
21 argument was addressed out of an abundance of caution in the State's Opposition, but as the
22 original Motion did not fully address that issue, it will not be examined in full here. Defense
23 counsel indicated that further briefing on that matter would be supplied to the Court
24 following this Decision, therefore the instant Decision will only address whether Lindsey
25 acted as the "eyes and ears" of the State, and whether Officer Abbott unlawfully searched
26 apartment 143 and/or unlawfully seized the evidence therein.
27
28

1 **A. Whether the Mesa Verde apartment staff acted as an agent of the State.**

2 The Fourth Amendment of the U.S. Constitution guarantees the right to be free from
3 unreasonable searches and seizures by government agents. U.S. CONST. AMEND. IV. A
4 defendant's Fourth Amendment rights may only be violated by an unconstitutional search of
5 a place or seizure of a person or item in which he or she has a reasonable expectation of
6 privacy. *Id.* However, the Fourth Amendment "is wholly inapplicable to a search or
7 seizure, even an unreasonable one, affected by a private individual not acting as an agent of
8 the government or with the participation or knowledge of any government official." *State v.*
9 *Miller*, 110 Nev. 690, 696, 877 P.2d 1044, 1048 (1994). The government may not use
10 private citizens to search areas on its behalf; such a ruse violates the protections of the
11 Fourth Amendment, it intrudes on a person's reasonable and subjective expectation of
12 privacy. When determining whether a private citizen is acting as an agent of the State, a
13 court must analyze the following factors: "(1) whether the government knew of and
14 acquiesced in the intrusive conduct, and (2) whether the party performing the search
15 intended to assist law enforcement efforts, or to further his own ends." *United States v.*
16 *Miller*, 688 F.2d at 657. It is the Defendant's burden to show that a private citizen was
17 acting as an agent or instrument of the government. *United States v. Gumerlock*, 590 F.2d
18 794, 799 (9th Cir. 1979), *cert denied* 441 U.S. 948 (1979). A private citizen cannot act
19 unilaterally as an agent or instrument of the state; in the absence of government knowledge
20 and acquiescence, a search is not "governmental." *See United States v. Goldstein*, 532 F.2d
21 1305, 1322 (9th Cir. 1976). Further, once a non-governmental search by a private citizen is
22 complete, subsequent involvement of government agents does not retroactively transform
23 the original intrusion into a governmental search. *See United States v. Harless*, 464 F.2d
24 953, 956-57 (9th Cir. 1972).

1 Here, the Defendant argues Mesa Ridge employees Harris and Lindsey acted as
2 agents of the state when they initiated and completed a search of the Defendant's apartment
3 on November 1, 2013. After considering the testimony and record herein, the Court does
4 not find that argument persuasive.

5 First, the first prong of *U.S. v. Miller* requires that the government must have both
6 known of and acquiesced to the intrusive conduct. During the July 1, 2015 evidentiary
7 hearing, much was made of whether Lindsey was actually present in the office when Harris
8 and Abbott discussed the Defendant's possible involvement in a missing person's
9 investigation. Defense counsel argued that Lindsey's knowledge of the investigation was
10 crucial to the determination of whether Lindsey acted as a state agent when searching
11 apartment 143. The *U.S. v. Miller* test, however, does not require the court to focus on
12 whether Lindsey had knowledge of the investigation, but rather on the government's
13 knowledge of Lindsey's search of the apartment. No witness testified that Abbott was
14 unaware of Lindsey's search of the apartment. In fact, the witnesses agreed that Abbott
15 even overheard the status of the search via the communication between Harris and Lindsey.
16 More importantly, however, is the determination of whether Abbott acquiesced to the
17 search. Harris and Lindsey testified that the fire alarm report came from residents of the
18 apartment complex prior to Abbott's arrival. As Harris was "terrified" of fires in the
19 complex, it was logical that she would direct Lindsey "to check [the apartments] all out" for
20 the source of a supposed fire alarm. There was no testimony that Abbott directed Lindsey or
21 Harris to check apartment 143 for any reason. Lindsey testified that he did not even
22 remember seeing an officer in the management office when Abbott was there, and further,
23 that Abbott did not ask him at any time to enter apartment 143. Finally, once Lindsey was
24 finished with his inspection of apartment 143, he moved onto other apartments to continue
25 his search for the source of the reported fire alarms. Though he was ultimately unsuccessful
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28

1 in his attempts at finding an alerting fire alarm, Lindsey did successfully determine the
2 source of the noise complaints; an alarm clock located in a nearby apartment.

3 Taking all the of the testimony given at the July 1, 2015 evidentiary hearing into
4 consideration, along with the records of the preliminary hearings in this case,

5 COURT FINDS, there is no indication that Abbott used the staff of the Mesa Ridge
6 apartment complex to search the Defendant's apartment on behalf of the state.

7 COURT FINDS, the Mesa Ridge staff's inspection of the Defendant's apartment was
8 intended to further the ends of Mesa Ridge and not of the state.

9 COURT FINDS, while Abbott did know of the Mesa Ridge staff's inspection of the
10 Defendant's apartment, Abbott neither encouraged nor acquiesced to the search, as
11 the search was neither intended to assist law enforcement efforts nor did it require
12 Abbott's approval or involvement.

13 COURT FINDS the Defendant has not met his burden, under the two-pronged *U.S.*
14 *v. Miller* test, of showing that the Mesa Ridge staff acted as an agent or instrument of
15 the state.

16 **B. Whether Abbott's actions constituted an illegal search and seizure.**

17 Generally, police officers may not enter private premises and conduct a warrantless
18 search and seizure, absent certain exceptions; as such, actions violate a citizen's reasonable
19 expectation of privacy. *See Taylor v. United States*, 286 U.S. 1 (1932). When an officer
20 intrudes briefly on a front porch or on a door in a non-coercive manner to ask questions of a
21 resident, however, that resident's expectation of privacy is not violated. *See U.S. v. Crasper*,
22 472 F.3d 1141, 1156 (9th Cir. 2007). Officers may approach homes and knock without a
23 search warrant, because that is "no more than any private citizen might do." *See Florida v.*
24 *Jardines*, 133 S. Ct. 1409 at 1416 (2013), *quoting Kentucky v. King*, 563 U.S. ___, 131 S. Ct.
25 1849, 1862 (2011). This act is widely referred to as the "knock and talk" exception to the
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1 warrant requirement. *United States v. Perea-Rey*, 680 F.3d 1179, 1187 (9th Cir. 2012).
2 Some courts have held that no Fourth Amendment search occurs when, pursuant to
3 a “knock and talk”, “police officers who enter private property restrict their movements to
4 those areas generally made accessible to visitors.” *United States v. Thomas*, 430 F.3d 274,
5 277 (6th Cir. 2005), *quoting United States v. Titemore*, 335 F.Supp.2d 502, 505 (D.Vt.
6 2004). Limited entrance into the areas generally made accessible to visitors is justified by a
7 reasonable belief in the existence of an imminent threat to life or the welfare of a person
8 within the home, probable cause to believe a person reported missing is therein, or
9 reasonable belief that a person within is in need of aid. *See People v. Coddington*, 23 Cal.
10 4th 529, 2 P.3d 1081 (2000), *overturned on other grounds by Price v. Superior Court*, 25
11 Cal. 4th 1046, 25 P.3d 618 (2001). Courts have also upheld warrantless entries of private
12 residences when other exigent circumstances exist, such as to check on the welfare of
13 persons reasonably believed to need law enforcement’s assistance. *See Martin v. City of*
14 *Oceanside*, 360 F.3rd 1078 (9th Cir. 2004). An important underlying factor to be considered
15 when determining whether any exigency exists is the gravity of the underlying offense; a
16 home entry should rarely be sanctioned when there is probable cause to believe that only a
17 minor offense has been committed. *Welsh v. Wisconsin*, 466 U.S. 740, 753 (1984).

20 Here, Abbott went to the Mesa Ridge apartment complex on November 1, 2013 to
21 investigate the potential kidnapping of the alleged victim, a Class A felony in the state of
22 Nevada. Abbott knew that the Defendant lived in Mesa Ridge and intended to make contact
23 with him to determine if he knew anything about the alleged victim’s whereabouts. In
24 furtherance of his investigation, Abbott approached the front door of the Defendant’s
25 apartment after Lindsey had left and knocked briefly, thus, conducting the first half of a
26 “knock and talk.” There is no evidence that Abbott threatened or coerced the alleged victim
27 into answering the door and opening it. Once the front door opened, however, Abbott could
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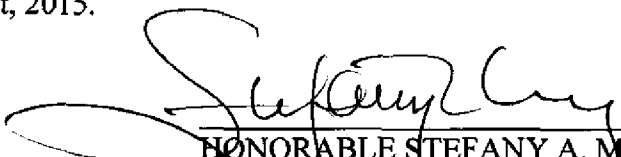
1 plainly see that the woman in the apartment was the missing person and potential
2 kidnapping victim. Alternatively, once the alleged victim opened the door, she exposed the
3 evidence of a purported kidnapping crime—her own person—to Abbott, who was standing
4 outside the Defendant's front door, a lawful vantage point. Although the alleged victim
5 stated Abbott could not come in, Abbott merely stepped over the threshold of the front door
6 as a means to conduct a check of the alleged victim's welfare. Minimal entry into the
7 Defendant's front door area was not unreasonable here, as such, areas are often made
8 accessible to visitors and ordinary private citizens, and Abbott went no farther into the
9 apartment than was necessary to maintain visual contact with the alleged victim. As Abbott
10 could see from the vantage point of the front door that the alleged kidnapping victim was
11 present in the Defendant's house, Abbott reasonably believed that the alleged victim needed
12 law enforcement assistance. Here Abbott had probable cause to believe that a missing minor
13 and/or kidnapping victim was located within the Defendant's residence. Thus, numerous
14 circumstances gave rise to an exigency that warranted Abbott's minimal and brief entry into
15 the Defendant's residence, despite lacking a search warrant. Therefore,
16
17

18 COURT FINDS, Abbott's "knock-and-talk" and subsequent entry into the
19 Defendant's apartment did not violate the Defendant's Fourth Amendment rights.
20

21 III. CONCLUSION

22 COURT ORDERS Defendant's Motion to Suppress Evidence DENIED.
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25 Dated this 28th day of August, 2015.
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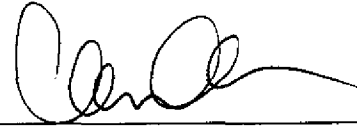
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HONORABLE STEFANY A. MILEY
DISTRICT COURT JUDGE
DEPARTMENT XXIII

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CERTIFICATE OF SERVICE

I hereby certify that on August 28, 2015, I e-mailed a copy of the foregoing Decision to Michael Yohay, Esq, James R. Sweetin, Esq., and to Jacqueline Bluth, Esq., and mailed a copy to Mr. Melvyn P. Sprowson, Jr., ID # 05996049 at CCDC, 330 S. Casino Center Blvd., Las Vegas, NV 89101.

By: _____



Carmen Alper
Judicial Executive Assistant

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 15, 2014

C-14-295158-1 State of Nevada
 vs
 Melvyn Sprowson, Jr.

January 15, 2014 1:30 PM Initial Arraignment

HEARD BY: De La Garza, Melisa **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Monique Alberto

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

PRESENT: Pace, Barter G. Attorney
 Sprowson, Melvyn Perry, Jr. Defendant
 Zheng, Yi Lin Attorney

JOURNAL ENTRIES

- Ms. Zheng requested matter be continued 2 weeks to confirm as counsel. COURT SO ORDERED.

CUSTODY

1/29/14 1:30 P.M. ARRAIGNMENT CONTINUED (LLA)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 29, 2014

C-14-295158-1 State of Nevada
vs
Melvyn Sprowson, Jr.

January 29, 2014 1:30 PM Arraignment Continued

HEARD BY: De La Garza, Melisa **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Phyllis Irby

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

PRESENT:	Momot, John Joseph	Attorney
	Pace, Barter G.	Attorney
	Sprowson, Melvyn Perry, Jr.	Defendant
	State of Nevada	Plaintiff
	Zheng, Yi Lin	Attorney

JOURNAL ENTRIES

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

CUSTODY

3-19-14 9:30 AM CALENDAR CALL (DEPT. XXIII)

3-24-14 1:00 PM JURY TRIAL (DEPT. XXIII)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 19, 2014

C-14-295158-1 State of Nevada
 vs
 Melvyn Sprowson, Jr.

March 19, 2014 9:30 AM Calendar Call

HEARD BY: Miley, Stefany **COURTROOM:** RJC Courtroom 12C

COURT CLERK: Anntoinette Naumec-Miller

RECORDER: Maria Garibay

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Jacqueline Bluth, Deputy District Attorney, present for the State of Nevada.
Deft. Sprowson, present in custody, with Yi Lin Zheng, Esq.

Ms. Zheng advised Deft. will make a limited waiver, pursuant to NRS 34.700, since the Writ hasn't been decided. Ms. Zheng requested additional time for the State to respond to the Petition and the Defense to reply. Upon Court's inquiry, Deft. WAIVED the 60-day rule. Colloquy regarding trial dates. COURT ORDERED, trial date VACATED and RESET, 3/24/14 Petition RESET. Court directed counsel to make sure it has everything by 4/7/14.

CUSTODY

4/9/14 11:00 AM PETITION FOR WRIT OF HABEAS CORPUS (PRE-TRIAL)

5/28/14 9:30 AM CALENDAR CALL

6/2/14 1:00 PM TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 14, 2014

C-14-295158-1 State of Nevada
 vs
 Melvyn Sprowson, Jr.

April 14, 2014 9:30 AM Motion

HEARD BY: Miley, Stefany **COURTROOM:** RJC Courtroom 12C

COURT CLERK: Anntoinette Naumec-Miller

RECORDER: Maria Garibay

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Charles Thoman, Deputy District Attorney, present for the State of Nevada,
Deft. Sprowson, present in custody, with John Momot, Esq., and Yi Lin Zheng, Esq.

Mr. Momot advised he spoke with Mr. Sweetin and Mr. Sweetin needs additional time. At request of
Mr. Momot, COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 4/21/14 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 21, 2014

C-14-295158-1 State of Nevada
 vs
 Melvyn Sprowson, Jr.

April 21, 2014 9:30 AM Motion

HEARD BY: Miley, Stefany **COURTROOM:** RJC Courtroom 12C

COURT CLERK: Anntoinette Naumec-Miller

RECORDER: Debbie Winn

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Jacqueline Bluth, Deputy District Attorney, present for the State of Nevada.
Deft. Sprowson, present in custody, with John Momot, Esq.

Court noted bail was set at \$650,000.00. Arguments by counsel. COURT ORDERED, Motion
GRANTED, Bail RESET to \$150,000.00.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 30, 2014

C-14-295158-1 State of Nevada
 vs
 Melvyn Sprowson, Jr.

**April 30, 2014 11:00 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Miley, Stefany **COURTROOM:** RJC Courtroom 12C

COURT CLERK: Anntoinette Naumec-Miller

RECORDER: Maria Garibay

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Jacqueline Bluth, Deputy District Attorney, present for the State of Nevada.
Deft. Sprowson, present in custody, with John Momot, Esq., and Yi Lin Zheng, Esq.

Arguments by counsel. COURT FINDS slight or marginal evidence at the lower court to bindover
Deft. on all counts and ORDERED, Petition DENIED on all counts, trial dates STAND.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 12, 2014

C-14-295158-1 State of Nevada
 vs
 Melvyn Sprowson, Jr.

May 12, 2014

9:30 AM

Motion

HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Anntoinette Naumec-Miller
 Melissa Murphy

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Emily Montgomery, Jacqueline Bluth, and James Sweetin, Deputy District Attorneys, present for the State of Nevada.

John Momot, Esq., and Yi Lin Zheng, Esq., present on behalf of Deft. Sprowson.

Deft., Ms. Bluth and Mr. Sweetin not present. Mr. Momot noted he just received this on Friday and the State wants conditions; however, Deft. has bonded out. MATTER TRAILED.

MATTER RECALLED. All parties present as before. Ms. Bluth and Mr. Sweetin now present. Argument by Mr. Sweetin, Mr. Momot, and Ms. Bluth. COURT stated its FINDINGS and ORDERED, Motion GRANTED IN PART; Deft. is to have no access to the internet or devices capable of accessing the internet, Deft. is to have no direct or indirect contact with children under the age of eighteen or the Victim's family, and Deft. is to surrender his passport to Mr. Momot and Mr. Momot is to hold it pending trial. COURT FURTHER ORDERED, Deft. may remain in Oklahoma so long as his bail bondsman is okay with it. Colloquy regarding trial dates.

BOND

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 28, 2014

C-14-295158-1 State of Nevada
 vs
 Melvyn Sprowson, Jr.

May 28, 2014 11:00 AM All Pending Motions

HEARD BY: Miley, Stefany **COURTROOM:** RJC Courtroom 12C

COURT CLERK: Anntoinette Naumec-Miller

RECORDER: Maria Garibay

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- James Sweetin, Deputy District Attorney, present for the State of Nevada.
Deft. Sprowson, present in custody, with John Momot, Esq., and Yi Lin Zheng, Esq.

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

With respect to the Motion, Mr. Sweetin submitted. COURT ORDERED, Motion GRANTED.
Colloquy regarding trial date. COURT FURTHER ORDERED, trial date VACATED and RESET.

CUSTODY

10/8/14 9:30 AM CALENDAR CALL

10/13/14 1:00 PM TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 10, 2014

C-14-295158-1 State of Nevada
 vs
 Melvyn Sprowson, Jr.

September 10, 2014 9:30 AM Motion to Continue Trial

HEARD BY: Miley, Stefany **COURTROOM:** RJC Courtroom 12C

COURT CLERK: Anntoinette Naumec-Miller
 Marwanda Knight

RECORDER: Maria Garibay

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- James Sweetin and Jacqueline Bluth, Deputy District Attorneys, present for the State of Nevada. John Momot, Esq., and Yi Lin Zheng, Esq., present on behalf of Deft. Sprowson.

Ex-Parte Motion and Order for Release of Medical Records FILED IN OPEN COURT

Ms. Bluth advised the parties agree to move the Motions to next week but will orally argue the Motion to Continue. Mr. Momot advised he is not ready for trial and argued they have not received the data from the examination of the computers taken from the residence and will be filing a motion to suppress the search warrant. Counter argument by Ms. Bluth noting this is the third setting, the Defense asked for a continuance in May, and the State is ready to proceed to trial. Ms. Bluth noted she will provided everything to the Defense in the coming days, except the medical records. Argument by Ms. Zheng. COURT ORDERED, Motion GRANTED, trial dates VACATED. Colloquy regarding trial dates. COURT FURTHER ORDERED, trial setting SET. Mr. Momot requested Deft's Motion for Discovery and Deft's Motion for Independent Examination reset to 9/22/14. Ms. Bluth had no objection. COURT ADDITIONALLY ORDERED, Deft's Motion for Discovery and Deft's Motion for Independent Psychological/Psychiatric Examination of the Complaining Witness RESET. Order SIGNED IN OPEN COURT.

BOND

9/22/14 9:30 AM TRIAL SETTING...DEFT'S MOTION FOR DISCOVERY...DEFT'S MOTION FOR
INDEPENDENT PSYCHOLOGICAL/PSYCHIATRIC EXAMINATION OF THE COMPLAINING
WITNESS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 05, 2014

C-14-295158-1 State of Nevada
 vs
 Melvyn Sprowson, Jr.

November 05, 2014	9:30 AM	All Pending Motions	Defendant's Notice of Motion and Motion for Independent Psychological/Psychiatric Examination of the Complaining Witness; State's Motion in Limine to Preclude Evidence of Victim's Prior Sexual Abuse at Trial; Deft's Motion for Discovery
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HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Katherine Streuber

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:	Bluth, Jacqueline	Attorney
	Sprowson, Melvyn Perry, Jr.	Defendant
	State of Nevada	Plaintiff
	Sweetin, James R	Attorney
	Zheng, Yi Lin	Attorney

JOURNAL ENTRIES

- Deft's Motion for Independent Psychological Psychiatric Examination of the Complaining Witness: Court pointed out State had not hired psychiatrist to testified. Counsel argued Abbott v. State case and further argued substantial bodily harm. State advised they had chosen to use testimony of

mother and child at Preliminary Hearing and noted they would bring in doctor who had seen child which is different from bringing in an expert. Court inquired whether the State would be turning over treatment records to the defense. State advised they could not turn them over. Counsel stated Koerschner had been satisfied and believed victim is being coached, therefore they should be allowed to have an independent examination. Court pointed out defense had requested an interview with the victim. Counsel agreed they had, however, victim's mother said no at the time. State argued Koerschner, noted kidnapping evidence being overwhelming, believed defense had not met their prongs and pointed out Court could not order victim to speak with anyone which would go against the mother's wishes. Counsel requested contact information and noted victim is 17 years of age and is getting ready to turn 18 to which victim could make her own decision. Court FINDS more than enough evidence outside testimony and ORDERED, motion DENIED. FURTHER, State to provide contact information; Colloquy regarding victim taking mood altering medications. State's Motion in Limine to Preclude Evidence of Victim's Prior Sexual Abuse at Trial: State argued the Rape Shield and noted parties cannot bring in other case nor get into any sexual conduct. Counsel argued Rape Shield did not apply in this case and believed State's motion to be premature. Court noted level of conflict with teenagers. State inquired how two traumas were to be separated and noted incidents have effected how family treats the victim. State then inquired of how to get around previous mental health treatment and noted traumas were not intertwined. Arguments by counsel. State suggested after Court releases medical records, parties could come up with appropriate Jury Instructions. Court stated the why is not important, believes previous history is relevant to the defense and defense should be allowed to get into history. Colloquy regarding prior medical records for in-camera review. Court agreed, however, it did not want to get into prior evidence and ORDERED, motion GRANTED IN PART; Deft's Motion for Discovery: Counsel advised they had received audios of interviews, noted transcripts of said recordings had not been received and requested motion be taken off calendar. COURT ORDERED, motion OFF CALENDAR. Colloquy regarding trial setting. Parties advised they would contact Court's Judicial Executive Assistant to discuss trial stacks and schedules.

BOND

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 04, 2015

C-14-295158-1 State of Nevada
 vs
 Melvyn Sprowson, Jr.

**February 04, 2015 9:30 AM Motion to Revoke Bail State's Motion to
Revoke Defendant's
Bail**

HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Katherine Streuber

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:	Bluth, Jacqueline	Attorney
	Momot, John Joseph	Attorney
	Sprowson, Melvyn Perry, Jr.	Defendant
	State of Nevada	Plaintiff
	Zheng, Yi Lin	Attorney

JOURNAL ENTRIES

- State reviewed defense's response and argued contact with minor victim. Argument by counsel. Court FINDS Deft. violated condition of bail and ORDERED, motion GRANTED. Deft. REMANDED without bail. Trial date STANDS.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 27, 2015

C-14-295158-1 State of Nevada
 vs
 Melvyn Sprowson, Jr.

May 27, 2015	3:54 PM	Motion	Defendant's Ex Parte Application for Court Approval of Payment of Specific Categories of Ancillary Defense Costs - MOTION GRANTED SUMMARILY - NO HEARING - DECISION ISSUED BY JUDGE - SEE DECISION FILED ON MAY 27, 2015
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HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Katherine Streuber

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- **Please refer to Decision and Order filed on May 27, 2015**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 01, 2015**

C-14-295158-1 State of Nevada
vs
Melvyn Sprowson, Jr.

**July 01, 2015 11:00 AM All Pending Motions Evidentiary Hearing ;
Defendant's Motion
to Suppress Evidence**

HEARD BY: Miley, Stefany**COURTROOM:** RJC Courtroom 12C**COURT CLERK:** Katherine Streuber**RECORDER:** Maria Garibay**REPORTER:****PARTIES**

PRESENT:	Bluth, Jacqueline	Attorney
	Momot, John Joseph	Attorney
	Sprowson, Melvyn Perry, Jr.	Defendant
	State of Nevada	Plaintiff
	Zheng, Yi Lin	Attorney

JOURNAL ENTRIES

- Testimony and exhibits presented. (See worksheets) Off the Record. Back on the Record.
Testimony and exhibits presented. (See worksheets) Argument by counsel. Argument by the State.
Further arguments by counsel. Court advised it would need the search warrant issued thirty days
after victim was removed from residence and it will render a written decision. Additional argument
by counsel regarding illegal entry into apartment and stated they were looking to suppress entry into
apartment along with any items seized by officers. State argued issues not contained in Deft's
motion, stated they would locate the warrant and provide to the Court. Court advised a written
decision will follow review of in-camera documents.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 20, 2015**

C-14-295158-1 State of Nevada
vs
Melvyn Sprowson, Jr.

July 20, 2015	9:30 AM	Motion to Continue Trial	Defendant's Motion To Continue Trial Date
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HEARD BY: Miley, Stefany**COURTROOM:** RJC Courtroom 12C**COURT CLERK:** Katherine Streuber**RECORDER:** Maria Garibay**REPORTER:****PARTIES**

PRESENT:	Bluth, Jacqueline	Attorney
	Momot, John Joseph	Attorney
	Sprowson, Melvyn Perry, Jr.	Defendant
	State of Nevada	Plaintiff
	Sweetin, James R	Attorney

JOURNAL ENTRIES

- State advised they had not filed an opposition, however, they stated their two concerns for counsel not to file motions for release and trial not be set in January due to State's leave of absence. Deft. stated he wanted motion quashed as he would like to wait for Court's ruling regarding suppression hearing. Court advised decision would be made within the next few days. Argument by counsel noting voluminous amount of in-camera documents had been provided and stated time would be needed in order to obtain an expert. Statement by Deft. Colloquy regarding trial schedules. COURT ORDERED, motion GRANTED and matter SET for status check. Clerk to e-mail parties list of available trial dates.

CUSTODY**07-22-15 9:30 AM STATUS CHECK: RESETTING OF TRIAL**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 22, 2015

C-14-295158-1 State of Nevada
 vs
 Melvyn Sprowson, Jr.

July 22, 2015

9:30 AM

All Pending Motions

**Status Check:
Resetting of Trial;
John Momot Esq.'s
Motion to Withdraw
as Counsel**

HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Katherine Streuber

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:	Bluth, Jacqueline	Attorney
	Sprowson, Melvyn Perry, Jr.	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- John Momot Esq. present. Court noted Mr. Momot had filed a Motion to Withdraw. Statement by counsel. Deft. requested time to speak with other attorneys, stated he disagreed with Mr. Momot, however, had no problem with counsel withdrawing. COURT ORDERED, motion GRANTED. FURTHER, matter SET for status check. Deft. inquired whether the Court had made decision regarding Motion to Suppress. Court stated it is being worked on and it would be distributed once completed. Deft. requested he receive a copy. Mr. Momot also requested a copy of decision. COURT SO NOTED.

CUSTODY

08-19-15 9:30 AM STATUS CHECK: NEW COUNSEL/RESETTING OF TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 19, 2015

C-14-295158-1 State of Nevada
 vs
 Melvyn Sprowson, Jr.

**August 19, 2015 9:30 AM Status Check Status Check: New
Counsel/Resetting of
Trial**

HEARD BY: Miley, Stefany **COURTROOM:** RJC Courtroom 12C

COURT CLERK: Katherine Streuber

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Bluth, Jacqueline Attorney
 Sprowson, Melvyn Perry, Jr. Defendant
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Deft's Motion to Proceed Pro Se FILED IN OPEN COURT. Deft. advised he was prepared for Faretta Canvas. COURT ORDERED, matter SET for status check.

CUSTODY

08-24-15 11:00 AM STATUS CHECK: FARETTA CANVAS/RESETTING OF TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 24, 2015

C-14-295158-1 State of Nevada
 vs
 Melvyn Sprowson, Jr.

**August 24, 2015 9:30 AM All Pending Motions Status Check: Faretta
Canvas/Resetting of
Trial; Deft's Motion
to Proceed Pro Se**

HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Katherine Streuber

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:	Bluth, Jacqueline	Attorney
	Sprowson, Melvyn Perry, Jr.	Defendant
	State of Nevada	Plaintiff
	Sweetin, James R	Attorney

JOURNAL ENTRIES

- Faretta Canvass CONDUCTED. COURT ORDERED, Motion to Proceed Pro Se GRANTED and Public Defender's Office APPOINTED as standby counsel. Court advised it is still working on decision, noted Deft. is not entitled to keep medical records while in the detention center and stated it is conferring with Chief Judge regarding the issue of release of discovery. Colloquy regarding setting of trial. COURT ORDERED, trial date SET and matter SET for status check.

CUSTODY

08-31-15 9:30 AM STATUS CHECK: DISCOVERY

10-28-15 9:30 AM CALENDAR CALL

C-14-295158-1

11-02-15 1:00 PM TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 31, 2015

C-14-295158-1 State of Nevada
 vs
 Melvyn Sprowson, Jr.

August 31, 2015

9:30 AM

Status Check

**STATUS CHECK:
DISCOVERY**

HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Katherine Streuber

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:	Bluth, Jacqueline	Attorney
	Public Defender	Attorney
	Sprowson, Melvyn Perry, Jr.	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Court advised it is still in discussion with Chief Judge regarding release of photographs of victim and victim's medical records as there are H.I.P.A.A. concerns and issues with having such discovery at the jail. CONFERENCE AT THE BENCH. Court advised the Public Defender's Office will not take control of photographs or medical records and noted an alternative would need to be figured out. Statement by Mr. Yohay regarding discovery. COURT ORDERED, matter CONTINUED.

CUSTODY

09-21-15 9:30 AM STATUS CHECK: DISCOVERY

CLERK'S NOTE: Clerk advised JEA at the direction of the Court, parties were to meet with Judge Miley at 9:00 a.m. on September 21, 2015. 09/02/15 kls

Exhibit Log

Case: C-14-295158-1

Case Style:

State of Nevada
vs
Melvyn Sprowson, Jr.

Sort Order: Status

Exhibit ID	On Behalf Of	Status	Proj. Return / Destroy	Type Description	Exhibit Flag	Custody Date	Custody Detail
Exhibit #	Source	Date					
*LOCATIO N#	Other State of Nevada		D: 07/16/2017	ENVELOPES UNIT (4) ; UNIT 19 SHELF 5 (ONE BOX)		01/21/2014	Department 23: Evidence Vault
JC	Plaintiff Wolfson, Steven B	Admitted 01/21/2014	D: 07/16/2017	Document justice court exhibits			No chain of custody exists for this exhibit.
Court 1	Plaintiff Wolfson, Steven B	Admitted 05/01/2014	D: 07/16/2017	Document photos sealed			No chain of custody exists for this exhibit.
7/1/15 A	Defendant Momot, John Joseph	Admitted 07/01/2015	D: 07/16/2017	Other Drawing of Complex			No chain of custody exists for this exhibit.
Comment: For complete listing - please see the attached.							
7/13/15 In Cameral Review Court 1	Other State of Nevada	Admitted 07/13/2015	D: 07/16/2017	Other Montevista Hospital Facesheet for J. Torres (SEALED)			No chain of custody exists for this exhibit.
Comment: For complete listing - please see the attached.							
non evidence	Plaintiff Wolfson, Steven B	Marked 03/31/2014	D: 07/16/2017	Photograph filed under seal photos to writ			No chain of custody exists for this exhibit.

Total Count: 6

DEFENDANT'S EXHIBITS

CASE NO. C 295158

[illegible]

THE SEALED DOCUMENT(S)
IN THIS CASE
WILL FOLLOW VIA
U.S. MAIL



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

MELVYN P. SPROWSON, JR. #5996049
330 S. CASINO CENTER BLVD.
LAS VEGAS, NV 89101

DATE: September 10, 2015
CASE: C295158

RE CASE: STATE OF NEVADA vs. MELVYN PERRY SPROWSON, JR.

NOTICE OF APPEAL FILED: September 8, 2015

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS NOT TRANSMITTED HAVE BEEN MARKED:

- ☐ Case Appeal Statement
- NRAP 3 (a)(1), Form 2
- ☐ Order
- ☒ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT
DOCKET ENTRIES; DECISION AND ORDER; DISTRICT COURT MINUTES; EXHIBITS LIST;
NOTICE OF DEFICIENCY

STATE OF NEVADA,

Plaintiff(s),

vs.

MELVYN PERRY SPROWSON, JR.,

Defendant(s).

Case No: C295158

Dept No: XXIII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 10 day of September 2015.

Steven D. Grierson, Clerk of the Court

Mary Kielty

Mary Kielty, Deputy Clerk