

IN THE SUPREME COURT OF THE STATE OF NEVADA

RALPH ALEXANDER,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

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Elizabeth A. Brown

CASE NO: 70214 Clerk of Supreme Court

ROUTING STATEMENT

This appeal is appropriately assigned to the Court of Appeals pursuant to NRAP 17(b)(1) because it is a post-conviction appeal and does not involve the death penalty or a conviction for any offense that is a category A felony.

FAST TRACK RESPONSE

1. Name of party filing this fast track response:

The State of Nevada

2. Name, law firm, address, and telephone number of attorney submitting this fast track response:

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3. Name, law firm, address, and telephone number of appellate counsel if different from trial counsel:

Same as (2) above.

4. Proceedings raising same issues. List the case name and docket number of all appeals or original proceedings presently pending before this court, of which you are aware, which raise the same issues raised in this appeal:

None known.

5. Procedural history:

On August 14, 2015, Appellant Ralph Alexander was charged by way of Indictment with two counts of Burglary while in Possession of a Firearm (Category B Felony – NRS 205.060), three counts of Robbery with Use of a Deadly Weapon (Category B Felony – NRS 200.380, 193.165), one count of Conspiracy to Commit Robbery (Category B Felony – NRS 200.380, 193.480), one count of Attempt Robbery with Use of a Deadly Weapon (Category B Felony – NRS 200.380, 193.330, 193.165), and one count of Assault with a Deadly Weapon (Category B Felony – NRS 200.471). 1 Appellant’s Appendix (“AA”) 164-69.

On October 9, 2015, the State filed a Superseding Indictment, charging Alexander with five counts of Burglary while in Possession of a Firearm, eleven counts of Robbery with Use of a Deadly Weapon, five counts of Conspiracy to Commit Robbery, two counts of Attempt Robbery with Use of a Deadly Weapon, and one count of Assault with Use of a Deadly Weapon. 2 AA 180-193.

Alexander’s trial commenced on December 1, 2015, and ended on December 7, 2015. 3 AA 1; 4 AA 1; 5 AA 1; 6 AA 1; 7 AA 1. The jury returned a verdict finding Alexander guilty on all but two counts—those being Count 23 (Robbery with

Use of a Deadly Weapon) and the Count 24 (Assault with Use of a Deadly Weapon).
7 AA 109-12.

On March 17, 2016, Alexander was sentenced to the Nevada Department of Corrections (“NDC”) as follows: as to Count 1 (Conspiracy to Commit Robbery), 28 to 72 months; as to Count 2 (Burglary), 48 to 120 months, to run concurrent with Count 1; as to Count 3 (Robbery), 72 to 180 months, to run concurrent with Count 2; as to Count 4 (Conspiracy to Commit Robbery), 28 to 72 months, to run concurrent with Count 3; as to Count 5 (Burglary while in Possession of a Firearm), 72 to 180 months, to run concurrent with Count 4; as to Count 6 (Robbery with Use of a Deadly Weapon), 72 to 180 months plus a consecutive term of 72 to 180 months for use of a deadly weapon, all to run consecutive to Count 5; as to Count 7 (Conspiracy to Commit Robbery), 28 to 72 months, to run concurrent with Count 6; as to Count 8 (Burglary while in Possession of a Firearm), 72 to 180 months, to run concurrent with Count 7; as to Count 9 (Robbery with Use of a Deadly Weapon), 72 to 180 months plus a consecutive term of 24 to 180 months for use of a deadly weapon, all to run concurrent with Count 8; as to Count 10 (Attempt Robbery with Use of a Deadly Weapon), 48 to 120 months plus a consecutive term of 24 to 120 months for use of a deadly weapon, all to run concurrent with Count 9; as to Count 11 (Robbery with Use of a Deadly Weapon), 72 to 180 months plus a consecutive term of 24 to 180 months, all to run concurrent with Count 10; as to Count 12

(Robbery with Use of a Deadly Weapon), 72 to 180 months plus a consecutive term of 24 to 180 months for use of a deadly weapon, all to run concurrent with Count 11; as to Count 13 (Robbery with Use of a Deadly Weapon), 72 to 180 months plus a consecutive term of 24 to 180 months, all to run concurrent with Count 12; as to Count 14 (Robbery with Use of a Deadly Weapon), 72 to 180 months plus a consecutive term of 24 to 180 months for use of a deadly weapon, all to run concurrent with Count 13; as to Count 15 (Robbery with Use of a Deadly Weapon), 72 to 180 months plus a consecutive term of 24 to 180 months for use of a deadly weapon, all to run concurrent with Count 14; as to Count 16 (Conspiracy to Commit Robbery), 28 to 72 months, to run concurrent with Count 15; as to Count 17 (Burglary while in Possession of a Firearm), 72 to 180 months, to run concurrent with Count 16; as to Count 18 (Robbery with Use of a Deadly Weapon), 72 to 180 months plus a consecutive term of 24 to 180 months, all to run concurrent with Count 17; as to Count 19 (Conspiracy to Commit Robbery), 28 to 72 months, to run concurrent with Count 18; as to Count 20 (Burglary while in Possession of a Firearm), 72 to 180 months, to run concurrent with Count 19; as to Count 21 (Attempt Robbery with Use of a Deadly Weapon), 48 to 120 months plus a consecutive term of 24 to 120 months for use of deadly weapon, all to run concurrent with Count 20; and as to Count 22 (Robbery with Use of a Deadly Weapon), 72 to 180 months plus a consecutive term of 24 to 180 months, all to run concurrent with

Count 21. 7 AA 127-32. The Judgment of Conviction was filed March 25, 2016. *Id.* Alexander filed a Notice of Appeal on April 18, 2016. 7 AA 133-34.

6. Statement of Facts:

Events of June 15, 2015, at the Boulder Station Hotel and Casino

At around 8:00 P.M. on June 14, 2015, Annuttiya Painschab arrived at the Boulder Station Hotel and Casino located at 4111 Boulder Highway in Las Vegas where she gambled throughout the night and into the early hours of June 15, 2015. 4 AA 116. At around 1:00 A.M., she won a \$2,000 jackpot. 4 AA 116, 120. She nonetheless continued playing. 4 AA 117, 120. At around 3:00 A.M., she was approached by Alexander, who pushed her to the ground and snatched her purse before fleeing. 4 AA 120-21, 125, 133-34.

Events of June 19, 2015, at the Kwik-E Market

Craig Tunnell works the “graveyard shift” from 11:00 P.M. until 7:00 A.M. as a cashier at the Kwik-E Market located at 6055 East Lake Mead Boulevard in Las Vegas. 4 AA 152-54. He was working this shift on June 19, 2015, when Alexander and the codefendant James Parker entered the store. 4 AA 154, 156, 191. They were dressed in black and each wore something to cover their face: one wore a “white” mask and the other wore a bandana covering his face from the nose down. 4 AA 157. Alexander and Parker then proceeded to rob Tunnell at gunpoint, taking his wallet which contained about \$140. 4 AA 156, 158, 191-92. They also took approximately

\$140 from a drawer right underneath the store's cash register before departing. 4 AA 162.

Events of June 26, 2015, at the Las Vegas Nail Spa

At around 6:00 P.M. on June 26, 2015, Angelina Espinoza, Iracema Montes-Cervantes, Iraiis Montes-Cervantes, Angelica Miranda, and Briauna Williams were visiting the Las Vegas Nail Spa located at 4430 East Charleston Boulevard in Las Vegas when Alexander and Parker entered the Spa and proceeded to rob all of them at gunpoint. 4 AA 201, 212, 218, 238, 245, 256.

At the time that this robbery was underway, Lien Nguyen (the owner of the Spa) and Cang Tran (an employee) were also present. 4 AA 229, 230; 6 AA 35. When pressed at gunpoint, Nguyen gave money that she kept in a drawer to one of them while the other went around collecting the patrons' belongings. 4 AA 230, 232. Tran was also threatened at gunpoint, but he denied having any money on his person. 4 AA 233; 6 AA 36.

During this robbery, Alexander and Parker each wore something to cover their faces: one wore a "skull mask" that covered his whole face and the other wore a bandana covering his face from the nose down. 4 AA 213, 232, 238, 253; 5 AA 202-03.

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Events of June 30, 2015, at the Rainbow Market

At around 4:30 A.M. on June 30, 2015, Alma Gutierrez was working at the Rainbow Market located at 5075 East Washington Avenue in Las Vegas when Alexander and Parker entered the store. 5 AA 61, 63. Each of them was wearing something to cover his face: one wore a bandana covering the lower-half of his face and the other wore a “skull hoodie.” 5 AA 66-67. Alexander and Parker then proceeded to rob the cash register at gunpoint, taking approximately \$100. 5 AA at 67-68.

Events of July 9, 2015, at the Family Dollar

At around 8:30 A.M. on July 9, 2015, Keshaun Richardson was working for the first time at the Family Dollar located at 4365 East Lake Mead in Las Vegas when Alexander and Parker entered the store. 5 AA 76-77. Each of them was wearing something to cover his face: one wore a bandana covering the lower-half of his face and the other wore a “skull mask.” 5 AA 80-81, 99; 5 AA 218. Moreover, the one wearing the bandana was carrying a firearm. 5 AA 80-81. Upon entering the store, they rushed towards Ms. Richardson and demanded that she open the register. 5 AA 81. However, she was not able to open up the register. 5 AA 83, 85. Unable to get money from the register, Alexander and Parker turned their attention to Elana Ojeda-Chavarria, a customer standing nearby the register, at which point Parker then proceeded to snatch Ojeda-Chavarria’s purse. 5 AA 87, 111, 112.

Officer Damian Avery Walburn and his partner, Officer Blaine Martell, who were both working as plainclothes police officers in the area had noticed Alexander and Parker acting suspiciously before entering Family Dollar. 5 AA 212-213; 6 AA 40. Accordingly, Officers Walburn and Martell parked their vehicle in front of the store to investigate further. 5 AA 216-17; 6 AA 42. Officer Walburn then noticed that Alexander was wearing a bandana around his face, wielding a firearm, and that Parker was wearing a “skull mask.” 5 AA 218-220. Officers Walburn and Martell were, in turn, noticed by Parker and Alexander. 5 AA 221. As the latter pair made their way to exit the back-end of the store, Officer Walburn took pursuit. 5 AA 221-29.

Alexander and Parker were eventually taken into custody. 5 AA 123-24, 231. Richardson was escorted by the police to the sites where Alexander and Parker were being held for purposes of conducting a show-up. 5 AA 88, 128. Richardson was able to positively identify Alexander as the man who had been wearing the bandana around the lower-half of his face. 5 AA 91, 98, 103-04, 132-133.

Investigation

Subsequent investigation revealed Tonya Martin was potentially involved in the string of robberies as well as Alexander and Parker. Martin was the girlfriend of Alexander and admitted to being the accomplice of Alexander and Parker in the aforementioned robberies. 6 AA 83-84, 175.

Martin admitted going to the Boulder Station Hotel and Casino with Alexander on June 15, 2015. 6 AA 83: 15-21. That night they argued about money. 6 AA 85-88. That argument ended, however, after Alexander got out of Martin's car and walked away. 6 AA 88. Alexander met up with her again later on that night at a 7-Eleven near the casino, and after they drove back to their apartment together, Alexander told Martin that he had gotten "a couple hundred dollars." 6 AA 89-91.

On June 19, 2015, Martin dropped Alexander and Parker off at the Kwik-E Mart. 6 AA 114-15. When she dropped them off, one was wearing a bandana around his face and the other was wearing a "skull mask." 6 AA 136, 139. She waited for them in the car and when they returned, she noticed that they were carrying a backpack and "some change." 6 AA 115.

On June 26, 2015, Martin dropped Alexander and Parker off at the Las Vegas Nail Salon. 6 AA 99, 105. When she dropped them off, they were wearing dark clothing and masks. 6 AA 127. After a few minutes, they came back to the car and told Martin to drive back home. 6 AA 99, 138.

On June 30, 2015, Martin dropped Alexander and Parker off at the Rainbow Market. 6 AA 113. At the time she dropped them off, they were wearing black clothing. 6 AA 114. After dropping them off, Martin was told to wait in the car by Alexander. 6 AA 128. After a while, Alexander and Parker emerged from the store and returned to the car. 6 AA 113, 128.

On July 9, 2015, Martin dropped Alexander off at the Family Dollar. 6 AA 106. When she dropped him off, she noticed that Parker was there as well. 6 AA at 106-07. She further noted how one of them had a bandana and the other had a “beanie with a white face on it.” 6 AA 107. However, Martin did not stick around to pick them back up. 6 AA 108. Upon hearing sirens, she fled. 6 AA 107.

7. Issues on appeal:

- I. Whether the District Court erred in permitting the State to ask Martin leading questions.
 - A. Whether this issue was properly preserved for appeal.
 - B. Whether Martin qualified as a witness identified with an adverse party.
 - C. Whether Alexander’s substantial rights were prejudiced as a result of these leading questions.
- II. Whether the evidence was sufficient to support a jury verdict of guilty against Alexander on the charges relating to the Kwik-E Market, the Las Vegas Nail Spa, and the Rainbow Market robberies.

8. Legal Argument, including authorities:

I. The District Court Did Not Err In Allowing The State To Ask Leading Questions Because The State Was Entitled To Ask Such Questions.

This Court should find that there was no error on the part of the District Court in allowing the State to ask Martin leading questions. In the first place, Alexander failed to object to the District Court’s decision to allow the State to ask Martin leading questions and has therefore failed to preserve this issue for appeal. But more significantly, there was no error because the State was entitled to ask leading

questions pursuant to NRS 50.115(4)(b). Moreover, Alexander has failed to establish that he has suffered any prejudice to his substantial rights by the State's asking of leading questions.

A. Alexander Failed To Properly Preserve This Issue For Appeal.

Alexander contends that the District Court abused its discretion when it permitted the State to ask leading questions of Martin. Appellant's Opening Br. at 11. Alexander, however, failed to object to this during the trial. Martin testified at the trial pursuant to a Guilty Plea Agreement ("GPA").¹ 6 AA 61, 79-80. Before she was called upon to testify, the State expressed to the District Court its intent to ask leading questions pursuant to NRS 50.115. 6 AA 68. At no point did counsel for either Alexander or Parker object to the State's request to ask leading questions. *See* 6 AA 69-72. Although counsel for both Alexander and Parker initially expressed some concern, those concerns focused on whether the State's ability to ask leading questions under NRS 50.115 limited them to asking only open-ended questions. *See* 6 AA 69-70. When the District Court put these concerns at ease by granting both parties leave to ask leading questions, defense counsel readily acquiesced. *See* 6 AA 72.

¹ The terms of Martin's GPA included an Agreement to Testify against Alexander and Parker. 6 AA 80.

Because Alexander failed to object to the State’s request to ask leading questions under NRS 50.115, his claim can only be reviewed for plain error. *See Gallego v. State*, 117 Nev. 348, 365, 23 P.3d 227, 239 (2001) (“Failure to object during trial generally precludes appellate consideration of an issue. Despite such failure, this court has the discretion to address an error if it was plain and affected the defendant’s substantial rights.”). In conducting plain error review, this Court must examine (1) whether there was “error,” (2) whether the error was “plain” or clear, and (3) whether the error affected the defendant’s substantial rights. *Green v. State*, 119 Nev. 542, 545, 80 P.3d 93, 95 (2003). This Court, however, need not go beyond the very first question—i.e., whether there was “error.” Because Martin qualified as a witness identified with an adverse party, it was not error for District Court to allow the State to ask leading questions.

B. Martin, The Accomplice of Alexander And Parker, Qualifies As A Witness Identified With An Adverse Party Pursuant To NRS 50.115(4)(b).

Pursuant to NRS 50.115(4)(b), “a party is entitled to call . . . [a] witness identified with an adverse party, and interrogate by leading questions.” While true that Martin’s testimony was secured by virtue of a GPA and Agreement to Testify, that does not change the fact that she was the accomplice of Alexander and Parker in the robberies that took place on June 15, June 19, June 26, June 30, and July 9 of 2015, and was similarly initially charged with multiple counts of Burglary while in

Possession of a Firearm, Robbery with Use of a Deadly Weapon, Conspiracy to Commit Robbery, and Attempt Robbery with Use of a Deadly Weapon before pleading guilty and agreeing to testify. That being the case, this Court should find that she qualifies as a witness identified with an adverse party and that the State was therefore permitted to ask leading questions as a matter of course.

C. Alexander Suffered No Prejudice To His Substantial Rights As A Result Of These Leading Questions.

Alexander has also failed to establish that his “substantial rights” were prejudiced by the Court’s decision to allow the State to ask Martin leading questions. In his Opening Brief, Alexander argues that “substantial constitutional rights” were implicated by this. Specifically, he seems to argue that his Sixth Amendment right to confront witnesses against him was violated by the decision to allow the State to ask leading questions. His argument fails for two reasons.

First, Alexander has failed to demonstrate, with specific citation to the record, which leading questions and answers “implicated substantial constitutional rights.” In any event, a careful review of the State’s examination of Martin would actually undermine Alexander’s argument. In examining Martin, the State did not exclusively ask leading questions but instead employed a fair mix of leading and open-ended questions. *See e.g.*, 6 AA 81-83, 85, 87-93. Alexander also seems to overlook the fact that some of the leading questions were asked in a context favorable to

Alexander insofar as they highlighted that Martin's testimony was ultimately the product of the deal she made with the State. *See e.g.*, 119-26.

Alexander's argument that his Sixth Amendment right to confront witnesses against him was violated is further undermined by the fact that he too was allowed to ask Martin leading questions. When counsel for both Alexander and Parker expressed the concerns they had if they were limited to asking only open-ended questions, the District Court agreed to allow them to use leading questions as well in their examination of Martin. *See* 6 AA 69-70, 72. Thus, Alexander's argument that his Sixth Amendment right to confront was violated is inaccurate and any error failed to actually prejudice Alexander's substantial rights.

II. The Evidence Was Sufficient To Support A Jury Verdict Of Guilty Against Alexander On The Charges Relating To The Kwik-E Market, The Las Vegas Nail Spa, And The Rainbow Market Robberies.

Alexander next argues that the evidence was insufficient to support a finding of guilt beyond a reasonable doubt as to the robberies that took place at the Kwik-E Market, the Las Vegas Nail Spa, and the Rainbow Market.

The proper inquiry for a claim of insufficient evidence is whether the evidence, when viewed in the light most favorable to the prosecution, is sufficient to establish guilt beyond a reasonable doubt as determined by a rational trier of fact. *See Jackson v. Virginia*, 443 U.S. 307, 319, 99 S. Ct. 2781 (1979). After considering the testimony of Martin, the eyewitness testimony of the victims, and the video

surveillance available, this Court should find that this evidence, when viewed in the light most favorable to the State, is certainly sufficient to establish Alexander's guilt beyond a reasonable doubt as determined by a rational trier of fact.

Martin admitted going to the Boulder Station Hotel and Casino with Alexander on June 15, 2015. 6 AA 83: 15-21. Although they temporarily parted company that night, they met up again at a 7-Eleven and after they drove back to their apartment together, Alexander told Martin that he had gotten "a couple hundred dollars." 6 AA 89-91.

Martin also admitted to dropping Alexander and Parker off at the Kwik-E Market a few days after the Boulder incident. 6 AA 114-15. And, according to Martin, one was wearing a bandana around his face and the other was wearing a "skull mask" when she dropped them off. 6 AA 136, 139. She waited for them in the car and when they returned, she noticed that they were carrying a backpack and "some change." 6 AA 115.

Martin further explained how she dropped Alexander and Parker off at the Las Vegas Nail Spa a few days after the Kwik-E Market robbery. 6 AA 99, 105. When she dropped them off, they were wearing dark clothing and masks. 6 AA 127. After a few minutes, they came back to the car and told Martin to drive back home. 6 AA 99, 138.

Martin's testimony also addressed the Rainbow Market robbery. According to Martin, she dropped Alexander and Parker off at the Rainbow Market a few days after the Las Vegas Nail Spa robbery. 6 AA 113. At the time she dropped them off, they were wearing black clothing. 6 AA 114. After dropping them off, Martin was told to wait in the car by Alexander. 6 AA 128. After a while, Alexander and Parker emerged from the store and returned to the car. 6 AA 113, 128.

Lastly, Martin admitted to dropping Alexander off near the Family Dollar on July 9, 2015. 6 AA 106. When she dropped him off, she noticed that Parker was there as well. 6 AA at 106-07. She further noted how one of them had a bandana and the other had a "beanie with a white face on it." 6 AA 107. Thus, Martin's testimony alone was sufficient evidence of identification as to all three of the challenged robberies.

Alexander, however, argues that "there was no corroborating physical evidence or eyewitness identification of Mr. Alexander in the Kwik-E Market, the Las Vegas Nail Spa, or the Rainbow Market robberies sufficient to establish Mr. Alexander's involvement beyond a reasonable doubt." Appellant's Opening Br. at 15. Alexander, however, misstates the level of corroboration necessary.

Contrary to what Alexander asserts, the corroborative evidence need not establish his guilt beyond a reasonable doubt; rather, it is sufficient so long as it "tends to connect" him to the robberies committed at the Kwik-E Market, the Las

Vegas Nail Spa, and the Rainbow Market. *See* NRS 175.291(1); *State v. Hilbish*, 59 Nev. 469, 479, 97 P.2d 435, 438 (1940) (citing *State v. Streeter*, 20 Nev. 403, 22 P. 758 (1889)) (“The evidence necessary to corroborate an accomplice need not in itself be sufficient to establish guilt. It may be slight in probative effect, yet its weight is for the jury, and if it tends to connect the accused with the commission of the offense, it will satisfy the statute.”); *Ramirez-Garza v. State*, 108 Nev. 376, 379, 832 P.2d 392, 393 (1992) (“If the evidence, independent of the accomplice testimony, tends to connect the accused with the commission of the offense, then the corroboration requirement contained in NRS 175.291 is satisfied.”). And as noted by the Nevada Supreme Court in *Cheatham v. State*, 104 Nev. 500, 504, 761 P.2d 419, 422 (1988), “[c]orroboration evidence need not be found in a single fact or circumstance and can, instead, be taken from the circumstances and evidence as a whole.” *See also Heglemeier v. State*, 111 Nev. 1244, 1250, 903 P.2d 799, 803 (1995).

There is sufficient evidence independent of Martin’s testimony that tends to connect Alexander with the crimes committed at the Kwik-E Market, the Las Vegas Nail Spa, and the Rainbow Market. As for the Kwik-E Market robbery, there was video surveillance admitted showing Martin’s gold 2002 Ford Taurus pull up to the Kwik-E Market at which point two men matching the physical characteristics of Alexander and Parker emerge from the car and put on masks just before entering the store. 4 AA 155-56; 7 AA 32-33. Tunnell, the cashier who had been working at the

time, further confirmed that one of the perpetrators was sporting a “white mask” while the other man had a bandana covering the lower-half of his face.² 4 AA 156. Both the video surveillance and Tunnell’s testimony also indicated that the man wearing the bandana (Alexander) wielded a firearm and took Tunnell down the candy aisle after which he made Tunnell lie face-down on the ground as he proceeded to search his pockets and take his wallet before finally leaving the store. 4 AA 156-58, 160.

As for the Las Vegas Nail Spa robbery, video surveillance was admitted again showing Martin’s 2002 Ford Taurus stop near the Las Vegas Nail Salon in order to drop off two men matching Parker and Alexander’s description. 6 AA 74, 204; 7 AA 36.³ Although none of the six witnesses inside the nail salon saw the faces of the suspects, all consistently testified that each one of the perpetrators had his face covered and that one in specific wore a bandana. 4 AA 213, 232, 238, 246, 253, 260.

² As the testimonies of Robinson, Officer Walburn, and Detective Miller established, these masks—specifically, the bandana and the “punisher-style” white “skull” mask—were worn by Alexander and Parker, respectively, at the Family Dollar incident. 5 AA 80-81, 88, 91, 98, 103-04, 132-133, 218, 220; 6 AA 204-05. And as the testimony of Detective Miller established, these masks were consistently used in the three robberies immediately preceding the Family Dollar incident—i.e., the robberies at the Kwik-E Market, the Las Vegas Nail Spa, and the Rainbow Market—and no other robbery in which these masks were used occurred after Alexander and Parker were arrested on July 9, 2016 (the day of the Family Dollar incident). 6 AA 204-06.

³ In its closing statement, the State provided a more detailed description of what this video surveillance showed. *See* 7 AA 36-37.

The testimonies of these witnesses all agree that the masked individuals then proceeded to rob them at gunpoint. 4 AA 212-14, 218, 230, 232, 236-37, 238, 241, 244-246, 252-254, 256; 5 AA 201. After committing these robberies, video surveillance outside of the salon shows the perpetrators fleeing and then reentering Martin's car. 6 AA 204; 7 AA 37.

As for the Rainbow Market robbery, both video surveillance and Gutierrez's testimony established that two men wearing masks entered the Rainbow Market at around 4:30 A.M. 5 AA 63-67. One of the men had a "bandana covering the lower half of his face" and the other had a "skull hoodie." 5 AA 66-67. Once inside the Rainbow Market, these masked men proceeded to rob the cash register, taking approximately \$100. 5 AA 67-68. All of this evidence sufficiently tended to connect Alexander to the crimes such that the jury was free to find Martin's testimony credible.

9. Preservation of the Issue:

Except as noted *supra*, all issues have been properly preserved.

VERIFICATION

1. I hereby certify that this Fast Track Response complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this Fast Track Response has been prepared in a proportionally spaced typeface using Microsoft Word 2003 in 14 point and Times New Roman style.
2. I further certify that this Fast Track Response complies with the page or type-volume limitations of NRAP 3C(h)(2) because it is proportionately spaced, has a typeface of 14 points or more, contains 4,564 words.
3. Finally, I recognize that pursuant to NRAP 3C I am responsible for filing a timely fast track response and the Supreme Court of Nevada may sanction an attorney for failing to file a timely fast track response, or failing to cooperate fully with appellate counsel during the course of an appeal. I therefore certify that the information provided in this fast track response is true and complete to the best of my knowledge, information and belief.

Dated this 1st day of November, 2016.

Respectfully submitted,

STEVEN B. WOLFSON
Clark County District Attorney

BY */s/ Chris Burton*

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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on 1st day of November, 2016. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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